

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

Mayor Dion Avello presiding.

ROLL CALL:

WARD I  
WARD II  
WARD III  
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig, Jim Meidinger  
Vaughn Nun, Chuck Warren  
Charlie Schwarz, Cheryl Bannon  
Mark Staats, George Arnold

Flag salute was led by Council President Charlie Schwarz.

The invocation was led by Pastor Brad Beets, Pleasantview Baptist Church.

**CONSIDERATION OF  
MINUTES**

Minutes of the November 13, 2007, Regular Council Meeting.

MOTION: Schwarz moved to approve minutes of November 13, 2007 Regular Council Meeting. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon abstain, Staats abstain, Arnold yea, 6 yea, 0 nay, 0 absent, 2 abstain, motion carried.

**PUBLIC FORUM**

**Mayor Avello** commented that at the last council meeting the public forum got out of hand. After the meeting he was informed of the rules and from now on those rules will be followed. Five minutes will be allowed for each speaker, if the speaker requires additional time it will be voted on by the council and if approved the speaker will be given an additional three (3) minutes.

**Rhonda Cott**, Derby Chamber of Commerce advised they had a party in the Wal-Mart parking lot yesterday from 6:00 a.m. to 8:00 p.m. They raised 2,542 toys for Operation Holiday Derby. All of that will stay in USD 260. The event was sponsored by KZSN Radio and they invited Derby to be part of the toy-a-thon tour, we were the first day of the tour, which she is not sure is a good idea and next year they are lobbying for a day later in the week. Wellington was competing heavily with us today and she thinks they are about to match what we did. The toy-a-thon is to help reach all of the kids in USD 260 who may not receive a toy for Christmas. Operation

Holiday already does that but the toy-a-thon took it to a different level by including Communities in Schools. In USD 260 they were working with our social workers and teachers in the various schools to hopefully include some of those children who are not helped with Operation Holiday. Those 2,542 toys will help that cause. We had the Optimist's here all day at Wal-Mart with cotton candy, popcorn and the moonwalk for the kids from sun up to sun down. Lois Landwehr was the first person to meet her out there with warm bread for the volunteers. Plaza Real Estate and the City of Derby Parks Department and Wendy's provided food for the day and the business community provided volunteers all day long as well as the school kids. They brought bus loads of kids every hour dropping off toys, volunteering and singing carols all day long. Three of the schools in Derby alone raised 200 toys or more each. It was pretty amazing to see all of that coming off of each bus as they arrived. There are so many people that helped with this it is impossible to name them all but the planning committee consisted of the City of Derby Parks Department; Tamie Snow, USD 260; Dr. Wayne Burke and Heather Bahati, Communities in Schools; Elaine Fuldnewieder, Operation Holiday Derby; Chanda White, Judy Stover and Carla Lewallen and the Chamber of Commerce. They have worked since August or September in coordinating all of the efforts to make this happen and it was truly a community effort. Wal-Mart was very gracious to let us have a huge chunk of their parking lot. RSC Equipment offered heat, which was very much appreciated throughout the day. It was a great opportunity for various community leaders to come out and publicize the community. It was really nice to "plug" Derby on the air for 14 hours. 209 families in USD 260 have applied for Operation Holiday assistance so far. We want to remind everybody that the toy-a-thon was just one day of this Operation Holiday project, so don't stop giving. The toy boxes and food boxes are still in the businesses and schools so please remember that even though we have 2,542 we still need much more. Please consider donating still, if you want a box you can call Woodlawn United Methodist Church and they will make sure you get a box in your business or school. There will also be a box at the tree lighting event Thursday night and you can bring toy or food donations out there. We had a great day and it was a great community event. We plan to do it again next year and now we have a goal, we will have more than 2,542 toys. She thanked everyone who helped and hoped to see them next year.

**Mayor Avello** commented that the event was hard to see from K-15 and asked if it would be possible to work with Don Hall next year to get it more towards K-15.

**Mrs. Cott** advised they have talked about that and have a long list of improvements for next year. This was our first time and as with any new event you have to experience it first to see everything you might like to do better and we will do a lot of things differently. However, they have to work with phone lines and things like that that will kind of control the location. In the past they have learned that the farther you are away from the door the less likely it is that people will drive out to where you are. We try to catch them at the entrance and that worked quite well. We probably collected 8-10 bicycles from people leaving through the garden doors. She stated the highlight of the day was when Santa arrived on a fire truck and he stayed the entire afternoon, it was pretty exciting.

**Kathy Sexton**, City Manager commented that we cannot thank the Chamber of Commerce enough for their leadership on this issue. Rhonda and her staff really came through with

volunteers and sponsorships. We have a box at City Hall if anyone would like to donate. They are welcome to bring their items here and we will get those to Operation Holiday.

**Ms. Sexton** went on to point out that Derby was recently featured in an international magazine, PM Magazine for an article about Rock River Rapids. We are very proud to be a good model for other cities and countries around the world for aquatic centers and public pools. She thanked Mandy Wagner for writing the article and submitting it.

**Council Member Schwarz** asked if a copy could be put on the website so the people of Derby can see it also.

**Ms. Sexton** advised we could do that.

### **MAYOR'S REPORT ON TOP 10 TOWNS SUMMIT**

**Mayor Avello**, made a presentation to the council regarding his trip to Madison, Mississippi.

#### **Background:**

- In 2007, Family Circle magazine selected Derby as one of the Top Ten Best Towns for Families. The top ten communities were selected for offering big city amenities with suburban charm and the ideal blend of affordable housing, good jobs, top-rated schools, and attractive green spaces.
- Madison, Mississippi, also won distinction as a Top Ten Best Town for Families. Madison's Mayor, Mary Hawkins Butler, recently organized a summit in Madison for the Top Ten honorees to share innovations, explore ideas for further advancement of the Top Ten Best Towns, and consider best practices or lessons learned that would benefit other communities striving for excellence.
- Mayor Dion Avello attended the summit on Derby's behalf.

#### **Financial Considerations:**

- All travel expenses and accommodations were sponsored by the community of Madison.

MOTION: Warren moved to receive and file report. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

### **REPORT ON NATIONAL LEAGUE OF CITIES CONGRESS OF CITIES AND EXPOSITION**

**Mandy Wagner**, Assistant to the City Manager made a presentation to the council regarding her trip, along with Council Members Bannon and Staats to the National League of Cities meeting.

**Council Member Staats** and **Council Member Bannon** both made presentations regarding the National League of Cities meeting and their trip to Slidell, Louisiana.

**Background:**

- The City of Derby is a member of the National League of Cities (NLC). Its annual Congress of Cities and Exposition was held November 13-17, 2007 in New Orleans, Louisiana.
- The Congress of Cities is the largest gathering of elected leaders and city managers from around the country. It is the only event in the U.S. focused on helping municipal leaders and managers find solutions to the most pressing challenges facing American cities and towns.
- Council members Cheryl Bannon and Mark Staats and Assistant to the City Manager Mandy Wagner attended the meeting on Derby's behalf. These delegates learned about some of the most successful programs municipalities have implemented in the last year and met staff responsible for program planning and execution.
- Derby's delegates also spent a day onsite with staff and elected officials of Slidell, Louisiana, on a goodwill visit as guests of that City.
- The City of Derby adopted the City of Slidell following Hurricane Katrina's devastating effects on the town in 2005. The Derby delegation spent the day with their Slidell counterparts discussing the disaster event. They also toured the recovery efforts and made a formal presentation at the Slidell City Council meeting, conveying the best wishes of the Derby community.

