

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, May 6, 2008
Tuesday, 9:07 A.M.

The City Council met in regular session with Mayor Brewer in the Chair. Council Members Fearey, Gray, Longwell, Schlapp, Skelton, and Williams present.

Ed Flentje, Interim City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

The pledge of allegiance was participated in by the Council Members, Staff and guests.

Rabbi Moti Rieber of the Mid-KS Jewish Federation gave the invocation.

The Minutes of the regular meeting of April 22, 2008, approved 7 to 0.

--Presentations

PRESENTATION:

Student Ambassadors to Cancun, Mexico were presented with a plaque.

AWARDS AND PROCLAMATIONS

--Proclamation

Proclamations:

Mayor Brewer read aloud the following Proclamations:

- Israel Independence Celebration Day
- Assistance League Month
- Riverfest Week
- National Tourism Week
- Nurses Week

--Presentations

Presentations:

John Wong, Interim Director, WSU Hugo Wall school of Urban and Public Affairs presented the Mini-MPA Certificates of completion to the following City of Wichita employees: Virdena Gilkey, Mike Gonzalez, Michael Jacobs, Kathy Morgan, Sandra Morris, and Debbie Williams.

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UNFINISHED COUNCIL BUSINESS

CADILLAC LAKE

CADILLAC LAKE AREA DEVELOPMENT NEAR 29TH STREET AND MAIZE ROAD. (DISTRICT V)

Chris Carrier

Public Works Director reviewed the item.

Agenda Item No. 1.

On March 20, 2007, the City Council approved a Development Agreement with NewMarket V, LLC; East Side Investments, LLC; and Bruce A. and Esther L. Pearson concerning certain properties generally located on the east and west sides of Maize Road, south of 29th Street North. The proposal called for the development of commercial properties along Maize Road which would result in the loss of some federally protected wetlands in the body of Cadillac Lake. For the project to proceed, it was necessary to secure a 404 Permit from the U.S. Army Corps of Engineers.

As the City was concerned about protecting properties located in Chadsworth and other downstream subdivisions from increased flooding due to the development of ground in the Cadillac Lake Drainage Basin, the City elected to join with the developers noted above to develop a joint project that would accomplish the following: mitigate the loss of wetlands due to the proposed development; construct stormwater detention facilities on property to be donated to the City upstream of Chadsworth Subdivision; and allow additional development to occur in the basin without increasing the flood threat.

In addition to approving the Development Agreement, on November 20, 2007, the Council approved a drainage petition that outlined the financial responsibilities of the parties. On December 4, 2007, the Council approved a letter of intent with the Lowe's Company to allow them to go forward with grading and site preparation upon issuance of the 404 Permit by the Corps. On April 15, 2008, the Council approved a design contract with Poe and Associates for the design of the wetland mitigation and stormwater detention project, also subject to the issuance of the 404 Permit.

As a part of the 404 Permit Application, the City and its development partners proposed additional wetland mitigation offsite at property which is a part of Water Utilities Cowskin Creek Water Reclamation Facility, located near 37th Street North and 135th Street West. As a part of the location of the treatment plant on this site, Water Utilities proposed to develop the southwest portion of the site (about 30 acres) into a wetland educational area. To date, however, only about 5 acres has been developed. This project will result in the private developers donating \$300,000 to Water Utilities that will allow them to further develop an additional 20 acres of wetland. This development is a condition of the 404 Permit as is the requirement that the City grant a Conservation Easement that will forever protect this portion of the site as wetlands and will stipulate that the Kansas Alliance for Wetlands and Streams, a third party group, will monitor the wetland conditions for five years after construction.

On Monday, April 21, 2008, the 404 Permit applicants received a proffered 404 Permit from the Corps of Engineers. The terms and conditions of said proposed permit have been reviewed and found to be acceptable to all. The final permit was issued by the Corps on Wednesday, April 23, 2008.

In order to make this project a reality, to meet the conditions of the Development Agreement and the 404 Permit, the following must now happen:

1. The City Council must accept the dedication of the west 54 acres of the Pearson property, with deed restrictions, on which a portion of the wetland mitigation and all of the storm water detention project will be constructed.
2. The City Council must approve the Conservation Easement for the additional wetland area to be constructed on the Cowskin Creek Water Reclamation Facility property.
3. The City Council must approve the establishment of a project by Water Utilities to construct an additional 20 acres of wetlands at the Cowskin Creek Water Reclamation Facility using the \$300,000 in funds, to be donated by East Side Investments and New Market V for said purpose.

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The financial mechanisms necessary to construct this project have been previously approved by the City Council on March 20 and November 20, 2007, with the exception of the wetland work to be completed at the Cowskin Creek Water Reclamation facility. That work will be funded as indicated above.

This project addresses the Efficient Infrastructure goal by providing a flood hazard mitigation project for the Westlink Tributary to Cowskin Creek and the Quality of Life goal by permanently establishing wetland areas in our community.

The Law Department has reviewed and approved the dedication documents as well as the attached Conservation Easement and Deed Restrictions.

Mayor Brewer Mayor Brewer inquired whether anyone wished to be heard.

Hank Blasé Mr. Blasé stated he is representing Jeff Bannon Auction and Realty, Inc and addressed the Council with their concerns regarding as to why Mr. Bannon's property was not included in the Wetland solutions. Stated his client was never given the opportunity to be included in the development agreement where the City has agreed to pay 60% of the cost for these drainage and wetland solutions and to expedite required processes for all governmental approvals. Stated he is asking the Council not to approve the establishment of the project by water utilities to construct an additional 20 acre wetland mitigation at the Cowskin Creek Water Reclamation Facility and the associated conservation easement until the March 2008 Wetlands Mitigation Plan can be reviewed by his client so that any equitable request for inclusion in this project can be considered.

(Vice-Mayor Schlapp momentarily absent)

Gary Rebenstorf Director of Law stated he would recommend that the Council not discuss this matter since it is in litigation. Stated Mr. Blasé knows the rules of filing court cases and it is not proper for him to come to the City Council to try and negotiate settlement of the lawsuit in front of the City Council at a public hearing and recommends since this matter is under litigation, that we let the courts decide it and not deal with it in this setting.

Council Member Longwell Council Member Longwell stated the City was a co-applicant on this for many years and is getting an incredibly needed flood control project that now we have some additional finances to complete that with the developer paying for big chunk of not only that mitigation site but we are getting the land donated, which is substantial. Stated we are getting a wetlands park and perpetuity, a much needed flood control project, and possibly some outdoor classrooms that David Warren has had a vision for quite some time and now we have the dollars to do that. Stated this is a good project for the City and the neighborhood around there and they understand the need for not only an important flood mitigation plan but are getting an enhanced wetland park and perpetuity.

Motion-- Longwell moved that the Dedication of land; the Conservation Easement; and the project be approved.
--carried Motion carried 7 to 0.

LICENSES

APPLICATIONS FOR LICENSES:

Kurt Schroeder Office of Central Inspection reviewed the item.

Renewals

After Dark Video	7805 West Kellogg Drive
After Dark Video	3721 South Broadway
After Dark Video	2809 North Broadway

Mayor Brewer Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--carried Brewer moved that the licenses be approved. Motion carried 7 to 0.

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NEW COUNCIL BUSINESS

AIRTECHNICS

TERMINATION AND RELEASE OF ADDITIONAL GUARANTY, AIRTECHNICS, INC. (DISTRICT II)

Allen Bell

Urban Development Director reviewed the item.

(Council Member Gray momentarily absent)

Agenda Item No. 3.

On May 1, 2001, City Council approved issuance of IRBs totaling \$3.475 million for Airtechnics, Inc., a manufacturer and distributor of electronic components for the aircraft industry. The City Council also approved a 100% tax exemption for a term of five years, plus an additional five years subject to City Council review. Bond proceeds were used to finance the construction and equipping of a new manufacturing, warehouse, administrative, and sales facility located at 3851 N. Webb Road.

On December 31, 2006, the initial five-year period for tax exemption expired. On November 21, 2006, City Council approved extension of the property tax exemption for a term of one year because the company had fallen short of its job commitment. On November 20, 2007, City Council approved the remaining four-years of tax exemption as Airtechnics had subsequently exceeded their five-year commitment for job creation.

On February 5, 2002, March 8, 2005 and January 9, 2007, City Council approved amendments to the Ordinances and related bond documents to restructure debt service payments in accordance with lower interest rates agreed to between the IRB Tenants and Bondholders.

Airtechnics is requesting the termination and release of the additional guaranty that exists on the Real Estate Bonds. The release of the guaranty will allow Airtechnics to remain competitive and viable in the future by simplifying potential future acquisition of the company. There are currently two separate guarantees on the bond financed property. Ronald and Barbara Mann, owners of Mann Properties, are individual guarantors to the bonds; Airtechnics is the additional guarantor for payment of the bonds. The property is currently leased to Mann Properties, LLC and subleased to Airtechnics.

Intrust Bank, NA is the bondholder and owner of 100% of the bonds and has agreed to the termination of the guaranty agreement and release of Airtechnics, Inc., as additional guarantor from its obligations under the guaranty agreement. The real estate bonds will continue to be guaranteed by Ronald and Barbara Mann pursuant to a separate real estate individual guaranty agreement dated May 1, 2001.

There is no financial impact to the City by the termination and release of the additional guaranty.

Economic Vitality and Quality of Life. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

The City Attorney's Office has reviewed and approved the Ordinance and documents as to form.

Motion--

Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Fearey moved that the Ordinance and the acknowledgement of Termination and Release of Guaranty be approved and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An ordinance of the city of Wichita, Kansas, authorizing execution and delivery of, and consenting to, a termination and release of guaranty by the Bank of New York trust company, N.A., St. Louis, Missouri, A National Banking Association, as trustee. Introduced and under the rules laid over.

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BLDG FACADE

BUILDING FACADE IMPROVEMENTS IN THE CORE AREA. (DISTRICTS I AND VI)

Allen Bell

Urban Development Director reviewed the item.

Agenda Item No. 4.

Since 2001, the City has provided a Facade Improvement Program. It is available to properties in defined areas, including the City's core area. On January 15, 2008, the City Council conceptually approved a request from Real Development for exterior improvements to seven high-rise buildings in the downtown area. Costs of improvements are paid through issuance of special assessment debt against the subject buildings. The buildings are:

- Kaufman Building – 208 South Market
- Landmark Square Building – 212 North Market
- Farmers and Bankers Building – 200 East 1st
- Orpheum Office Building – 200 North Broadway
- Petroleum Building – 221 South Broadway
- Sutton Place Building – 209 East William
- SC TelCom Building – 125 North Market

On March 4, 2008, the City Council approved petitions, adopted resolutions and established a public hearing for March 18, 2008 to formally consider the request. Due to issues with fractional ownership and lending agreements, the public hearing was deferred to provide an opportunity to address these issues. On April 22, 2008 the City Council approved petitions, adopted resolutions and established a new public hearing for May 6, 2008 to formally consider the request for three properties where there is no fractional ownership. These properties are:

- Kaufman – 208 South Market
- Landmark Square – 212 North Market
- Farmers and Bankers – 200 East 1st

Total combined cost for the proposed facade improvements listed above is projected to be \$583,579 (exclusive of financing costs). The table below itemizes the costs for each building.

BUILDING PROJ MGR	CONSTRUCTION, ARCHITECT & ENGINEER 10%	REAL DEV		
CONTINGENCY	PW ADMIN			TOTAL
FEE (2%)	10% DEVELOPMENT FEES			TOTAL
Landmark	294,121 9,510	29,412 5,882	28,555	367,480
Farmers & Bankers	147,209	4,760 14,721	2,944	14,292
183,926				
Kaufman II	25,750 833	2,575 515	2,500	32,173
TOTAL	\$ 467,080	\$ 15,103	\$	46,708 \$
	9,341 \$ 45,347	\$ 583,579		

This project will utilize a slightly different process than normal special assessments. The protest period that normally comes at the end of a completed project (after there is a final statement of cost) will instead take place on the front end. For this reason, a maximum assessment amount is provided, which cannot be exceeded. Therefore, a 10% contingency is included in the estimated costs. An administrative charge for the City that is part of the Facade Improvement Program and development fees for Real Development are also included. A summary for each building follows:

The Kaufman Building is a four story building with 31,250 s.f. located at 208 S. Market. Owners have already invested in substantial tenant improvements. Projected cost for the facade improvements on this building is \$32,173 (increasing to \$40,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Landmark Square Building is a five story office building with 45,899 total s.f. located at 212 N. Market. Owners have already invested in tenant improvements, common area remodeling, and

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technology infrastructure enhancements. Projected cost for the facade improvements on this building is \$367,480 (increasing to \$475,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Farmers and Bankers (F&B) Building is a five story office building with 25,030 s.f. located at 200 E. First. Owners have already invested in tenant improvements, common area remodeling, and technology infrastructure enhancements. Projected cost for the facade improvements on this building is \$183,926 (increasing to \$245,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

Improvements to the buildings are general and involve improvements such as masonry repair, tuckpointing, cornice repair, power washing, exterior painting, and window and door repair/replacement.

Each building improvement project will require a separate special benefit district to be established. State law requires a formal public hearing to levy assessments for each special assessment benefit district. Petitions have been approved and resolutions have been adopted for each project. All projects may share the same public hearing.

The combined project budget for all buildings to be paid by special assessments at this time is estimated at \$760,000. These will be Taxable General Obligation Special Assessment Bonds, paid as to principal and interest with special assessments levied against the improved properties and will be backed by the full faith and credit of the City of Wichita. Staff has been working with Bond Counsel (Kutak Rock) and a Financial Advisor (Springsted) to perform due diligence with regard to the City's risk and how the bonds would be structured. Included in the issue will be a one year debt service reserve and a small financing contingency to mitigate risk and ensure the maximum assessment is not exceeded. Also, interest rates have been cautiously assumed at 6.75% for permanent financing. Other risk mitigation options that could be applied include: requiring the City to approve any sale of the assessed buildings (or at least requiring the City to receive notification of a pending sale); requiring the sale of a building to trigger the funding of an escrow account to ensure payment of all future principal and interest; and/or phase the financing in a manner that would allow the City on-going information on actual occupancy and lease rates.

A "not to exceed" amount for each special assessment district is included in each of the separate petitions and resolutions. The following table itemizes the estimated cost per facade project, including the estimated financing costs:

BUILDING	Total Net Bond Proceeds	Estimated Financing Costs	Total		
Principal					
Landmark	367,480	107,520	475,000		
Farmers & Bankers		183,926	61,074	245,000	
Kaufman II	32,173	7,827	40,000		
TOTAL	\$	583,579	\$	176,421	\$ 760,000

The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

State statutes provide the City Council authority to use special assessment funding for the projects. A formal public hearing is required as part of the approval process. Petitions were approved and resolutions were adopted (April 22, 2008), establishing the maximum amount for each special assessment district. Actual amounts to be special assessed at the completion of construction may be less, but they may not exceed the amounts included in the petitions, resolutions, and ordinances.

Ordinances allow a 31-day window for prepayment of the assessment from the date of adoption. In the event actual costs are less than the amounts assessed, rebates will be calculated and distributed to any

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property owner that has elected to prepay assessments at that time.

Representatives from Real Development have requested the City exercise emergency adoption of the ordinances on first reading to allow construction to commence immediately. In as much as the property involved is under the ownership of Real Development and it's associates, who are making the special assessment request, a challenge or protest of the Council's action is unlikely.

The authorizing ordinances and the Declarations of Emergency have been reviewed and approved as to form by the Law Department.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--

Williams moved that the public hearing be closed; find and declare, upon request of the Mayor, that a public emergency exists, requiring the final passage of the ordinance on the date of their introductions, and adopt the maximum assessment ordinances and authorize the publication of the ordinances.

--carried

Motion carried 6 to 1, (Nay- Skelton).

ORDINANCE NO. 47-879

An ordinance levying and assessing maximum special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of internal improvements in the city of Wichita, Kansas, as authorized by resolution no. 08-216 of the city (Kaufman Building Facade Improvement District). Williams moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams and Brewer, (Nay-Skelton).

ORDINANCE 47-880

An ordinance levying and assessing maximum special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of internal improvements in the city of Wichita, Kansas, as authorized by resolution no. 08-217 of the city (Landmark Building Facade Improvement District). Williams moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams and Brewer, (Nay-Skelton).

ORDINANCE 47-881

An ordinance levying and assessing maximum special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of internal improvements in the city of Wichita, Kansas, as authorized by resolution no. 08-218 of the city (Farmers and Bankers Building Facade Improvement District). Williams moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams and Brewer, (Nay-Skelton).

BLDG. FAÇADE

APPROVE BUILDING FAÇADE PROJECT IN THE CORE AREA. (DISRICT VI)

Allen Bell

Urban Development Director reviewed the item.

