

**APPROVED  
REGULAR COUNCIL MEETING  
March 27, 2007  
7:00 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I  
WARD II  
WARD III  
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig  
Loren Johnson, Chuck Warren  
Charlie Schwarz, Cheryl Bannon  
Ken Mulanax, George Arnold

COUNCIL MEMBERS ABSENT:

WARD I

Jim Meidinger

Flag salute was led by Council President Cheryl Bannon.

The invocation was led by Council Member Chuck Warren.

**CONSIDERATION OF  
MINUTES**

Minutes of the March 13, 2007 Regular Council Meeting.

MOTION: Bannon moved to approve minutes of March 13, 2007 Regular Council Meeting. Warren seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea 6 yea, 0 nay, 1 absent, motion carried.

**PUBLIC FORUM**

**Keith Volz**, 1003 Arbor Meadows spoke regarding the Kansas Long Range Transportation Plan meeting he attended on March 21<sup>st</sup> in Manhattan. KDOT is putting together a strategic plan for the next 20-25 years. They are beginning phase 2 which runs through July of this year. This is a group of four meetings, with the 21<sup>st</sup> being the first and it was an overview meeting for 5 study committees that will be working on this strategic plan. Kansas urban areas are served by nearly 12,000 miles of roadway, 93% being comprised of local roads that are operated and maintained by cities and counties, with the other 7% being highways. Some of the trends to be looking for as the Kansas population begins to shift to urban areas adding congestion and maintenance needs both for the state and local roadway systems. Right now there are over 100 miles of roadways that are classified as congested, so the plan is to see what can be done about that both locally and state wide. This trend is expected to increase over 75% in the next 20 years. We know that

the population of Kansas is aging and that needs to be addressed, traffic congestion on urban roads is increasing and new and existing development will limit ability to expand freeways, urban arterials and local roads. The growing congestion and quality of life issues will create the need for more coordinated planning and decision making with respect to land and transportation use. KDOT has formed, along with other local people, five study groups. The next meeting for the group discussing metropolitan issues will be held in Wichita on April 19<sup>th</sup>.

**Kathy Sexton**, City Manager thanked Mr. Volz for representing Derby on this committee. County Commissioner Tom Winters contacted the mayor to see if Derby could be represented on this. It was a really good compliment to call us and say we should get involved in this and Keith willingly offered to do that.

**Council Member Schwarz** commented there is an article in today's paper titled "Drinking juveniles mix spring break and jail". This occurred in Wichita with several parties being busted and kids going to jail. We in Derby are not immune to that; we had a substantial party broken up with several children arrested. Last fall there was a rather large field that was east of Derby where kids would party on a Friday and Saturday night, and that field was shut down. Both of these situations were brought to the attention of the City of Derby through citizen involvement. Underage drinking and drug use is a very serious situation and he commends the people that called the city and alerted the police to these situations because drug use and underage alcoholism leads to very serious problems in our society. He commends those that take time out to call the city and inform us of when these things occur. He encouraged people to be on the lookout in their own neighborhoods, he knows of two drug houses in Derby and he has relayed that information to the police department. He encourages everyone who sees those types of activities to get involved and help keep our city the way we want to keep the city.

**Ms. Sexton** requested a show of hands from those that have received their community newsletter in the mail. There is a full page article with the crime stoppers phone number and when to call the police department's non-emergency line, when to call 911, as well as numbers for some tip lines. It is kind of a tutorial for citizens as to who to call and when.

**Council Member Bannon** urged everyone to get out and vote, as next Tuesday is Election Day. We have council members up for Ward IV and we have a chance to appoint some new school board members. The only way you can have a say on what goes on in the community is to vote.

**Mayor Avello** advised there is a public debate scheduled for Thursday evening at 6:30 at city hall; it will be televised as well.

**Council Member Mulanax** stated that as his time on the council comes to a close; one of the issues he brought up several times is about the quiet zones on the railroad. There was a nice article in the paper a few weeks ago about that and he encouraged the council and the city to continue to work on that. Since he lives right on K-15 it gets rather noisy and all the help he can get he would sincerely appreciate.

**Ms. Sexton** announced that we continue this week to take applications for our new community fireworks display committee. We need some folks to serve on this committee; it is the annual

Fourth of July fireworks event that is paid for by the city. The committee that organizes it got pretty small this past year so we are recruiting new members and hope everybody can have a say in how that event occurs. There is no fundraising involved so it is truly a planning committee. We are taking applications through Friday with applications on the city's website or you can contact City Hall to obtain one.

**Council Member Craig** commented that we had a pretty tough winter with a lot of snow and ice. If some reason you see pavement that is starting to come apart, please call public works. It is better to treat it as a small item rather than a large item that will jeopardize the undercarriage and suspension of your car later on. He thanked public works for responding to those issues.

**Council Member Warren** turned in his application for the fireworks committee. He thanked Victoria French who has chaired that committee for a number of years, and last year almost single handedly. It is too big of a job to do by yourself so we really do want a lot of community input, both to spread the work and to get some new and fresh ideas. Victoria will be the first to admit that fresh blood and fresh ideas is what is needed from that standpoint. The Fourth of July has traditionally been one of those celebrations where it really is great for the community to get involved and it has been a little bit difficult with Derby Days coming in so close. One of the things that this community is going to have to decide is how do we want to proceed. Do we want to try to make the Fourth of July a big celebration or do we want to do some things in conjunction with Derby Days and just exactly how all of that is going to work. There are some important decisions to be made along with some fun things that will be going on. He encouraged those that are interested in being involved in the community, it is a great way to get to know some folks and it is a lot fun. It's a good place to start, if you haven't been involved in the community in the past this will be a great way to start off.

## **PROCLAMATION**

Mayor declared Friday, April 27, 2007 as Arbor Day in the City of Derby.

**Robert Mendoza**, Director of Public Works accepted the proclamation and thanked the Mayor and the council. He just returned from Manhattan where he received the award for Tree City USA and the Arbor Day and Growth Award for the City. This is the first meeting he has attended and he was amazed at the amount of money, \$125 million, spent on planting trees statewide. That is a lot of money, work and effort and he thanked the men and women of Public Works and Parks who actually go out there and maintain these things. We are excited with the Parks and Forestry Board about the Arbor Day Celebration coming up on Friday, April 27<sup>th</sup>. This too is an excellent opportunity for the community to get involved.

**SWEAR IN NEW  
COUNCIL MEMBER,**

**GEORGE ARNOLD,  
WARD IV**

**Council Member** George Arnold was sworn in by Jean Epperson, City Clerk.

**LIBRARY DESIGN  
CONCEPT AND  
FINANCING OPTIONS**

**Kathy Sexton**, City Manager introduced the architects from GossenLivingston Associates; Tom Montgomery, Vice President and Kirk Jurgensen, Project Manager.

DISCUSSION:

**Tom Montgomery** presented the concept for the new public library. The project was started a number of months ago working with the library design committee, developing goals for the project. A lot of the goals we heard were the desire to develop a facility that attracts interest and encourages use by everybody in the community. They had a process in which they engaged the public in 15 different work sessions throughout the community with a good cross section from the young to the elderly. Some of the most energetic work sessions were with the youth and it was refreshing to hear the youth get involved. As they gathered information provided by community input it really became the foundation that they used to develop the concept presented tonight. He presented pictures of the library concept to the council.