**Financial Considerations:**

- Cost for meeting registration, airfare, hotel, meals, and other transportation was approximately \$1,980 per person.
- This expenditure was provided for in the 2007 Operating Budget.

**Legal Considerations:**

- Use of City funds to pay the expense of designated members of the City Council and staff in attendance at the NLC meeting is a permissible public purpose.

**Policy Considerations:**

- For a growing city like Derby, it is important to learn how to address municipal issues from other communities that have already dealt with similar concerns. Involvement in the National League of Cities is key to successful networking and idea-sharing.
- Involvement only in the League of Kansas Municipalities is not adequate for Derby since so few Kansas cities are similar to Derby in size and growth patterns.
- Elected officials and staff of Derby and Slidell have forged bonds through the Hurricane Katrina recovery effort and in the years since. The visit to Slidell cemented that kinship and demonstrated the value of sharing experiences between communities not only in emergency preparedness but also in best practices for operations, policies, and growth management.
- Parties from both the Derby and Slidell communities expressed an interest in continuing the relationship and dialogue between the two cities.

MOTION: Warren moved to receive and file report. Schwarz seconded.

**DISCUSSION:**

**Council Member Warren** stated that he could tell when our folks came back the idea of information overload is true, but he hopes that next year we continue to send people from our city and a couple more of our council members and one or two more of our staff members get to go. The difficult thing is trying to compress that information down to highlights. Hopefully we can get some very concrete ideas that we can apply to improve the way we do things because we

don't have all the answers. Somebody else has figured a lot of these things out and we don't have to reinvent the wheel.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**ORDINANCE  
AUTHORIZING CITY-  
WIDE RETAILERS'  
SALES TAX**

**Jean Epperson**, Director of Finance/City Clerk presented the staff report.

**Background:**

- On June 12<sup>th</sup> the City Council adopted a resolution which placed the question before the voters to authorize a ½% city-wide retailers' sales tax upon the expiration of the existing ½% sales tax.
- The voters soundly approved the ballot question on October 16<sup>th</sup>.
- The proceeds of the sales tax can only be used for the construction and equipping of a public library, operation and maintenance costs and debt repayment.
- The existing sales tax is being utilized to retire debt from the construction of the aquatic park and to provide for a \$1.5 million operations and maintenance reserve. This sales tax is projected to sunset earlier than originally anticipated, most likely in 2010.
- Implementation of the library sales tax will begin upon the expiration of the existing aquatic park sales tax.

**Financial Considerations:**

- The ordinance provides authorization for the a) implementation of the library sales tax upon expiration of the aquatic park sales tax; b) issuance of not to exceed \$9.435 million temporary notes and general obligation sales tax bonds; and c) construction of the library project.
- Preliminary projections anticipated issuance of temporary financing in 2008 followed by bonds to retire the notes upon completion of the project.

**Legal Considerations:**

- The statutory authority for the sales tax is K.S.A. 12-187 *et seq.*
- The sales tax shall terminate upon the earlier of a) accumulation of sufficient revenues to retire the debt and provision of an operation and maintenance reserve; or b) ten years after its commencement.

ORDINANCE NO. 1911

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS AUTHORIZING THE LEVY OF A SPECIAL ONE-HALF PERCENT (1/2%) CITYWIDE RETAILERS SALES TAX AND RELATED MATTERS (PUBLIC LIBRARY PROJECT).

DISCUSSION:

**Council Member Craig** asked what happens if the aquatic park tax does not sunset by 2010.

**Mrs. Epperson** explained that we can issue the temporary financing for up to 4 years. This tax would then take effect upon the sunset and is then limited to 10 years. We have tried to build in conservative projections.

**Council Member Craig** advised that the ordinance states “payment of operating and maintenance costs thereof”, and asked what the projection is for the reserve fund. We have a certain amount of money that we are going to outlay, which is to authorize \$9,435,000 projected cost for the building and everything. When would that tax end for the library when the funds are full, what is the mark of the reserve funds that have to be satisfied before that tax will end.

**Mrs. Epperson** explained that the tax cannot exceed 10 years. When we went through these projections we were assuming an 8-year debt service repayment.

**Council Member Craig** stated that at that time it is completed but now we have to pay it off and when it’s paid off the reserve fund should be fully funded and everything should be paid off before the tax dies if it occurs before 10-years, correct?

**Mrs. Epperson** advised that if it falls in place like our assumptions have, but that’s kind of a guessing game.

**Council Member Craig** clarified that if we satisfy all the requirements of paying off the debt and putting the amount of money into the reserve then it will sundown then, is he reading that right?

**Ms. Sexton** explained that is correct. It is up to the council to take a vote at that time verifying that indeed there has been enough money put aside in a fund to pay off the bonds and at that point the council decides when they want to have this end, if it’s before 10 years. At that point you can decide if there is enough in the reserve fund, do we want the tax to go a little bit more to put more in that operations and maintenance fund. Essentially, what this council chose to do last June was put this issue on the ballot that would set up a system whereby the operations of this new building would be paid for by this tax for the term of the tax and whatever is in that operations and maintenance fund on the day you end the tax.

**Council Member Craig** stated that what he is trying to clarify is, at a point in time when the debt is paid off and the reserve fund is full. We don’t know what that’s going to be, it’s an amount that has to be decided later on down the road by this council, that is what he is getting at, the amount should be decided on by the council and when it’s reached it is automatic that it comes to the council to decide if we continue on or do we sundown at that time. That is all he is trying to clarify here.

**Ms. Sexton** stated that is an accurate description of what the voters passed.

**Council Member Meidinger** asked what the temporary financing cost will be.

**Mrs. Epperson** advised the original projections are in the neighborhood of \$800,000.

**Council Member Meidinger** asked if we waited and built the library in 2010 when the other tax sunsets, would we save the \$800,000. Is that how the ballot read?

**Mrs. Epperson** stated we considered that. Another thought would be construction costs might rise. If you delay the project there are certain construction costs that might go up. She added that the original estimate of \$800,000 is just assuming that we would finance the whole temporary note up front. One of the things that will be put together is a draw schedule and it's possible that we will not finance the entire amount up front. Each time we go into the market with other city borrowing then we would borrow the additional money that we need for the library. We could actually lower those costs but those were just the preliminary numbers.

**Council Member Bannon** advised it was looked at as far as holding off, but with the inflation of building costs going up all the time if you put it very far out it was almost going to be a wash compared to some of the financing involved.

MOTION: Bannon moved to approve the ordinance as presented. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

### **ARCHITECT CONTRACT AMENDMENT FOR THE NEW LIBRARY**

**Ted Austin**, Director of Operations presented the staff report.

#### **Background:**

- The City has previously entered into an agreement with Gossen Livingston Associates, Inc. for the concept phase of the Library project with the understanding that they would also complete the project following voter approval.
- Many specifics were unknown at the time of the concept approval.
- Standard forms for architect's services have been used for this contract with the project specifics added.
- The preliminary project schedule and budget have been included as attachments.
- The attached documents will replace those provided during the concept phase.

