



**CITY OF DERBY  
MEETING OF THE CITY COUNCIL  
REGULAR MEETING  
September 8, 2015  
6:30 P.M.**

*Our mission is to create vibrant neighborhoods, nurture a strong business community, and preserve beautiful green spaces.*

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- 1. CALL MEETING TO ORDER**
- 2. FLAG SALUTE**
- 3. INVOCATION--Dr. Paul Wilke, Woodlawn United Methodist Church**
- 4. ROLL CALL    COUNCIL MEMBERS PRESENT:**  
MAYOR            Randy White  
WARD I            Rocky Cornejo, Tom Keil  
WARD II           Jack Hezlep, Vaughn Nun  
WARD III          Cheryl Bannon, Chuck Warren  
WARD IV          Tom Haynes, Mark Staats
- 5. CONSIDERATION OF MINUTES**
  - 5. A. Regular Meeting Minutes - August 25, 2015**

Recommend a Motion to:

- Approve the regular meeting minutes of August 25, 2015, as presented.

Moved by Tom Haynes, seconded by Vaughn Nun, to approve the regular meeting minutes of August 25, 2015, as presented.

**Vote: 7 - 0**

Other: Rocky Cornejo (ABSTAIN)

- 6. PUBLIC FORUM**

**Gary Tully**, 3112 N. Jackson, said his property is adjacent with the western edge of the proposed dinosaur park. He asked if any environmental concerns have been raised. He is also concerned about the lighting. Will it shine above the trees on his property? He is neither for or against it just yet because he doesn't have enough information. He doesn't understand why they don't pay for it out of their pocket if it is such a good deal. He asked if the other park has been visited. He shares that western boundary with other property owners.

## 7. PRESENTATIONS

### 7. A. Derby BBQ Festival

**Jennifer Keller**, Director of Community Marketing, presented a preview of the Derby BBQ Festival.

**Council Member Hezlep** asked if the pro teams are going to cook more food this year for the People's Choice.

**Mrs. Keller** said the People's Choice booths will be marked with a pink pig balloon. This year, Creekstone Farms donated the pork butts for them to cook.

**Mayor White** asked if the guy with the plane for the candy drops is going to be here this again this year.

**Mrs. Keller** replied no, they will not be here this year. There were some issues last year with their landing field taking up space. We have reconfigured that area for parking.

**Council Member Keil** asked if you have any suggestions about parking.

**Mrs. Keller** said people will be directed to come in off Madison. There will be parking allowed on James Street and the two parking areas off of James Street.

## 8. NEW BUSINESS

### 8. A. Public Hearing and Resolution on Incentives for Homestead Affordable Housing, Inc.

Guests:

- Tom Bishop, President/CEO, Homestead Affordable Housing, Inc.
- Sarah Steele, Gilmore & Bell, P.C.

Background:

- Homestead Affordable Housing, Inc. has proposed a senior independent living community providing an affordable rental option for seniors in Derby and requested approximately \$10,000,000 of Industrial Revenue Bonds (IRBs) and a 10-year 100% tax abatement.
- On August 11, the City Council directed staff to develop a resolution to issue IRBs and schedule a public hearing for September 8.
  - The Homestead proposal calls for 64 units providing an affordable rental option for seniors (55 years-of-age and up).
  - The proposed site includes 11.59 acres located in the Tall Tree Addition, which is east of Rock Rd. behind the Target store in Derby Market Place.
- The Project consists of acquisition, construction, furnishing and equipping of an 80,000-square-foot residential facility and creates two new jobs.

#### Financial/Sustainability Considerations:

- In issuing the bonds, the City acts only as a conduit for project financing.
  - The City has no financial liability in the event the beneficiary does not satisfy the financial obligations of the bonds.
  - The bonds do not contribute to the City's statutory debt load.
  - The bonds will not affect the City's bond rating or credit rating.
  - Costs associated with issuance of bonds will be paid by Homestead Affordable Housing, Inc.
- The estimated value of the property tax abatement over ten years is \$2,990,972, of which the City portion is \$1,113,878.

#### Legal Considerations:

- A public hearing is required by K.S.A. 12-749c and 12-749d.
- Notice of the public hearing was published in the August 26, 2015 issue of the Derby Informer, as required by state law.
- Written notice of the public hearing was provided to Sedgwick County, USD 260, and the El Paso Cemetery District, as required by state law.
- The City incurs no liability in the event the bonds are not ultimately issued. The tax abatement is not final until approved by the State Board of Tax Appeals.

#### Policy Considerations:

- The City's economic development policy is designed to encourage businesses that will promote, stimulate, or develop the economic welfare of the City.
  - The proposed project fits into the housing category of the City's incentives policy, which emphasizes the need to encourage development of housing for residents of all ages, abilities and incomes.
  - This unique offering to seniors provides a product currently

- unavailable in Derby, allowing seniors to remain in the community.
- The policy requires a benefit-cost ratio of 1.30 to 1. This project results in a benefit-cost ratio of 1.04 to 1, which does not fall within the policy requirement.
    - The need for affordable senior housing to provide an option for long-time Derby residents to remain in the community should be considered.
    - The Mulvane and Haysville Homestead locations house many former Derby residents who had to move to find modern affordable senior housing.
  - Among other considerations listed in the city's incentives policy, this request adheres to the "but-for" principle.
    - The applicant has indicated that without the requested incentive, the alternative is to select a different community for the project.
  - On July 23, the Community Development Advisory Board (CDAB) discussed and unanimously supported the request.

Recommend a Motion to:

- Adopt a resolution of intent to issue taxable industrial revenue bonds and adopt a resolution in support of Homestead Affordable Housing, Inc.'s request for industrial revenue bond financing and tax abatement.

**Taylor Tedder**, Development Manager, presented the staff report. He introduced Tom Bishop, Chairman and CEO of Homestead Affordable Housing, Inc.; Sarah Steel, Gilmore and Bell; and Anndria Obeirne who is the chairwoman of the Community Development Advisory Board which initially recommended approval of this request.

**Mayor White** opened the public hearing at 6:46 p.m. Seeing no speakers, the public hearing was closed at 6:46 p.m.

**Council Member Bannon** asked in asking the City for the ten-year tax abatement, even though you are going to the state for the exemption, is there a reason for both.

**Mr. Bishop** said the initial exemption runs with the bonds, and then we apply for permanent exemption once we are operational.