Agenda Item No. 4a.

Since 2001, the City has provided a Facade Improvement Program. It is available to properties in defined areas, including the City's core area. On January 15, 2008, the City Council conceptually approved a request from Real Development for exterior improvements to seven high-rise buildings in the downtown area. Cost of improvements are paid through issuance of special assessment debt against the subject buildings. One of these buildings is the SC Telecom Building at 125 N. Market.

On March 4, 2008, the City Council approved a petition, adopted a resolution and established a public hearing for March 18, 2008 to formally consider the SC Telecom facade improvement request. Due to

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issues relating to separate land leases, which complicated ownership issues, the public hearing on the SC Telecom Building was deferred. A Resolution to order a public hearing was approved by the City Council on April 22, 2008, allowing the project to proceed.

The SC Telecom Building is a nineteen story building with 312,875 s.f. located at 125 N. Market. The owners have begun interior improvements, remodeling common areas, adding technology infrastructure, replacing the roof, and various tenant improvements.

Exterior improvements to the SC Telecom building include changing the entire appearance of the building facade on some sides to create a visually stimulating impact to travelers entering the downtown area. Facade improvements on this building are expected to be approved in two phases. At this time only some ground level (phase one) improvements are being sought. These are exterior or facade enhancements necessary in conjunction with the main floor lobby and atrium improvements to be separately financed but jointly constructed as part of the overall building refurbishment.

Projected cost of the total facade improvements envisioned is \$4,796,264 (increasing to \$6,115,000 with estimated financing costs); however, the cost for phase one of the improvements is \$861,981 (increasing to \$1,078,801 with estimated financing costs). The proposal assumes 20-year special assessment financing. The project will require a separate special benefit district to be established. State law requires a formal public hearing to levy assessments against special assessment benefit district.

The estimated project cost for this phase is \$1,078,801. Financing will be General Obligation Taxable Special Assessment Bonds, paid as to principal and interest with special assessments levied entirely against the improved property and will be backed by the full faith and credit of the City of Wichita. Included in the issue would be a one year debt service reserve and a small financing contingency to mitigate risk and ensure the maximum assessment is not exceeded. Also, interest rates were cautiously assumed at 6.75% for permanent financing. The proposed method of assessment is on a square foot basis.

The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

State Statutes provides the authority for the City Council to order in public improvement projects, and to use special assessment funding. A formal public hearing is required as part of the approval process. The proposed resolution will set the maximum amount for the special assessment district and establish the date of the public hearing. Actual amounts to be special assessed at the completion of construction may be less, but they may not exceed the amounts included in the petitions and resolutions.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Mr. Gabel

Mr. Gabel stated he does not believe that the City at large feels this is appropriate. Stated anytime you start digging up 10 million dollars to give to investors so that they can remodel buildings and then resell to make a profit and are suppose to pay this money back in special assessment taxes, is not right. Stated the people that are getting the money are not going to pay these taxes and the people that they sell these buildings to at a profit are going to pay these taxes and chances are will come back and ask to have these taxes reduced or lowered and the City at large will end up paying for them. Stated out of this 10 million dollars, 2 million dollars is going into these guys pockets for just promoting this deal. Stated we are in a time when a lot of people in this town are struggling and our neighborhoods are in bad shape and a lot of people do not make big bucks in this town. Stated when we start talking about giving 10 million dollars to away for a "pet" project, these people bought these buildings with the idea that they were going to make a profit at it and want the City to give them the money to fix them up so that they can make a profit. Stated they stole these buildings and do not need the City's or his money to remodel them. Stated we should not reward them by giving them two million dollars in promotional fees for setting up a deal like this and it is not right.

Allen Bell

Urban Development Director gave an explanation of special assessments.

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Motion--

Fearey moved that the public hearing on the finding of advisability be closed; the project approved; Resolution adopted; the necessary signatures authorized; and a public hearing to levy assessments against the special assessment benefit district established. Motion carried 6 to 1, (Nay-Skelton).

--carried

RESOLUTION NO. 08-253

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 125 North Market (north of Douglas, west of Market) 472-84678, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams and Brewer, (Nay-Skelton).

PLUMBING CODE

ORDINANCE CHANGES TO THE CITY OF WICHITA PLUMBING CODE (TITLE 21.04).

Kurt Schroeder

Office of Central Inspection reviewed the item.

Agenda Item No. 5.

Over the past several months, the Plumbing Board has reviewed and recommended various amendments to the Plumbing Code, primarily as related to bi-annual continuing education unit requirements (CEUs) for certified plumbing and drain laying (sewer) tradespersons. Although Wichita has required plumbing and drain layer tradesperson certificate testing and annual certificate renewal for over thirty years, Kansas statute now requires plumbing tradespersons to obtain a minimum of twelve hours of continuing education every two (2) years, and to provide proof of such education for local certificate renewal. In order to clarify requirements of state statute, as applied at the local level, it is necessary to amend the Plumbing Code to add a number of definitions, and to generally outline local authority and policy as related to CEUs required for certificate renewal in Wichita.

The above-outlined review of plumbing and drain layer tradesperson certification, education and renewal generated additional Plumbing Board discussion about responsibility for training and supervision of working “apprentices” by certified master and journeyman level plumbers, as well as by the licensed company for which they work. This led to several additional Plumbing Code amendment recommendations by the Plumbing Board.

The proposed Plumbing Code amendments (in final delineated form) were unanimously recommended for adoption by the Plumbing Board during the Board’s April 2, 2008 meeting. The recommended ordinance amendments are summarized below.

Section 21.04.035: This section creates specific definitions for various mechanical tradesperson certificate holders and apprentices, and also defines “direct supervision.” These definitions are necessary for testing, CEU and renewal purposes, and for more effective enforcement of required apprentice supervision.

Section 21.04.040(b): This amendment increases the maximum number of apprentices supervised by a journeyman or master level certified mechanic from two (2) to four (4), and clarifies that the qualified master for a licensed company, master or journeyman plumber, and/or apprentice may be held accountable for work performed without required supervision. The Board and staff believe this will help improve enforcement, will increase job productivity, and will not decrease job safety and/or quality.

Section 21.04.04(c): This amendment clarifies the responsibility of the qualified master of a licensed company to ensure that employees are appropriately certified to do plumbing work.

Section 21.04.040(e): This amendment clarifies City of Wichita requirements for plumbing certificate bi-annual renewal, specifically as related to CEU requirements.

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Section 21.04.055: This amendment clarifies the licensed company's ("master, qualified") responsibility to ensure proper marking of vehicles owned by the company, which are used to conduct business.

There are no costs to the City associated with the adoption of the amended ordinance. Plumbing and sewer permit, contractor license and trade certificate fees are not changed.

On January 24, 2006, the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. The proposed Mechanical Code ordinance amendments support the "Provide a Safe and Secure Community" goal by ensuring continuing education of plumbing and drain layer tradespersons, as well as proper job site supervision and accountability by Wichita-licensed plumbing companies.

The recommended ordinance revisions have been approved as to form by the Law Department.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Brewer moved that first reading of the ordinance amending Title 21.04 of the Code of the City of Wichita be approved. Motion carried 7 to 0.

ORDINANCE

An ordinance amending sections 21.04.020, 21.04.040 21.04.043, and 21.04.045, creating section 21.04.035 of the code of the city of Wichita, Kansas, pertaining to the plumbing and gas fitting code, and repealing the originals of Sections 21.04.020, 21.04.040 21.04.043, and 21.04.045, of the code of the city of Wichita. Introduced and under the rules laid over.

WRECKER SERV.

ORDINANCE AMENDMENTS, SECTIONS 3.49.040 AND 3.49.130 REGARDING EMERGENCY WRECKER SERVICES.

Tom Stolz

Deputy Chief of Police reviewed the item.

(Council Member Longwell momentarily absent)

Agenda Item No. 6.

The city currently utilizes a wrecker rotation list for the removal of vehicles which are involved in accidents or which are abandoned on the highway causing traffic hazards. Chapter 3.49 of the Code of the City of Wichita establishes procedures to be utilized by the Wichita Police Department to administer the towing program. Additionally, because these are non-consensual tows, the ordinance provides fee limitations on the costs which may be charged to citizens for these tows.

Emergency Wrecker Companies have requested, due to increases in fuel and operational expenses, rate increases for the fees which may be charged for emergency tows. Staff has negotiated the proposed increase with the wrecker companies and is recommending that the proposed ordinance be adopted. Storage fees were previously increased in 2005; the current proposal does not adjust the storage fees. The proposed fees equal those allowed by Overland Park and are consistent with those charged in other jurisdictions.

The proposed amendment increases the following fees:

Current	Proposed Changes	
Tow Fee	\$ 65.00	\$ 80.00
Waiting Time per ¼ hour	\$ 10.00	\$ 18.00
Storage	\$ 20.00	\$ 20.00
Specialized towing	\$ 20.00	\$ 43.00

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(overturned vehicle)		
Dolly	\$ 20.00	\$ 43.00
2½ ton wrecker tow	\$100.00	\$120.00
Mileage (2½ ton)	\$ 4.50	\$ 5.15
Mileage	\$ 2.85	\$ 3.50
Winching (per ½ hr.)	\$ 15.00	\$ 25.00
Winching (2½ ton)	\$ 25.00	\$ 35.00
Processing Fee (to WPD)	\$ 15.00	\$ 15.00
Tractor & Trailer	0	\$250.00
Landoll Trailer	0	\$125.00
Lot Fee	0	\$ 15.00
Tarping Fee	0	\$ 12.00
Fuel Surcharge (to be reviewed annually)	0	7% of basic tow

The ordinance provides that the fuel surcharge is to be reviewed annually by the Chief of Police. Any change to the fuel charge fee must be approved by the City Manager.

The amendment has been prepared and approved as to form by the Law Department.

The ordinances will assist in providing a safe and secure community.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Mark Esedrow

Mr. Esedrow resides at 3760 South Broadway, stated he is a participant in the emergency wrecker rotation. Stated he appreciates staff's efforts in raising some of these rates and have been working on a fuel surcharge. Stated their biggest problem is that they do not think it goes quite far enough and ask for a fuel surcharge based on the national average. Stated most trucking and transportation companies are at 30% when fuel is \$4.00 a gallon and his trucks do not get quite the miles per gallon as these trucks and thought it prudent to ask for half of that rate. Stated they appreciate a fuel surcharge and need it and think it should be indexed based on these rates, 2.5% for every .25 cent fuel increase or every .25 cent fuel goes down and in that mid-range it should stay the same. Stated they also have a problem with the storage rate and the current rate is \$20.00 and was applied for in 2003 and the Council approved it in 2005 and there has been no raise for the last three years, their property taxes go up every year by 11 to 15% and his electric bills have doubled and they have to recover these costs. Stated they feel like a rate increase should be based on a national average, which is closer to \$30.00 a day and should have a rate increase of 4 to 10% every year and not have to come back to the Council every three years and try and get it all at once. Stated the police department and the City have said that it cost money to store these vehicles and cost money to sell the vehicles and they take 5% of their revenue and 5% of the sells and lose money because their property and evidence staff has to go out to the lots. Stated they have offered to do it like the county and sell all of the vehicles, do not take their 5% and let them charge under state statute and once that vehicle is impounded and is taken to their storage facility, they will cap the storage after 30 days because most vehicles that are released will go out in first or second day. Stated if they cap their storage the customer pays no more than that, they turn the vehicles over faster and they recover their money. Stated they do not think this is an unreasonable request.

Tom Stolz

Deputy Police Chief stated they are working under a rotation system now between eight companies. Stated there is further research that needs to be done on this and should entertain the idea of an RFP contract kind of system with one or two wrecker companies to get quality and low price.

Motion--carried

Skelton moved that the ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An ordinance amending sections 3.49.040, and 3.49.130 of the code of the city of Wichita, Kansas, pertaining to wrecker services and repealing the originals of said sections. Introduced and under the rules laid over.

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PAVING

PAVE PARTS OF NEW JERSEY DRIVE, VALLEY FORGE ROAD AND BRANDYWINE ROAD, EAST OF OLIVER, NORTH OF 31ST STREET SOUTH. (DISTRICT III)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 7.

The signatures on the Petition represent 21 of 40 (53%) resident owners and 39% of the improvement district area. District III Advisory Board sponsored an April 2, 2008, neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project.

The project will provide paved access to an existing single family and multi-family residential area.

The estimated project cost is \$340,000 with \$293,700 assessed to the improvement district and \$46,300 paid by the City. The City share is for the cost of intersection construction with General Obligation bonds as the funding source. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.40 per square foot of ownership.

This project addresses the Efficient Infrastructure goal by providing street paving in an existing residential area.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Gary Hefley

Mr. Hefley resides at 367 North Brunswick, stated he owns both sides of Brunswick for a half a block on both sides of the street where it dead ends and his proposal could save the whole tax district some dollars. Stated he is proposing that the City abandon the street between his two lots, move the cul-de-sac to the next lot north and that would save paving a half a block of street and free up his property so that he has a complete lot of that corner. Stated he and his wife prefer that this be left abandoned between their lots and it would save a lot of paving that would be required to extend the street to the corner and saving everyone in the benefit district that costs and allow him to change the zoning at a later date, which would allow them to improve the looks of this intersection by adding a new small commercial building.

(Council Member Fearey momentarily absent)

Unidentified

Stated she has lived in this area for 25 years and has no intention of selling her property to Mr. Hefley and has had dust and dirt in their faces for 25 years and it is time to get this paved. Stated she would like the Council to proceed with their petition.

Council Member Skelton

Council Member Skelton stated he is inclined to approve this petition today but would like the Council to defer it for one week so that he can do some more research on this.

Motion--
--carried

Skelton moved to defer until the next regularly scheduled Council meeting to discuss this issue with staff. Motion carried 7 to 0.

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KELLOGG RD.

KELLOGG FRONTAGE ROAD, BETWEEN 135TH STREET WEST AND 119TH STREET WEST. (DISTRICT V)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 8.

The Kansas Department of Transportation (KDOT) has agreed to participate in the funding of a new frontage road on the south side of Kellogg, between 135th St. West and 119th St. West. Sedgwick County has also agreed to participate in the project funding because the west ½ mile of the project is not within the Wichita City limits. On November 15, 2005, the City Council approved a City/County agreement that established a basis for the County's funding. A City/County/State agreement has been prepared that outlines the responsibilities of the City, Sedgwick County and KDOT.

The project consists of a two lane roadway on the south side of Kellogg that will connect to 135th St. West and 119th St. West. It will reduce the need to connect future development directly to the through lanes of Kellogg. The completed project will be incorporated into the Kellogg freeway when it is built in this area. The project will be bid by KDOT in June, and construction administration will also be thru KDOT.

The estimated project cost is \$4,900,000, with \$3,283,000 paid by KDOT, \$808,500 paid by the County and \$808,500 paid by the City of Wichita. Previous right-of-way purchase costs will apply to the City's share. The funding source for the City share is the local sales tax.

The Law Department has approved the City/County/State agreement as to legal form.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--

Longwell moved that the project and the City/County/State Agreement be approved and the necessary signatures and the signing of County/State/Federal Agreements as required authorized. Motion

--carried

carried 7 to 0.

MT. VERNON

MT. VERNON IMPROVEMENT, BETWEEN THE ARKANSAS RIVER AND BROADWAY. (DISTRICT III)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 9.

The 2007-2016 Capital Improvement Program (CIP) includes funding to reconstruct Mt. Vernon between the Arkansas River and Broadway. On December 13, 2005, the City Council approved an agreement with MKEC Engineering Consultants to prepare a design concept for the project. On May 2, 2007, District III Advisory Board held a neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the design concept and project. On July 3, 2007, the City Council approved the design concept and additional funding to complete the design and acquire required right-of-way.

The project consists of the construction of a large concrete box drain along Mt. Vernon from near Topeka to the Arkansas River. The existing two lane pavement will be replaced with a new two lane street that has left turn lanes at the east and west approaches to Broadway and sidewalk on both sides of the street. New traffic signals will be installed at Broadway. The project is planned to begin this summer. The size of the drainage structure will necessitate the closure of Mt. Vernon during construction.

The total estimated project cost is \$4,000,000 and is budgeted in the CIP. The City Council previously approved \$367,500 for design and right-of-way acquisition. The storm water sewer portion is estimated to be \$1.3 million of the total cost. The funding source is General Obligation Bonds.

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This project addresses the Efficient Infrastructure goal by improving traffic flow and drainage in an existing residential and commercial area.

The Law Department has approved the Amending Ordinance as to legal form.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Skelton moved that the Project be approved; the Amending Ordinance placed on First Reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An ordinance amending ordinance no. 47-510 of the city of Wichita, Kansas declaring Mt. Vernon, between Broadway and the Arkansas river (472-84289) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same. Introduced and under the rules laid over.