#### **Financial Considerations:**

- The architect's fee will be 6.75% of the estimated project value. This amount is \$432,945.
- The architect will also be paid for reimbursable as identified in the contract.
- There will be a savings to the City due to our choice that this contract does not include the architect providing detailed inventories of existing Library materials, equipment, or furniture. It also does not include services required for the selection, procurement, or installation of furniture and related equipment. Normally a twenty percent fee is added for the architect to complete these services.

#### **Legal Considerations:**

- Standard AIA forms have been used for the architect's services.
- The City Attorney has reviewed and approved the contract documents.

#### **Policy Considerations:**

- City policy has been followed in selecting Gossen Livingston for these professional services.

DISCUSSION:

**Council Member Warren** asked who will be the city’s point person to follow up on construction when construction begins.

**Mr. Austin** advised he would be.

**Council Member Craig** asked if the term “substantial completion” has been hammered out in some definitive terms so we know where we are at, we have had problems in the past with this issue.

**Mr. Austin** advised the architect is quite aware of our previous challenges. We have done other buildings and we think this is more of a typical building and won’t have some of the same issues we have had in the past. We have already discussed that a little bit and the key to that is who the contractor is and making sure we all communicate well what we mean by that. We will all do the walk thru together and agree on the things that still need to be done.

**Council Member Craig** stated that as he scans through this it does appear to be somewhat journalized as far as the contract goes, he just wants to be sure they are comfortable with everything in there.

**Mr. Austin** explained it is very common with the architectural industry to use a standard document so that when you do go from firm to firm you deal on the same level. These are nice in that they are clearly marked that anything that’s inserted is marked and you can tell what that is. He and Mr. Alexander have both reviewed this document, as well as other city staff and are comfortable with it.

**Council Member Craig** asked if the council gets major input into the contractor chosen for this job, as far as the selection of the company.

**Ms. Sexton** advised it is the city council’s approval authority per the purchasing policies. The council approves all bids for such construction, we bid it and we take low bid. That is how it works per our purchasing policy.

**Council Member Craig** asked for clarification on that.

**Ms. Sexton** explained that the purchasing policy is that when you hire professional services, like architects, engineers, designers, you don’t have to take low bid; in fact you don’t even have to bid it. Your policy is that you can do a request for proposals, you choose an engineer based on his experience, you choose an architect based on their qualifications for the job and you negotiate a price. You do that based upon what you think is reasonable, what the market bears, etc. That is not the same as a general contractor because we paid these architects today, in this contract to do those professional services of design. That is much more than a pretty picture, it is a stack of

contract documents, really detailed, really thick. Then you attach a request for bids to that and put it out to the world for qualified contractors to submit their best bid. Then you open the bids all at the same time and then before selecting the low bid you make sure everybody has met all the requirements of the contract document you put out for bid. As long as they have met everything that you wanted them to do, down to the last detail, every electrical outlet and heating unit. Occasionally they make mistakes and part of what the architect and project manager does is go through the bids and make sure they are accurate, full and complete and qualified bids. Given they are all complete they will be presented in the city council meeting for selection by the council.

**Council Member Craig** clarified that the council is not obligated to take the lowest bid, is it?

**Ms. Sexton** advised they were, that is the purchasing policy. That is what you do every meeting when Mr. Squires comes up with bids and you have contractors who put in streets and water lines and sewers. It seems odd for some because we don't build a library every day but it's the same thing. You are hiring a general contractor to do a job that you have specifically specified so that you are obligated as a public entity dealing above board, not to say "oh, I know these people and I like them better, I'm going to take their bid even though it's not the low bid". You can't do that, you have to keep it all above board and say as long as they meet the requirements then you have to take that one. You have to make sure they met the requirements and that they are qualified to do the job. This is going to be an \$8 or \$9 million job and not every contractor is going to be able to bond for something like that, they all can't qualify, but there are a number of good construction firms in the Wichita market, and of course some could be from outside the Wichita market. We are usually pretty fortunate in the metro area of having really good, competitiveness in contracting.

**Council Member Meidinger** asked about the \$432,000, plus reimbursable expenses. Is that an open checkbook, or how do we control that.

**Mr. Austin** stated there are specific things that are included in reimbursables. Those are things like printing costs for copies of plans. We make decisions when we go to bid this, we decide whether we want to charge those that are going to bid this for those plans because they are not free sheets of paper, they are thick, detailed plans and are pretty expensive to produce. From the architects point of view, when they produce them we pay them for those. It is not an open checkbook, we decide how many we want, but you have to have enough so there are a certain amount of those costs that are normal in any of these projects, it is clearly understood what those are. If they have to do publications for legal work normally we handle those in house.

**Council Member Meidinger** clarified that these would be pretty standard.

**Mr. Austin** advised they would.

**Council Member Bannon** stated that since she has been on the council the only facility she has built was Rock River Rapids and as Mr. Austin so kindly put it, it had challenges. She is somewhat gun shy on some of this so she came in today and spoke with Ms. Sexton and Mr.

Austin about a lot of questions she has in the contract, which are the same ones that have been addressed so far. One thing she is very happy to see is that in the Rock River Rapids contract we did have an up charge for furnishings and in this one we do not. That is a major difference to her and other than that they explained a lot of the parts of the contract she is not as familiar with. On the reimbursables, Ted and Kathy had talked about having the architecture firm, any time they start to do something that would not be covered in the contract, to recognize it is over and above and determine at that time whether that is something we proceed with or not.

**Council Member Craig** advised he is really glad that the city will be overseeing this project. He thinks that is in our best interest because we have someone that is going to dedicate a considerable amount of his time to this. It will be an awesome task, no doubt about it.

MOTION: Craig moved to approve the revised documents as an amendment to the agreement dated January 9, 2006 for professional services between the City of Derby and Gossen Livingston Associates, Inc. Arnold seconded.

**Mayor Avello** commented that dealing with this particular architecture firm has been very easy. They are very open to suggestions and changes and they are very bright people and well capable of doing this. He believes we are going on a tour on the 29<sup>th</sup> of the two libraries they have done.

**Ms. Sexton** stated the tour is Thursday morning at 9:45 a.m. leaving from city hall, let us know in advance if you want to go. There are a number of people from the library board and others going to see the Alford Library in south Wichita which these architects designed, then they will go to the new library at Newman University. She does not think this architecture firm designed this library but it's new and the new libraries all have something to learn from.

**Council Member Arnold** commented about Gossen Livingston. He has had an association with them over the years as one of their clients and they are a very reputable company. He has never heard one negative thing about them, ever.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

## **2008 4-DOOR ½ TON PICK-UP**

**Brad Smith**, Fire Chief presented the staff report.

### **Background:**

- During the budget process for 2008, Council approved a plan of adding staff to the Fire Department so Station 1 can be staffed full-time, which includes moving the current captain from shift work to working days as the Training Captain.
- Also included in the approved budget is a vehicle for the Training Captain so he can respond to emergencies, attend meetings, and provide support to the department.
- Along with having the vehicle to drive during the normal daytime hours, it would provide also a quick response to emergencies after hours.
- The purchase of this vehicle supports the City's values of Safety and Stability as well as Quality Services Equally Available to All.

**Financial Considerations:**

- This vehicle is in the approved 2007 budget.
- Bids were sent out to the vendors on the City’s vendor list. Five proposals were received. The low bid was \$26,695 from Pfaff Chevrolet in Mulvane.