**Sarah Steele**, Gilmore & Bell, said the exemption under the Industrial Revenue Bonds is fairly automatic. The exemption Mr. Bishop will apply for with the Court of Tax Appeals will only be in effect after he is up and running. The reason he goes through the Industrial Revenue Bond process is two fold. One to obtain that property tax exemption firmly with the Industrial Revenue Bond; secondly is to obtain an exemption from sales tax on all the materials that go into the construction of the facility.

Mark Staats moved and Tom Haynes seconded, to adopt a resolution of intent to issue taxable industrial revenue bonds and adopt a resolution in support of Homestead Affordable Housing, Inc.'s request for industrial revenue bond financing and tax abatement.

**Council Member Nun** said it states in the staff report that other taxing entities were notified. Did anyone respond to those notifications?

**Kathy Sexton**, City Manager, said the school district called us asking for information.

**Council Member Nun** asked if they were aware that this is temporary, and the long-range plan is to go totally tax exempt.

**Jean Epperson**, Director of Finance, said the communication was via email, and we did not discuss the long-term exemption. We discussed the ten-year exemption.

**Ms. Sexton** said the Council is not deciding on the permanent exemption. That is a decision of the state. It would fall after your decision on this.

**Council Member Nun** said they should be aware before we take any action.

**VOTE:** 7-1 (Nun nay)

## 8. B. **Establishment of a STAR Bond Project District**

Guests:

- Korb Maxwell, Attorney, Polsinelli, P.C., representing Derby Destination Development, LLC
- Joe L. Norton, City of Derby Bond Counsel, Gilmore & Bell, P.C.

Background:

- On July 16, the City Council heard a proposal for a destination development on north Rock Road to include a dinosaur-themed park and museum as its main attraction.
- On August 25, the City Council held a public hearing about the project and learned from the developer that the proposal also includes a medical care facility specializing in caring for patients with traumatic brain injury and other acuities not already served in the Wichita metro area, a medical office building, an indoor archery range large enough to host regional competitions, and possibly a daycare.

- The development would include retail shops and commercial businesses that would generate sales tax revenue.
- The project would be financed in part using STAR bonds if so authorized at a future date by the Derby City Council and the Kansas Department of Commerce.
- These STAR bonds would be paid off using sales tax revenue generated by businesses in the STAR bond project district.
- The map and legal description presented on August 25 are being revised to exclude the entire Calvary Baptist Church lot, not just the portion of the lot on which the building is located. The revised version will be available on Tuesday at the City Council meeting.
- On September 4, Mayor Randy White, Council Members Mark Staats and Vaughn Nun, and City Manager Kathy Sexton visited Field Station Dinosaurs in Secaucus, NJ. They intend to report back to the Council as to their learnings from this visit at this meeting of the City Council.
  - Expenses for the trip were covered by the developer as per an agreement entered into on August 25.

#### Financial/Sustainability Considerations:

- The ordinance establishes the STAR Bond District boundaries and approves a District Plan that provides for entertainment, retail, restaurant and other general commercial development within the District.
  - Approval of the STAR Bond District sets the baseline for sales tax revenues so an increment can be calculated based on future development.
  - Specifics of the development within the District, including further information regarding the proposed dinosaur theme park and the financial feasibility of issuing STAR Bonds, will be provided in a Project Plan yet to be received or approved by the City.
- In Kansas, STAR bonds are primarily a tool for a financial incentive provided mostly by the state for the private sector to partner with the state and a city to create a destination attraction.
  - The primary purpose is to attract visitors from out of state and to encourage in-state visitors to a community to extend their visits an additional day or two.
  - The overall goal is economic development and job creation.

#### Legal Considerations:

- Per state law, the City Council has 30 days to pass an ordinance establishing the STAR bond project district and approving the district plan, which means approval is required either at the September 8 or 22 meetings of the City Council.
- First reading of this ordinance was held August 25. The only changes to the draft ordinance since then include correction of the map of the north tract

- and legal description to exclude Calvary Baptist Church's property.
- This ordinance is the second in a series of steps required by state law for the City to perform as it considers issuance of STAR bonds. The first step was holding the public hearing.
  - After approval of the ordinance and receipt of a Project Plan, future steps in the process include the following:
    - Consideration by the Derby Planning Commission as to whether the Project Plan is consistent with the City's comprehensive plan
    - Resolution to set a public hearing on the Project Plan
    - Public Hearing on the Project Plan
    - City Council considers an ordinance to approve the Project Plan and a detailed development agreement
    - Submission of the project to the Kansas Department of Commerce for its approval

#### Policy Considerations:

- As we continue the process of receiving more information about the proposed project and about how STAR bonds in general work, some members of the public have raised questions about whether the project is similar to a Topeka racetrack project or a failed Wild West World theme park in Park City.
- Derby city staff have researched both and found significant differences:
  - In 2005, Park City issued general obligation bonds for \$1 million to develop a parking lot and \$1 million in special assessments for other infrastructure to support Wild West World. When the developer closed the theme park just months after opening and went bankrupt, city taxpayers were left responsible for the outstanding debt. Fortunately for Park City, someone else eventually bought the property and is now making payments on the debt.
    - In Derby, the request is for STAR bonds, which are not backed by the City's full faith and credit. If the designated sources of revenue can't make the bond payments, the City is not at risk and does not have to make any payments, as was explained at the August 25 City Council meeting.
  - In 2005, the City of Topeka issued \$10.4 million in STAR bonds for improvements to the existing Heartland Race Track with the idea of revitalizing an old facility. The city backed the STAR bonds with its full faith and credit, making the city responsible for repaying the debt regardless of whether the racetrack project succeeded. Since 2008, the city has paid approximately \$2 million from its property tax revenues to cover debt obligations on the project.
    - Backing STAR bonds with the city's full faith and credit typically has not been done in other cities in Kansas and is not planned in Derby.

Recommend a Motion to:

- Approve the ordinance establishing a STAR bond project district.

**Kathy Sexton**, City Manager, presented the staff report. She, Mayor White, Vaughn Nun and Mark Staats visited the Secaucus, NJ location last Friday. She presented several pictures of the park. This park is located on property that the county owns. Guy Gsell found this property that is close to the train station. While we were at the amphitheater, we watched a video to explain the difference between a herbivore and an omnivore. Walking along further, we saw the paleontologist laboratory. The kids dig around and can find three fossils. The next station was the dig site. The kids dig around and see what they can find. As you walk along the 3/4 mile trail, it is an outdoor museum. The dinosaurs are life size animatronic dinosaurs. Some are three times as tall as the gentlemen in the picture. There are little tents along the path and she showed the picture of a geology outpost. There are people along the path in these tents to show a presentation. The commanders tent is a yurt and is much sturdier, and it stayed up during the hurricane they had there. They did not have permanent restrooms, concrete walking paths or a paved parking lot. The commanders tent is sponsored by IKEA. It is air conditioned, and if you need a break, there is water there and people can sit down and rest. On Monday through Friday throughout the summer, about 1,000 people a day attend, and on weekends about 2,000 - 3,000 people per day.