**Kirk Jurgensen**, Project Manager explained the layout of the library concept.

**Council Member Warren** thanked Mr. Jurgensen for his presentation. He is still concerned about a commercial building this large and the possibility of it leaking. There is something about big roofs and big spaces that leak. His concern is that the more places where you have joints that butt up or different elevations, you increase the opportunity, versus something that has one roof, even though you lose something architecturally. It seems to him that we are increasing the opportunity for roof leakage. He asked for some reassurance that there will not be a problem with leaks.

**Mr. Jurgensen** advised the drawings presented are only concept drawings, they will take it under advisement. The concern has been noted and will be looked at during the next phase. He advised he does not believe he can convince Mr. Warren tonight based on previous conversations but he feels they can make it work one way or the other.

**Council Member Warren** asked if there were a significant difference in cost with this design versus a design that has a more uniform roof across the top.

**Mr. Montgomery** explained that there will be some difference in cost but he does not believe it will be that much. Even if we had one roof over the entire building you still have to design expansion within the building. What's nice about the way the design is done now is it helps naturally develop expansion and contraction characteristics with this design. A lot of the cost that goes into that is how you deal with those types of details, this can address it very simply but

it is going to be the city's facility and they want it to work for the city. If there is a cost advantage in going a different route then they will work with that and take advantage of it.

**Council Member Warren** asked what "not that much" means.

**Mr. Montgomery** explained that they would be using primarily the same materials, whether you break it up or have all one roof you would be using the same materials. It could be a difference of 2-3% of the job.

**Council Member Craig** stated that he saw two main entrances or is there just one main entrance.

**Mr. Jurgensen** pointed out the one main entrance. The other entrance is typically just to exit the building.

**Council Member Craig** questioned how the building is set up for expansion, or if it were to get smaller, what do you lose, where would you start if you were going to reduce the size of this building.

**Mr. Montgomery** explained it depends on the final request from the city for the new library. If you want it scaled down, then everything will just be scaled down.

**Council Member Craig** asked about another addition to the building.

**Mr. Jurgensen** explained their task was to locate 15,000 square feet for a city arts type building and to show where that addition could occur and that is what that image is. It is not an addition for the library.

**Council Member Craig** asked how that would play into this type of facility.

**Mr. Montgomery** explained there could be another entrance off of that point to the future addition very easily. It is just a matter of the security system that is installed. Maybe the library is closed at certain times but you want the future addition to be open at different hours, there could be a function that could operate off of the parking lot that is right there.

**Council Member Craig** advised he thinks a lot of people are interested in some of the other things that might be developed in the future as far as a walking garden and a reading area in the outdoors instead of just inside the facility.

**Mr. Montgomery** pointed out that if you look at the triangle space between the future addition in the parking area and the library, there is some nice geometry there that could be used for a very interesting walking garden. Also on the east side of that it could wrap around the building and he thinks there are a lot of great opportunities there to do that.

**Council Member Bannon** stated that she was on the design committee for the library so she has seen it start from early needs to all of the meetings they had with people of every age and ideas of what everyone wanted. If this is your first look at this design you may be looking at it and

asking where the red brick is and the limestone corners and “normal library”, but once we went through all of the different requests and you look at the buildings surrounding this area, Tanglewood, City Hall, you will notice that it really ties together. It is not a wart, but the design grows on you and there is a reason that it is all designed the way it is. She pointed out that when the library first moved into the south end of this building they were supposed to have had the entire south end of the building. At that time the senior center was growing so large that they needed space so it ended up being that the library and senior center have shared that space. It is again time for the two entities to grow. This building would allow the library its’ space and allow the senior center to use part of that space. The city could make community rooms or office, whatever they may need. We are at a point where there are a lot of things to be done. She does not think the building is too large, if you figure 100,000 volumes, if every person in this city had only 5 books, that is not too many and this city is going to grow. She does not know if this is a perfect design yet and she too shares some of Mr. Warren’s concerns about leakage, about materials costs. There are a lot of things we will get into as time progresses; this was just the concept design to get us to where we needed to be. The school district did not want to deal as far as the land until they had seen a conceptual design as far as how it would fit on the property and how it would work together. Until we had something we couldn’t even give cost estimates for not only the building and construction, but the additional operating costs. She thanked Mr. Johnson and Mr. Jurgensen for doing a great job and asked everyone on the council and at home to look at the buildings in the area and not only the needs and concepts of what they have in their minds for what a library needs, but for everyone. It is not just for a certain sector, it is for the entire community.

**Council Member Mulanax** advised he served on the design committee as well and he sincerely thanked the literally 100’s of people throughout the community who got involved in this from the rotary clubs to youth meetings, to the senior center. One consistent theme throughout all of the discussions was a community room; it is something that is sincerely lacking in this community. There is one or two over at the DRC but they are used constantly and trying to book those in advance is becoming almost impossible. He requested that Mr. Johnson or Mr. Jurgensen explain how the community room can be segregated so after hours it could be used but the library wouldn’t be open to the general public walking through it.

**Mr. Jurgensen** pointed out the entrance into the library itself and explained it could be locked down leaving access to bathrooms for the community room use. There is a small stage and small coffee bar in the area. The space will serve as a fall out space for the people using the function of the community room. Instead of having a small space, they will have almost twice the space to use as a pre gathering area for meetings.

**Mr. Montgomery** explained that the community room seats 180 and the gathering space acts as a pre-function area and intermission area. It ties very well together with the community space and he thinks it makes a great facility for Derby; it will be a highly utilized facility.

**Mayor Avello** asked if summertime activities would be held in the community room.

**Judy Bennett**, Library Director advised they would use that area, not just in the summer.

**Mayor Avello** asked if the area were big enough because the crowds he has seen that the library caters to are larger than 180.

**Ms. Bennett** explained they are larger than 180. They have discussed it as a staff and decided that instead of offering one large event that they do now, since they have the use of Tanglewood which will seat 300 to 400 people, they will offer those events more than one time, which would accommodate that. Where they gain the advantage is that if you are a theater owner and you are going to show a premier movie you don't show it at city hall, you show it at your theater. When the library offers programs that are tied into reading and literacy, the library is where we are trying to get the people to so that they get the feel that they are there for cultural, learning and reading events. When they are offsite at Tanglewood they lose that, there are people that come only there and never come to the library. Even though we may have to go to two sessions for the same program, we are right there which means they have access to reading material that they can check out, they can go to the teen area. We are hoping to make that a very technological area with a TV. and at some point envision using the community room as a gaming area so we can bring kids in after school and after hours when the library is closed. One of the things she knows in this community that we hear over and over is that we are family oriented and we want our kids to not have to participate in underage drinking or illegal use of drugs, we want them to have places to go and this offers one more opportunity that we can provide and this space gives us some flexibility for that.

**Council Member Johnson** stated that it was mentioned earlier in the presentation that this building would be appropriate for the growth of Derby for the next 25 years and questioned what that was based on.

**Ms. Bennett** explained that is based on standards for public libraries in the State of Kansas that say for cities with a population between 10,000 and 25,000, of which we are getting towards the upper end, recommends that a library be a minimum of 12,600 sq. ft. up to 21,200 sq. ft. Had the library been able to expand to the south end of the current complex we would be just about at the 21,200 sq. ft.