**Policy Considerations:**

- Any expenditure over \$20,000 must be approved by Council. Bid requests were presented as required by the Derby Purchasing Procedures. Bid Board reviewed the bids and accepted the low bid.

MOTION: Schwarz moved to approve the expenditure of \$26,695 for a 2007 4-door, ½-ton pick-up from Pfaff Chevrolet. Meidinger seconded.

DISCUSSION:

**Council Member Craig** asked what the estimate was in the budget.

**Chief Smith** advised the estimate was \$30,000

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**RESOLUTIONS FOR  
WATER & SEWER  
IMPROVEMENTS TO  
SERVE DERBY DOWNS  
ADDITION**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- Derby Downs Addition was approved in 1996 and is located at the northeast corner of Meadowlark and Rock Road.
- MRV, Inc. has purchased the Derby Downs property and is in the process of developing a portion of that property with a new Dillon’s Marketplace. To expedite the construction of the new Dillon’s facility, new water and sewer lines are required.
- The developer has submitted the petitions for the sewer and water lines and Gilmore & Bell have now prepared the corresponding resolutions for Council consideration.

**Financial Considerations:**

- Funds for the construction work will be included in a future Temporary Note issue.
- All costs will be paid 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.

RESOLUTION NO. 72-2007

SANITARY SEWER IMPROVEMENTS/DERBY DOWNS ADDITION.

RESOLUTION NO. 73-2007

WATER LINE IMPROVEMENTS/DERBY DOWNS ADDITION.

MOTION: Arnold moved to approve the resolutions for Sanitary Sewer and Water Line improvements to serve Derby Downs Addition. Schwarz seconded.

DISCUSSION:

**Council Member Craig** clarified that the benefit district is just that area it is going to service.

**Mr. Brown** advised that was correct, it is being replatted as Derby Marketplace 3<sup>rd</sup> and you will see some new resolutions in the near future converting the Derby Downs resolutions to Derby Marketplace 3<sup>rd</sup> resolutions. The benefit district is, at this point, Derby Downs because that is the plat the legally exists today. It is the Dillon's site and four pad sites in the front along Rock Road.

**Council Member Craig** asked if there was any requirement for over sizing any of these services.

**Mr. Brown** advised there was not.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**RESOLUTIONS TO  
SERVE QUAIL RUN  
ADDITION**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- Quail Run Addition is located on the south side of Madison, approximately 1 ¼ mile east of Rock Road.
- The Final Plat of Quail Run Addition was approved by the City Council on October 23, 2007 along with the petitions for sanitary sewer, water lines, streets, storm water drain, sidewalks, accel/decel lanes and sidewalk improvements, and water main improvements.
- Gilmore & Bell have now prepared the corresponding resolutions for Council consideration.
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**Financial Considerations:**

- Funds for the construction work will be included in future Temporary Note issues.

- Based on the City's present debt management policy for payment of oversize streets, sewer and water lines, etc., the City-at-Large share would be \$253,314 out of the total cost of \$8,682,000.
- Special Assessment 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.

RESOLUTION NO. 74-2007  
ACCEL/DECEL LANE IMPROVEMENTS-WEBB ROAD/QUAIL RUN ADDITION.

RESOLUTION NO. 75-2007  
WATER MAIN IMPROVEMENTS-WEBB ROAD/QUAIL RUN ADDITION.

RESOLUTION NO. 76-2007  
PERMANENT ACCEL/DECEL LANE IMPROVEMENTS-MADISON AVENUE/QUAIL RUN ADDITION.

RESOLUTION NO. 77-2007  
SANITARY SEWER IMPROVEMENTS-PHASE 1/QUAIL RUN ADDITION

RESOLUTION NO. 78-2007  
SANITARY SEWER IMPROVEMENTS-PHASE 2/QUAIL RUN ADDITION.

RESOLUTION NO. 79-2007  
SANITARY SEWER IMPROVEMENTS-PHASE 3/QUAIL RUN ADDITION.

RESOLUTION NO. 80-2007  
SANITARY SEWER IMPROVEMENTS-PHASE 4/QUAIL RUN ADDITION.

RESOLUTION NO. 81-2007  
SIDEWALK IMPROVEMENTS-MADISON AVENUE/QUAIL RUN ADDITION.

RESOLUTION NO. 82-2007  
SIDEWALK IMPROVEMENTS-PHASE 1/QUAIL RUN ADDITION.

RESOLUTION NO. 83-2007  
SIDEWALK IMPROVEMENTS-PHASE 2/QUAIL RUN ADDITION.

RESOLUTION NO. 84-2007  
SIDEWALK IMPROVEMENTS-PHASE 3/QUAIL RUN ADDITION.

RESOLUTION NO. 85-2007  
SIDEWALK IMPROVEMENTS-PHASE 4/QUAIL RUN ADDITION.

RESOLUTION NO. 86-2007  
SIDEWALK IMPROVEMENTS-WEBB ROAD/QUAIL RUN ADDITION.

RESOLUTION NO. 87-2007  
STORM WATER DRAIN IMPROVEMENTS-PHASE 1/QUAIL RUN ADDITION.

RESOLUTION NO. 88-2006  
STORM WATER DRAIN IMPROVEMENTS-PHASE 2/QUAIL RUN ADDITION.

RESOLUTION NO. 89-2007  
STORM WATER DRAIN IMPROVEMENTS-PHASE 3/QUAIL RUN ADDITION.

RESOLUTION NO. 90-2007  
STREET IMPROVEMENTS-PHASE 1/QUAIL RUN ADDITION.

RESOLUTION NO. 91-2007  
STREET IMPROVEMENTS-PHASE 2/QUAIL RUN ADDITION.

RESOLUTION NO. 92-2007  
STREET IMPROVEMENTS-PHASE 3/QUAIL RUN ADDITION.

RESOLUTION NO. 93-2007  
STREET IMPROVEMENTS-PHASE 4/QUAIL RUN ADDITION.

RESOLUTION NO. 94-2007  
WATER LINE IMPROVEMENTS-PHASE 1/QUAIL RUN ADDITION.

RESOLUTION NO. 95-2007  
WATER LINE IMPROVEMENTS-PHASE 2/QUAIL RUN ADDITION.

RESOLUTION NO. 96-2007  
WATER LINE IMPROVEMENTS-PHASE 3/QUAIL RUN ADDITION.

RESOLUTION NO. 97-2007  
WATER LINE IMPROVEMENTS-PHASE 4/QUAIL RUN ADDITION.

RESOLUTION NO. 98-2007  
WATER MAIN IMPROVEMENTS-MADISON AVENUE/QUAIL RUN ADDITION.

DISCUSSION:

**Council Member Bannon** asked what the city is paying to oversize the sewer since this is a standalone subdivision at this point.

**Mr. Brown** advised that along Madison there will be a sewer that is over 8 inches in size that will go eventually on farther to the east that will serve some additional properties.

**Council Member Bannon** asked if we are paying to oversize the main street going through the subdivision.

**Mr. Brown** advised that is correct.

**Council Member Bannon** stated that normally what we have tended to pay to oversize would be James Street or collector cross streets. Out here we are talking about something that is currently well outside what we think of as city.

**Mr. Brown** advised that eventually it will be connected to Kay Street. When development occurs east of Rock Road Kay Street will be extended across those properties and connect in to this collector.