**Council Member Staats** said it was a well put together park. Ms. Sexton mentioned the porta pottys and found out they were placed because they were not going to be there that long. They did not want to spend the money there. He was assured the park in Derby would be more up to date. The park was very clean. They have wonderful showmanship. The shows were very well scripted, directed and put together. It was fun watching the people watching the shows. They were very interactive, but they did not scare the kids. Prior to going, he spoke with the convention and visitors bureau arm of their local Chamber of Commerce to find out what kind of community partner they are. They had nothing but good things to say about them. They work with their state museum. They work with the local La Quinta Inn in holding a sleeping with dinosaurs event. They are pretty involved in the community. He was very impressed with the park. It could be successful here. There were a lot of people walking around without children. This is in the New York metro area. He had a favorable impression after this trip.

**Council Member Nun** was impressed with what was going on at the park. They put a lot of emphasis on hands-on interaction and education with the kids. The placards that are at the different posts have a tag on them stating they are in partnership with the New Jersey State Museum. They go to the state paleontologists to make sure what they are saying is correct when they write

the script for their plays. They take a lot of diligence in what they are doing to make sure they are putting out the correct information. When the request for volunteers was made during a presentation, one man who was not with any children, was one of those volunteers. So many people came up to Mr. Gsell and his operations manager and thanked them for having that park there. He discussed their marketing efforts with Mr. Gsell. They know who their target audience is. They had a gentleman visitor who said he had never heard of this park. He was told that is because we don't market to your age group. We market to young couples who are going to bring their kids there. We talked about how they would market in our area. They have given some thought about how to create an atmosphere here with plants that grow rapidly. At this site, they did not have any lights. When they have their nights out, they have Coleman lanterns lining their trails. He heard one little kid say "This is pretty cool."

**Mayor White** said it is exciting to go to something like this. We are talking about the destination event here and the product. We went there to find out what the product was like. Their theme is family, education and fun. He gave them high marks on each of these. All of these creatures are full size; they breathe, move, and growl. At the very first stop, a child was walking along the path with mom and dad, and didn't see the dinosaur stick his nose out and look at him, and he jumped. Just another 50 yards down the path is where they held their first show. Several of the cast members brought out the baby dinosaurs. They were puppets, but they looked alive. It is a life-size dinosaur mascot suit that was computerized. Inside was a flight simulator capsule. The man inside had two joysticks that controlled the noise, tail movement, eye and mouth movements. The cameras were mounted on the head, and he watched through a video screen. They are at the top of their league. They ordered their dinosaurs from China. One was 90 feet long. Mr. Gsell said he went to the Empire State Building and could see dinosaurs from where they were. The 90-foot dinosaur breathed and looked real. Everywhere they went, he asked people if they knew where the park was located. It was about 50/50 that people knew about it. He walked backstage and talked to the people who were running the sound. Everyone was very excited about their job. They keep it new and are constantly changing the programs around. They have attractions and shows, but it is not Disneyland. The tents were worn and old looking. They are excited about their upcoming projects because their goal is to constantly improve their product. As we move into the next phase of this discussion when we talk about possibly creating a district, he does not know what the rest of the Council feels like, but he knows about 25% of what he needs to know and he is in the learning phase. Has he found anything in the process so far that tells him that we should not go ahead with the next step? He has not.

**Ms. Sexton** said she had a discussion with Mr. Gsell about the authenticity of it and the New Jersey State museum. The contact there is Jason Shine. Mike Everhart is a Derby resident who is on the staff in Hays at the Sternberg

Museum. They are colleagues and have a mentor relationship. Mr. Everhart is the expert on dinosaurs in Kansas. Mr. Gsell said they would not just take their current dinosaurs to Kansas. They would research with people like Mr. Everhart and people at the Sternberg and other universities to make sure Kansas is well represented here. They want to do new authentic pieces that would fit well into the community.

**Council Member Warren** asked what the length of the season will be when they move to this location. What is the cost to build this park? What is the cost to maintain and operate the park? Is this self-sustaining, or is it going to need some financial help? What is the wow factor? From a marketing standpoint, what is the long-term effectiveness of this? Is it going to be word of mouth? Is somebody in Tulsa going to drive to Derby, Kansas to see this park?

**Ms. Sexton** replied they plan to be open all year round. There may be some days they close due to weather. This is planned to be an indoor amphitheater, indoor museum and an indoor ropes course. There are a number of things that are not on the New Jersey site but are on the plans he presented in July. The question of cost to build, maintain and operate is easy to answer today because we don't have that information yet. They are preparing a project plan and that is the next document that we await. This plan will include how much it is going to cost and how much is eligible for STAR bond financing versus what else he has to come up with on his own. Some of the things they are working out amongst the developer team is how much is a non-profit private entity and how much is a private business. Until they work those things out, we won't know those answers. Once they submit their project plan, we will have a lot more information. Council is not asked to make any decisions until we get the project plan and have the public hearing on it. Self-sustaining was discussed in a previous meeting. If it is a non-profit, it is not a non-profit model like Exploration Place or the Zoo, which rely not only on the fees they charge and a tax subsidy, but also on donations. This dinosaur park proposal would operate based on the money made at the gate, the private parties held, the stuff sold in the gift shop and concessions. The wow factor is probably a lot of what we were looking for on this trip. It is basically like Rock River Rapids, in that the target market is ages 3 to 11. As long as we have healthy population growth, it will be successful. They tailor their content according to the state educational standards to encourage school field trips. In New Jersey, it is second graders that do a dinosaur curriculum. The new thing they are proposing here is to have a summer camp. As long as dinosaurs are popular, they will continue doing it.

**Council Member Bannon** asked Mr. Maxwell when do you project to have the project plan to us. She asked Mr. Norton how much farther into this process can we give our stop, if we decide to stop. What is the next step and the next deadline? As far as the dinosaur park, is Mr. Gsell going to be here or are they relocating in New Jersey?