U.S. GEOLOGICAL

U.S. GEOLOGICAL SURVEY JOINT FUNDING AGREEMENT.

David Warren

Director of Water and Sewer reviewed the item.

Agenda Item No. 10.

Recharge Basin No. 1 was constructed as part of Phase 1 of the Aquifer Storage and Recovery Project. Initial soil testing indicated that the site would be appropriate for a recharge basin and the basin was subsequently constructed. The clay content of the sand in the basin was higher than initial tests had shown, causing the basin not to function as intended.

Burns & McDonnell Engineering has designed a passive recharge system that will allow water to enter the basin, percolate through a shallow trench into a pipe and be recharged into the aquifer via a passive recharge well. Since water will be placed into the aquifer by this alternate method, the aquifer adjacent to this well must be closely monitored to ensure that any micro organisms that might have entered the basins are filtered out, or eliminated, through the recharge process. This demonstration will also help provide additional geochemical information regarding the effect of recharging surface water directly through recharge wells. The U.S. Geological Survey (USGS) has agreed to install the monitoring system for testing and to provide sampling and analysis services.

Data will be collected over a six-month period with a report detailing the findings. The report will aid in regulatory compliance for future phases of the ASR project, provide an alternate method to use Recharge Basin No. 1 and possibly expand the use of passive recharge wells in future phases of the project. These tests will be of value and have relevance to other recharge projects across the nation, as they look at water source options when mixing waters with different geochemical characteristics.

The cost for instrumentation, testing and preparation of the report is \$264,000. The USGS cost-share will be \$50,000 with the remaining \$214,000 paid by Water Utilities. Capital Improvement Program, Water Supply Plan Phase III (CIP W-549), has adequate budget to cover the costs of the program.

The project will help ensure efficient infrastructure by assuring adequate water supplies now and in the future and is a critical component of the City's infrastructure.

The Joint Funding Agreement has been approved as to form by the Law Department.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Brewer moved that the expenditures be approved; the Joint Funding Agreement with the USGS authorized; and the necessary signatures authorized. Motion carried 7 to 0.

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TRANSPORTATION CITY OF WICHITA INTELLIGENT TRANSPORTATION SYSTEM PROJECT.

Michael Vincent Interim Transit Director reviewed the item.

Agenda Item No. 11.

The Transit Services Department provides public transportation to the general population of City of Wichita. The current infrastructure has reached a point where available and affordable technology improvements are needed to support the current systems abilities. Transit Services has been conducting research to identify ways to improve operational efficiencies and customer services, while maintaining existing staffing levels. If Transit Services is to maintain its ability to provide efficiency in its fixed-route and paratransit service, while accommodating significant increases in demand and rising diesel fuel costs, it is necessary to implement available technology.

Public transit providers, enhanced with the use of ITS technologies, have been able to improve customer service and become more efficient, ultimately resulting in even greater mobility and access. Overall, agencies which have employed ITS technologies have realized a 9.5% improvement in the delivery of service, while customer complaints have been reduced by 14%.

ITS initiatives for transit are typically undertaken by the local public transportation provider agency. Transit Services has identified the utilization of ITS technologies to fulfill the need for an update to its current system. Not only have the ITS applications shown a benefit to the transit ridership but have resulted in advancing positive improvements on the overall regional transportation network as a whole. These improvements are also needed to support local Americans with Disabilities Act (ADA) transit related requirements as well as planned transit services supporting both the downtown arena and regional growth initiatives.

At a minimum, the components to the ITS project will be for the issuance of a consultant contract responsible for the design, implementation, and deployment of the following project applications;

- Automatic Vehicle Location (AVL) system with Global Positioning System (GPS);
- Automated Stop Announcement system (ADA mandated);
- External Vehicle Identification system (ADA mandated);
- Computer Aided Dispatch (CAD) system with Mobile Data Terminals (MDT);
- Automated Passenger Count (APC) system;
- Customer Service system;
- Vehicle Diagnostic system.

Together with the consultant contract, Transit Services has identified an assembly of hardware and software to be purchased and installed on fixed-route buses, paratransit vans, supervisory vehicles and spare parts inventory, as the costs projected for the project. The number of vehicles to be equipped with the ITS components, combined with a 10% buffer for spare parts, will total 93 unit sets.

After researching agencies which have completed similar projects, Transit Services has determined the approximate cost for the project to be:

• Consultant Project Management	\$75,000
• Cost per Vehicle (\$15,000)	<u>\$1,395,000</u>
TOTAL	\$1,470,000

In support of this project, Transit Services has identified the following funding sources:

	<u>Federal</u>	<u>Match</u>	<u>Total</u>	<u>Match Source</u>
• 1999 FTA Grant	\$ 25,600	\$ 6,400	\$ 32,000	KDOT Funds
• 2003 FTA / AVL Grant	327,102	81,775	408,877	City Funds
• 2005 FTA / AVL Grant	365,000	91,250	456,250	KDOT Funds
• 2003 FHWA ITS Demonstration Fund	<u>605,789</u>	<u>N / A</u>	<u>605,789</u>	
TOTAL	\$1,323,491	\$179,425	\$1,502,916	

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Transit Services has estimated the return-on-investment for this project to be complete within eight years.

The project proposal has been reviewed by City Council during a Workshop session on April 22, 2008. The project has also been reviewed and approved by the IT/IS Advisory Board on March 5, 2008.

Expenditure of the FHWA ITS Demonstration Fund will require:

- Approval from City Council;
- Supplemental Agreement between the City, County, Wichita Area Metropolitan Planning Organization and KDOT.

This project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increase Productivity.

The Supplemental Agreement has been approved by the City, County and KDOT Legal Departments as to form.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Gary Wingett

Mr. Wingett stated he has worked with Mr. Vincent for 20 years and is here today to urge the Council to approve this today. Stated he supports public transportation and urges the Council to move forward with this.

Motion--

Brewer moved that the request from Transit Services to move forward with the ITS project; release of an RFP for a consultant contract; the expenditure of City funds for a required match on Federal Grant money; expenditure of the FFY2003 FHWA ITS Demonstration Fund; and the signing of the associated Supplemental Agreement be approved. Motion carried 7 to 0.

--carried

UNSAFE STRUC.

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICTS I AND IV)

Kurt Schroeder

Office of Central Inspection reviewed the item.

Agenda Item No. 12.

(Vice-Mayor Schlapp momentarily absent)

On March 25, 2008, a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted a resolution providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on May 6, 2008.

On March 3, 2008 the Board of Code Standards and Appeals (BCSA) held a hearing on the nine (9) properties listed below:

<u>Property Address</u>	<u>Council District</u>
a. 1237 North Mathewson	I
b. 708 North Minneapolis	I
c. 731 North Minneapolis	I
d. 1138 North Ash	I
e. 1237 North Green	I
f. 1242 North Volutsia	I
g. 2027 North Minnesota	I
h. 411 West University	IV
i. 3811 West Taft	IV

Detailed information/analysis concerning this property is included.

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Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Pursuant to State Statute, the Resolutions were duly published twice on March 28, 2008 and April 4, 2008. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Kurt Schroeder

Office of Central Inspection stated that the properties listed as A through I, excluding F, should fall under staff's recommendation to proceed with condemnation.

Motion--

Brewer moved to close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of May 6, 2008; (2) the structure has been secured as of May 6, 2008 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of May 6, 2008, and will be so maintained during renovation for the properties listed as A) 1237 N. Mathewson; B) 708 N. Minneapolis; C) 731 N. Minneapolis; D) 1138 N. Ash; E) 1237 N. Green; G) 2027 N. Minnesota; H) 411 W. University; and I) 3811 W. Taft. Motion carried 6 to 0, (Schlapp absent).

--carried

Resolution No. 08-221

A Resolution finding that the structure/s located on Lot 60, 62 and 64 on Ewing Avenue, now Mathewson Avenue in Granville Park Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 1237 N. Mathewson, is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-222

A Resolution finding that the structure/s located on the south 23 feet of Lot 16, and all of Lot 18, except the East 8 feet, on Minneapolis Avenue, Oakland Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 708 N. Minneapolis, is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-223

A Resolution finding that the structure/s located on Lot 1 and the North 15 feet of Lot 3, Minneapolis Avenue, Oakland Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 731 N. Minneapolis, is/are unsafe or dangerous and directing the structure/s to be

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made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-224

A Resolution finding that the structure/s located on Lot 18 and 20 on Ash Street in Norris Subdivision of Lot 3, in Tarlton's 2nd Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 1138 N. Ash , is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-225

A Resolution finding that the structure/s located on Lot 65 and 67, on Green street, Fairmount Park Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 1237 N. Green , is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-227

A Resolution finding that the structure/s located on Lot 73 and 75, on Sedgwick, now Minnesota Avenue, Parkview Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 2027 N. Minnesota, is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: F Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-228

A Resolution finding that the structure/s located on the East 20 feet of Lot 18 and west 20 feet of Lot 19, on University Avenue, Winne's Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 411 W. University, is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Resolution No. 08-229

A Resolution finding that the structure/s located on Lot 1, Block 2, in Eureka Gardens Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 3811 W. Taft is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Williams and Brewer, (Schlapp absent).

Kurt Schroeder

Office of Central Inspection reported on the property listed as F) 1242 North Volutsia. Stated that the taxes are delinquent in the amount of just under \$800.00 and he was out there yesterday and there was quite a bit of repair completed on this property. Stated it looks to be about 75% completed on the exterior and the premise was in good shape. Stated the owner Maurice Reed is here and is asking for additional time of 60 days to finish repair of the property on the outside. Stated he was not sure if he could get the back taxes paid within the policy of 10 days.

Maurice Reed

Mr. Reed resides at 1242 N. Volutsia, stated he plans of letting his son live there when he is finished with the house. Stated he feels he can have everything done in 60 days but will need more time to get another loan to pay off the delinquent taxes.

Motion--

Williams moved to allow the property at 1242 N. Volutsia 60 days to come into compliance with the city codes and an additional 60 days to make sure that property taxes and special assessments are paid. Motion carried 7 to 0.

--carried

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Resolution No. 08-226

A Resolution finding that the structure/s located on Lots 62 and 64, Volutsia Avenue, Fairmount Park Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 1242 N. Volutsia, is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Schlapp, Skelton, Longwell, Williams and Brewer.

SMOKING ORD. AMEND CITY CODE CHAPTER 7.56, REGULATING SMOKING.

Motion--carried Brewer moved to skip item 12a until 1:00 p.m. Motion carried 7 to 0.

CITY COUNCIL AGENDA

Council Member Skelton Council Member Skelton stated he has something to discuss under the City Council agenda. Stated he has been made aware of another fatal accident at the crossing at K-15 and 31st Street and would like to inform the Council that this in the entrance into Cornejo and Bradburn Wrecking. Stated two years ago Cornejo had dedicated the right of way necessary for the installation of a railroad crossing and at this time none has been built and gave a brief synopsis of some of the more recent accidents in this area. Stated if there is anything that staff can do to pressure the people in question or work with KDOT, it would be appreciated and asked Chris Carrier to provide some information regarding this.

Chris Carrier Public Works Director stated they have been in contact with BNSF since the last accident and Deb Miller, Secretary of Transportation. Stated the railroad has a City/State railroad agreement in Fort Worth that is being signed by the railroad and this is a priority for them. Stated they are going to sign that right away and get that back to KDOT and KDOT will then has to get that to us. Stated the Secretary indicated the willingness to get that delivered by somebody from KDOT and he assured her that he would get it signed and get it back to her. Stated once KDOT signs it, then the railroads schedules, the purchase of the materials for crossing protection, and the installation for those materials, will be done by their railroad union agreements. Stated if we can get this agreement signed soon, the railroad will try to have that crossing protection in there by the end of this year, which according to them is moving very rapidly.

Council Member Skelton Council Member Skelton asked to be kept apprised of this situation.

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PLANNING AGENDA

Motion-- Brewer moved that Planning Consent items 14 through 23 be approved in accordance with the
--carried recommended action as shown thereon. Motion carried 7 to 0.

(ITEM 13)
A08-03R

A08-03R-REQUEST BY ERNIE R. KUMPE, OF KUMPE DEVELOPMENT INC. AND CORWYN OLDFIELD, OF AMERICAN INC. TO ANNEX LAND GENERALLY LOCATED NORTHWEST OF 45TH STREET NORTH AND 135TH STREET WEST, (ISLAND ANNEXATION). (DISTRICT V)

John Schlegel Planning Director reviewed the item.

Agenda Item No. 13.

The City received a request to annex 72.3 acres of land generally located northwest of 45th Street North and 135th Street West. The subject property does not abut the City of Wichita, and therefore is an island annexation request. The property owner anticipates that the proposed property will be developed with 175 single-family residential units within the next five years and potentially five acres of commercial property within the next ten years.

Land Use and Zoning: The proposed annexation consists of approximately 72.3 acres of property currently zoned "RR" Rural Residential. Property directly to the north, east, south and west is primarily undeveloped, with a few farmsteads, and is zoned "RR" Rural Residential.

Public Services: The closest sewer line is a 14" sewer line located ½ mile south of the proposed annexation site, which runs along 135th Street West and connects to the City of Wichita's Sewage Treatment Plant No. 3. The closest water line is a 16" water main that runs along the south edge of Prairie Pointe Addition, approximately 2 ½ miles southeast of the proposed annexation site. The subject property can be readily served by Wichita Water Utilities. In addition, the Wichita Water Utilities and the property owner have discussed the possibility of utilizing a portion of the proposed annexation site for a water tower.

Street System: 45th Street North, a dirt road, runs along the south edge of the subject property. 135th Street West runs along the east edge of the subject property and is a two-lane paved road. According to the 2008 Transportation Improvement Program, the construction of the Northwest Bypass is scheduled to begin in 2009, which is located ½ mile south of the proposed annexation site; however, this project will most likely be delayed for several years due to the nationwide reduction of available federal funds.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita will provide fire protection from Fire Station No. 16, located at 1632 North Tyler, with a fourteen (14) to fifteen (15) minute response time. Sedgwick County has Fire Station No. 33, located at 5728 North 151st Street West, with a five (5) to six (6) minute response time. Upon annexation, police protection will be provided to the area by the Patrol West Bureau, Beat 19, of the Wichita Police Department, headquartered at 611 N. Elder.

Parks: The closest parks are located within the City of Colwich and the City of Maize. The closest, City of Wichita park is the North Ridge Village Addition, located 3 ½ miles southeast of the subject property, is undeveloped and serves as a habitat for the Eastern Spotted Skunk. The West Meadows Park, a 1.5-acre park, is located approximately 5 miles southeast of the subject property and contains a children's play area, a basketball/multi-use court and a tennis court. The Sunset Park, a 19-acre park, is located 6 ½ miles southeast of the subject property and contains a softball diamond, two tennis courts, a children's play area, a soccer field, a parking area and two drinking fountains.

School District: The annexation property is part of the Unified School District 266 (Maize School District). Annexation will not change the school district.

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Comprehensive Plan: The proposed annexation is not consistent with the Wichita-Sedgwick County Comprehensive Plan because the annexation property falls within the City of Colwich 2030 urban growth area and outside the 2030 Wichita Urban Growth Area, as shown in the Plan. But on December 17, 2007, Mr. Terry Smith, of Ruggles and Bohm, presented the proposed development to the Colwich City Council, and after much discussion, the Colwich City Council reached a consensus, but it was not made into a formal motion. So on April 15, 2008, "Councilman Pugh moved that the Council adopt the statement of consensus on the part of the Council from the December, 2007 meeting and not accept the development by Mr. Kumpe as it was too far from the City, the extension of utilities too costly for the City at large to pay for, the property was not in the Renwick School District and would limit the potential for future growth inside the City limits. Councilman Kraus second the motion. There was no discussion. Upon a call vote, the motion carried 3-1 with Councilwoman Guy voting nay." As a result, the Wichita-Sedgwick County Metropolitan Area Planning Department has initiated conversations with Colwich about the potential need to revisit the urban growth area boundary discussion.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$14,040 with a total assessed value of \$4,212. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$132 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that 175 single-family residential units will be developed within the next five years. The total appraised value of this development after completion is estimated at \$31,500,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$113,768 in City annual tax revenues.

Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

If the City wishes to act upon an annexation request from a property owner for land not adjoining the City, K.S.A. 12-520c requires the adoption of a resolution by the City Council requesting the Sedgwick County Board of County Commissioners to make a finding that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other city located within the county. The City Clerk must file a certified copy of the resolution with the Board of County Commissioners. Within 30 days of such filing, the Board of County Commissioners must make their finding. If the finding is favorable to the City, then the City Council can proceed to give first reading of an ordinance annexing the requested property into the City of Wichita.