**Council Member Craig** asked if the benefit district is just this development. What about the ones that might want to add on as time goes by.

**Mr. Brown** explained that the benefit district for the petitions are solely within the subdivision of Quail Run.

**Council Member Craig** asked if something is developed later on, around that and they start to hook on to it, is there a charge to them?

**Mr. Brown** advised there is not.

**Council Member Craig** clarified that his \$8.6 million is to this one development area.

**Mr. Brown** advised that was correct.

**Council Member Craig** asked if this property were annexed yet.

**Mr. Brown** advised it was.

MOTION: Arnold moved to approve the resolutions for Sanitary Sewer and Water Line improvements to serve Derby Downs Addition. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

The council recessed at 8:30 p.m. and returned at 8:40 p.m.

**ZONE CHANGE  
REQUEST – HAMILTON  
ESTATES**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- The subject property is commonly known as Hamilton Airfield and is located on the south side of Meadowlark, approximately ½ mile east of Rock Road.
- In June 2006, this same property was approved for a mixture of R-2, R-4, B-1 and B-2 zoning. The required platting was not submitted to consummate that zoning approval, so that request is considered “closed.”
- A new buyer/developer is now requesting a smaller amount (2.5 Acres) of B-1, plus a Residential Planned Unit Development (PUD) on the northern 18.8 Acres of the property.
- The PUD proposal consists of 15 lots for four-plex units, a clubhouse, and an apartment site, all associated with housing for senior citizens.
- The southern “half” of the Hamilton site is proposed for single family residential and is not included in this zone change case.
- The Planning Commission recommended approval of both the B-1 and PUD requests.

**Financial Considerations:**

- There is no immediate financial impact on the City.
- During the platting process to follow, required infrastructure improvements will be determined, which may require some City-at-Large contributions as outlined in the City’s debt management ordinance.
- Final development will increase the City’s tax base.

**Legal Considerations:**

- Although covered by this one staff report, the proposed B-1 and PUD zoning requests are considered separate cases.
- The B-1 zoning was approved by the Planning Commission on August 16, 2007 by a 10-0 vote.
- The preliminary PUD was approved by the Planning Commission on August 16, 2007 by a 10-0 vote. The Final PUD was approved by the Planning Commission on November 1, 2007 by an 8-0 vote.
- The Planning Commission conducted the required public hearings. No protest petitions were received by the City in the 14-day protest period.
- The Planning Commission’s recommendations of approval are based on Findings of Fact included in the official minutes. Those minutes are available for review but are not included in this staff report.

**Policy Considerations:**

- The proposed zoning will not become official until the land is platted in accordance with the Subdivision Regulations.
- As a requirement of platting, the property will be required to be annexed.
- The Comprehensive Plan’s Future Land Use Plan shows the subject property as “Moderate Density Residential.” One of the goals listed in the Comprehensive Plan is to “provide a balance of housing choices to meet the needs of residents with different economic levels and age groups,” with a specific policy to “create housing opportunities compatible with residential neighborhoods throughout the City for the elderly and residents with special needs.”

**DISCUSSION:**

**Council Member Arnold** indicated he was familiar with this project when it was in it's dreaming stages and he knows the principles involved. They are very reputable individuals and he has known them for 20 years.

**MOTION:** Arnold moved to approve the zone change request from R-1 Single Family Residential District to B-1 Office Business District for property being platted as Hamilton Estates, subject to annexation and platting within one year. Bannon seconded.

**VOTE:** Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**MOTION:** Arnold moved to approve the Zone Change request from R-1 Single Family Residential District to Residential Planned Unit Development (PUD) District for property being platted as Hamilton Estates, subject to annexation and platting within one year. Nun seconded.

**VOTE:** Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**AMENDMENTS TO  
ZONING REGULATIONS  
REGARDING ADULT  
ENTERTAINMENT AND  
JOINT LAND USE STUDY  
RECOMMENDATIONS**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- The Derby City Council recently adopted Ordinance No. 1881 which regulates public nudity and adult entertainment businesses.
- The Council has directed staff to further restrict this type of land use through modifications to the City's Zoning Ordinance.
- Concurrently with the Council's review of the adult entertainment issue, the Planning Commission was reviewing recommendations of the McConnell Air Force Base Joint Land Use Study (JLUS) and updates of the Air Installation Compatible Use Zone (AICUZ).
- Staff prepared draft modifications to cover both the adult entertainment and JLUS issues and discussed those proposed modifications with the Planning Commission on October 4, 2007.
- The amendments were refined by the City Attorney prior to the November 1<sup>st</sup> public hearing.
- Sections 202, 411, 412, 413 and 414 of the zoning restrictions have been modified to accommodate the new restrictions:
  - Section 202 adds definitions
  - Section 411, 412, 413 and 414 modify the description of land uses in B-3, B-4, B-5 and M-1 zoning districts respectively
- A delineated version of these sections is attached to the staff report to allow detailed review of the changes.

**Financial Considerations:**

- The proposed amendments will have no immediate impact on City finances.
- Land use restrictions may lead to stabilized property values and tax base.

**Legal Considerations:**

- The Derby Planning Commission conducted a Public Hearing on these proposed amendments on November 1, 2007 and voted 8-0 to recommend approval.
- That Public Hearing was properly advertised in the City's official newspaper on October 10, 2007.
- No comments were received from the public during the Public Hearing or during the 14-day protest period thereafter.

**Policy Considerations:**

- Derby has historically been an avid supporter of the mission of McConnell Air Force Base. The proposed amendments related to land use in the various Accident Potential Zones continue to be in compliance with the AICUZ and McConnell's mission.
- The amendments related to adult entertainment are in accordance with the litigation settlement with Michelle's Beach House.

ORDINANCE NO. 1912

AN ORDINANCE AMENDING SECTIONS 202, 411, 412, 413 AND 414 OF THE ZONING ORDINANCE OF THE CITY OF DERBY, KANSAS, ESTABLISHING REGULATIONS FOR CERTAIN OF THE CITY'S ZONING DISTRICTS; AND REPEALING ORIGINAL SECTIONS 202, 411, 412, 413 AND 414 OF SAID ZONING ORDINANCE, AS THE SAME HAVE BEEN FROM TIME TO TIME AMENDED.

DISCUSSION:

**Council Member Bannon** asked, under these current guidelines, if we were to pass this tonight would Lowe's or Kohl's either one have been allowed to build.

**Mr. Brown** advised they would.

**Council Member Bannon** stated she believes the pad sites in front of Kohl's are scheduled to be either fast food or restaurant type sites, are those going to be allowed to continue because they are in the APZ as well.

**Mr. Brown** advised that pad sites will be allowed, but restaurants will not be, those are specifically prohibited in the AICUZ study.

**Council Member Bannon** asked how far down 63<sup>rd</sup> Street that went.

**Mr. Brown** stated it went almost to the Buckner.

**Council Member Bannon** asked if fast food constituted a restaurant.

**Mr. Brown** advised it does.

**Council Member Bannon** asked what the plans are now for the areas in front of Kohl's.

**Mr. Brown** stated they are probably looking at banks, some small retail but not restaurants.

**Council Member Bannon** asked if the area went any further south into town.

**Mr. Brown** advised it cuts across the Wal-Mart parking lot, which is the dividing line.

**Council Member Meidinger** commented that the Air Force asks for certain considerations when we build a city around an air base. Why does the air force fly directly over the City of Derby and make turns in residential areas?