**Ms. Sexton** replied that was a perk to see Mr. Gsell there and we also met Jamie, who is the chief operating officer, who is planning to relocate to Kansas. She has been involved in the planning of the mini-golf and the ropes course, etc. She is originally from Michigan and has been in New Jersey, and has opened three facilities with Mr. Gsell, because they are in the theater business. This is theater and it is about how do you keep a kid's attention. Mr. Gsell would not be relocating here to run this park. They have not announced a new location in New Jersey. They are in negotiations with owners of a couple of different sites in New Jersey. Kansas will be a second site for them.

**Mr. Maxwell** replied we are not going to rush it. He had the pleasure of being with the Mayor, Ms. Sexton and the Council Members at the park. It was different and the showmanship of Mr. Gsell came out. It had the wow factors and could have the ability where people would want to visit the park multiple times. It is important to hear the questions residents and Council are asking. He wants to take the right period of time to get it right and be able to stand up to the scrutiny. He intends to be present the project plan this fall.

**Council Member Bannon** asked what should we expect in the project plan.

**Mr. Maxwell** said it would include the entire STAR bond project, including the dinosaur park and the entire development. You will be able to follow the business plan of the cost of the entire development, the parts that we believe are STAR bond eligible, the sizing of the STAR bond, and where we want STAR bond revenues to go. It will include what would be supplemented by private debt and equity and lay out the entire business plan for all of the development components that Mr. Worner has brought to you.

**Council Member Bannon** clarified we could base our yea or nay after we receive that project plan.

**Mr. Maxwell** said the normal process we would do is provide the project plan, it goes to the Planning Commission to find if it falls in line with the Comprehensive Plan, then it comes before you to call a public hearing 30 days thereafter. Then it goes to the Secretary of Commerce for him to say yea or nay.

**Ms. Sexton** said on page 48 of the agenda packet, there is a list of the steps in the process.

**Joe Norton, Gilmore & Bell,** said at the last meeting, we had the public hearing and you also approved the execution of a preliminary development and funding agreement. That document sets out timelines. It basically says that the developer will submit to you a project plan within 90 days of the effective date of you creating a district. If you approve that district, it would give 90 days. It also envisions a 90 day time frame for you to respond to that project plan. It

would give them an additional 6-month period to commence implementation of that plan. That agreement is for a 365 day period. Part of the process in developing the next step for your consideration, is not only the development of the project plan, but working with the Department of Commerce and getting their thoughts. They are very good to work with and it is not like we would prepare this plan, send it to them and then ask what do you think. We will have interactive discussions with them and see what they think about this, and whether this phase of the project is eligible for costs or not. We will also be developing a very detailed, probably a 60 or 70 page development agreement that will supersede this five or ten page funding agreement that sets forth all of the actions that will be required by both parties. That is usually taken up in consideration of the project plan. As part of these discussions with the state, they are going to come back and say great, we accept this part, not accept this other part, we will agree to fund this, and in certain cases, they say we want an equity contribution from the local unit of government to be our partner in this transaction. We have no idea at this point in time of what their initial thought would be and what the equity contribution is. When we met with them before, Ms. Sexton was very good about saying we have already, as a city, developed all of the infrastructure that is around where the proposed attraction is going to be. It is not like we are starting with a raw field with no infrastructure. They have acknowledged this information. Whether or not they want more money or the things from the city, we will not know. You will get a proposed project plan, work through a development agreement, and have another public hearing 30 days more after notice has been made. You can hear from the public and then you have an opportunity to make a decision at that point in time to adopt the plan and get the final approval from the Secretary of Commerce. Once that all happens and it goes forward, you still have to find someone to buy these bonds that will fund the attraction. That is sometimes difficult to do because there is nothing built there yet, but they want to loan the money based on the revenue stream. That is where the feasibility study comes into play, and the Secretary has the final say on how that financing is structured and what they will be willing to fund. We are probably talking about six months to get to the stage where you will have to make that decision to approve or not.

**Council Member Bannon** said we want to know what the public is thinking. It is a process with a lot of deadlines to meet. We are setting the district tonight. It is going to be in our best interest the earlier we set that date. It is important to get the project plan within 90 days. This will jet fuel that growth in Derby.

**Council Member Keil** said we have discussed this the last few meetings, and we are all interested in learning more about the project, and understanding the STAR bond district separate from the dinosaur park. What happens if down the road the Council decides we are not interested. What happens if the STAR bond district is approved, but then we decide we are not interested? Does the STAR bond district go away? Can another project be put in there?

**Ms. Sexton** said if we set the district, and the state says no we are not going to approve this, nothing happens. We will just throw away the map. If they can't find people to buy the bonds, no one is harmed and nothing changes with that land.

**Mr. Norton** said if nothing ever happens, you repeal the ordinance that created the district and it goes away. The state will start accounting and segregating sales tax dollars after you pass the ordinance creating the district. They will not give the money to anyone until the final plan is approved and they sign off on the bond issue. If that doesn't happen, they will go right back to the place they would have gone to before. The Secretary said we have bought into the concept that has been presented. We are talking about a dinosaur park, an archery range, and a commercial deal. If that substantially changes, they will withdraw that letter and say come back to us, and we will start the process over again.

**Council Member Bannon** asked if tonight we are taking a snapshot setting a date. You used the words the state will start aggregating sales tax and setting it aside, but not distributing it. Are you saying when we set this district tonight, they will start pushing those extra funds off to the side?

**Mr. Norton** answered once we have set a base, if the ordinance is adopted, they take a 12-month look back at what last year's collection was and determine a baseline. All of that sales tax goes exactly where it was going before until you get to that base. We are only talking about an incremental increase. If nothing happens in the next 6 months in the entire district, chances are there might be a slight growth in sales tax collection just because of inflation. They are making an accounting of that. Nothing major is going to happen until more businesses are built and more sales taxes are collected. They will segregate those and determine what the increment is on an annual basis. They will be available, but they will not disburse that to the STAR bond costs.