Motion--
--carried

Longwell moved that the annexation process be initiated and the resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 08-233

A Resolution of the City of Wichita, Kansas requesting the Board of county commissioners of Sedgwick County, Kansas to make certain findings regarding the annexation of property, presented. Longwell moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

ZON2004-18

ZON2004-48- EXTENSION OF TIME TO COMPLETE THE PLATTING REQUIREMENT FOR A ZONE CHANGES FROM "SF-5" SINGLE-FAMILY TO "LC" LIMITED COMMERCIAL. GENERALLY LOCATED NORTH OF KELLOGG AND EAST OF MAIZE ROAD. (DISTRICT V)

Agenda Item No. 14.

Staff Recommendation: Approve extended platting deadline of November 9, 2009.

On November 9, 2004, the City Council approved the zone change from "SF-5" Single-Family to "LC" Limited Commercial. Approval of the request was subject to the condition of platting the property

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within one year. On December 19, 2006, the City Council approved a two-year platting extension to November 9, 2007.

The applicant indicates in a letter from their agent that platting has been delayed as the owner is marketing for a new buyer. Therefore, the applicant is requesting a two-year platting extension with a new deadline of November 9, 2009.

Staff recommends that the requested extension be granted. The City Council may deny the request for an extension of time to complete platting; however, denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Promote economic vitality.

No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--
--carried

Brewer moved that the extended platting deadline of November 9, 2009 be approved. Motion carried 7 to 0.

CUP2004-29

CUP2004-29 AND CUP2004-30 (DP-277) AND ZON2004-34, ZON2004-35-EXTENSION OF TIME TO COMPLETE THE PLATTING REQUIREMENT FOR THE BRUCE BROWN COMMERCIAL COMMUNITY UNIT PLAN AND A ZONE CHANGE FROM "SF-5" AND "SF-20" SINGLE-FAMILY RESIDENTIAL TO "LC" LIMITED COMMERCIAL. GENERALLY LOCATED EAST OF GREENWICH ROAD AND ¼ MILE SOUTH OF 21ST STREET NORTH. (DISTRICT II)

Agenda Item No. 15.

Staff Recommendation: Approve extended platting deadline of March 21, 2009.

On September 21, 2004, the City Council approved the creation of DP-277 Bruce Brown Commercial CUP and a zone change from "SF-5" and "SF-20" Single-Family Residential to "LC" Limited Commercial subject to the condition of platting the property within one year. The applicant received a six-month platting extension from staff, and then a one-year platting extension from the City Council. As the attached letter indicates, the applicant is not ready to develop or begin platting. On June 5, 2007, the City Council approved a one year platting extension to March 21, 2008. The applicant now requests an additional one year platting extension to March 21, 2009, in order to finalize plans for the property. See the attached letter from the agent for the applicant.

Staff recommends that an extension of time to complete platting requirements be granted. The City Council may deny the request for an extension of time to complete platting; however, denying the extension would declare the CUP and zone change null and void and would require reapplication and rehearing if the property owner still desired a CUP and zone change.

Promote Economic Vitality and Affordable Living.

No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--
--carried

Brewer moved that the extended platting deadline of March 21, 2009 be approved. Motion carried 7 to 0.

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BERKLEY SQ.

REQUEST THE NAME OF "BERKELEY SQUARE PARKWAY" FOR AN UNNAMED PUBLIC STREET, ASSOCIATED WITH VAC2007-40. GENERALLY LOCATED ON THE NORTH SIDE OF 13TH STREET NORTH AND WEST OF GREENWICH ROAD. (DISTRICT II)

Agenda Item No. 16.

Staff Recommendation: Approve.

MAPC Recommendation: Approve.

VAC2007-40 created approximately 440 feet of unnamed public street right-of-way, by vacating the platted Reserve B in the Greenwich Office Park Addition. At the times of approval for VAC2007-40 by the appointed and elected officials no street name had been approved by the Address Committee for the newly created public street. The applicant is requesting that the public street be named Berkeley Square Parkway.

The MAPC voted (7-3) to approve the requested street name of Berkeley Square Parkway. There was opposition to this request at the MAPC and at the Subdivision Committee meeting. That opposition has since withdrawn their protest.

Ensure efficient infrastructure.

The new street name will be reflected in an amended, certified Vacation Order, which will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the new street name and the amended Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

ZON2008-00009

ZON2008-00009-CITY ZONE CHANGE FROM LC LIMITED COMMERCIAL ("LC") TO GC GENERAL COMMERCIAL("GC") SUBJECT TO A PROTECTIVE OVERLAY, GENERALLY LOCATED ON THE WEST SIDE OF ARKANSAS AVENUE, 1/2 BLOCK SOUTH OF 29TH STREET NORTH. (DISTRICT VI)

Agenda Item No. 17.

DAB VI Recommendation: Approve, subject to Protective Overlay No. 209, vote 9-0.

MAPC Recommendation: Approve, subject to Protective Overlay No. 209, vote 13-1.

MAPD Staff Recommendation: Approve, subject to Protect Overlay No. 209.

The application area is located on the west side of Arkansas Avenue, ½ block south of 29th Street North, and is currently zoned LC Limited Commercial ("LC"). The site currently is developed with an existing commercial building that contains manufacturing equipment for the making of ice cream, and a restaurant with a seating area. The use of the site as a restaurant and manufacturing of ice cream are legal activities in the LC district, per the Unified Zoning Code ("UZC"). Manufacturing of ice cream is a legal activity so long as the machine used for manufacturing does not exceed two-horsepower. However, this particular ice cream manufacturing is done with a machine which is powered by a motor that exceeds two horsepower, approximately 10 horsepower. The two-horsepower threshold is defined in Section II-B.8 (f) of the UZC as "Manufacturing, Limited." Manufacturing of goods with equipment that exceeds two-horsepower is classified by the UZC as "Manufacturing, General," which is first allowed by-right in the GC General Commercial ("GC") district.

The zoning of the surrounding property is predominately LC. Property to the north and west of the subject site is zoned LC and is currently developed with single-family residences. Property to the south of the subject site is also zoned LC and is developed with single-family residences and one vacant lot. Property to the east of the subject site is zoned both LC and GC. The development that currently exists on the property east of the subject site consists of warehousing/storage uses, retail, office uses and a single-family residence.

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The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

This case was heard at the District VI Advisory Board meeting held on April 7, 2008, and DAB VI voted (9-0) to recommend approval of the request for GC zoning with Protective Overlay #209.

At the MAPC meeting held March 27, 2008, the MAPC voted (13-1) to recommend approval of the request for GC zoning subject to the provisions of Protective Overlay No. 209:

1. Uses permitted on the site are limited to those permitted in the LC Limited Commercial zoning district; with the only GC General Commercial "manufacturing, general" use permitted on this site is the manufacturing of ice cream with machinery not exceeding 10 horsepower.
2. Screening (fencing, evergreen vegetation or landscaped earth berms) six to eight feet in height shall be provided along south and west property lines. If fencing is the primary screening material, then landscaping of one tree and three shrubs every 30 feet shall also be supplied.
3. No off-site or portable signs are allowed. Signs, in accordance with the sign code, are permitted along Arkansas Avenue.
4. On-site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
5. The site shall be developed in conformance with all applicable regulations.

The applicant spoke in favor of the application and there was one citizen who expressed some concerns in regards to possible noise. There has not been any protest petitions filed for this case.

Promote Economic Vitality

The ordinance has been reviewed and approved as to form by the Law Department.

Motion--

Brewer moved that 1. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay No. 209; and withhold publication of ordinance until conditions of the protective overlay are met; OR 2. Return the application to the MAPC for reconsideration.

ORDINANCE

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended. Introduced and under the rules laid over.

SUB2006-14

SUB2006-14-PLAT OF ACT PROPERTIES LLC ADDITION LOCATED ON THE SOUTHWEST CORNER OF OLIVER AND 37TH STREET NORTH. (DISTRICT I)

Agenda Item No. 18.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This site, consisting of one lot on 4.56 acres, is located within Wichita's city limits and is zoned LC Limited Commercial.

A Petition, 100 percent, and a Certificate of Petition have been submitted for sewer improvements. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves.

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This plat has been reviewed and approved by the planning commission, subject to conditions.

Ensure Efficient Infrastructure.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; and the resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 08-230

Resolution of findings of advisability and Resolution authorizing construction of Lateral 125, Sanitary Sewer No. 23 (south of 27th St. North, west of Oliver) 468-84507, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

SUB2006-109

SUB 2006-109-PLAT OF LIVING WORD OUTREACH ADDITION LOCATED WEST OF HYDRAULIC AND NORTH OF MACARTHUR ROAD. (DISTRICT III)

Agenda Item No. 19.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)

This site, consisting of three lots on 10.51 acres, is a replat of a portion of the Rainbow 2nd Addition. This site is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

A Petition, 100 percent, and a Certificate of Petition have been submitted for sanitary sewer improvements. As requested by City Engineering, a Cross-lot Drainage Agreement has been submitted.

This plat has been reviewed and approved by the planning commission, subject to conditions.

Ensure Efficient Infrastructure.

The Certificate of Petitions and Cross-lot Drainage Agreement will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; and the resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 08-231

Resolution of findings of advisability and Resolution authorizing construction of Lateral 12, Submain 1, Sanitary Sewer No. 22 (west of Hydraulic, north of MacArthur) 468-84508, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

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SUB2007-116

SUB 2007-116-PLAT OF LANGE ADDITION LOCATED ON THE EAST SIDE OF WEST STREET AND SOUTH OF MACARTHUR ROAD. (DISTRICT IV)

Agenda Item No. 20.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This site consists of one lot on 34.14 acres and is located within Wichita's city limits. A zone change (ZON 2007-52) from SF-5 Single-family Residential to LI Limited Industrial has been approved for this site along with Protective Overlay (PO #198). A Notice of Protective Overlay has been submitted addressing signage, screening, outdoor storage, setbacks and permitted uses.

Municipal services are available to serve the site. A petition, 100 percent, and a Certificate of Petition have been submitted for paving improvements. A Restrictive Covenant has been submitted permitting cross-lot access for the benefit of the abutting property to the north.

This plat has been reviewed and approved by the Metropolitan Area Planning Commission, subject to conditions. Publication of the ordinance should be withheld until the plat is recorded with the Register of Deeds.

Ensure Efficient Infrastructure.

The Notice of Protective Overlay, Certificate of Petition and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; the Resolution adopted; and first reading of the ordinance approved. Motion carried 7 to 0.

RESOLUTION NO. 08-232

Resolution of findings of advisability and Resolution authorizing constructing pavement on that portion of the 42nd St South Cul-de-sac as platting within Lange Addition (east of West Street, north of MacArthur) 472-84719, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

ORDINANCE

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended. Introduced and under the rules laid over.

SUB2008-02

SUB 2008-02-PLAT OF KANSAS TRUCK EQUIPMENT ADDITION LOCATED ON THE WEST SIDE OF TYLER AND NORTH OF HARRY. (DISTRICT IV)

Agenda Item No. 21.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This site, consisting of one lot on 2.67 acres, is located within Wichita's city limits and is zoned LI Limited Industrial

Municipal services are available to serve the site. This site is located within the noise impact area of Wichita Mid-Continent Airport; therefore, a Restrictive Covenant and an Avigational Easement have

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been submitted.

This plat has been reviewed and approved by the Wichita Metropolitan Area Planning Commission, subject to conditions.

Ensure Efficient Infrastructure.

The Restrictive Covenant and Avigational Easement will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the documents and plat be approved and the necessary signatures authorized. Motion carried 7 to 0.

VAC2008-00007

VAC2008-00007- REQUEST TO VACATE THE PLATTOR'S TEXT TO AMEND THE USES ALLOWED IN A PLATTED EASEMENT. GENERALLY LOCATED SOUTH OF CENTRAL AVENUE, EAST OF ROCK ROAD. (DISTRICT II)

Agenda Item No. 22.

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicants are requesting that the uses allowed (per the plattor's text and as shown on the plat drawing) in the platted walk and utility easement be vacated and amended. The applicants request the vacation to remove the walk use and thus allow fences and gates over the easement for security reasons. The platted utility and walk easement is located between Lots 10 and 28 (north side) and 11 and 29 (south side), all in Block 2, Brookhollow Third Addition. Currently, there is a sidewalk in the easement, which runs between the applicants' residences, in their interior side yards. There are utilities and sewer lines in the platted easement, thus the easement will be retained for utilities. The Brookhollow Third Addition was recorded with the Register of Deeds on June 29, 1973.

The MAPC voted (14-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Ensure efficient infrastructure.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

A08-04

A08-04R-REQUEST BY EUGENE VITARELLI, OF PALLADIO DEVELOPERS, INC. TO ANNEX LAND GENERALLY LOCATED NORTH OF PAWNEE ROAD, BETWEEN 143RD STREET EAST AND 127TH STREET EAST. (DISTRICT II)

Agenda Item No. 23.

The City received a request to annex 42.96 acres of land generally located north of Pawnee Road, between 143rd Street East and 127th Street East. The annexation area abuts the City of Wichita to the north and west. The property owner anticipates that the proposed property will be developed with 111 single-family residential units, known as the Sierra Hills 2nd Addition, within the next five years. The Wichita-Sedgwick County Metropolitan Area Planning Commission approved the revised preliminary plan and final plat on April 10, 2008.

Land Use and Zoning: The proposed annexation consists of approximately 42.96 acres of property currently zoned "SF-20" Single-Family Residential. Upon annexation, the "SF-20" Single-Family Residential zoning will convert to "SF-5" Single-Family Residential. Property directly to the north is

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undeveloped and is zoned "SF-20" and "SF-5" Single-Family Residential. Property to the south and east is undeveloped and is zoned "SF-20" Single-Family Residential. Property to the west is partially developed with the Sierra Hills Addition and is zoned "NR" Neighborhood Retail and "SF-5" Single-Family Residential.

Public Services: The closest sewer line is an 18" sewer main that runs along the eastern edge of the proposed annexation **site**. The closest water main is a 16" water main, located west of the proposed annexation site, approximately 675 feet west of 127th Street on Pawnee Road.

Street System: Pawnee Road, a two-lane paved road, runs along the south edge of the subject property. County Engineering is requiring an eastbound left-turn lane on Pawnee Road as a requirement of plat approval.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita and Sedgwick County will provide fire protection from Fire Station No. 38-6, located at 1010 North 143rd Street with a nine (9) to ten (10) minute response time. Upon annexation, police protection will be provided to the area by the Patrol East Bureau, Beat 399, of the Wichita Police Department, headquartered at 350 S. Edgemoor.

Parks: The WB Harrison Park, a 40-acre park, is located approximately 3 miles to the northwest of the proposed annexation site and contains 2 tennis courts, a softball diamond, a rugby field, a children's play area with 3 benches, a restroom, a paved 0.75 mile exercise/fitness trail, a fishing pond and two parking areas, one paved and one unpaved. The Towne Park, a 4-acre park, is located approximately 3 miles to the southwest of the proposed annexation site and is undeveloped at this time, with plans to be developed into a nature study area with a pond, woodlands, a paved path and a playground. According to the 1996 Parks and Open Space Master Plan, a potential pathway has been identified that could run along Pawnee Road west, up to the eastern edge of the annexation area and then run southwest toward 127th Street East. The proposed pathway improvements are not currently funded in the Capital Improvement Program.

School District: The annexation property is part of the Unified School District 259 (Wichita School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area, as shown in the Plan.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$2,280 with a total assessed value of \$684. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$21 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that 111 single-family residential units will be developed within the next five years. The total appraised value of this development after completion is estimated at \$22,200,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$80,180 in City annual tax revenues.

Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--
--carried

Brewer moved that the annexation request be approved; the ordinance placed on first reading; and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the

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limits and boundaries of the city of Wichita, Kansas. Introduced and under the rules laid over. (A08-04)

RECESS

Motion--carried

Brewer moved at 11:46 a.m. to recess until 1:00 p.m. Motion carried 7 to 0.

RECONVENE

The Council reconvened in the Council Chambers at 1:06 p.m.

(ITEM 12A)

SMOKING ORD.

AMEND CITY CODE CHAPTER 7.56, REGULATING SMOKING

Agenda Item 12a.

In recent years, numerous studies have determined that environmental tobacco smoke (ETS) is a significant source of exposure to toxic indoor air contaminants, causally associated with respiratory illnesses, including lung cancer, asthma, and emphysema. ETS carcinogens and poisons pose special risks to children, the elderly, food and beverage service employees, and individuals with cardiovascular disease and/or impaired respiratory function, including asthmatics and those with obstructive airway disease. Accordingly, there appears to be a need to protect persons under eighteen years of age from ETS exposure in the course of food and beverage service employment, or in the course of patronizing food service establishments, and to promote the health and welfare of citizens and the traveling public by increasing substantially the opportunity to enjoy public dining and drinking activities without the health hazard posed by ETS, through a requirement that businesses serving food and/or alcoholic beverages post clear warnings at all public entrances if they allow smoking.