**Mr. Brown** stated he does not know the answer to that.

**Council Member Meidinger** advised it is a strange policy they are making and they shake the chandeliers when they fly over our houses.

**Council Member Warren** stated that having sat through a lot of these meetings one thing he found out real quick is that the Air Force asks for nothing. None of this was requested by McConnell Air Force Base. Communities have found out through base closing commissions that they become vulnerable if they design their cities in such a way that they encroach on the bases so the communities are becoming proactive. Quite frankly because of the stance he has had for years in terms of protecting private property rights he had some concerns about this. McConnell is not asking for anything, whatever we are passing are things that have brought about as a result of communities around the base to protect the base.

**Council Member Meidinger** indicated he used "McConnell or the Air Force" as generic term. He is merely asking, if they want the safety zones which he appreciates and thinks they should have, why on the other hand do they fly directly over Derby? He understood the request wasn't from McConnell and is sure it is a Department of Defense issue.

**Mayor Avello** pointed out we have commercial flights flying over as well, he can't answer that question.

MOTION: Arnold moved to approve amendments to Section 202, 411, 413, and 414 of the City Zoning Ordinance as presented. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**BIDS FOR DERBY  
MARKETPLACE 3<sup>RD</sup>  
ADDITION – SANITARY  
SEWER & WATER LINE**

## IMPROVEMENTS

Dan Squires, City Engineer presented the staff report.

### Background:

- A bid opening for the construction of Sanitary Sewer and Water Line Improvements to serve Derby Marketplace 3<sup>rd</sup> Addition was conducted on Tuesday, November 6, 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	\$144,929.95
Middlecreek Mining	\$137,503.00
Nowak Construction	\$135,494.82
<b>Engineer's Estimate</b>	<b>\$211,759.00</b>

### Financial Considerations:

- Funds for the construction work will be included in the 2007-2 temporary note issue.
- Costs for the Sanitary Sewer and 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.

### Financial Considerations:

- Funds for the construction work will be included in the 2007-2 temporary note issue.
- Costs for the Sanitary Sewer and 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:

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

### Policy Considerations:

- Nowak Construction 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 City Manager and City Clerk's signatures.

### DISCUSSION:

Council Member Meidinger asked who makes the engineer's estimate.

Mr. Squires advised it depends on who is designing the project. Usually the estimate comes from the designer. In this case the consulting engineer provided the engineer's estimate on this project. He understands the question with the estimate on this project, we use bid tabulations from recent projects that have recently been bid and there is sometimes a little bit of a lag. Through the winter and in June it was very wet and underground work was very expensive. He

suspects that some engineers are using bid tabs from projects that were bid during that time when they were very busy and didn't need the work.

**Council Member Meidinger** asked who the consulting engineer is.

**Mr. Squires** stated on this project it was Mid Kansas Engineering Consultants.

**Council Member Meidinger** clarified that they didn't bid on the project.

**Mr. Squires** advised they did not bid on the project, they designed the project and prepared the engineer's estimate for us.

MOTION: Craig moved to approve the bid of Nowak Construction in the total amount of \$135,494.82 for the construction of Sanitary Sewer and Water Line Improvements to serve Derby Marketplace 3<sup>rd</sup> Addition. Arnold seconded.

**Mayor Avello** asked if the cost for the designer was buried in the project.

**Mr. Squires** advised that is a separate cost and it is negotiated with us. We have a contract with the engineer who designed the project. We take the documents they give us, bid the project out to the contractors.

**Mayor Avello** asked how we know what the cost of the engineering is.

**Mr. Squires** advised we have a contract with the engineering consultant that we have negotiated the fee that we are paying them to design the project.

**Mayor Avello** advised in his world it appears this is not a true cost because the designing costs are not included.

**Ms. Sexton** clarified that the Mayor was trying to get at the total project budget.

**Mayor Avello** agreed.

**Ms. Sexton** explained that is not what we are doing today. Today we are just hiring engineers. If the council wanted to know what the total project budget is we can get that for you. It includes the construction of the project, the design and engineering of the project and some miscellaneous things like surveys and things like that.

**Mayor Avello** asked if the design cost was in this bid.

**Ms. Sexton** advised it was not. This is a bid to hire a construction company. The design has already been contracted with an engineering firm and the cost has already been paid. There is a total project cost. When the council does the budget and the CIP you see one number, total project budget. In that budget number that you see is included an estimate for the architect, the

engineer, the construction, the miscellaneous surveys and fees, etc. for the whole project. The council approves projects on a total cost basis in the CIP but then we hire contractors in a separate item that comes before council so that the council knows staff isn't just hiring whoever we want to hire, we hire the low bid.

**Mayor Avello** indicated he is just concerned about the designing of this thing and the cost that we don't see on these sheets here.

**Mr. Squires** added that the council does approve the resolution for the project and the overall project costs that we are going to assess are tied to that resolution.

**Council Member Craig** asked how many firms we have that we outsource to.

**Mr. Squires** advised that we don't specifically outsource the engineer's estimate. It is the person who has designed the project and prepared a bid should have the best and most intimate knowledge of the project to develop the estimate. The same engineer's that are designing the project are creating the engineer's estimate. He also reviews the bids after we receive them to make sure there are no abnormalities.

**Council Member Meidinger** asked if the same consulting engineer is used on all the projects.

**Mr. Squires** advised they did not.

**Council Member Meidinger** asked how they were picked.

**Mr. Squires** stated it depends on the type of project. Typically the consulting engineer on a private development project is the engineer that the developer has consulted with through the platting process.

**Council Member Meidinger** asked if this is ever found to be a conflict of interest, if you hire the same engineer that the developer has.

**Mr. Squires** responded "no".

**Ms. Sexton** explained the reason it is not a conflict of interest is because we have our own engineers in house who look over the shoulder. They have to approve the specifications that the contracted engineers submit to them and it has to follow all those rules and procedures set up for that. There is a pretty good system of checks and balances. There are also quite a number of qualified engineers and they are professional engineers. They have to put their stamp on it no matter who is paying them.

**Council Member Meidinger** asked if there are a lot of engineers around, why would you use the same one that the developer uses and the city uses.

Mr. Squires explained that a lot of the same information is used during the platting process when you have surveyed and everything else. It doesn't make sense to have two people survey an entire area, they already have a lot of the groundwork laid and they can do it cheaper.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**BIDS FOR NORTH  
BROOK FOREST STORM  
SEWER REPAIR AND  
BANK STABILIZATION  
IMPROVEMENTS**

Dan Squires, City Engineer presented the staff report.

**Background:**

- The Existing 66-inch storm water sewer that discharges into Dry Creek adjacent to Brook Forest Rd. at Hickory Branch has been separated and is in need of significant repair.
- Plans have been developed to extend the culvert back to its original location and construct a block headwall to stabilize the bank adjacent to the storm water sewer.
- A bid letting for the construction of storm sewer and bank stabilization improvements on North Brook Forest was conducted on November 20, 2007 at 2:00 p.m.
- Requests for quotations were submitted to contractors. The following bids were received by the City Engineer's office and witnessed by the City Clerk:

Mies Construction	\$104,030
Utility Contractors	\$ 91,550
MCAA Construction	\$ 75,403
<b>Engineer's Estimate</b>	<b>\$ 57,875</b>

**Financial Considerations:**

- The 2007 Capital Improvement plan included funds for the repair of the storm water sewer along Brook Forest Road, but the extent of repairs was not known during the budget process.
- Funds that were budgeted have been utilized to replace a culvert under Brook Forest Road near Oakwood Court.
- It is recommended that the Capital Improvement Reserve Fund be used as this project is a necessity and completion is desirable to avoid future erosion.
- There is funding available in the Capital Improvement Reserve Fund due to savings of \$146,000 from the High Park parking lot project which was included in the revised budget.