**Council Member Bannon** asked if the 20-year clock would actually start now.

**Mr. Norton** replied no, approval of the project plan is when the 20-year clock starts.

**Council Member Bannon** stated this will not increase the sales tax in this district.

**Ms. Sexton** added on the third page of the staff report, staff was asked to review a couple of projects that have garnered some attention by the members of the public. In 2005, Wild West World was approved by the City of Park City. They decided to issue general obligation bonds of \$1 million to develop a parking lot and another \$1 million in special assessments for infrastructure. There is also a risk on taxpayers because if the business does not pay the

special assessments, then the city has to pay the specials. The developer opened the theme park and a month or two later closed the theme park in 2007. He went bankrupt, and the city taxpayers were left responsible for that \$2 million in debt. The way the City of Park City financed that project and the city's risk is completely different from what we are talking about here in Derby. They did not use STAR bonds in Park City. They used general obligation bonds just like when you issue debt once or twice a year for infrastructure and other projects. That debt is backed by the full faith and credit of the City of Derby, meaning it will get paid. The City of Park City backed it and did not use STAR bonds. They have found somebody to purchase the property and that owner is now paying the special assessments. The debt structure is really different, and the risk factor of the city is different. We are doing a good job of vetting this developer and looking for the information. So far, we don't have any red flags saying we have any concerns. The other city is Topeka, and they issued \$10 million in STAR bonds in 2005. That was to improve the existing Heartland Race Track. They already had a race track in Topeka that was going downhill, and they issued \$10 million in STAR bonds to improve that race track. The City of Topeka backed those STAR bonds with their own full faith and credit. When that project went poorly a couple of years later, then the city had to pay those STAR bonds. We in Derby are not backing any STAR bonds with our full faith and credit. Since 2008, the City of Topeka has paid about \$2 million from its property tax revenues, its general fund, to cover the debt obligations on the project. This is a big difference from Derby's project is that we are not talking about backing STAR bonds with our full faith and credit. There would be no risk like that at all for Derby.

**Council Member Warren** said it is important that we review those projects and see the differences we have here. We don't want a Wild West World here: a lot of whoopla and then a failure. Even though we don't have the financial responsibility that those communities put forward, it would be a black eye to the city to start something like this and not have it succeed. We need to make sure this is a going enterprise regardless of the financial responsibility that we are not going to be taking on.

Moved by Tom Haynes, seconded by Tom Keil, to approve the ordinance establishing a STAR bond project district.

**Vote:** 8 - 0

## 8. C. **Public Hearing & Ordinance Levying Special Assessments**

Guests:

- Greg Vahrenberg, Piper Jaffray & Company
- Joe L. Norton, Gilmore & Bell

## Background:

- At the August 11th City Council meeting, the assessment roll was approved, calling for specific special assessment amounts to be spread against properties in several subdivisions in the city.
  - The public hearing presents the opportunity for affected property owners to appear before the Council to clarify any uncertainties regarding the assessments.
  - All affected property owners have been notified by mail as to the nature and amounts of the assessments, per state law.
- Project costs to be assessed consist of the following infrastructure improvements:
  - Tall Tree Addition - Storm water sewer, street, sanitary sewer and water line
  - USD 260 Middle School Addition - Rock Road sidewalk, internal sidewalk, traffic signalization at Rock Road and Freedom Street, water, street and storm sewer, sanitary sewer, detention basin and mass grading, and accel/decel lane on east side of Rock Road
  - Anderson Farm Commercial 3rd Addition - Left turn lane on Rock Road, traffic signalization at Rock Road and Independence Street, sanitary sewer, accel/decel lane on west side of Rock Road, sidewalk on west side of Rock Road
  - Stone Creek 4th Addition - water and streets
- Property owners have until noon on October 6 to pay the assessment in full with no interest and eliminate the need for the specials to go on the tax roll.
  - If property owners choose not to pay the assessment prior to the pay-in deadline, the special assessments will appear on tax statements mailed to property owners by the County in November 2016 and will be due in tax year 2016 (1/2 due on or before December 20, 2016; 1/2 due on or before May 10, 2017).
- The source of permanent financing for these projects is General Obligation Bond Issue 2015-C, which is scheduled to sell November 10.

## Financial/Sustainability Considerations:

- Total project costs to be assessed in the 2015-C Bond issue are approximately \$3.8 million.
- In addition to the above mentioned assessment projects, street projects in the Farborough and Oak Ridge/Hila Additions will be included in the 2015-C Bond issue. Both projects were assessed earlier this year.

## Legal Considerations:

- The legal work for this process is being performed by the City's bond counsel, Joe L. Norton of Gilmore & Bell. Mr. Norton and his staff worked with City staff to determine the time frames and are preparing all of the necessary legal paperwork, in strict adherence to state law, which ultimately

governs the special assessment process.

- The job of calculating the final costs, notifying and mailing notices to property owners, and spreading of specials is a combined effort of City staff and the City's Financial Advisor, Greg Vahrenberg of Piper Jaffray & Company.

#### Policy Considerations:

- The various steps taken to complete the process of permanent financing of these projects are in compliance with existing city policy and state statutes.

#### Recommend a Motion to:

- Approve an ordinance levying special assessments on certain property to pay the costs of internal improvements as authorized by the resolutions noted in the ordinance and providing for collection of such special assessments.

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

**Mayor White** opened the public hearing at 7:54 p.m. No comments were received, so Mayor White closed the public hearing at 7:54 p.m.

**Council Member Keil** asked if the special assessment goes on the tax roll, and a property owner wants to pay off the assessments early, do they have to pay the interest too.

**Mrs. Epperson** replied yes. A typical assessment is so small it is not practical for us to call those bonds. The City took on the risk, issued the bonds, and made the payments. It would take a lot of property owners paying off early, and that rarely happens.

**Council Member Keil** asked if home owners are informed that they will be responsible for principal and interest.

**Kathy Sexton**, City Manager, said it is included in the letter that we mail to property owners. After that it doesn't really matter if it is principal or interest, it is on the tax bill until they pay it.

**Council Member Warren** said the breakdown of principal and interest is on the tax bill. The interest is tax deductible. He asked Mrs. Epperson to describe the tiered structure of special assessments. Some of our street specials are 20 years, there is a retention improvement that is 15 years, and sidewalks are 10 years. That was a policy decision that the Council made. How long ago did we make that, and is that something that we need to review to see if we want to adjust that in the future?

**Mrs. Epperson** said it was done at least two years ago. The drainage, if it is a non-residential improvement, is still 15 years. Sidewalks, accel/decel or turn lanes are 10 years. The residential is what we moved to 20 years. It was at the request of the developers to remain competitive. Wichita had already made that change.

**Council Member Warren** said the sidewalks and storm water retention are either 10 or 15 years. Are we competitive with Wichita? Are both ordinances similar?

**Ms. Sexton** answered yes, they are similar, but a lot of cities around don't require sidewalks and Derby does. We are competitive with other cities.

Moved by Tom Haynes, seconded by Cheryl Bannon, to approve an ordinance levying special assessments on certain property to pay the costs of internal improvements as authorized by the resolutions noted in the ordinance and providing for collection of such special assessments.