**Council Member Johnson** clarified that that size is based on our population.

**Ms. Bennett** stated that was correct. We are looking ahead into the future and in 2010 we estimate that we will be almost at 22,000 people, and by 2030 we are looking at over 31,000. By standards in the library industry, when you reach a population of 25,000 you jump to the next category, which falls between 25,000 and 100,000 population. At that point in time the recommendation is that you go from the minimum of 21,200 sq. ft. to 58,000 sq. ft. or larger. She believes that hitting that medium road of about 36,000 sq. ft. is going to get us through the population of 32,000 and beyond. It will give us the flexibility we need as technology changes, as the community needs change to be able to move the collections and rooms into other services that will develop over the course of the next 25 years.

**Council Member Johnson** asked what this will look like 50 years from now.

**Ms. Bennett** explained that if the community remains within the same population area you may want to put that 15,000 sq. ft. addition on and you could possibly keep it right in there. The closer you go to the 100,000 population the more space you need, that is a given for any type of public building of this nature. She envisions that if you are going to remain somewhere between 32,000 and 50,000 that you have room there to do lots of things before you have to consider adding additions.

**Council Member Johnson** stated that he has seen three libraries and two remodels within a fairly short period of time, which is going to go much faster in the future. If we are going to do something like this we should plan for a 30-50 year deal. He is not saying we could build the 50 year deal now which would be 58,000 sq. ft. as it would probably be unreasonable and does not think we would want to pay for that. This does not look like a plan that could be added to very well. If in fact that were the deal are we going to abandon another library building and build a 58,000 sq. ft. building somewhere else in the future and make this the golden agers building, we need to think about that in the planning.

**Council Member Bannon** pointed out the area where there could be a 15,000 sq. ft. expansion to the building, as well as additional land to the north that can be used for expansion as needed.

**Council Member Johnson** asked if this looked like a nice architectural plan, to him it looks like it was done in Poland (he apologized to the polish people). He questioned if anyone would do that to their house.

**Mr. Montgomery** stated that if you look at the basic design, it is a 30 x 32 ft. grid, very easy to add on to, you could probably double the size of that building. If you have certain shapes that block you in it is hard to add on to, but this is a simple grid and you could double or triple the size if you want to. He explained that the area depicting the future addition is just a block to show the 15,000 sq. ft., it could be placed in several different areas.

**Council Member Bannon** explained the addition was never meant to indicate the exact location or design; it was just that the land space is there and you could conceivably add on to that in lots of ways. That is why the middle of it and the design is so open so that as technology changes and the needs change, the building can change with it. There was a lot of thought put into what could happen down the road.

**Mr. Jurgensen** added that he can double the space in the library if he needed to. It is designed with most of the shelves in the adult and kids area to be three shelves high. If we would purchase tall shelves, for a small amount of money, they can go with the same type of shelves that are in the current library that hold 6 or 7 shelves, instantly doubling the area without expanding the building at all.

**Ms. Bennett** stated that the City of Derby has had several buildings, starting off in 1957 in Lorraine Dewey's garage. It went from there to a small space in a strip mall on K-15; from there it went to an area donated by Robert Smith behind the chamber offices. That was a little under 6,000 sq. ft. and when we moved to this facility in 1990 the library got about 9,000 operating sq. ft. and they had use of the community room, which provided the additional sq. ft. that was

needed, but it did not provide any place for collection. When you look at the size of population, which was close to 10,000, we were already 3,000 sq. ft. below the minimum that was recommended at that time, and that has been almost 18 years ago. As a taxpayer she does not want to spend a lot of extra money, by in large you will see that librarians are some of the most efficient spenders of money. They can do a lot with what they have, they would always take more but they know that that isn't going to be part of what they have. They take a very hard look at what they have and what they can make work for the community. Having worked with Kirk and having worked with the community and finding out what they want and working with the city manager, this design concept will carry them a long way down the road. She suspects there will be a new library at some point down the road, but it may not be that you want to add on; maybe it will be that you want to create a branch in another part of the city. Those are options that could be considered and branches may fit very easily into strip malls or retail development spaces because you are not looking at a full service operation, you would be looking at a part of the library services, with this being a main branch. That would increase operating costs but it would decrease the need to add additional space to this one. Regarding the earlier question about whether they could compress the area and make it smaller, if they do that, they are looking at less than 10 years. By the time it was paid off they would have been about 5 years past maximum for that space. They currently have about 70,000 volumes and they are in the process of bringing that down about 10,000 because they are out of room again. Taking it down to about 22,000 sq. ft which is the high end recommendation of where they should be now with the current population they would have zero growth for the children's area and there would be no teen area. They would be able to accommodate additional growth for collection for about 2 years. They would gain the community room and the study room and a larger computer space, the coffee bar. If they wanted to eliminate all of those areas it could provide additional space for collection, but what you are looking at is that within a 10-year time period to pay off the building you have already outgrown it. She thinks that as a taxpayer she would rather see her money go for something that is going for something that is going to fit us for now and give us the opportunity to grow for the next 25-30 years.

**Council Member Warren** commented there are a couple of different approaches in designing a building like this. You can start off saying you have "x" number of dollars to work with and see what you can get built for that amount of money, or you can determine all your needs and figure out the cost after that; we have taken the latter approach on this and determined our needs. As he participated in one of the sessions he questioned how we decide how far we are going to go and what we are going to spend. Once you figure out your needs, you can decide how much you are going to spend and we are at that point now, how much do we want to spend? He questioned if we have a better feel for the cost and do we have a little better feel for the ongoing maintenance costs and what the procedure is for getting input from the community at this point. If there are alternatives and are we at a point to look at those and discuss them. He also questioned if we committed to this plan at this point.

**Council Member Craig** clarified that the library currently has 70,000 volumes and are scaling back to 60,000.

**Ms. Bennett** advised that was correct.

**Council Member Craig** asked if the design facility as it stands now is 100,000.

**Ms. Bennett** stated that was correct.

**Council Member Craig** advised that means you will move in with 60,000 volumes. Right now we are at the point where we need separate needs and wants. Wants has been the collective thing that everybody wants and we are not in a position to do that.

**Ms. Bennett** pointed out they did not come close to what the wants were.

**Council Member Craig** stated we have to find out what the real needs are now because the analysis is not complete. He is interested in seeing where the process goes now and thinks we should plan for the future, up to 25 years. The discussion should be continued and see where it takes us as far as the needs and what we are willing to understand through how much we can afford.

**Ms. Bennett** responded that she believes that is what the city manager's report will help with.

**Ms. Sexton** thanked Judy Bennett and Jean Epperson who helped a great deal with financial scenarios as well as Robert Mendoza and Ted Austin. There is a lot that goes into operating any kind of public facility. She then presented the staff report.

**Background:**

- After hearing from the library architects about the design concept for a 36,620 square-foot facility, consideration now shifts to how to pay for the construction project as well as the increased operating costs of a larger facility.
- For planning purposes, the project cost estimate of \$8.5 million in 2007, which was provided by the architects, was inflated to \$9.0 million for construction that would realistically occur primarily in 2009. It may be technically possible for the construction project to begin in late 2008, depending on the availability of funding.
- For planning purposes, an estimate of \$500,000 was used for renovating the current library and HVAC system into space usable for the Derby Senior Activity Center, a shared community room, and City Hall office/storage space in 2010. Complete renovation of all this space will require more than this estimate, and at this point, grants are anticipated to make up the difference. More research is required on this matter, so this estimate is subject to change.