The proposed amending ordinance would amend existing Code Sections 7.56.010, 7.56.020, 7.56.030, 7.56.040 & 7.56.050 and add new Sections 7.56.021, 7.56.022 and 7.56.060, to basically add food service establishments and premises licensed to sell liquor or cereal malt beverages by the drink to the list of places where smoking is generally prohibited. For regulated areas within a larger building (e.g., a hotel) only the areas where food and alcoholic beverages are being served would be covered, rather than the whole building, and separate banquet rooms would be treated separately. Exception would be allowed for establishments that are legally able and willing to exclude, and do not employ, persons under eighteen years of age (although existing employees under eighteen would be grandfathered). These establishments would also be required to post and maintain signage that they are smoker-friendly. Other exceptions would allow smoking in outdoor smoking areas and qualified smoking rooms, and during charitable fundraising events involving tobacco products if location for the event is posted as smoker-friendly beginning at least two hours before the event and persons under eighteen are excluded during the event. Various permits and inspections are provided for so that Environmental Health staff can check for compliance as to such matters as design of smoking rooms, signage and records relating to age of employees.

To help defray the cost of inspections provided for under the ordinance, each permit application would require a non-refundable fee of \$250. This fee will probably not be enough to fully offset costs of regulation, but can be adjusted by amendment once the City has a few years of experience to establish total annual cost.

The Law Department has prepared the amending ordinance, and approved it as to form.

The amendments are designed to advance the goals of Safe & Secure Communities and Quality of Life by promoting the public health and helping to protect citizens from the adverse affects of involuntary exposure to environmental tobacco smoke.

Council Member Longwell Council Member Longwell stated he does not think anyone has had an opportunity to see some of the revisions that they have been continually doing right up to the last hour. Stated one of the initiatives that they took up in this ordinance early on was to make a broad ordinance that is an age restrictive ordinance that affects all businesses. Stated their on-going dialogue with our legal counsel, it was suggested that we back off that because of some concerns with some particular conflicts that might arise with an age restrictive ordinance. Stated they are now revising that and going back to that initial compromise that they were suggesting early on and it would be a broader compromise that extends to

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all businesses still age restrictive and they will put some exclusionary clauses in there for those businesses that do have a conflict. Stated they will go back and make it a broader smoking ordinance but there will have to be some exclusionary businesses.

Gary Rebenstorf

Director of Law stated based upon the comments by Council Member Longwell concerning the concept that is now being looked at as far as the underlying purpose of the ordinance and the underlying regulation of the ordinance, the concept now would be to have it apply to all businesses and then try to work from there for the exceptions. Stated what is in the current ordinance is one that pertains to businesses that must exclude people that are younger than 18 years old and was set up in that fashion because of concerns regarding legal issues but in reviewing this with Council Member Longwell, he feels the legal issues can be resolved and can be addressed on an individual basis. Stated he feels we can go forward with the recommendation that he has. Stated in this ordinance is basically an ordinance that says persons under 18 years of age would be protected and it has provisions for a business to set up a smoking room and if they do that it has to have certain criteria so that the smoke will not go into any other place and the smoke in the room will be ventilated out of the building completely so that would be available to customers as well as employees or as to vendors that may do business with that type of facility. Stated they also would have a permit process that would be applicable to that type of a situation so if a proprietor was going to set up a smoking room, then they would have to file for a permit and that would be inspected by environmental services to make sure that it meets the requirements of the ordinance. Stated another issue that has been set up by this proposed ordinance is that if there is a non-smoking business that wants to allow a charitable event, then that charitable event can be held as long as there is provision made to have a time period where the smoke that would have been in that room or a time frame where there would be smoking in that room so that it would be cleaned out, which would require a permit under this ordinance to have that type of function but it does provide for a charitable event to be held in a facility that is not smoker friendly. Stated also if a business wanted to be smoker friendly, then they would also go through the permit process but the main exclusion would be that they would not be able to admit people that are the age of 18 or allow anyone to work for them under the age of 18 unless when the ordinance goes into affect, they already have somebody there so they would be grandfathered for that person that works there. Stated for the people that would be there working in a smoker friendly place, the employer or the owner of the building of the person in charge would have to make sure that everybody that is there, understands the health affects that may come from secondhand smoke and that they are advised of that and that there is a written documentation that employees and vendors were advised of that type of situation. Stated if you violate the provisions of the ordinance you will be held accountable and that includes the owner or operator of a business; a person who violates the ordinance by smoking in a non-smoking place; and include a person under the age of 18 that tried to go into a non-smoking place or be there surreptitiously. Stated the way the ordinance is set up now, the first offense would be a \$500.00 fine, second offense would be a \$200.00 fine, and the third offense would be a \$500.00 fine. Stated this is a basic overview of what we have with the concept change that Councilmember Longwell is talking about.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Bob Weeks

Mr. Weeks resides at 2451 Regency Lakes Court, stated he would like to see us not have this smoking ban at all. Stated no one has the right to be on someone else's property on their own terms and the property owner instead, controls those terms and if you do not want to be in a smoky place you can just turn around and leave. Stated a system of absolute respect for private property rights is the best way to handle smoking and the owners of bars restaurants have and should continue to have the absolute right to permit or deny smoking on their property.

Charlie Claycomb

Mr. Claycomb resides at 151 North Rock Island, stated he has concerns with the enforceability of this ordinance and would like to see that addressed while making the revisions to the ordinance. Stated he would like to see charitable fund raising events defined in the definitions and it is currently not defined in there. Stated they did have 200 plus people here five months ago to stand up and support a comprehensive ordinance and sent out there notice to even more people this time, but it is harder to generate interest in this compromise. State while it is not optimal it is a step in the right direction.

Paul Williams

Mr. Williams resides at 1141 Denker, stated regarding a license fee, the few places that are non-smoking are going to require more enforcement and more monitoring than places that are smoker friendly and the only thing that you need to check in a smoker friendly place is the age. Stated in a non-

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smoking place, you would have to monitor that all the time. Stated anybody who is going to require monitoring needs to pay a fee. Stated he has a lot of young single mothers that come into his club to pick up their paychecks and asked if they are going to have to leave their toddlers in the car and is there an allowance to where they can come in for five minutes and bring their kids in with them. Stated any kind of compromise smoking ban is going to open up a huge can of worms. Stated places are going non-smoking by choice and if you give it enough time, the situation will take care of itself.

Jennifer Kelly

Ms. Kelly stated she is with the American Cancer Society and as members of the Wichita City Council, you have the opportunity to protect the residents of Wichita from dangers of second-hand smoke by enacting a strong comprehensive clean indoor air ordinance. Stated the current proposal, which is being considered today would not protect every citizen. Stated she strongly encourages the Council to vote no on the ordinance as written today.

Matt Goolsby

Mr. Goolsby resides at 355 North Rock Island, stated he believes this is a good compromise. Stated a total ban would not improve the health of our City. Stated now that all businesses are added to the equation, it makes it a more level playing field. Stated that imposing further regulations on businesses in the City makes it harder to operate and own a business in the City. Asked that the Council vote on this ordinance today.

Diane Tinker

Ms. Tinker resides at 40 Via Roma, stated she is the Development Director of the American Lung Association serving all of Kansas. Stated it is time to take Wichita smoke free with a comprehensive ordinance and not just a tobacco friendly ordinance that only protects a limited number of individuals. Stated each year second-hand smoke kills an estimated 290 to 520 adults, children, and babies. Stated employees who work in smoked-filled businesses suffer a 25 to 30% higher risk of heart attack and have an increase in lung cancer by 20 to 30%. Stated there are no risk free levels of secondhand smoke regardless of age and smoke free policies are the only effective way to eliminate secondhand smoke. Stated on behalf of the American Lung Association, they urge that the Council vote no on this ordinance as it is written and do it right the first time.

Tom Jacobs

Mr. Jacobs resides at 3049 North Rock Road, stated he owns the Cigar Chateau and they are a tobacco less and are not a smoke shop and sell premium handmade cigars, pipes, and pipe tobacco and accessories that compliment their enjoyment. Stated that they are a destination shop with customers of all ages and demographics and host a variety of events yearly that give their manufacturers a chance to come into the area and present their products to their customers. Stated it is essential that they be able to smoke these items in their shop and let the customers have a chance to get informed information about the products they are going to be buying because some of them are very expensive products and sampling is very important to his business. Stated he has a ventilation system in his lounge and store that cost over \$200.00 a square foot and he would appreciate the opportunity to allow that under these circumstances it is something that does work and filters the smoke and cleans the air constantly. Stated that private businesses should have the right to decide whether or not to allow smoking in their own businesses and thinks that the compromise is good and supports it.

Roger Smith

Mr. Smith resides at 132 South Edwards, stated there is no individual right to harm others and businesses offering public services or accommodations should be required to protect the health of their customers. Stated when owners offer their private property for public use, they assume this duty. Stated that the City Council has stated that maintaining and enhancing the health and safety of the members of this community is a primary goal as is improving the quality of life in our community. Stated the ordinance as it appeared previously is a poor strategy for attaining Wichita's stated goals and the amendments discussed today are better but it is still a poor strategy and is less than what is necessary to protect the health of the residents and visitors. Stated ventilation does not work and the first filter is your lungs. Asked the Council if this is the best we can do and don't the people of this community deserve better.

Father H. Sutter

Father Sutter resides at 3205 East Grand, stated he thinks we have a compromise and this is a multi-dimensional issue and is one of those issues that if it is all or nothing, nobody really wins. Stated he thinks this is a wonderful compromise and sets a standard for other legislatures to learn from. Stated we

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are talking about a legal and age sensitive product and if you take the opportunities of enjoying and consuming a legal product such as tobacco out of a designated place, you relegate the designated place to smoke in your home and asked how that helps health care to children.

Pat Gawn

Mr. Gawn resides at 1232 North Shefford, stated he is the president and primary owner of Access Group a local business and his employees spend most of their time in other businesses providing technical services and consulting. Stated they generally are in training environments within those businesses, which are usually in meeting rooms and break room that are often the designated smoking areas for those businesses. Stated his staff of 20 goes at the instruction of them as business owners into those environments because they have no choice in order to get their business done. Stated it is naïve to assume by addressing restaurants and bars and under 18 year olds that you are addressing the health risks associated with secondhand smoke in your ordinance. Stated he applauds the change that seems to be occurring in a broader ordinance.

(Council Member Gray momentarily absent)

Karl Peterjohn

Mr. Peterjohn stated he is with the Kansas Taxpayers Network and he agrees with a number of people who have testified in front of the Council regarding problems and concerns with the ordinance today. Stated when you have people coming at this issue from very different perspectives and are saying there is a problem with this ordinance that is before the Council, he feels this is a good case to take it back to the drawing board. Stated if this ordinance is approved, he suspects this issue will not go away and will come back before the Council in further forms. Stated he thinks it is important to remember that we are talking about freedom and liberty for adults to make decisions to generate the benefits from those decisions to suffer the consequences if they make poor decisions. Stated this country was founded on freedom and it is important for this Council to keep that fundamental purpose in mind as they take on this issue.

Carolyn Gawn

Ms. Gawn resides at 1232 North Shefford, stated she is the Executive Director of the Kansas Academy of Family Physicians. Stated she had three of their family physicians here this morning and they were unable to stay and she will summarize their comments. Stated they would want the Council to understand that this is clearly an issue of public health and an issue that deals with how people's bodies work. Stated there is no safe level of exposure to secondhand smoke. Stated a study showed that just 30 minutes of exposure to secondhand smoke, to people with the risk of heart disease, had very significantly higher chances of suffering a heart attack. Stated technology is pushing us forward to be able to see more and more clearly the dangers and risks that this holds to our health and she urges the Council to consider that.

Unidentified

Stated he would like to have some clarification of what is in the proposed compromise and asked someone to clarify what it says in Section 2 Article 7.56.020, Article B regarding Century II being exempt.

Gary Rebenstorf

Director of Law explained that this is as carryover from the current ordinance that is in place and there are events that happen at Century II where smoking is allowed so this is just current language that was put in the ordinance when it was initially established.

(Council Member Fearey momentarily absent)

Don Kurden

Mr. Kurden stated he is a respiratory therapist have spent the last 35 years working in pulmonary medicine and trying to improve the health of patients. Stated the Surgeon General has declared that secondhand smoke is a carcinogen and he does not know how the Council justifies coming up with a compromise ordinance to allow smoking and how we defend ourselves as a City from future law suits when or government has declared that this is a danger to our society and we have not passed a comprehensive ordinance. Stated he is worried that if the Council passes a compromise ordinance, that they will be setting themselves up for continual arguments in court and debates on how you will enforce this. Stated 74% of the Wichita community has asked for a comprehensive ordinance that seems like a pretty significant majority and asked the Council to take that into consideration as they develop this ordinance.

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- Laurie Lawrence Ms. Lawrence resides at 321 North Lorraine, stated this will not be the end of this and she is sure that we will be discussing this probably for years until a more comprehensive ban is put into place but for now, she encourages the Council to vote for this and thinks this is a good first step.
- (Council Member Skelton momentarily absent)
- Don Sayler Mr. Sayler resides at 2423 Bellwood, stated he is the President and CEO for the Kansas Restaurant and Hospitality Association and speaking on their behalf. Stated the ordinance as originally drafted was very discriminatory against the industry and he represents and the compromise that includes all businesses is a good start. Stated they will not oppose an ordinance that has no exceptions and this is probably as close as we can get that it is going to be agreeable to both sides as much as possible. Stated they feel this is an ordinance that they can live with and move forward from there.
- Maryjane Hellobiss Ms. Hellobiss stated she is with Tobacco Free Kansas Coalition and she is from Topeka. Stated the ordinance under discussion at this point is a step to fall short because it does not protect the health of all people and will be hard to enforce and will confuse businesses and the general public and creates an uneven playing field for some businesses. Stated the preamble of this ordinance literally states the reasons why secondhand smoke is so drastic and everyone agrees that children should not be exposed to cigarette or cigar smoke. Stated one of the major concerns when we talk about excluding some work places and involving groups that are excluded from protections, is that an entire group of Wichita workers who work in smoking establishments are not being entitled to breath clean indoor air at their work sites and are being asked to sign off on an agreement that lets you know that they understand that they are being exposed to these unsafe conditions. Asked if they will be waiving their legal rights to regarding health damage by signing this required acknowledgement or are employers more liable for legal action because they are also formally acknowledging that they are providing a contaminated work site and will current employees face termination if they are uncomfortable signing this agreement. Asked the Council to look at this and not make it a little first step but a big first step because this will be good for the people of Wichita.
- (Vice-Mayor Schlapp momentarily absent)
- Larry Doss Mr. Doss stated he owns Walt's Sports Bar and Grill at 7732 East Central and for 38 years he has run his own business and his customer base dictates to him what he is going to do. Stated they are the ones that make decisions for him. Stated eventually he is sure that in the not too distant future, Walt's will probably become a smoke free entity because when his profit and loss margin goes down he will make that decision. Stated he does not feel that it is necessary for government to tell him how to run his business and does not feel that it is necessary for anyone to interfere with what he does at his sports bar.
- Ron Trowbridge Mr. Trowbridge stated he was wondering if they are going to let pregnant women in these smoking rooms.
- Gary Rebenstorf Director of Law explained that the ordinance presently reads that a person that wants to go into a smoking room may.
- Jennifer Wilder Ms. Wilder resides at 1918 North Keith Court stated she does not think there is enough emphasis put on the future of Wichita and those that are under the age of 18. Stated we need to think about their future and only a comprehensive ordinance is what is going to benefit these children and hopes the Council will take this into consideration before a decision is made.
- Mayor Brewer Mayor Brewer closed the public hearing at 2:12 p.m.
- Council Member Gray Council Member Gray stated this is a two sided issue and recognizes that there are health implications and thinks there is some merit and some justification in not thinking that children under the age of 18 should be around smoking but at the same time if we are that concerned about it we should just ban it outright and not let parents smoke around their children because kids are more at risk when their parents are smoking at home and in their cars then they are going into a restaurant for an hour once a week or so. Stated he biggest concern is the private property rights and the rights of the individual who owns property. Stated today we have had people come up and say it is the City's job to make the community healthy and to protect all of these people because people are incapable of protecting themselves. Stated

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the stupidity of people and their actions most often take place in their own homes. Stated we cannot save everybody from everything because there are a couple of people that think that it is the government's job and he feels this is one of those issues. Stated the Council is going to tell businesses that they have to put these restrictions on themselves but we are going to exempt ourselves and our building at Century II and feels that it is hypocritical.