**Vote:** 8 - 0

**Mayor White** called for a five-minute break at 7:59 p.m.

**Mayor White** resumed the meeting at 8:05 p.m.

#### 8. D. **Garrett Park Ball Field Light Pole Replacement**

Guests:

- Michael Day, Parks Superintendent

Background:

- In 2010, the City and DRC began planning for replacement of the wooden light poles at the Garrett Park ball fields. The project was added to the Capital Improvement Plan with an estimated cost of \$120,000.
- Other needs took priority, and minor repairs and changes to the lighting pods over the years extended the lifespan of the wooden poles. It is now time for their replacement.
- Over the past five years, the cost of materials and labor to install the light poles has risen. We received an estimate of \$155,832 in February 2015. In August, the City Council approved additional funding to complete the project.
- The Bid Board approved the sole source bid from Musco Sports Lighting on August 31. Musco Sports Lighting is the City's lighting supplier for all recreation fields. Musco steel poles and light fixtures must be installed together to provide the correct connection and proper aiming of the light

fixtures to the play surface.

- Musco will provide a new lighting design using existing fixtures, reducing the number of poles from eight per field to six.
- The new poles will come with a 10-year parts warranty, and a two-year labor warranty on the poles and attachment.

Financial/Sustainability Considerations:

- Funding is provided in the 2015 revised capital improvement budget.

Recommend a Motion to:

- Authorize execution of a contract with Musco Lighting for \$155,832 for purchase and installation of ball field light poles at Garrett Park.

**Michael Day**, Parks Superintendent, presented the staff report.

**Council Member Hezlep** asked if the fixtures are going to be reused off the wooden poles.

**Mr. Day** said they will reuse the 44 fixtures, 22 per field, from 8 poles and will combine those on 6 poles. All of the pods will be reused.

**Council Member Hezlep** asked if the light pods will be reused.

**Mr. Day** replied yes. All the light levels will stay the same.

**Council Member Keil** asked for an explanation of the sole source from Musco Lighting.

**Mr. Day** said Musco Sports Lighting supplies all of our field lights for the City of Derby. The poles being installed are manufactured by Musco. The aiming and attachment of the fixtures and internal wiring is proprietary to Musco. They will maintain the current levels, plus the re-engineering and the reduction in the amount of poles also comes from Musco.

Rocky Cornejo moved, and Tom Haynes seconded, to authorize execution of a contract with Musco Lighting for \$155,832 for purchase and installation of ball field light poles at Garrett Park.

**Mayor White** asked if we are talking about aluminum poles.

**Mr. Day** replied these are galvanized steel poles.

**Mayor White** asked if they will go in different holes.

**Mr. Day** answered we have not received the engineering back from Musco yet,

but they will be placed in the proper locations for optimum field lighting.

**Mayor White** asked if we expect a change in the lighting as far as effect on the neighbors. Will the lighting be more or less noticeable or about the same?

**Mr. Day** said the amount of light on the fields will remain the same. Light spillage will be about the same as well.

**Mayor White** asked if we re-purpose Garrett Park, are these something we can reuse in another location.

**Mr. Day** said the simple answer is no, to a point. The poles are permanent structures, buried in the ground in concrete, and are 60 feet tall. We don't perceive Garrett Park changing.

**Robert Mendoza**, Director of Public Works, said every ball field based upon its length, width and size of the field determines the lighting pole location, height and the location of the pods. For an exact replica of an existing field, things could be re-utilized somewhat. It couldn't be a cookie-cutter anywhere it would go.

**Mayor White** asked if the wiring is still the same, turn-on and turn-off boxes, and timers.

**Mr. Day** said it will remain the same with mechanical timers to turn the lights on and off.

**Mayor White** asked how many days a week do we use these lights in an average summer week.

**Mr. Day** said the Derby Recreation Commission maintains the programming of these fields. They take care of maintaining the infield. We maintain all the infrastructure and outfield grass. During the spring, summer and fall, they play softball games two to three days a week, and practice on the fields every other day.

**Mayor White** asked if these have anything to do with the soccer fields that are to the west of the baseball fields.

**Mr. Day** replied no. These are just for Garrett Park #1 and #2 fields.

**Council Member Haynes** said he would say especially during spring, summer and fall, the lights are on daily. It gets a tremendous amount of use.

**VOTE: 8-0**

## 8. E. 2016-2018 Economic Development Plan

Guests:

- Members of the Community Development Advisory Board

Background:

- The City uses an economic development plan to guide its efforts at prosperity and sustainability.
  - The plan provides a framework for actions intended to assure the economic vitality of the community.
  - The plan does not include all economic development efforts but instead focuses on items considered to be vital elements in the City's mission to "...nurture a strong business community."
  - The plan is updated every 3 years to reflect changing conditions and priorities.
  - The current plan was adopted in 2013 to guide efforts through 2015.
- The Community Development Advisory Board (CDAB) is charged with monitoring and updating the plan.
  - Over the past several months, CDAB reviewed and updated the plan to assure it reflects the City's mission and vision related to economic development efforts.
  - At CDAB's August 26 meeting, the attached Economic Development Plan was recommended for approval by the City Council.
- The plan continues to focus on three primary areas of economic development:
  - Business Retention & Expansion: ensuring existing businesses are able and willing to remain and grow in Derby.
  - Business Attraction & Development: attracting new and supporting expansion of existing businesses in the community, especially those in target clusters identified in the Blueprint for Regional Economic Growth.
  - Economic Development Marketing: promoting our community's attributes to prospective businesses and pursuing opportunities that will create growth.
- Accomplishments since the last plan was approved in 2013 include:
  - Added key information for new and existing businesses to the city's website.
  - Established the Derby Business Center located at the library, which provides space to promote and support startup businesses.
  - Encouraged capital investment and preservation of Derby's commercial areas.
  - Renovated owner-occupied homes authorized through the HOME grant program.

- Enhanced marketing efforts to advertise the West End Business Park.
- Enhanced marketing efforts to potential home buyers during the Parade of Homes.
- Created a "Shop Derby" event and promotional banners to encourage shopping locally.
- Several changes are proposed in the new plan, including:
  - Simplifying the format and prioritizing the strategies.
  - Removing the Housing & Neighborhoods section to increase emphasis on supporting business efforts.
  - Conducting retention visits to businesses to gain information on their growth potential and assist in their long-term stability.
  - Increasing emphasis on selling lots in the West End Business Park to assist businesses in their expansion efforts.
  - Supporting and expanding the Derby Business Center to continue attraction of start-up businesses and entrepreneurs.
  - Supporting investment and business development in the K-15 corridor, West End, and Derby Corporate Park.
  - Using the Blueprint for Regional Economic Growth to reach out to target cluster businesses through trade shows and other opportunities.
  - Continuing to promote "Shop Derby" to support local businesses.