**Financial Considerations:**

- Four financial questions need to be addressed: How much do we want to spend? Where is the money coming from? What financing mechanisms are available to us? Who will make decisions about which taxing source and which financing mechanism to use?
- First, how much do we want to spend?

- On February 28, 2006, the Council established a Library Design Committee to determine the needs and desires of the community for a new library and to develop a design concept with the assistance of the architects. A great deal of time was put into this effort this past year. This size of library is recommended by the Design Committee as well as the Library Board. However, it remains the Council's decision as to how much to spend.
  - Judy Bennett and various City staff are to be commended for developing estimates of operating costs for the new library. Utilities, insurance, and maintenance costs will inherently rise with the addition of a new building to our inventory of facilities. It is also reasonable to project that some additional staffing will be required to operate a larger library. The additional operating costs projected for the first full year of operations is estimated to be around \$320,000.
  - Another cost to consider in the overall decision about how much to spend is the timing of the construction project. If the City chooses to use a sales tax beginning in 2010, construction could easily begin in 2010 using the proceeds of the tax. If the City decides to construct the building sooner and construction is scheduled primarily for 2009, temporary financing would have to be undertaken. This means that the project cost would increase approximately \$800,000 to pay the interest on borrowing \$8.5 million to pay for construction nearly two years prior to collecting sales tax revenue.
- Second, where is the money coming from?
    - The City has two primary funding sources available to finance library construction and operations: a property tax (increasing the mill levy) and/or a sales tax. Assuming a sales tax would be most palatable if implemented following the termination of the aquatic park half-cent sales tax in 2010, several options have been examined for Council consideration, as follows:
      - A. Sales tax (0.50 cent for 10 years) for new library, renovation of current building, and an operating reserve for the library.
      - B. Sales tax (0.35 cent for 10 years) for new library & renovation of current building, and a permanent sales tax (0.15 cent) for additional operating expenses of the library.
      - C. Property tax (approx. 7 mills) for new library, renovation of current building and additional operating costs of the library.
- Third, what financing mechanisms are available?
    - General Obligation bonds – G.O. bonds are issued to provide the cash up front to pay project expenses. These bonds are backed by the taxing authority of the City. A funding source (sales tax, property tax, or both) must still be designated to repay the bonds over time. If G.O. bonds are to be used for a library project, state law requires an election by the voters.
    - Certificates of Participation – State statute governs the size and types of projects eligible for Certificates of Participation. With this size of project, the law also requires a public notice and is subject to a protest petition. A valid petition signed by 5% of the qualified electors of the city within 30 days would require an election

to be called. A C.O.P. also likely would require a higher interest rate than a G.O. bond, thus increasing the total cost of the project.

- Revenue bonds – Revenue bonds could be issued by a Public Building Commission for a library project. These bonds also would be subject to a protest petition (5% of the electorate, within 30 days).
- Lastly, who will make decisions about which taxing source and which financing mechanism to use?
  - City Council – The Council decides whether it is interested in pursuing a new library project, the exact wording of any question to put before the voters for election, and whether the Public Building Commission should be used to issue the financing.
  - Public Building Commission (PBC) – The City of Derby passed a Charter Ordinance in 1997 to establish a Public Building Commission. It has not yet been used to authorize financing of any public improvements. Members would need to be appointed to the PBC. Revenue bonds issued by a PBC are subject to protest petition but do not automatically require a vote of the people. The pros and cons of using a PBC will be discussed in further detail at a future Council meeting.
  - Voters of Derby – If the Council determines that a sales tax would be the preferable funding source for a new library, the question would be scheduled for a vote of the people, by special election either at the polls or by mail ballot. Either type of election could be held in the September-October 2007 timeframe.

**Legal Considerations:**

- A special purpose sales tax would be limited to 10 years under current law.
- The Legislature is currently considering bills that may eliminate the 10-year limit on special purpose sales taxes.
- A general sales tax to fund library operating expenses is not time-limited.
- Legal issues presented will vary based on choices made with respect to what entity – the City or the PBC – constructs the project and which funding and financing mechanisms are selected.

**Policy Considerations:**

- A number of grant sources have been pursued over the past several months. Most grants found are limited to library materials or programs and specifically are not for buildings. One grant was found that may help with renovation of part of the current library to be used for the senior center, and that grant is being pursued. Efforts to review possible alternative funding sources will continue.
- Since library patrons include people who do not live in Derby, one idea is to create a library district that would be geographically larger than the city, which might help spread the costs over more users. This has been done in only a few communities in Kansas and requires special legislation. For example, the City of Independence and USD 446 were authorized to form a library district using the boundaries of the school district.
  - Another option is for the City and USD 260 to consider an interlocal cooperation agreement, which does not involve a new library district, but essentially would

enable property taxes levied for the library to be assessed throughout the entire school district instead of just within the city limits. This arrangement would be similar to the Derby Recreation Commission. The DRC was established by mutual agreement of the City and school district, and the DRC is funded by a property tax of the school district. The drawback is that an interlocal agreement does not increase the taxing authority of either the city or the school district.

- The location currently being considered most seriously for the new library is a portion of the lot currently owned by Derby Public Schools at the corner of Walnut Grove and Sumac streets, just east of Tanglewood Elementary School. The City is working with the school district to develop terms of an agreement to transfer the land to the City if the library financing is approved.

ADDITIONAL DISCUSSION:

**Mayor Avello** thanked Ms. Sexton for her thorough and well presented presentation. He also wanted the community to know that at this point nothing has been spent on a design on this building.

The council recessed at 8:40 p.m. returning at 8:50 p.m.

**Council Member Craig** asked for an estimate of how many personnel will need to be added to the payroll to run this type of facility.

**Ms. Sexton** explained that the additional city cost for personnel will be two people. One for inside facility maintenance and the second one for exterior maintenance, mowing and maintaining landscaping, etc. It will not be a person devoted to that building alone, per se, but if you think about it the public works department will have 5 guys out there clearing sidewalks on the weekend of snow in the winter, clearing parking lots and that sort of thing. At another time of year there will be three people mowing and weed eating so we figured if we added one full time position to the public works and parks staff that it should balance out the load.

**Ms. Bennett** explained that number of jobs created would be incorporated over a course of 3 years. At whatever point we can begin the design the library board has approved the addition of a technology assistant to free up the current technology assistant to begin with the networking.

**Council Member Craig** asked for a total number.

**Ms. Bennett** advised they currently have 13 full time employees, between now and 2010; the maximum would be 22 full time employees. National history shows that when a new library opens in a community the circulation at least doubles and the new space will be three times the size of the old.

**Council Member Bannon** stated that if they looked at option 1 and kept it for a solid 10 years with no early pay out, isn't it conceivable with our retail growth that we could be looking at \$5-\$6 million or better going into the O&M account.