Vice-Mayor Schlapp Vice-Mayor Schlapp stated she thinks the Council's goal is the same and would like to see a smoke free society and has seen the detrimental affects. Stated she also believes that the end does not justify the means and thinks the means of having the government come into the lives of private businesses and private ownership is a real difficulty and smoking is not illegal. Stated we need to be careful when regulating private businesses and the marketplace is taking care of itself by going smoke free.

Council Member Williams Council Member Williams stated that this has been a hard decision and is not an end all decision but a start. Stated she hopes that everyone will look at this as a compromise and a start. Stated there are things today that she has heard and thinks should be addressed in this ordinance such as some definitions that she feels should be added and looked at such as the definition of a business and charitable events. Stated she would also like to address the enforcement issue and is very important to her because she does not want to add additional burden on someone. Stated this is not perfect but feels that the City of Wichita is ready to go forward.

Council Member Longwell Council Member Longwell stated their charge from the beginning was to try and craft a compromise and feels that is what they have done that has some give and take on both sides. Stated he has heard that we are infringing on rights of business owners and dictating on how they can operate their business but the Council does that everyday. Stated they have centered this ordinance on the fact that this is a legal substance and took an ordinance and crafted it on an age restrictive issue knowing full well that it is not legal for those under the age of 18 to go buy tobacco products so why should it be legal for those people to sit in a smoked filled room. Stated they recognize that there are health hazards for all people but also recognize that there are rights of business owners to operate their business and hence reached a compromise. Stated he feels there are opportunities in his ordinance to tweak this still. Stated he is for taking a look at Century II and the airport and say that it needs to play by the same set of rules if that is an equal playing field. Stated he is also in favor of being more health conscious and feels that is moves us in that direction but still appreciates the rights of business owners and willing to move forward this compromise and can tweak some things in it so that it reads better for everyone to understand and put some time delays for this to come back to the Council for second reading and are still some issues that need to be addressed like if this ordinance should pass, what is the grace period to enact it and how much time to business owners need if they choose to put in some of these rooms that we are suggesting.

Council Member Skelton Council Member Skelton stated this ordinance is not very clear cut and he does not support a smoking ban and will vote no. Stated he does not like the hypocritical nature of exempting the airport and Century II.

Council Member Gray Council Member Gray stated he is standing behind his principles today and this is just a start to appease the group of people who wants a stronger ordinance. Stated he is not going to compromise his principles on an issue that will only last a few months or years. Stated that is his biggest concerns with supporting something that is a true compromise.

Mayor Brewer Mayor Brewer stated we this was brought to us and we met as a Council and one of the things they wanted to do was to make sure that they try to do what is in the best interest of the community and he heard everyone say that they either anticipate or will be eventually a 100% smoke free City but the other portion is that we have to start someplace. Stated he commends everyone for coming out and letting their voices be heard. Stated whatever the vote comes out to be we are still going to be a great community.

Motion-- Council Member Longwell motion to amend our City ordinance 7.56 to include the ordinance in front of us with some changes and to include under 7.56.020 (b) that we eliminate Century II and the main terminal building at Wichita Mid Continent Airport and they simply concur to the same set of rules that are in the age restrictive ordinance with all of the rest of the businesses.

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Gary Rebenstorf

Director of Law stated the language that you are talking about is in the current ordinance and back when the City Council considered a smoking ban in City buildings, there was discussion by the Council and vote to exclude Century II and the airport and cannot tell what the reasons were right now. Stated if this Council wants to change that there is no problem doing that.

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- Amended Motion-- Longwell amended his motion to include enforce the current City ordinance and to stop excluding Century II and Wichita Mid Continent Airport. Century II can operate under the same age restrictive ordinance if they want to have smoking venues just like many of our other entertainment venues and that the second reading will not come until the first meeting in June and then we have an additional 90 days grace period for businesses to abide by the ordinance.
- Amended Motion-- Longwell amended the motion to include under 7.56.010 (a) we have a definition of businesses to include all businesses with an exclusion list that is presented by the Director of Law in the first reading.
- Council Member Williams Council Member Williams stated she would like to see the definition of charitable fund raising events added under definitions.
- carried Motion carried 4 to 3, (Nays-Gray, Schlapp, and Skelton).

ORDINANCE

An ordinance of the city of Wichita, Kansas concerning smoking in certain food service establishments and certain premises licensed for the sale of liquor or cereal malt beverages, amending sections 7.56.010, 7.56.020, 7.56.030, 7.56.040 & 7.56.050 of the code of the city of Wichita, Kansas, repealing the prior versions of such sections, and adding new sections 7.56.021, 7.56.022 and 7.56.060 to chapter 7.56 of the code of the city of Wichita.

AIRPORT AGENDA

- Motion-- Brewer moved that Airport Consent items 24 through 26 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.
- carried

RUNWAY GRANT

RUNWAY MARKING GRANT APPLICATION, COLONEL JAMES JABARA AIRPORT.

Agenda Item No. 24.

On July 11, 2006 the Wichita Airport Authority approved the project for airfield pavements and marking of the Jabara runway. At that time it was noted that an FAA grant would pay for the runway marking portion of the project.

Funds are now available, and staff has prepared a grant application for the runway markings for submittal to the FAA.

A grant application has been prepared in the amount of \$207,087 for this purpose. The Airport's matching portion of five-percent will be funded with General Obligation bonds paid for with Airport Revenue.

The Airport's contribution to the economic vitality of Wichita is promoted through the continued acceptance of grant funding.

- Motion-- Brewer moved that the grant application and receipt of funds be approved and authorize the Director of Airports to sign all the documents related to the grant. Motion carried 7 to 0.
- carried

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ELEC. REPLACEMNT AIRFIELD ELECTRICAL REPLACEMENT, COLONEL JAMES JABARA AIRPORT.

Agenda Item No. 25.

This airfield project is included in the Capital Improvement Program. The WAA approved a project on July 11, 2006 for the construction of airfield pavements, the replacement of runway markings mandated by the FAA, and the replacement of the airfield electrical equipment for a total budget of \$1,840,000. The pavements and markings were completed in 2007 for development purposes and to meet regulatory deadlines. The airfield electrical equipment replacement has been scheduled to optimize federal funding.

Closing the initial project, transferring the remaining funding and opening the airfield electrical equipment replacement as a separate project provides more orderly tracking for FAA grant purposes.

The contract for design services was included in the original project in the amount of \$29,823.85. The total project cost is currently estimated to be \$1,030,025 of which \$222,119, including the design amount, would be transferred from the original project. Ultimate funding is expected to be from AIP Federal Grant funds and General Obligation bonds paid for with Airport Revenue.

The Airport's contribution to the economic vitality of Wichita is promoted through the development of a safe airfield to serve the aviation community.

Motion--carried

Brewer moved that the capital project be approved. Motion carried 7 to 0.

GARMIN INT'L

AGREEMENT - GARMIN INTERNATIONAL.

Agenda Item No. 26.

A facility encompassing 5,952 sq.ft. and situated on 18,668 sq.ft. of land at 2140 Airport Road is available for lease. This facility was constructed in 1953 to serve as a weather bureau building, and has housed a number of tenants since its construction, with the most recent being Dallas Airmotive.

The building is currently vacant. Garmin International is interested in renovating this facility to accommodate its business, which includes developing, manufacturing and distributing avionics equipment. Garmin is a worldwide leader in avionics with a wide variety of integrated panel-mount, remote-mount and portable systems.

Garmin will invest a minimum of \$340,000 to renovate the building for its purposes. This investment equates to what the fair market rental value would have been had they paid rent on the facility. Their investment will be amortized over a ten-year period, during which time Garmin will pay the WAA's established land rental. Land rent during the first year will be \$5,218.

The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which allow the Airport to continue its operation on a self-sustaining basis.

The Agreement has been approved as to form by the Department of Law.

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

COUNCIL AGENDA

APPTS.

COUNCIL MEMBER APPOINTMENTS

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There were no appointments to be made.

CONSENT AGENDA

Council Member Skelton Council Member Skelton requested that item 28 be pulled for discussion.

Motion-- Brewer moved that Consent items 28 through 52b, be approved in accordance with the recommended
--carried action shown thereon, excluding item 28. Motion carried 7 to 0.

(ITEM 28) LICENSES

APPLICATIONS FOR LICENSES:

Renewals

GS Entertainment	dba Adult Super Store	5858 South Broadway
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Council Member Skelton Council Member Skelton stated he will be voting no on this and the reason is that he has made some commitments there to the residents and neighbors about this sexually oriented business and is displeased that it has not been displaced at this time.

Motion--carried Brewer moved that the licenses be approved. Motion carried 6 to 1, (Nay-Skelton).

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption off Premises)</u>
Dzung Banh	K.C. Gas and Groceries #3	1955 South Washington
Brandon Diep	Speedway	565 South Market Street
Hisham Mubaidin	Wichita Petroleum Inc. dba Foodmart	7101 East Lincoln

<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Robert Beltran	Tacos Mexican Fast Food*	1930 East Pawnee
Jose L. Mejia	El Jalisco Restaurant*	627 East 47th Street South
Troy Hendricks	Auburn Hills Golf Course*	443 South 135th West
Miguel Reyes	Rostizeria Los Reyes*	512 West 21st Street
Mui Fong Yu (Tam)	Tom's Lotus Garden*	822 South Broadway
Tammy Phan	Da Nang Restaurant Corp.*	1556 North Broadway

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion-- Brewer moved that the licenses be approved subject to Staff review and approval. Motion
--carried carried 7 to 0.

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- Lead Services Replacement (north of MacArthur, west of 119th Street West) (448-90382/636186/777577) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,III,IV) - \$295,710.00
- Storm Water Drain #337 to serve Webb Business Park Addition (north of 37th Street North, west of Webb) (468-84431/751469/485360) Traffic to be maintained using flagpersons & barricades. (District II) - \$419,000.00
- 2008 Sanitary Sewer Rehabilitation, Phase A (north of Harry Street, east of Meridian) (468-84484/620504/668623) Traffic to be maintained using flagpersons & barricades. (District I,II,III,VI) - \$370,000.00
- Laguna/Glen Wood from the west line of Lot 7, Block 4 to the south line of Lot 12, Block 4; Sierra Hills from the south line of Laguna to the south line of Lot 1, Block 5; Glen Wood Court serving Lots 13 through 24, Block 5 from the east line of Glen Wood to and including the cul-de-sac; Laguna Circle serving Lots 2 through 12, Block 5 from the east line of Laguna to and including the cul-de-

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- sac; Gilbert Court serving Lots 20 through 28, Block 4 from the south line of Gilbert to and including the cul-de-sac; Gilbert from the west line of Lot 28, Block 4 to the east line of Lot 20, Block 4 to serve Country Hollow Addition (south of Kellogg, east of 127th Street East) (472-84351/766206/490224) Does not affect existing traffic. (District II) - \$478,900.00
- e. 24th Street from the west line of Monarch Landing 2nd Addition to the east line of Lot 1, Block 2; Chelmsford from the north line of 24th Street to the north line of Lot 13, Block 1; Ridgehurst/Ridgehurst Court from the north line of 24th Street to the east line of Lot 10, Block 3; Graystone/Graystone Court from the south line of Lot 6, Block 4 to the south line of 24th Street; Graystone Circle, serving Lots 39 through 52, Block 1, from the north line of 24th Street to and including the cul-de-sac to serve Monarch Landing 2nd Addition (north of 21st Street North, west of 159th Street East) (472-84612/766202/490220) Does not affect existing traffic. (District II) - \$703,740.00
- f. The cost of Grey Meadow, Grey Meadow Courts, Flat Creek and Flat Creek Court to serve Fox Ridge Addition (north of 29th Street North, west of Tyler). (472-84421/766100/490-117) (District V).
- g. The cost of Westlakes Parkway to serve Fox Ridge Addition (north of 29th Street North, west of Tyler). (472-84279/765996/490-113) (District V).
- h. The cost of construction of Water Distribution System to serve Rainbow Lakes West Addition (south of Central, east of 119th Street West). (448-90195/735320/470-991) (District V)
- i. The cost of Stafford, Cranbrook to serve Brentwood South Addition (north of Pawnee, east of Webb). (472-84476/766122/490-140) (District II).
- j. The cost of Bellechase, Spring Valley, Horseback, Horseback Court and Horseback Circle to serve Bellechase Addition (north of Harry, east of 127th Street East). (472-84426/766113/490-130) (District II).
- k. The cost of 143rd Street East from 21st Street North to the north line of 24th Street North to serve Krug North, Krug North 2nd, and East Side Community Church 2nd Additions (143rd Street north of 21st Street North). (472-83979/766115/490-132) (District II).
- l. The cost of Realigning McCormick from Leonine to K-42. (472-83831/706866/203- 332) (District IV). – Total Estimated Cost \$1,597,800.00
- m. The cost of Façade Improvement Program at 154 North Emporia (southeast corner of 1st and Emporia). (472-84497/766020/491-021) (District VI).
- n. The cost of construction of Water Distribution System to serve Pier 37 Addition (south of 37th Street North, west of Ridge). (448-90272/735350/470-023) (District V)

Motion--carried

Brewer moved to receive and file. Motion carried 7 to 0.

PETITION

CONSTRUCT PAVING, SANITARY SEWER AND WATER IMPROVEMENTS IN ANGEL FIRE ADDITION, NORTH OF 47TH STREET SOUTH, EAST OF WEST STREET. (DISTRICT IV)

Agenda Item No. 31a.

The Petitions have been signed by one owner representing 100% of the improvement districts.

The projects will provide paving, sanitary sewer and water system improvements within a residential development located north of 47th Street South, east of West Street.

The Petitions total \$2,047,084. The funding source is special assessments.

These projects address the Efficient Infrastructure goal by providing for the construction of paving, sanitary sewer and water system improvements in a new subdivision.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district.

Motion--
--carried

Brewer moved that the Petitions be approved; the Resolutions adopted; and the necessary signatures authorized. Motion carried 7 to 0.

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RESOLUTION NO. 08-234

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89518 (north of 47th St. South, east of West St.), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

RESOLUTION NO. 08-235

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89550 (north of 47th St. South, east of West St.), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

RESOLUTION NO. 08-236

Resolution of findings of advisability and Resolution authorizing construction of Lateral 464, Southwest Interceptor Sewer (north of 47th St. South, east of West St.) 468-83183, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

RESOLUTION NO. 08-237

Resolution of findings of advisability and Resolution authorizing construction of Lateral 466, Southwest Interceptor Sewer (north of 47th St. South, east of West St.) 468-83221, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

RESOLUTION NO. 08-238

Resolution of findings of advisability and Resolution authorizing constructing pavement on Angel from the west line of the plat, east to the east line of Lot 15, Block E; on Kessler and Kessler Cir., from the west line of Angel, west to and including the cul-de-sac; and on 45th South from the east line of Kessler east to the north line of Angel and on Angel Ct. from the north line of Angel, north to and including the cul-de-sac and that sidewalk be constructed on Angel, Kessler and 45th St. south (north of 47th St. South, west of West St.) 472-83355, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

RESOLUTION NO. 08-239

Resolution of findings of advisability and Resolution authorizing constructing pavement on Angel from the east line of Lot 15, Block E, east to the west line of Kessler; on Kessler from the south line of the plat north to the west line of Angel; and on Angel from the west line of Kessler east to the east line of Lot 11, Block B and on Kessler Ct, from the east line of Kessler, east to and including the cul-de-sac; and on Angel Ct. from the south line of Angel to and including the cul-de-sac and that sidewalk be constructed on Kessler and Angel (north of 47th St. South, east of West St.) 472-83356, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

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PETITION

SANITARY SEWER TO SERVE PART OF REGENCY LAKES COMMERCIAL SECOND ADDITION. (DISTRICT II)

Agenda Item No. 31b.

The Petition has been signed by one owner representing 100% of the improvement district.

The project will provide sanitary sewer service for a commercial development located north of 21st, west of Greenwich.

The Petition totals \$34,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for new commercial development.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Motion--
--carried

Brewer moved that the Petition be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 08-240

Resolution of findings of advisability and Resolution authorizing construction of Lateral 11, Main 26, War Industries Sewer (north of 21st, west of Greenwich) 468-84509, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

PETITION

2008 ARTERIAL STREET AND BRIDGE DESIGN CONTRACTS. (DISTRICTS II, IV, AND V)

Agenda Item No. 31c.

The 2008 Capital Improvement Program includes funding for arterial street and bridge design projects. On February 19, 2008, the Staff Screening and Selection Committee interviewed nine design companies for the following projects:

The projects to be designed, the design companies and the design fees are:

Maize, between Pawnee and Kellogg (District IV)
Poe & Associates \$219,203

37th St. North, between Tyler and Maize (District V)
MKEC Engineering Consultants \$188,000

Lincoln Bridge at Armour (District II)
Cook, Flatt & Strobel \$31,490

The design project budgets total \$485,000. The funding source is General Obligation Bonds.