Financial/Sustainability Considerations:

- Activities identified in the plan require funding and will be addressed annually during the budget development process.

Policy Considerations:

- It is in the best interest of the community to develop and implement a plan that assures the City's continued economic vitality.

Recommend a Motion to:

- Approve the Economic Development Plan as recommended by the advisory board.

**Taylor Tedder**, Development Manager, presented the staff report.

**Council Member Hezlep** asked what is defined as a priority cluster business.

**Mr. Tedder** said in the Blueprint for Regional Economic Growth, the clusters include aerospace, oil and gas production, advanced manufacturing, agricultural inputs and processing, transportation and logistics, data services and IT, advanced materials and healthcare.

**Council Member Keil** asked about the amount of resources we devote as a city, whether or not we meet the draft plan. Are we able to go after some of these types of businesses by expanding the West End, and retaining our current

businesses?

**Kathy Sexton**, City Manager, said the number one resource is employing a development manager. This plan and the aid of the volunteers on the Community Development Advisory Board (CDAB) is very important. We want to focus and this is his guiding document. You passed a West End plan a couple of months ago. Tylour is going to take the lead on some of those projects. He, Dan Squires and Cody Bird will work on that plan. He will get help from the communications and marketing staff. This will give us a plan to work together with other staff. We report on this plan every year to the CDAB board and every three years to the Council.

**Council Member Hezlep** said this is a huge task when you have that kind of target audience. You indicated you wanted to spread it around to the group. What is your general approach to a business?

**Mr. Tedder** said it is important that we keep the businesses here. We have a lot of businesses that fall into these clusters already. Some of them might include Clearwater Engineering, BRG Precision Projects, and businesses of that nature. During a 30-minute visit with these businesses, he can ask those targeted questions of how their company is doing and what we can do to help them expand.

**Council Member Hezlep** stated those are on-purpose visits. Does the same process apply for the attraction of new development?

**Mr. Tedder** said the same principals could be applied to that. We get site selection requests from the Kansas Department of Commerce and several of our other partners in the region. We submit those if we have a site that fulfills the need.

**Council Member Hezlep** asked if there was any plan to use some of the expertise in town that has been around a long time.

**Mr. Tedder** said that is a good suggestion.

**Council Member Haynes** thanked the staff and CDAB. Several years ago when we decided to put some kind of strategic plan together, we were all over the board with economic development. We came up with a strategic plan going forward. It is important to have economic development marketing.

Tom Haynes moved, Rocky Cornejo seconded, to approve the Economic Development Plan as recommended by the advisory board.

**Council Member Staats** thanked Anndria for her leadership on the CDAB board. Taylour does a great job. This is step one of a multi-step process of where we are going to go as a city with this. These documents evolve over time.

**VOTE: 8-0**

## 8. F. **Updates to the City Council's List of Priorities**

Background:

- On May 12, the Council last updated its list of priorities. Since then, staff have worked on many of the priorities and recommend removal of the following from the list since they have been accomplished:
  - West End Redevelopment (Note: The plan is done. Now specific recommendations of the plan can be addressed either as priorities on this list or as projects in the Capital Improvement Plan and the operating budget.)
  - Update municipal code to provide for removal of board appointees, technical amendments to indoor smoking, and clarity about keeping sidewalks free from impediments. (Note: While this was only on the Watch list, timing considerations regarding code publication and the need to provide police officers with clarity moved this project along faster than originally anticipated in May.)
- Based on Council's recent actions and staff research being performed on the **STAR bond proposal, continued research** on it should likely be added to the list. It is consuming a great deal of staff time and relegating other matters on the list to lower priority. A few more months of effort are needed before any final decision can be made on this matter.
- Based on 10 priorities related to regional goals that the Council approved on August 25, the following updates to the Council's List of Priorities are recommended:
  - Replace "Draft incentives for redevelopment in older parts of the city" with "Target incentives & remove barriers to promote infill development."
  - Add other items from the regional list as noted in bold on the attached. Two items from the regional list are recommended for the Top Ten list (K-15 and infill). All water-related items were put on the Water list.
  - Remove "Plan for services to seniors" because it is so general. Specific issues can be addressed as individual priorities.
  - Remove "Consider an ordinance to prohibit throwing free newspapers" due to higher priorities.
  - Remove "Consider changing required roof pitch on new structures"

due to higher priorities.

- "**Implement Annexation Plan**" is recommended to move from the Watch List to the Top Ten list so that another round of annexations of residential properties on the city's border can occur in the next several months. Because the city has grown up to and around such residences and because some houses were built in very close proximity to city borders, an issue of equitable taxation has resulted and should be addressed.
- Consideration could be given to adding **Derby's sesquicentennial in 2019** to the watch list. If a community celebration of the city's 150 years is desired, advance planning and coordination with other community groups and potential funders should begin in 2016 and 2017.
- During the Council meeting, the progress and status of each item on the Top Ten list will be reviewed.
- Per Council direction at the January 27, 2015 meeting, no items have been added to the list for consideration by the Council, except the ten regional priorities approved by the Council on August 25.

#### Policy Considerations:

- When a governing body agrees on priorities, staff time is used most productively.
- The list does not represent everything the Council has directed staff to accomplish and does not include many tasks routinely performed, rather it includes enhancement projects and programs to be worked on as time allows amid other responsibilities.

#### Recommend a Motion to:

- Approve the Council's updated list of priorities.

**Kathy Sexton**, City Manager, presented the staff report.

**Council Member Bannon** asked about the sesquicentennial. Have we talked with any of the other possible interests? Before we put it on this list, she would suggest talking with the Historical Museum and the schools to see how much interest there is out there. That is going to be a big project. If we do take it on, she would suggest we incorporate some of the old Chatauqua information. We need to find out what community involvement we could get from others.

**Ms. Sexton** said she has made some initial calls to ask who wants to help. We were thinking Historical Society, Community Foundation, school district and the recreation commission. She wants to call people together and find out who wants to be on a committee. Someone may say we need to commemorate this sesquicentennial event with some kind of thing. You need a couple of years to raise money for the thing. Several people suggested other names of people to participate. The City can take the lead or hope somebody else does.