**Ms. Sexton** explained that if you look at the footnotes on that page, the sales tax projections for revenue include assumption that we are getting a Target store and Kohl's is included in there also. We have not added any additional chunks of money for other retail or restaurant because those two retailers are pretty big and we put an additional chunk in for those. There is annual growth of 3% a year put in there, it may not sound like much but it is a realistic number in terms of, we have always had new businesses opening in past years and there are other things that affect sales tax, it could be a faster growth rate than that.

**Ms. Sexton** thanked Judy Bennett and Jean Epperson who helped a great deal with financial scenarios as well as Robert Mendoza and Ted Austin. There is a lot that goes into operating any kind of public facility.

**Council Member Bannon** clarified it could be a solid 10 years, ending and going away.

**Ms. Sexton** stated that was correct, it is all in how you word the option for the ballot. You could say for sure 10, or you could be more flexible to stop it sooner.

**Council Member Bannon** asked if the cost of building this before Rock River Rapids paid off could be offset by any higher building costs.

**Ms. Sexton** responded that one would think if you build a building a couple of years later it would cost you more and that is generally the case when we estimate construction projects. We build in an inflation factor, that is a higher inflation factor in construction estimating than just normal inflation. Normal inflation right now is 2.5-3%, but with construction inflation you could get in a lot of trouble if you use numbers that low. It could easily be more like 5-8%. In construction cost estimating there are other things besides just the market basket of goods. It is about how much building we are doing in China that takes all the steel and concrete away. We have had pretty high costs these past couple of years and it is feasible that the costs could soften.

**Council Member Bannon** asked if accommodation for city wide growth and higher taxes that would be collected have been included. Say we add 5,000 people and 2,000 homes in the next 10 years are we including that figure as well?

**Jean Epperson**, City Clerk advised we were. The early years has a higher percentage in the sense that we have included in the impact of Kohl's and Target on the assessed valuation. In later years we have used 4%. Derby has had a history of much higher, but from a mathematical equation it would be very dangerous to assume that we are going to sustain more than 4% as that number grows so that is why we picked 4%.

**Council Member Bannon** asked if they proceed this evening and sometime between now and whatever a "drop dead" date would be for a ballot issue and we find out that Dillon's becomes viable, or another location or something totally unexpected falls out of the sky, can we stop and reevaluate?

**Ms. Sexton** advised there is a lot of time to stop and reevaluate. If you direct us to work with the election commissioner and bond counsel to develop language for a ballot, we will

specifically find out at what point is the “drop dead” point. In terms of having an election in September or October time frame, she does not think you want to wait too much longer to make that decision because you want to give people a chance to learn about the issue and get the word out, as well as if there are people that are opposed to the project, give them the opportunity to get their word out and influence the voters.

MOTION: Bannon moved to direct staff to develop draft language for a ballot question and bring back to the council for consideration in approximately one month. Arnold seconded.

**Council Member Craig** asked what actions staff is looking for from the council this evening to proceed. We have an ongoing action in negotiation with USD 260. What other actions is staff looking for?

**Ms. Sexton** explained that if council gives the indication that they favor a sales tax over a property tax, if they have feelings about option A, B or C it will help staff get a sense of finalizing some numbers. If there is a sense of the building being too big or if the council wants more information about staff, etc., staff needs to hear that tonight so that when we come back in a month, assuming this motion passes that we can provide all the answers to those questions and add some finality. Obviously you can make any of those decisions tonight too but she is assuming council might want to discuss it.

**Council Member Craig** indicated clarification in the motion would be to develop draft language for the ballot. That is just a general motion, whereas are we looking for a specific A, B or C option so he thinks we need to refine that if we are going to deal with that or build a version of all three back to the council. Even though it has been stated he thinks it needs to be reemphasized there has been no commitment made to the size of this facility. He thinks there will be a lot of public feedback once people start reading numbers as far as the cost. He wants to keep all options available to us at this time as Ms. Bannon mentioned but he would like better definition of the motion so we know if we are going to come back with three different options for the proposed ballot language.

**Council Member Mulanax** asked how much a special election costs.

**Ms. Sexton** advised she has not contacted the election commissioner and started that research yet. However, one decision to be made is whether we prefer to do a mail ballot election where the county election commissioner mails the ballots to all the registered voters in Derby or if we would rather set up the polls for people to vote. That will be two different costs and the city will have to bear that cost as well.

**Council Member Mulanax** advised that decision can be made once we determine the costs.

**Ms. Sexton** responded to Mr. Craig’s comments and advised she probably should have put more options on there for different motions. Certainly it would be helpful if someone made a motion to eliminate option “x” from consideration, or make a motion to look at option “y” to indicate where staff should focus their attention.

**Council Member Warren** advised he is not prepared to vote in favor of the motion tonight because we have been looking at this thing for over a year and have seen it coming. The folks that are on the library board and the committees that have been working with that have been working on it for well over a year and have seen it coming, but to a large extent the general public is getting their very first look based on this council meeting. The figure of \$8-9 million is going to be a new figure for a lot of people in the community. A lot of options have not even

been discussed and he wants to know if people in the community feel like it is worth discussing. For example, do we want to look at a pre-engineered steel building, we lose something architecturally and it will not be as nice looking as what we have, but can that option be looked at and would there be significant savings. Can we get more square footage and more programs for less money could also be looked at. He is not proposing that and is not saying that is the direction he wants to go but he would like to know what the community feels about that. He would like to get some feedback from the community on what they are looking at from a tax standpoint as they look at the options that are out there. Are they willing to bite off a 1 mill or a 2 mill increase in order to take the long range maintenance of this or are they more comfortable with the .15 sales tax that would be an ongoing thing. There are a lot of things out there that the general public is just now going to be getting a first look at and to start proposing things before we get some feedback from them, he is not ready to go down that road and he will have to vote no. A library is good and we need a new one. He is not trying to rain on that parade but a very small number of people in the community have had a chance to look at it and we are just now getting it out to the larger group. To start making decisions about which way we are going to go before we have that is a little premature.

**Council Member Craig** stated he believes there is a middle ground with a combination of continued .5 cent sales tax and maybe a mill increase that insures the coverage of maintenance and operations for the future. Those options are not here and he too would like to hear from the constituents about this. He is interested in moving forward with USD 260 so they have a concept and know that we want to do that, but there are other options that might be available that might not even involve that, so there are still quite a few questions. He likes the way this points for the future but right now he too would have to say he would like to see a little bit more information and feedback from the voters and taxpayers.

**Council Member Bannon** stated she knew she was premature in making a motion. We could add and subtract from it all night long, but when you are looking for citizen input, the best input she knows they are going to give is in an election and if we don't get that ballot question written we won't be able to make a time frame of this fall. If we don't make this fall we won't be able to get this built in 2009 or even 2010 perhaps. The past four years she has seen advocates on this council for individual items, be it police, fire, skate park, Rock River Rapids, smoking, adult entertainment, everyone has been an advocate for something and this is hers. Knowledge is power, and they can't take that away from you. We have held back our public services part of our city, being the senior center and the library for a number of years. In the meantime we have built up the other areas of our city that have needed it, this is the time. We have had this room full of people saying we need to give better choices to our children, we need healthier choices, this is the right thing. There are 100 different ways to go about it, she was looking at a good discussion tonight on the information that Ms. Sexton and her staff has put together as far as how we are going to fund it. She has only heard one person discuss the type of payment. We have all had the chance to look over the information and we have all known this was coming; it is not a surprise to anyone. As far as how to pay for it, she believes option A is the best, she is not comfortable with a mill levy increase for what this would take, the same way she was not comfortable when we did a career fire department. She is also not comfortable putting on a permanent financing tax for the citizens, she does not think that is fair. The Rock River Rapids financing has been wonderful and she pointed out that we have spent about \$13 million so far on Rock River Rapids and it is open about 80 days a year; that's it and it will probably be less than that next year. It appeals to people from about 3 to 18 years of age, a library is open in excess of 345 days and it takes you from birth to death. It is not a want, it is not a desire, it is a need and when the City of Derby started its library, by state statute we are now required to provide adequate library facilities. We are not doing that; we need to get on the stick.