**Legal Considerations:**

- The City has followed all statutory procedures in securing financing, and in planning the project. No new easements or rights-of-way will be required.

**Policy Considerations:**

- MCCA Construction, Inc. 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 City Manager and City Clerk's signatures.

DISCUSSION:

**Council Member Craig** asked if there were an estimate on the performance period.

**Mr. Squires** advised he is not prepared to answer that question.

**Council Member Craig** asked when it might start.

**Mr. Squires** explained this is not the one on north Brook Forest south of James, this is further south and does not impact traffic on Brook Forest road. The project Mr. Craig is referring to, we have a preconstruction conference scheduled for Thursday with the contractor that has been hired.

MOTION: Warren moved to approve the bid of MCCA Construction, Inc. in the total amount of \$75,403 for storm sewer repair and bank stabilization on North Brook Forest. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**BIDS FOR SANITARY  
SEWER AND WATER  
LINE IMPROVEMENTS  
TO SERVE TALL TREE  
ADDITION**

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

**Background:**

- A bid letting for the construction of sanitary sewer and water line improvements to serve Tall Tree Addition, Derby, Kansas was conducted on November 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:

Utility Contractors	\$327,926
Dondlinger Construction	\$312,990
Duling Construction	\$287,261
Middlecreek Corporation	\$284,090
Nowak Construction	\$271,117
Mies Construction	\$261,712
<b>Engineer's Estimate</b>	<b>\$327,378</b>

**Financial Considerations:**

- Funds for the construction work will be included in the 2007-2 temporary note issue.
- Costs for the Sanitary Sewer and 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:**

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

**Policy Considerations:**

- Mies Construction 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 City Manager and City Clerk’s signatures.

MOTION: Arnold moved to approve the bid of Mies Construction in the total amount of \$261,712 for sanitary sewer and water line improvements to serve Tall Tree Addition. Staats seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**BIDS FOR CURED IN PLACE PIPING**

Dan Squires, City Engineer presented the staff report.

**Background:**

- Each year the Wastewater Department identifies sections of existing sanitary sewer lines for rehabilitation. These lines are rehabilitated utilizing a process called Cured in Place Piping (CIPP).
- Requests for quotations were submitted to contractors, and the following bids were received by the City Engineer’s office and witnessed by the City Clerk:

Utility Maintenance Contractors	\$124,000
Insituform Technologies	\$113,772

**Financial Considerations:**

- The 2007 Wastewater Budget includes funding for this project.

**Legal Considerations:**

- The City has followed all statutory procedures in planning the project and soliciting bids for the project.

**Policy Considerations:**

- Wastewater staff does not have the equipment or expertise to complete this work.
- The Bid Board recommended approval of the bid of Insituform Technologies.
- Insituform Technologies 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 City Manager and City Clerk’s signatures.

DISCUSSION:

**Council Member Craig** asked what the budget was for this project and pointed out that when we do things that are better than what we projected we should take credit for it. We estimate one thing and get it for less money and we should take credit for that so our people know that we are diligently working that. Mr. Squires has a lot on his plate but he thinks that helps the information to the people.

**Mr. Squires** advised he believes the line item for this has about \$150,000 in it. There is a consent agenda item on there for about \$10,000-\$12,000 that comes out of that same line item. We also use this line item if we have a collapse and have to make a repair during the year so we usually wait towards the end of the year in case we have a couple of items that back up to us.

**Council Member Craig** stated that Mr. Squires should take credit for the kudos that you should get for the good work he does to get the projects for the least amount of money and the best quality.

MOTION: Schwarz moved to approve the bid of Insituform Technologies in the total amount of \$113,772 for the rehabilitation of sanitary sewer lines. Bannon seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

### **REPORT ON 360 PERFORMANCE PROGRAM**

**Mandy Wagner**, Assistant to the City Manager presented the staff report.

#### **Background:**

- In 2007, the City Council set a priority to “Develop and implement a performance measurement system for City services.” Performance measurements are standards to help measure the effectiveness of services.
- The purpose of performance measures is not only to track results but to use those results to ask the questions that truly get to the heart of the performance result, have a better understanding of how the results were attained, and be able to strategize how to maintain that level of performance or achieve a different or higher level of performance.
- The City of Derby has recently undertaken an ambitious project to update the City’s performance measurements. The 360 Performance Program is innovative in that it starts with gathering input on service value from all stakeholder groups, seeking feedback from 360 degrees around (i.e. which City services are valued, what makes those services successful).
- In July and August, Derby hosted two open houses, collected data from 238 respondents to a community-wide survey, conducted eight stakeholder focus groups, and held work sessions with each City department to gather input from residents, businesses, elected officials, and city staff. This represents feedback from youth, seniors, families, McConnell

personnel, community partners, elected leaders, business leaders, city customers, department directors, mid-level managers, and front line staff among others.

- From the input, performance values for each department and division were determined. Using national standards recommended by the Governmental Accounting Standards Board, performance measures for each department and division were developed to measure the delivery of those service values.
- The performance measures utilize a variety of methods to establish performance standards, including “mystery shoppers,” citizen/customer surveys, and data-driven self-tracking (combined with random sample audits).
- An example of the 360 Performance Program’s outcome:

**COMMUNITY DEVELOPMENT**

**Waste Water - Proposed Measures**

Annually clean & monitor 20% of collection system, which is older than 10  
1 years

Implementation technique: self track

**Planning - Proposed Measures**

Annually conduct a resident survey of satisfaction for community planning and  
1 traffic flow

Implementation technique: annual citizen questionnaire

**Building Inspection & Code Enforcement - Proposed Measures**

Review new residential permits within 1 working day and commercial building  
1 permits within 15 working days

Implementation technique: self track

90% voluntary compliance of all code violation cases initiated within calendar  
2 year

Implementation technique: self track

**Engineering - Proposed Measures**

Minimum notice of 30 days by letter to adjoining residents and businesses  
1 regarding upcoming infrastructure improvements and disruptions

Implementation technique: self track

75% of approved CIP projects completed within established timeframe and  
2 budget

Implementation technique: self track

Quarterly random customer service satisfaction questionnaire of permit  
3 holders

Implementation technique: quarterly questionnaire

**Storm Water - Proposed Measures**

90% voluntary compliance of all NPDES violation cases initiated within  
1 calendar year

Implementation technique: self track

### **GIS & Mapping - Proposed Measures**

- 1 99% satisfaction of 4 working hour response time for information requests  
Implementation technique: self track

#### **OUTCOMES**

Customer Service

Responsive

Professional

Fair

Knowledgeable

Friendliness

Turn-around time

Reliability (WW)

Responsive/Efficient/Consistent/Professional (Code Enforcement)

- The 360 Performance Program measures were implemented in all departments in September 2007. Performance periods will be tracked from September to September.
- Beginning in October 2008, the City will publish an Annual Performance Report. This report will be a reader-friendly, narrative discussion of the City's performance throughout the past year.
- In addition to providing the City of Derby with performance indicators, the 360 Performance Program will continue to be crucial to Derby in its strategic planning and budgetary processes.