The projects address the Efficient Infrastructure goal by improving arterial streets and a bridge.

The Law Department has approved the design agreements and authorizing Ordinances as to legal form.

Motion--

Brewer moved that the design projects be approved; the Ordinances placed on first reading; the design agreements approved; and the signing of State/Federal agreements as required authorized. Motion

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--carried

carried 7 to 0.

ORDINANCE

An ordinance declaring maize road, between Pawnee and Kellogg (472-84697) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same. Introduced and under the rules laid over.

ORDINANCE

An ordinance declaring the Lincoln bridge at Armour (472-84703) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same. Introduced and under the rules laid over.

ORDINANCE

An ordinance declaring 37th St. north, between Tyler road and maize road (472-84693) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same. Introduced and under the rules laid over.

LIBRARY CONTRACT LIBRARY CUSTODIAL CLEANING CONTRACTS. (DISTRICT I)

Agenda Item No. 32a.

The original Library Custodial Services contract was awarded to Service Master at the December 11, 2007 City Council meeting. City staff has cancelled that contract due to non-compliance with the specifications per Library and Public Works Department staff and is requesting approval to redirect the Library Custodial Services Contract to Wilson Building Services, which was the previous contractor for this contract. Wilson Building Maintenance was ranked by the selection committee as the number two proposal response.

Formal proposals were received on November 10, 2007, from six (6) vendors on six (6) different Contract options to cover the work listed in the RFP. These proposals were reviewed by the Staff Screening & Selection Committee on November 15, 2007, and the committee recommended entering into three separate contracts. Selected service providers were Service Master and His-N-Hers Cleaning, both of which are Emerging Businesses, and Wilson Building Services, a Woman-Owned Business Enterprise. The total annual cost of these three contracts would be \$364,586.20, which is an increase of \$54,586.20 over the amount currently budgeted for these services in 2008. Redirecting this contract is an increase of \$392.56 per month.

The 2008 funding for the custodial contract is not sufficient to maintain the required level of services based on the new minimum wage and the current bids for providing custodial services. A budget adjustment will be required which will be handled in the 2008 Revised Budget.

These contracts will support the Ensure Efficient Infrastructure Goal by providing clean, well maintained, buildings to help optimize the City's services to the community.

The contract has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the custodial contract be approved and the necessary signatures authorized.
Motion carried 7 to 0.

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EDGE WATER

STAKING IN EDGE WATER ADDITION, SOUTH OF 45TH STREET NORTH, WEST OF HOOVER. (DISTRICT V)-SUPPLEMENTAL

Agenda Item No. 32b.

The City Council approved the water and sewer improvements in Edge Water Addition on August 7, 2007. On January 8, 2008 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Baughman provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to Baughman will be on a lump sum basis of \$19,720 and will be paid by special assessments.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering services needed for the construction of water and sewer improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MEADOW LAKE

STAKING IN MEADOW LAKE BEACH ADDITION, NORTH OF 55TH STREET SOUTH, WEST OF CLIFTON. (DISTRICT III)-SUPPLEMENTAL.

Agenda Item No. 32c.

The City Council approved the water and sewer improvements in Meadowlake Beach Addition on March 13, 2007. On June 19, 2007 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Baughman provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to Baughman will be on a lump sum basis of \$15,900 and will be paid by special assessments.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering services needed for the construction of water and sewer improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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KDOT

KANSAS DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO THE INTERCHANGES OF I-235 AT US-54 (KELLOGG) AND CENTRAL. (DISTRICTS IV, V, AND VI)

Agenda Item No. 32d.

The Kansas Department of Transportation (KDOT) intends to reconstruction the interchanges on I-235 at Kellogg and Central. Because this section of I-235 is located within the city limits and because the operation and maintenance of I-235 and other federal and state highway connecting links are covered by another agreement between the State and City, it is necessary for the City and KDOT to enter into an agreement for this construction project.

The Agreement authorizes the work to be done within the city limits. It contains a provision whereby the City and KDOT shall mutually agree on how traffic will be handled during construction. I-235 traffic and access through local streets is maintained.

There is no cost to the City associated with this Agreement.

This Agreement addresses the Efficient Infrastructure Goal by providing improved, safer highway connecting links within the City.

The City/State Agreement has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

NO PROTEST AGMNT NO PROTEST AGREEMENT-WASHINGTON STREET PAVING, SOUTH OF 13TH STREET. (DISTRICTS I AND VI)

Agenda Item No. 32e.

The owner of Lots 30-36, H.O. Burleigh's 3rd Addition requested a building permit to construct a commercial building on the site. The property is adjacent to an unpaved portion of Washington, south of 13th. Since it was not practical to obtain a valid paving petition, the property owner has submitted an agreement that ensures that neither he nor any subsequent property owner will protest a future paving petition.

Without the agreement, the property would remain vacant.

There is no cost to the City.

This Agreement addresses the Efficient Infrastructure goal by facilitating a future street paving project.

The Law Department has approved the Agreement as to form.

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

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**COUNTRY HOLLOW COUNTRY HOLLOW ADDITION, SOUTH OF KELLOGG, EAST OF 127TH STREET EAST.
(DISTRICT II)**

Agenda Item No. 33a.

The City Council approved the paving improvements in Country Hollow Addition on January 10, 2006.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of paving in Country Hollow Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$31,900 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MONARCH ADD. MONARCH LANDING SECOND ADDITION, NORTH OF 21ST STREET, WEST OF 159TH STREET EAST. (DISTRICT II)

Agenda Item No. 33b.

The City Council approved the paving improvements in Monarch Landing Second Addition on October 16, 2007.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of paving in Monarch Landing Second Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$46,900 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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CHANGE ORDER

GYPSUM CREEK IMPROVEMENT, NORTH OF PAWNEE, WEST OF WOODLAWN. (DISTRICT III)

Agenda Item No. 34a.

On December 18, 2007, the City Council approved a construction contract with Dondlinger & Sons Construction Company for Gypsum Creek improvements. After the work began, it was determined that additional stone rip-rap is needed at the Drollinger Street pedestrian bridge. Also, additional soil removal is needed to match the upstream and downstream slope of Gypsum Creek.

A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

The total cost of the additional work is \$18,700 with the total paid by the Storm Water Utility. The original contract amount is \$848,864. This Change Order represents 2.20% of the original contract amount.

This project addresses the Efficient Infrastructure goal by improving Gypsum Creek Drainage

The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Motion--
--carried

Brewer moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF 1519 SOUTH OLIVER, HARRY TO KELLOGG ROAD PROJECT. (DISTRICT III)

Agenda Item No. 35a.

On May 14, 2004, City Council approved the improvement of Oliver from Harry to Kellogg. Oliver will be widened to accommodate a five-lane roadway, four through lanes and a center two-way left turn lane. To accommodate this, it is necessary to acquire ten to twenty-foot wide strips of land from the east side of eight properties abutting Oliver. All eight proposed acquisitions are partial acquisitions and about the west side of Oliver. Properties consist of commercial, single-family and multi-family. The final parcel to be acquired is a portion of 1519 South Oliver. The site consists of 61,272 square feet and is improved with a 17,104 square foot retail shopping center building.

The proposed acquisition area is at the southeast portion of the site and consists of 124 square feet. Land will be acquired to accommodate the widening of the sidewalk so it is ADA compliant as well as the resetting the traffic signal. Temporary easements along Oliver and Harry, totaling 2,804 square feet are necessary during construction. The take will impact landscaping and a retaining wall. The owner rejected the offer of \$1,090, or \$3.25 per square foot, and through negotiation, agreed to settle at \$6,000. The seller is concerned about possible damage to the retaining wall and the grade of the site as a result of construction. As this property is zoned limited commercial, at the intersection of two arterial roads, coupled with damages to landscaping and the retaining wall, this settlement is reasonable and prudent.

The funding source for the project is General Obligation Bonds. A budget of \$7,500 is requested. This includes \$6,000 for the acquisition and \$1,500 for closing costs and title insurance.

The acquisition of this parcel is necessary to ensure efficient infrastructure in the area.

The Law Department has approved the contract as to form.

Motion--
--carried

Brewer moved that the Budget and the Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

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BOARD MIN.

MINUTES OF ADVISORY BOARDS/COMMISSIONS

Wichita Employee's Retirement Board/Police and Fire Retirement Board, March 6, 2008
Board of Electric Appeals, March 25, 2008
District VI Advisory Board, March 3, 2008
Board of Code Standards and Appeals, March 3, 2008
Wichita Airport Advisory Board, March 3, 2008
Wichita Historic Preservation Board, March 10, 2008
Board of Park Commissioners, February 11, 2008
Board of Park Commissioners, March 10, 2008

Motion--carried

Brewer moved to receive and file. Motion carried 7 to 0.

UNSAFE STRUC.

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICTS I AND III)

Agenda Item No. 37.

On April 7, 2008, the Board of Code Standards and Appeals held a hearing on ten residential properties listed below. The buildings on all ten properties are considered dangerous and unsafe structures per State statutes and local ordinances, and are being presented in order to schedule a condemnation hearing before the City Council. The Board of Code Standards and Appeals has recommended that the City Council proceed with condemnation, demolition and removal of the dangerous buildings on all ten properties.

Minimum Housing Code violation notices have been issued on these structures; however, compliance has not been achieved. Pre-condemnation and formal condemnation letters have also been issued, and the time granted for repair or removal has expired. No actions have been taken by the property owners and/or other interested parties to repair or remove these dangerous buildings.

<u>Property Address</u>	<u>Council District</u>
a. 546 North Madison	I
b. 537 North Estelle	I
c. 1212 North Wabash	I
d. 1301 North Indiana	I
e. 1123 North Spruce	I
f. 1102 North Green	I
g. 1201 North Green	I
h. 1323 North Volutsia	I
i. 2044 North Kansas	I
j. 3723 East Funston	III

Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure

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Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita shall cause them to be deemed as dangerous and unsafe buildings for condemnation consideration, as required by State Statutes.

Motion--

Brewer moved that the resolutions to schedule public hearings before the City Council on June 17, 2008 at 9:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances be adopted. Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-241

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 26 and 28, on Locust, now Madison, Stites Bros Second Addition, Wichita, Sedgwick County, Kansas, known as 546 N. Madison, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-242

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 17 and 19, on Mabel Avenue, now Estelle Avenue, Mossman's Second Addition, Wichita, Sedgwick County, Kansas, known as 537 N. Estelle, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-243

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 86 and 88, on Wabash Avenue, in H.O. Burleigh's Third Addition, Wichita, Sedgwick County, Kansas, known as 1212 N. Wabash, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-244

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: the south 8 1/3 feet of Lot 45 and all of Lot 47, on Cherry Street, now Indiana Avenue, in H.O. Burleigh's Third Addition, Wichita, Sedgwick County, Kansas, known as 1201 N. Indiana, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-245

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 29 and 31, Tenth street Addition, Wichita, Sedgwick County, Kansas, known as 1123 N. Spruce, may appear and show cause why such structure should not be condemned

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and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

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RESOLUTION NO. 08-246

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 1 and 3, Block 4, Esterbrook Park Addition, Wichita, Sedgwick County, Kansas, known as 1102 N. Green, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-247

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: the east 81 feet of Lots 93 and 95, on Alice, now Green Street, in Fairmount Park Addition, Wichita, Sedgwick County, Kansas, known as 1201 N Green, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-248

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 29 and 31, on Academy, now Volutsia, Fairmount Park Addition, Wichita, Sedgwick County, Kansas, known as 1323 N. Volutsia, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-249

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 60 and 62, Kansas Avenue, Parkview Addition, Wichita, Sedgwick County, Kansas, known as 2044 N. Kansas, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-250

A Resolution fixing a time and place and providing for Notice of Hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 2, except beginning southwest corner thence northerly to northwest corner thence easterly along the front line 5 feet then southerly to a point of beginning, in Block 7, Grandview Heights Addition, Wichita, Sedgwick County, Kansas, known as 3723 E. Funston, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

SENIOR REPORT

Motion--carried

SENIOR MANAGEMENT REPORT FOR FEBRUARY 2008.

Brewer moved to receive and file. Motion carried 7 to 0.

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SENIOR REPORT

SENIOR MANAGEMENT REPORT FOR MARCH 2008.

Motion--carried

Brewer moved to receive and file. Motion carried 7 to 0.

CLAIM

SETTLEMENT OF CLAIM.

Agenda Item No. 40.

This claim results from out-of-date or incorrect location of Water Utility pipelines by the City resulting in damage and response costs by Union Pacific Railroad and its contractor.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. Union Pacific Railroad has substantiated the amount of its claim of damages arising out of an incident on June 20, 2007, in the 1400 block of East Douglas. Its contractor was installing wells and struck a Water Utility line. The location of the line had been flagged by the Water Utility in good faith reliance upon 1969 as-built drawings. The old drawings were incorrect. As a result of the actual location and damage from the rupture of the water line, the Railroad's contractor had to cease drilling and relocate some existing wells.

Funding for this settlement payment of \$18,840.91 is from the Tort Claims Fund.

Settlement of this claim contributes to the City goal of providing a safe and secure community.

The Law Department recommends acceptance of the offer of settlement of the claim.

Motion--

Brewer moved that payment of \$18,840.91 as full settlement of all possible claims from the claimant arising out of the transactions which are the subject of this claim be authorized. Motion

--carried

carried 7 to 0.

AWARD CASE

PAYMENT OF CONDEMNATION AWARD (CASE NO. 07CV2640) PUBLIC RIGHT-OF-WAY FOR CONSTRUCTION AND IMPROVEMENTS OF THE PLANNED EAST 13TH STREET AND NORTH MOSLEY INTERSECTION. (DISTRICT VI)

Agenda Item No. 41.

The City has identified the need to acquire permanent easements for road right of way purposes from three commercial use parcels near 13th & Mosley owned by Jimmie Jones Co. (Airgass – Mid South, Inc. (other interested party and Kansas Gas & Electric Co. (easement holder) Last year the City initiated eminent domain proceedings to acquire this property. On April 11, 2008, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition of the properties to be \$60,000.00. The court awarded the three appraisers fees in the total amount of \$13,500.00. Court costs are \$147.00.

In order for the City to acquire this property, it must pay the award, together with fees and costs, to the Clerk of the District Court on or before May 12, 2008.

The costs of acquiring these properties will be paid from project funds.

This action promotes the goal of Efficient Infrastructure, as it allows construction of improved storm water drainage facilities and street improvements to an arterial street.

The City has until May 12, 2008, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned. In that event the City would still be responsible for the appraisers' fees and costs, and would have additional liability for the attorney fees of the property owners.

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Motion-- Brewer moved that payment to the clerk of the District Court in the amount of \$73,647.00 for acquisition of property easements condemned in Case No. 07CV2640 be authorized. Motion carried 7 to 0.
--carried

HEALTH PROGRAM 2008 AMENDMENTS SELF-INSURANCE HEALTH PROGRAM-SUMMARY PLAN DESCRIPTIONS.

Agenda Item No. 42.

On September 25, 2007, the City Council approved the Summary Plan Description, the use of Step Therapy for new prescriptions starting January 1, 2008 and approved adding a new "low option" medical plan in 2008 with flexible cost sharing. On November 6, 2007, the City Council approved adding Cochlear Implantation as a covered service.

Two Plan Amendments are necessary to formally amend the existing Summary Plan Description as follows: Amendment Number 2008 BENUP-2 further defines the Low Option health care plan as the "Select Plan Option" and further defines the High Option health care plan as the "Premium Plan Option" approved by the City Council on November 26, 2007. The Amendment also makes cochlear implants a covered service and subject to \$50,000 lifetime benefit. The Amendment adds a definition of Primary Care Physicians and differentiates them from Specialists since the co-pay for Primary Care doctors under the Select Plan is \$25 while the co-pay for Specialists is \$50 under the Select Plan. Amendment #2 makes a technical change on Non-Participating Physicians and Other Health Care Providers by removing the reference to 2003 and replacing it with the term "the prior year". It also further defines Infertility as a covered service and defines treatment for developmental delay or delays in learning as non-covered services. Finally, the Plan Amendment makes clear that one co-payment is required for each Rx Unit, container or prepackaged item and it lists the City of Wichita's new COBRA Administrator, Beyond Benefits, Inc. If the City Council approves Amendment #2, the Amendment will be effective January 1, 2008.

Amendment 2008 PRE-4's primary purpose is to clarify language in the SPD to make conditions related to a "pervasive disorder" an eligible covered service. This is required by State law. If the City Council approves Amendment #4, it will be effective September 1, 2007 to cover the period required by pervasive disorder.

Implementation of the PRE-4 Amendment in 2007 is required by law and approval of the BENUP-2 Amendment for 2008 should reduce costs for 2008.