**Council Member Warren** appreciates Mrs. Bannon's passion for this issue, his only point is that it is a marathon and today is not the day to start the 100 yard dash. We are still in the middle

part of the race and he wants to see where the community stands on a number of these issues. Don't take his no vote as anything against the library; it is just that he needs to know where the community is coming from as a part of the marathon.

**Council Member Craig** asked for clarification on the motion, are we going to narrow it down or will staff bring 3 opportunities back to the council. He knows everyone is looking option C as not a favorable one because it has to do with raising the mill levy, he wants a feel for what is going to be brought back to the council as far as language for a ballot question.

**Ms. Sexton** stated if the motion is passed it tells her that the council does not want option C because you don't need a ballot question for a property tax increase. A bond would go to the voters later but you don't need to draft anything for that. It would be helpful to hear if the council is looking for option A or B. If you are not ready to decide that tonight in terms of draft language for one option or the other then we will draft it for both and give you that month or so to think about those two options and hear from the public.

**Council Member Craig** suggested an amendment to the motion that option A & B are worked for possible language for a ballot question.

**Council Member Bannon** advised that would be fine, but according to what Ms. Sexton said, by making this motion we throw option C out anyway because it wouldn't go to ballot.

AMENDED MOTION: Bannon moved to direct staff to develop draft language for options A & B for a ballot question and bring back to the council for consideration in approximately one month.  
Arnold seconded.

**Council Member Warren** stated he personally does not favor option C, but he does not want to take that option off the table until he hears from the community. He does not think people are going to want that, but why do we not want to hear from the community on what they want. It is like we have to rush this thing through.

**Council Member Arnold** advised that he thinks A & B should definitely be considered.

**Council Member Schwarz** stated that Rock River Rapids was his passion and he was involved as a citizen before he got on the council. He watched that whole scenario develop and has seen how wonderful a .5 sales tax and the benefit it can do for our community. He does not want to slam the door shut on option B, where it takes a piece of the sales tax and carves it out for operational revenues. He is not leaning towards that, but it has been a wonderful facility for a lot of communities and he would expect from staff when they come back in a month is what other communities are doing, such as Olathe and Overland Park as to what they do with their sales tax to facilitate their budgets. He would be in favor of going ahead with the motion tonight to get it off dead center and get it rolling. If you look at what we did with the aquatic center, that was an even more condensed period of time. He has heard from people that said they would not agree with a property tax. He believes options A & B are the only viable options they have going.

**Ms. Sexton** clarified that Mr. Schwarz was not concerned per se about libraries; he is just thinking about are other communities using sales tax for operations of, whatever.

**Council Member Schwarz** would like that discussion to see how it benefits other communities.

**Ms. Sexton** advised staff will look at that, but explained there probably won't be very many doing it yet because the legislature just changed that law within the last two years to where cities are allowed to use more sales tax authority, up to 2 cents, rather than just 1 cent. The whole

point of that was cities were beating down their doors saying “you complain about property taxes, but that is all you are giving us”. That is the only thing cities can do is raise property taxes when we have city needs, whereas the legislature has income tax, sales tax, property tax, franchise business tax, cities don’t have those options. The legislature loosened that law up allowing cities more ability to use it, but also the ability to use it for ongoing operations of whatever. We could use that .15 cent for a library and could use another portion for something else someday if we wanted to if the people felt that was a better way to fund city operations then the reliance on the property tax.

**Council Member Schwarz** advised he would fully expect in the next 30 days to have lots of comments from lots of folks. If we are going to make a decision we need input from lots of folks.

**Council Member Mulanax** commented that option C is really not off the table because this motion has nothing to do with it, plus, all this motion says is to bring back some draft question. No vote has even been taken to put it on the ballot yet so it is just bringing back what we might take a look at so he doesn’t think option C is off the table even though he doubts that anyone in the city would vote for that.

**Council Member Johnson** advised he is not sure he understands the motion. We may have the cart before the horse and questioned if we shouldn’t decide how much we are going to spend first, and then decide how to finance it, that would seem logical to him. Secondly, coming from the most conservative member on the council, he would be in favor of option C and thinks that is the only way the general tax paying public can keep taxes in line. For those that don’t realize it, this sales tax is a tax increase to you and there will be more in the future as well as other types of taxes in the future that you will pay. You will never know what they are unless you keep every little receipt that you have paid. But when you get a tax bill from the county you know exactly what your government is spending or how much you are paying for what your government is spending. If that goes up drastically, like some that recently received a 10% increase in their assessed valuation, remember that will provide the cities with a lot more money without even changing our mill levy just because the assessed valuation is going up. That will give Ms. Sexton more money to play with and she will love it, but it will do nothing for our fiscal responsibility. The only way to do that is to put our fiscal costs into general property taxes. Everyone loves sales taxes, look at Wal-Mart and Lowe’s and all of the out of town people that come here to shop, maybe it’s good for us but it is almost dishonest, expecting them to pay for our library because we probably don’t go to Mulvane to spend money for their library. He thinks that is taking advantage of those people.

**Council Member Craig** advised he is in favor of the motion because it will not matter at this time whether we are talking about 36,000 sq. ft. or 27,000 sq. ft. or the option of Dillon’s. It will just bring something back to us to say whatever the case might be of the future library, funds have to come from some source and that is what we are doing now.

**Ms. Sexton** clarified Council Member Johnson’s point, she did say earlier in her presentation that there are four questions and the first one is how much do you want to spend. She purposely didn’t put that as a motion tonight because hearing these numbers for the first time she did not believe the council would be ready to say how much they wanted to spend. That is definitely something that has to be decided and would be back before the council in approximately a month when all this comes back up. She suggested that maybe one motion isn’t the only motion to make tonight. If there is more than one council member who is concerned about the size of the project it would be nice to know that as well because it will take some effort to pare this thing back. If a majority is wanting us to pare it back we could be spending time doing that over the next month so when it comes back to the council we have good knowledge for the council so it won’t take additional time to get further information requested by the council.

**Mayor Avello** pointed out that when the question has been called we have to make a vote, or vote not to vote on the question.

MOTION: Craig moved to call for the question. Johnson seconded.

VOTE: Arnold yea, Craig yea, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 1 absent, motion carried.

RESTATED/AMENDED MOTION:

Bannon moved to direct staff to develop draft language for options A & B for a ballot question and bring back to the council for consideration in approximately one month. Arnold seconded.

VOTE: Craig yea, Johnson nay, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, Arnold yea, 6 yea, 1 nay, 1 absent, motion carried.