#### **Discussion:**

- The 360 Performance Program project included a community-wide survey. Responses to the survey were instrumental in developing the performance measures but can also be useful to city leaders in identifying issues important to community members.
- When asked "Is the City of Derby is achieving its mission of providing high quality services to all residents and businesses as efficiently as possible," 68.7% of respondents indicated "always" or "frequently." Twenty-three percent of respondents indicated "Sometimes;" 6.8% indicated "Not Sure;" less than 1% indicated "Never."
- When asked "What is the most crucial program or service provided by the City of Derby," the top three answers were:
  - Police (62.9%)
  - Fire/EMS (54.5%)
  - Road Maintenance (11.0%)
- In a follow-up question, respondents were asked to identify *any and as many* City services that they viewed as crucial. In addition to Police, Fire/EMS, and Road Maintenance, at least 50% of respondents identified the following services as crucial:
  - Water Quality/Safety/Reliability/Pressure
  - City Budget
  - Snow Removal

- Wastewater Conveyance and Treatment
- When asked to list any factors preventing the City of Derby from successfully providing services, the top four responses were:
  - Politics (29.4%)
  - Lack of Funding (26.5%)
  - Planning Concerns (16.7%)
  - Too Pro-Growth/Pro-Development (16.7%)
- Respondents were also invited to share any comments or concerns in an open format question. Common themes from the open comment responses included:
  - A desire to manage growth/grow responsibly.
  - A desire to maintain current infrastructure/enforce codes.
  - A desire to franchise trash service/provide recycling services (i.e. curbside recycling).

**Financial Considerations:**

- The 360 Performance Program was funded through a grant from the National Center for Civic Innovation (NCCI) in New York City. NCCI is a non-profit organization underwritten by the Alfred P. Sloan Foundation that funds projects which promote good government practices.
- On August 21-24, NCCI held a summit in New York City on best practices in performance measurement and reporting. As a grant recipient, NCCI invited a Derby delegate to attend at NCCI's expense. Assistant to the City Manager Mandy Wagner attended the meeting on Derby's behalf. The information and contacts gleaned from this meeting were invaluable to developing a strong performance measurement system and, in the future, producing innovative performance report documents.
- Part of Derby's obligation to the NCCI grant and to its peer cities will be to share the 360 Performance Program with other cities and serve as a resource for other practitioners. We can do this through publications, seminars, award submissions, a dedicated web page on the City's website, and staff availability to discuss performance measurement.
- The first publication profiling the 360 Performance Program will be featured in the January issue of the Kansas Government Journal.

**Legal Considerations:**

- None

**Policy Considerations:**

- Reporting on performance is essential to good governance. As a public agency, every resident, business owner, and visitor to this community is a stakeholder in the City.
- More than any other industry, government owes it to its customers – its stakeholders – to report on the value of services. In order to report value, we have to assess our performance, and in order to assess our performance, we have to measure it.

DISCUSSION:

**Council Member Craig** asked if there are any midpoints to check progress.

**Ms. Wagner** advised we want to make sure we are on track. What we are doing internally throughout the year is that department directors are accountable for reporting on those measures that are, for example, self tracked or are timed after we do the surveys. They are bi-monthly reports to the city manager so that is an internal accountability check that we have.

**Council Member Craig** asked if there were any consideration in giving a midpoint update.

**Ms. Sexton** advised it is included in the bi-monthly reports. All the self tracking measures and everything we would have available and asking the department heads to track are in their written bi-monthly reports. The things that are a survey are not available until they are done.

**Mayor Avello** asked if there were any elaboration on comments, for example politics, what did they say about that.

**Ms. Wagner** explained that was not a write in answer. That was one of the things that was identified and it is a broad interpretation and something we could follow up on in the future.

MOTION: Arnold moved to receive and file report. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

## **ASSESSMENT ORDINANCE – MOWING**

**Jean Epperson**, Director of Finance/City Clerk presented the staff report.

### **Background:**

- The City of Derby has incurred costs in abating nuisances found to exist upon certain properties located within the City.
- The costs are the charges the City incurred in the contracting with vendors for the mowing service, plus a \$50 administrative fee.
- Each owner of record has been sent notification that Council will consider assessment by ordinance of the charges.

### **Financial Considerations:**

- The costs incurred in connection with the parcels to be assessed total \$413.19.

### **Legal Considerations:**

- City ordinance authorizes staff to mow properties with excessively tall vegetation when owners fail to do so.
- City staff seeks to collect mowing charges through informal efforts so as to avoid the need for formal remedies.
- Charges not timely paid may be assessed against the properties on which the work was performed.

**Policy Considerations:**

- City ordinance has established the policy that requires maintenance of grass and weeds to not exceed the height of ten inches to protect the health and safety of citizens.

ORDINANCE NO. 1913

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT UPON CERTAIN REAL PROPERTY HEREINAFTER DESCRIBED AS THE COSTS INCURRED BY THE CITY IN CUTTING WEEDS AND OTHERWISE ABATING NUISANCES FOUND TO EXIST THEREON.

MOTION: Warren moved to adopt an ordinance levying a special assessment upon certain properties the costs incurred by the City of Derby in cutting weeds and otherwise abating nuisances found to exist thereon. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**CONSENT AGENDA**

**Kathy Sexton**, City Manager presented the consent agenda.

**Bids for Sanitary Sewer Manhole Rehabilitation**

**Background:**

- The Wastewater Department each year identifies deteriorating sanitary sewer manholes for rehabilitation. These manholes are rehabilitated using a spray applied grout to seal and add structural integrity to the manhole.
- Wastewater staff has identified 115 vertical feet of manhole (12 manholes) in need of rehabilitation.
- Requests for bids were submitted to contractors, and the following bids were received by the City Engineer’s office:

Mayer Specialty Services	\$15,609.00
Utility Maintenance Contractors	\$11,327.50

**Financial Considerations:**

- Funds for this work are included in the 2007 Wastewater Budget.

**Policy Considerations:**

- Wastewater staff does not have the equipment or expertise to complete this work.
- The Bid Board recommended approval of the bid of Utility Maintenance Contractors.

MOTION: Schwarz moved to approve the Consent Agenda as presented. Meidinger seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

The council recessed to the El Paso Water Company meeting at 9:25 p.m.

The council returned at 9:55 p.m.

**EXECUTIVE SESSION:**

MOTION: Schwarz moved to recess to Executive Session at 9:55 for 20 minutes to consider personnel matters of non-elected personnel and discussions about acquisition of real estate. Warren seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

MOTION: Schwarz moved to extend the Executive Session for an additional 15 minutes, to return at 10:35 p.m. Warren seconded.

VOTE: Schwarz yea, Warren yea Bannon yea, Arnold yea, Staats yea. Motion carried.

The council returned at 10:34 p.m. and Council member Schwarz advised there was no binding action taken.

**ADJOURNMENT**

MOTION: Meidinger moved to adjourn at 10:35 p.m. Warren seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

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Dion P. Avello, Mayor

ATTEST:

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Jean Epperson, City Clerk