The employee health and prescription drug program is a part of the Internal Perspective goal. The City's strategic health care plan combines employee Wellness programs, self-insured health and Rx plans, disease management and nurse coaches to minimize future health insurance increases.

The Amendments have been reviewed and approved as to form by the City Attorney's Office.

Motion-- Brewer moved that the two 2008 Amendments to the Self-Insurance Health Program Summary Plan Description be approved and the appropriate signatures authorized. Motion carried 7 to 0.
--carried

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NOTICE OF INTENT NOTICE OF INTENT TO USE DEBT FINANCING-AIRFIELD ELECTRICAL REPLACEMENT, COLONEL JAMES JABARA AIRPORT.

Agenda Item No. 43.

On May 6, 2008, the Wichita Airport Authority was asked to authorize an airfield electrical equipment replacement project at Jabara Airport on a schedule that would optimize federal funding. The Airport Authority relies on the City of Wichita for the issuance of General Obligation bonds for capital projects.

It is necessary to declare that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Colonel James Jabara Airport facility. Additionally, the nature of said improvements, the estimated costs thereof and the manner of payment needs to be disclosed. The actual issuance of the bonds will require a separate authorization from the City Council.

The requested budget was \$1,030,025 which represents the maximum cost that will be funded with General Obligation Bonds paid for with airport revenue.

The Airport's contribution to the economic vitality of Wichita is leveraged through the use of long-term financing of capital projects.

The Law Department has approved the Authorizing Resolution as to form.

Motion--
--carried

Brewer moved that the Resolution be adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 08-251

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Colonel James Jabara Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

AQUIFER STORAGE PUBLIC EXIGENCY - AQUIFER STORAGE AND RECOVERY TEST WELLS.

Agenda Item No. 44.

Phase II of the Aquifer Storage and Recovery Project includes construction of twenty-six (26) Recharge and Recovery Wells. Twenty (20) of the wells will be located at sites where the City currently has water supply wells and the remaining six (6) will be at new sites.

Prior to purchasing the land for the new sites, it is prudent to drill test borings at the proposed sites to determine whether a well will be productive at that particular site. The land where the test sites are located is agricultural and we are fast approaching planting season. It will demonstrate cooperation with the landowners if the borings are drilled before the next crop is planted, so that the landowners do not lose any crops because of these tests. A public exigency has been declared by the City Manager in order to complete the tests prior to crops being planted.

Staff secured estimates from two companies that drill wells in the area, Clarke Well and Equipments and Layne Western. The lower quote was received from Clarke Well and Equipment in the amount of \$38,748 for drilling and evaluating the sites. Capital Improvement Program, Water Supply Plan Phase III (CIP W-549), has adequate funding for the costs of the tests.

This project supports efficient infrastructure by ensuring a future water supply through the year 2050.

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City Ordinance 2.64.020, "Public Exigency," authorizes the City Manager to approve work to be performed by a contractor without formal bidding.

Motion--
--carried

Brewer moved that the City Manager's Public Exigency approval of the project be affirmed. Motion carried 7 to 0.

MODEL/REPORT

2007 AQUIFER STORAGE AND RECOVERY ACCOUNTING MODEL AND REPORT.

Agenda Item No. 45.

On August 8, 2005, the Division of Water Resources approved the water appropriations for the Equus Beds Aquifer Storage and Recovery Project. The appropriations include a number of conditions, one of which is an annual project report.

The Equus Beds Aquifer Storage Recovery (ASR) project is the first of its kind in Kansas. One of the conditions placed on the project by the Chief Engineer of the Division of Water Resources is the use of a hydrologic computer model to determine the amount of recharge credits available for appropriation. The hydrologic computer model was developed by Burns & McDonnell to show all water uses in the project area and to account for all of the necessary components in order for the Division of Water Resources (DWR) to allocate water appropriations for the project.

The DWR requires that the model be run and a report submitted to them by June 1st of each year. This is the second year for this requirement. At the present time, Burns & McDonnell is the only resource available to perform the task. After the model is run this year, Staff and the engineer will work together to identify the most expedient way to accomplish this in future years, since this will be required for the life of the project.

The cost to run the model and prepare the report will not exceed \$56,904. Funding is included in CIP W-549, Water Supply Plan Phase III, which has available over \$5 million in 2008.

This project will ensure efficient infrastructure by providing reliable, compliant and secure utilities and will help assure that adequate water supplies are available for future customers.

The Law Department has reviewed and approved the Agreement

Motion--
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MENTAL HEALTH

GRANT APPLICATION – MENTAL HEALTH COURT.

Agenda Item No. 46.

The Bureau of Justice Assistance is seeking joint grant applications from eligible applicants seeking to plan and implement an adult collaboration program for individuals with mental illness who come into contact with the criminal justice system. For many years the Court and members of the prosecutorial and defense bar have recognized the need to provide mental health services and resources to those individuals appearing in Municipal Court primarily due to mental health issues. Currently, the Court has limited options available to address the underlying causes for these individuals' criminal behavior. The City of Wichita Municipal Court, Law Department and COMCARE of Sedgwick County are pursuing a \$250,000 Planning and Implementation Grant to develop a strategic plan and implement a City of Wichita Mental Health Court.

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The City of Wichita Municipal Court proposes the Wichita/Sedgwick County Justice Collaborative Alternative Treatments and Interventions for Consumers (ATIC). ATIC will address the mental health issues of citizens in the criminal justice system. The purpose of ATIC is to identify arrestees with mental illness pre- and post-booking that would benefit from alternatives to typical incarceration or court sanctions. ATIC will utilize two programs to work with persons with mental illness from the criminal justice system: a pre-booking alternative program to include Crisis Intervention Team (CIT) training and a Mental Health Court (MHC). Through CIT training, law enforcement officers will be cross-trained in mental health services, crisis de-escalation techniques and to make appropriate referrals for services at COMCARE or other agencies.

The Mental Health Court would provide a non-traditional, therapeutic approach to dealing with criminal offenders who have mental health issues. The judge, prosecutor, probation officer and treatment provider would work as a team using a non-adversarial approach to address the mental health issues of defendants/probationers. Defendants/probationers with mental health issues would be referred to the Sedgwick County Assessment Program for mental health assessment and supervised treatment for a minimum period of one-year. During the course of the one year period, participants, with the assistance of mental health clinicians and the Mental Health Court team, will develop a plan of care that specifically targets the offenders' needs to achieve independence and a high quality of life through intensive case management, medication management, supportive living arrangements, co-occurring disorder treatment, and various other supportive services throughout the Wichita area. The primary goals of the Mental Health Court are to provide treatment to offenders with mental illness, address social support needs, reduce recidivism for the mentally ill offender population, and help reduce incarcerations and court over-crowding.

The Bureau of Justice Statistics on Mental Health Problems of Prison and Jail Inmates indicate that over half of those incarcerated in jails across the country have a mental health problem. Local studies support the finding that individuals with mental illness represent a higher percentage when compared to the general population. The aforementioned studies reflect the opinion of the City of Wichita Municipal Court that many of those who show up repeatedly on the dockets are those offenders with mental health issues whose treatment needs are not adequately addressed. A Mental Health Court will address these issues by providing participants the opportunity to receive community-based, outpatient treatment and services 24 hours per day through COMCARE, while providing a highly structured environment with frequent court review hearings to monitor treatment.

The Bureau of Justice Assistance grant would provide up to \$250,000 for the planning and implementation of a Mental Health Court; including salaries and equipment for a two-year period for a part-time prosecutor and a qualified mental health professional. The funding would also provide training and site visits to other mental health courts for a four-member team.

The proposed grant application totals \$340,963 the federal share of the grant is \$238,428. The grant will pay salary, equipment costs, training for a two-year period and site visits to other mental health courts. In-kind funding of \$102,535 will provide the City's match for this grant. At the conclusion of the grant period the mental health court will be evaluated and outcomes will be reported. If the program is successful, continuation of the part-time City of Wichita prosecutor will be requested in the 2010/2011 budget. The estimated annual costs would be \$24,000 for personnel services and annually \$3,050 in computer equipment and application costs.

The implementation of a mental health court addresses the Safe and Secure Community goal by providing treatment to offenders with mental illness; addressing social support needs, reducing recidivism for the mentally ill offender population, helping reduce incarcerations and court over-crowding.

The grant award would establish a new program in Municipal Court, which the City has the power and authority to implement.

Motion--
--carried

Brewer moved that the grant application be approved and the Mayor authorized to sign the grant application and grant assurances. Motion carried 7 to 0.

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SOUND SYSTEM

EMERGENCY REPLACEMENT SOUND SYSTEM, LAWRENCE DUMONT STADIUM.

Agenda Item No. 47.

Upon making Lawrence-Dumont Stadium ready for the upcoming baseball season, it was discovered that the speaker cluster had deteriorated significantly over the winter. The speaker cluster consists of a collection of horns on an 80 foot tower beyond the centerfield wall. The sound system has been energized, but its continued operation is uncertain at best. In addition, in its present state, a complete failure could result from a relatively mild weather event.

To address this problem, it is recommended that both the speaker cluster on the tower and the power amplifiers and related control electronics be replaced as soon as possible. Replacement of the electronics will ensure that the new speakers work properly. In addition, because of the condition of the current speakers, when the new ones are installed, they could cause the twenty-year old power amplifiers to fail in a short amount of time. Furthermore, replacement of both the speakers and the related electronics would allow a new warranty covering the entire system to be in effect. A preliminary estimate of the total cost to repair the speaker cluster and its electronics is \$70,000. It is for this reason that the City Manager approved an emergency repair in accordance with Purchasing Ordinance 35-856, Section (a), Emergencies, so that repairs may proceed with all possible haste before bass season begins.

The 2007-2016 CIP contains a project for renovations to the stadium. The funding sources are \$500,000 in General Obligation bonds and \$500,000 from other unidentified sources. The cost of the sound system replacement will come from this project.

Ensure Efficient Infrastructure – Maintain and Optimize Public Facilities and Assets.

Due to its age and recent winter storm damage, the audio system at Lawrence Dumont Stadium must be replaced to maintain the integrity of the system and operability of the stadium.

The Law Department has reviewed these documents as to form.

Motion--
--carried

Brewer moved that the project be approved and the necessary expenditures authorized. Motion carried 7 to 0.

RESOLUTION

SUBSTITUTE PROJECT RESOLUTION.

Agenda Item No. 48.

On January 8, 2008, the City competitively sold General Obligation Renewal and Improvement Temporary Notes, Series 222 in the amount of \$77,880,000 and the closing on these notes was held February 7, 2008, at which time the proceeds were received from the Purchaser. The proceeds of the Series 222 Notes were used to temporarily finance current improvements and a portion of the proceeds were used to renew a portion of previous temporary notes that matured on February 7, 2008 (Series 220). The Series 222 Temporary Notes were authorized and issued by the adoption of Resolution No. 08-012 and the passing of Ordinance No. 47-741 on January 8, 2008. Section 4.09 of the Series 222 Temporary Note Resolution provides for the substitution of projects financed by the proceeds of the notes.

Of the improvements financed by the Series 222 Notes, \$11,000,000 was issued for the Rail Corridor project. The approval to substitute a portion of the note proceeds in the amount of \$4,355,000 from the Rail Corridor project to the Arkansas Riverbank Improvements and Pedestrian Bridge projects is requested at this time.

Series 220 temporary notes of this same amount (\$4,355,000) for the Arkansas Riverbank Improvement and Pedestrian Bridge projects were retired on February 7, 2008 in anticipation of the issuance of STAR

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bonds soon thereafter. Unforeseen delays related to the issuance of STAR bonds require the City to reclassify these temporary note proceeds pending the issuance of the bonds in August 2008. Accordingly, the substitution of the proceeds from the Series 222 Notes will allow and provide for the renewal of the previously outstanding temporary notes for the Arkansas Riverbank Improvements and Pedestrian Bridge projects, which can then be retired through the proceeds of STAR bonds, which are expected to be issued in August 2008, coinciding with the maturity of the notes for the Riverbank Improvement projects. In turn, additional temporary notes and/or bonds will be issued for the Rail Corridor in connection with the City's regular bond and note sale scheduled in July 2008.

Overall, the substitution of these projects results in no increased financial impact, but does allow a portion of the Series 222 temporary notes to be retired through the issuance of STAR bonds.

This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements.

The substitution of projects financed through the proceeds of the temporary notes is permitted under Section 4.09 of Resolution 08-012 adopted by the Council on January 8, 2008 in connection with the issuance of the Series 222 General Obligation Renewal and Improvement Temporary Notes. The resolution authorizing the substitution of these projects has been approved as to form by the Law Department and has also been reviewed by the City's Bond Counsel, Kutak Rock, LLC.

Motion--

Brewer moved that the resolution authorizing a portion of the cost of certain public improvements to be financed by the City's General Obligation Renewal and Improvement Temporary Notes, Series 222 be adopted and authorize the necessary signatures of certificates and other documents as are necessary to carry out the purposes of the resolution. Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-252

A resolution authorizing a portion of the costs of certain public improvements to be financed by the City of Wichita's General Obligation Renewal and Improvement Temporary Notes, Series 222, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

SALE OF REMNANT SALE OF REMNANT OF 428-434 SOUTH OLIVER. (DISTRICT II)

Agenda Item No. 49.

The City acquired 428-434 South Oliver as part of the Kellogg/Oliver Improvement Project. The project required 10,056 square feet from the west and south of the properties totaling and the removal of all improvements. The remaining parcel has 15,694 square feet. The City Council declared the parcel surplus in 2001. The property has been advertised on the Internet and in mailings to adjacent owners and Realtors.

An offer of \$49,436 (\$3.15 per square foot) has been received. The buyer intends to improve the site with either a small commercial building that will house his insurance business and possibly one other tenant or a residential structure.

The City will receive cash consideration for the sale of the property, less any marketing costs. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

The sale and redevelopment of this property will support a dynamic core area and vibrant neighborhood.

The Law Department has approved the contract as to form.

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Motion--
--carried

Brewer moved that the Real Estate Purchase Contracts be approved and all necessary signatures authorized. Motion carried 7 to 0.

RIVER FESTIVAL

COMMUNITY EVENTS, RIVER FESTIVAL.

Agenda Item No. 51.

Since 1973 Wichita Festivals, Inc. has been coordinating and producing a multi-day community celebration attracting local residents and tourist from the state of Kansas and surrounding states. Economic Impact from the 2007 event was approximately \$26 million dollars.

Pursuant to city ordinance Sec. 3.14.030 Wichita Festival, Inc. is coordinating with City of Wichita departments for licensing and street closure request. Approval of such permit will be in lieu of issuance of individual permits and authorizations identified as necessary.

Licensing and Tent/Canopy permits amounting to \$3790.00 in-kind contributions from the City of Wichita.

Enhance the Quality of Life

The Law department has reviewed and approved the certificate of insurance.

Motion--
--carried

Brewer moved that the request for permit for Wichita Festivals, Inc. 2008 River Festival taking place May 9 – 17, 2008 be approved. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ APRIL 22, 2008)

- a. Abatement of Dangerous and Unsafe Structures. (Districts I, III, and IV)

ORDINANCE NO. 47-876

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (building condemnation-demolition) under the provision of sections 18.16.010 to 18.16.090 of the code of the city of Wichita, Kansas. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0.

ORDINANCE NO. 47-877

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (building emergency board-up) under the provision of sections 18.16.010 to 18.16.090 of the code of the city of Wichita, Kansas. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0.

- b. Nuisance Abatement Assessments. (Districts I, III, IV, and VI)

ORDINANCE NO. 47-878

An ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of section 7.40.050 of the code of the city of Wichita, Kansas, be it ordained by the governing body of the city of Wichita, Kansas. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0.

Motion--carried

Brewer moved that the ordinances be adopted. Motion carried 7 to 0.

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RECESS

EXECUTIVE SESSION

Motion--

Brewer moved at 2:56 p.m. that the City Council recess into Executive Session to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to personnel matters of non-elected personnel and that the Council return from Executive Session no earlier than 3:20 p.m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 7 to 0.

--carried

RECONVENE

The City Council reconvened in the City Council Chambers at 3:35p.m.

Motion--carried

Brewer moved to extend the Executive Session until 3:45 p.m. Motion carried 4 to 0, (Gray, Longwell and Williams were absent).

RECONVENE

The City Council reconvened in the City Council Chambers at 3:45 p.m. Mayor Brewer announced that there was no action taken and there was no action needed as a result of the Executive Session.

Motion--carried

Brewer moved to close the Executive Session. Motion carried 6 to 0, (Skelton absent).

Motion--carried

Brewer moved to adjourn the Regular Meeting. Motion carried 6 to 0, (Skelton absent).

ADJOURNMENT

The meeting was adjourned at 3:48 p.m.

Respectfully submitted,

Karen Sublett, CMC
City Clerk