**Ms. Sexton** asked if any council members would like to comment on the size of the proposed size of the building.

**Council Member Craig** advised he believes we should pare down the size of the facility. The sticker shock is pretty high when it comes to \$8-9 million. He knows some people will say to build it big and grow into it which is fine, but the way the facility is designed they have done a great job of making it addition friendly so he would like that taken into consideration, to under 30,000 feet, specifically 27,000 to 28,000 sq. ft.

**Council Member Arnold** commented that if you look at the history of this city we have always been playing catch up and he would much rather see us be proactive and take into consideration the growth rate we have had over the last 8-10 years. He thinks Council Member Craig's estimate may be less than what will be needed eventually. At the same time, the cost, if we have to expand will be tremendously greater than it will be now. He sees no problem with the design as a concept; obviously to take that design and decide what we really need is something we will have to look at as we go down the road. He would rather see something a little larger than smaller simply because of the costs related to that expansion at a later date would be tremendously high.

**Council Member Warren** indicated the problem he has with going forward rapidly now is that he would like to know what the possibility would be of the Dillon's building. He is not proposing this, but if we can get a building that has 1/3 more square footage than what we are talking about right now, and we can get it for 1/3 less cost, then we can add a lot more programs to the community. What we don't get is a really nice architectural building, we get a box. It's not a very attractive box, and we are not going to get a lot of bells and whistles from that standpoint, but it will be a very functional box because it is all open. That is something that has to be discussed and if that building is not going to be available for a year, 2 years, then it no longer becomes an option. If the owners of that building have other plans it is no longer an

option. If it is an option and we don't look at it he thinks the voters will question why we didn't look at an option that would save several million dollars and provide a larger facility.

**Council Member Bannon** stated that Council Member Arnold is correct, the city has always been playing catch-up. Thirty-seven percent of the library patrons are non Derby citizens and as the areas outside of Derby continue to grow, patronage to our library will grow as well and that is part of the reason it is beneficial in her mind that they pay the sales tax. She believes this is as good a place to start as any and there is backup documentation for the size of library needed given the number of citizens in the community.

**Council Member Mulanax** asked Ms. Sexton's feelings on the negotiations with USD 260, does it look positive?

**Ms. Sexton** advised it looks positive. We are doing environmental testing and survey work and those types of things right now and that will take a little more time. Her perception of the school board is they want to have a contract agreement which staff is working on writing up that would indicate we only want this land for a library. If the people or the city council votes and say they don't want a library then we don't want their land.

**Mayor Avello** commented for the benefit of the citizens that this is just a jumping off spot and education for the public and an opportunity to provide feedback. We have a lot of work to do and nothing is in concrete. It can all come back before the council or in public workshops.

**Ms. Sexton** agreed.

#### **ZONE CHANGE REQUEST – THE OAKS ADDITION**

**Don Losew**, City Planner presented the staff report.

#### **Background:**

- This site is located east of Woodlawn and north of Meadowlark and is among the properties included in the zone changes and subsequent platting, in the year 2000, associated with The Oaks golf course development. As indicated by the legal description for the zone change, the application area is a platted lot, presently under "B-1" Office District zoning.
- In addition to this zone change request 10 "B-2" Neighborhood Business District, the applicant has submitted a companion case requesting a lot split. The application for this zone change notes an intended use for the site as a video rental "building and business". The request for a lot split implies that only a portion of the present lot would be for the above indicated use, with a second building site being created for a future use.
- Although existing municipal sanitary sewer and water are available to the site, the creation of a separate building site through the lot split process will require (and has been made a condition of lot split approval) that a public sanitary sewer line be extended to the eastern tract created by the lot split.

- During the public hearing no citizen opposition was expressed toward the zone change.

**Financial Considerations:**

- As noted above, this site presently has access to municipal water and sanitary sewer. The related Lot Split case requires the extension of sanitary sewer and is considered separate from the requested zone change.

**Legal Considerations:**

On March 1, 2007 the required Public Hearing before the Planning Commission was held. No protest petitions have been filed. The Commission approved the zone change by a vote of 9 to 0. Following are the findings of fact adopted by the Commission for the requested zone change.

1. **SURROUNDING ZONING AND LAND USES:** As noted above, while the area immediately adjacent to the zone change application area is zoned “R-1”, single-family, it has been developed for a golf course and is buffered from those areas by natural conditions (heavily wooded areas in association with a stream(s). As for the zoning and uses at the other three corners of the Woodlawn and Meadowlark intersection, the neighborhood type uses (retail and service) allowed under “B-2” zoning could provide convenient access to nearby residential uses such as the multi-family use to the west and would in general be no more intensive than the uses typically provided under “I-1” zoning.
2. **SUITABILITY OF THE SITE FOR RESIDENTIAL DEVELOPMENT:** The previous rezoning of this site to the “B-1” district established the expectation that non-residential development was the most appropriate use of the site. The size of the site and its somewhat awkward shape also makes development of the site for residential uses, at least one or two-family, impractical.
3. **AFFECT OF REZONING ON NEARBY PROPERTIES:** The change from “B-1” to “B-2” zoning is at most a marginal intensification of use for this area. Consequently, no significant change or impacts would be expected due to the zone change from what would be expected if the site were to develop under its present zoning. There is also no increase in the area involved in the zone change request, the request involving an already platted lot.  
For the multi family development to the west, the proposed zoning is in line with the use of transitional zoning as a means to buffer residential areas from the more intensive non-residential uses associated with “B-3” or other more intensive uses. At this time, however, such more intensive uses do not exist in the vicinity of the zone change application area. However, also, as a zoning classification intending to provide “neighborhood” type uses, such zoning should be a benefit, i.e. providing services closer to users.
4. **LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED:** Regardless of this site’s present or past zoning, given the site’s location within the developed area of the City, its still undeveloped nature is a concern. From an even more pragmatic view, the site’s wooded and over grown appearance has been a problem over the years and its development would remove what could be considered an “eyesore”.

Being zoned and platted for nearly seven years and given its location at a fairly important intersection also implies that the site's present zoning may be too limiting.

5. **RELATIVE GAIN TO THE PUBLIC:** "B-2" Zoning is intended to provide retail and other services on a neighborhood level and this site is well positioned in regard to such residential areas. Also, as noted above, this site has not just been vacant for many years but is quite unsightly and the area's appearance would benefit by this site's development.
6. **CONFORMANCE WITH THE COMPREHENSIVE PLAN:** Derby's recently adopted 2005/06 Comprehensive Plan has recommended the development of mix used areas. Such areas are intended to provide for the intermixing to some degree of residential uses with compatible, neighborhood oriented uses. The primary objective of creating such mixed used areas is to make services and retailing uses readily accessible to area residents, even to the point that such activities are within walking distance. Under the Comprehensive Plan's Goals for Residential Areas for example it is stated "Provide convenient access to neighborhood services from residential areas so activities of daily living can occur within walking distance". Although this goal is presented for areas of new residential development, doing the same, when possible for an existing residential area, should be considered the same desirable goal.
7. **IMPACT ON COMMUNITY FACILITIES:** Given this site's existing platting and zoning, no significant impacts, beyond those already planned for, should result due to the zone change. While certain uses under "B-2" zoning could be more intensive than those allowed under the present "B-1" zoning, none of those uses would be significantly greater nor exceed the services already available in this area. That is, sanitary sewer, water and traffic improvements are already in place to service this site. While a lot split has been submitted for the zone change application, lot splits do not typically allow a more intensive level of development but rather is a means for a site to be developed under more than one ownership. Municipal facilities do in some lot split situations need to be extended to a tract being created by the lot split but again such extensions do not typically imply a more intensive use of such municipal services

**Policy Considerations:**

- The City Council is allowed to modify the zoning to a classification more restrictive than the one requested and/or for a smaller area than encompassed by the original request. If any such changes are different than as recommended by the Planning Commission, the Council must do so by a majority vote of at least 6 and base such decision(s) on an appropriate finding of facts review.

ORDINANCE NO. 1884

AN ORDINANCE CHANGING THE ZONING DISTRICT CLASSIFICATION OF CERTAIN LANDS LOCATED IN THE CITY OF DERBY, KANSAS, AND AMENDING THE OFFICIAL ZONING MAP OR MAPS OF THE CITY UNDER THE AUTHORITY GRANTED BY THE ZONING REGULATIONS OF THE CITY.

DISCUSSION:

**Council Member Warren** clarified that all the proper notifications were made.

**Mr. Losew** advised that was correct.

MOTION: Warren moved to approve the zone change from “B-1” to “B-2” for Lot 1, Block G, The Oaks Addition, located east of Woodlawn and north of Meadowlark, based on the Findings of Fact as recommended by the Planning Commission and instruct staff to publish the zone change ordinance. Bannon seconded.

**Council Member Craig** asked what “B-2” zoning included.

**Mr. Losew** gave examples of allowed uses.

**Council Member Craig** asked if the notifications included the intended use of the property.

**Mr. Losew** advised they did not.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, Arnold yea, 7 yea, 0 nay, 1 absent, motion carried.

**REVISED RESOLUTION  
FOR WATER LINE  
IMPROVEMENT TO  
SERVE SPRINGCREEK  
PLAZA ADDITION**

**Dan Squires**, City Engineer presented the staff report.

**Background:**

- Springcreek Plaza Addition is located east of Rock Road on the south side of Madison.
- Springcreek Plaza Addition was approved by the City Council on November 23, 2004.
- Most recent resolutions to construct public improvements were approved on November 28, 2006.
- Bids were received for the waterline project on February 20, 2007. The bids received resulted in the total project costs exceeding the approved resolution amount.
- The developer has opted to submit a new petition which increases the allowable project costs and Gilmore & Bell has prepared the corresponding resolution for Council consideration, which would repeal the original resolution (25-2006).
- If the revised resolution is approved by the Council, the bids for the water line construction will also be considered at the March 27<sup>th</sup> Council meeting.

**Financial Considerations:**

- Funds for the construction work were included in the 2006-1 Temporary Note issue.
- Costs for the water line improvements will be paid 100% by the benefit district and none by the City-at-Large.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

- This is a valid petition in accordance with Section 126a of the Kansas Statutes.

**Policy Considerations:**

- The Council has made a practice of financing such proposed improvements through the use of special assessments.
- The City Council has previously committed City funds to construct this project (Resolution Number 25-2006).

RESOLUTION NO. 33-2007

WATER LINE IMPROVEMENTS/SPRINGCREEK PLAZA ADDITION.

MOTION: Bannon moved to approve the revised resolution for water line improvements to serve Springcreek Plaza Addition. Schwarz seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, Arnold yea, 7 yea, 0 nay, 1 absent, motion carried.

**BIDS FOR WATER LINE  
IMPROVEMENTS,  
SPRINGCREEK PLAZA  
ADDITION**

Dan Squires, City Engineer presented the staff report.

**Background:**

- A bid opening for the construction of Water Line Improvements to serve Springcreek Plaza Addition, was conducted on Tuesday, February 20, 2007 at 2:00 p.m.
- Requests for quotations were submitted to contractors after advertisement in the appropriate publications.
- The following bids were received by the City Engineer's office and witnessed by the City Clerk:

Mies Construction	\$21,070
McCullough Excavation	\$21,000
Engineer's Estimate	\$15,486

**Financial Considerations:**

- Council is to consider revised resolution for this project at the March 27, 2007 Council meeting, increasing the allowable project cost to accommodate this bid.
- Funds for the construction work were included in the 2006-1 temporary note issue.
- Costs for the Storm Water Sewer Improvements will be paid 100% by the benefit district and none by the City-at-Large.

- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

- The City has followed all statutory procedures in securing financing and in planning the project.

**Policy Considerations:**

- McCullough Excavation has completed several projects in Derby and has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents for the Mayor's and City Clerk's signatures.

MOTION: Warren moved to approve the bid of McCullough Excavation in the total amount of \$21,000 for the construction of Springcreek Plaza Addition, Water Line Improvements. Johnson seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, Arnold yea, 7 yea, 0 nay, 1 absent, motion carried.

**RESOLUTIONS FOR  
SANITARY SEWER  
IMPROVEMENTS FOR  
ANDERSON FARM  
COMMERCIAL  
ADDITION**

Dan Squires, City Engineer presented the staff report.

**Background:**

- Anderson Farm Commercial Addition is located at the northwest corner of Rock and Patriot Avenue.
- Anderson Farm Commercial Addition was approved by the City Council on April 12, 2005.
- Resolutions to construct public improvements were approved on May 10, 2005.
- A decision to split the existing Sanitary Sewer resolution into two phases was recently made by the developer to serve Lots 1-4, Block A as Phase 1 and Lots 5-9, Block A as Phase 2.
- These resolutions repeal Resolution 14-2005 originally issued to construct sanitary sewer for the entire plat in one phase.

**Financial Considerations:**

- Funds for the construction work will be included in the 2007-1 Temporary Note issue.
- Costs for the sanitary sewer improvements will be paid 100% by the benefit district and none by the City-at-Large.

- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

- These are valid petitions in accordance with Section 12 6a of the Kansas Statutes.

**Policy Considerations:**

- The Council has made a practice of financing such proposed improvements through the use of special assessments.
- The City Council has previously committed City funds to construct these projects. This proposed Council action only modifies the benefit district by splitting the original benefit district into two phases.

RESOLUTION NO. 34-2007

SANITARY SEWER IMPROVEMENTS-PHASE 1/ANDERSON FARM COMMERCIAL ADDITION.

RESOLUTION NO. 35-2007

SANITARY SEWER IMPROVEMENTS-PHASE 2/ANDERSON FARM COMMERCIAL ADDITION.

MOTION: Craig moved to approve the revised resolutions for sanitary sewer improvements to serve Anderson Farm Commercial Addition. Arnold seconded.

**Council Member Warren** clarified if the split was about 50/50 in terms of the land and indicated a concern that sometimes when they phase these things in and end up loading one particular piece of land with a higher special or cost. He hoped that staff keeps an eye out for that sort of thing to make sure we don't create a problem.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, Arnold yea, 7 yea, 0 nay, 1 absent, motion carried.

**ADJOURNMENT**

MOTION: Schwarz moved to adjourn at 9:48 p.m. Warren seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 1 absent, motion carried.

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Dion P. Avello, Mayor

ATTEST:

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Jean Epperson, City Clerk