**Council Member Hezlep** asked does this require a vote on which ones to include in the top ten list.

**Ms. Sexton** said yes. The recommended motion is to approve the Council's updated list of priorities. The list has some suggestions with strike throughs; all of the bolded items are additional things based on the regional priorities you have already passed. If you wanted to do any additional things, like the three she mentioned: the STAR bonds, the annexation plan and the sesquicentennial, those would need to be part of the motion.

**Council Member Hezlep** said he would like to consider having some involvement or move the Derby Historical Museum up to the top ten because they are in a building now that they have no subsidy for at all. They have no subsidy for their utilities because the Sixth Grade Center will be torn down. They basically have no source of income. We need to move them up to the top ten. They are the perfect partner for the celebration.

Jack Hezlep moved, Chuck Warren seconded, to include the Derby Historical Museum in the top ten list. He asked if we can only add two items to the list?

**Ms. Sexton** responded if you want to maintain the notion of a top ten list, there are two openings.

**Council Member Hezlep** added the other one would be implementation of the annexation plan. That one would be fairly fast.

**Council Member Bannon** said there are some additions we need to make. One would be the STAR bonds, and move item B up to the top ten list. As far as the Historical Society and agreeing to pay the utilities off the bat, we do not know funding for that or costs, she does not see that on the top ten list, but would like to keep it on the watch list.

**Council Member Keil** requested clarification on the motion.

**Council Member Hezlep** said it is to move the annexation plan and Historical Museum up to the top ten list.

**Council Member Keil** asked is that all we have room for.

**Ms. Sexton** replied if you want to maintain a top ten list. The last time you approved it, there were nine items. This time there could be eleven. Somebody might have another idea of removing something else to come off the list.

**Council Member Keil** agreed with the motion to add implementation of the annexation plan and the Historical Museum. We need to add the STAR bond project. We are spending so much time right now looking at our future. We

need to make sure we remember the history and do what we can to preserve that as well.

**Ms. Sexton** asked if she heard a motion to amend to add the STAR bond project to the top ten list.

Tom Keil moved, Rocky Cornejo seconded, to amend the motion to add the STAR bond district to the top ten list.

**Council Member Haynes** said the STAR bond issue is definitely a top ten item, given that the top ten list is there for a reason. Staff has a sufficient amount of work to accomplish. He is hesitant to increase it to eleven, although he is in favor of the STAR bond issue being part of that top ten.

**Council Member Warren** asked if voting in favor puts it forward. We still have to vote on the overall list.

**Ms. Sexton** replied yes, you still have a main motion.

**VOTE: 8-0**

**Mayor White** said now we will consider a motion moving items B & C to the top priority list and also adding the STAR bond to the top priority list.

**Council Member Haynes** said he wants to clarify what we just voted on.

**Jacque Butler**, City Attorney, said you voted to amend the motion that is now before you to approve the Council's updated list of priorities. In your packet, we listed reinvent the K-15 corridor, remove barriers to promote in-fill development, add to that top list implementation of the annexation plan, consider enhancing the City's involvement with Derby Historical Museum and STAR bond issue on your top priority list. The proposal before you is to add items B & C and the STAR bonds to your top priority list, which would make it eleven items.

**Council Member Haynes** said although he supports the Historical Society, there are areas the City can assist in, and does not think they need to be part of the priority top ten list. This could remain on the watch list because we are continually looking for opportunities to assist them.

**Council Member Nun** said he agrees with putting the STAR bonds and annexation on our priority list. He has a little bit of concern about including the Historical Museum. It is a good cause. He heard Council Member Hezlep state we need to help them pay their utilities. That is a little overboard. The big reason is he has not heard the Historical Museum come to us to ask for help. It sounds like we are pushing it down on them. He is not in favor of doing that.

**Council Member Warren** said the reason he is in favor of moving it up the list, is not necessarily that he thinks we should do it, but because it has set out there for a long time. We need to decide whether it is something we want to work on or not. If it is not something we want to do, then let's get rid of it all together. If it is something we want to do and support them in a financial way, then let's start the discussion of what is the right way to do that. If it is utilities or something else, it is time to put it on the table and make a decision which way we want to go with it.

**Council Member Bannon** asked if we could have a middle ground. The Historical Society has come to us before looking for some assistance. They should come to us to find out what they need from us. They have not had the time or opportunity to prepare themselves yet. Maybe that should be included in a workshop discussion and not move it to the top ten list.

**Mayor White** added he agrees with Council Member Warren on the issue of the Historical Society. It is time to discuss what we are going to do here. With the destruction of the Sixth Grade Center, their lives are going to change. Currently, the school is funding their utilities. He does not know what amount of utilities they will have. It is time to discuss with them what their requests are. Along with the motion, there are several other things we need to discuss here where we have lined out two or three items and we have three or four items we have added to the list per staff recommendations. In addition to the three items we are talking about, we would also need to have the motion to say something about staff corrections as noted. Is that true or false?

**Ms. Sexton** said her understanding of the original motion is we are working from the list provided in the packet. No one has spoken against the recommendations, meaning adding the bolded items or striking out the ones that have been suggested for strikeout. If Council Member Hezlep agrees, since he made the motion, he meant to say we are starting with this sheet of paper, and we are adding these two, now three, items.

**VOTE:** 4 yea (Cornejo, Hezlep, Warren and Keil), 4 nay (Haynes, Bannon, Nun and Staats). Because of the tie, Mayor White voted yea on the motion as amended. Motion passes 5-4.

## 9. **CONSENT AGENDA**

Recommend a Motion to:

- Approve the Consent Agenda.

## 9. A. **Sale of Land East of 406 E. Stone Creek Street**

### Background:

- On April 27, 2015, Mr. Bill Sammons contacted the City to ask if he could purchase approximately 18 feet of city-owned property adjacent to his residential lot at 406 E. Stone Creek Street.
  - The City owns the land as part of Stone Creek Park.
  - In 2014, Mr. Sammons and his wife Tamara Sammons purchased the property and live in the home. When a survey was performed, they learned that the previous owner had planted fescue and maintained the "yard" past the actual property line.
- The request is to purchase 2,163.5 square feet at the very east end of Stone Creek Park (see attached map).
- While the City does not generally favor selling its park lands, because this particular park is an odd shape, selling this small area would be of little to no consequence to the public use and enjoyment of the park. It is not in close proximity to the disc golf course.

### Financial/Sustainability Considerations:

- The sale price was determined by researching the sale prices of lots in the Coves at Stonecreek, which average \$15,000 for approximately 0.23 acres (9,750 square feet) or \$1.54 per square foot.
- William F. Sammons and Tamara A. Sammons have agreed to a sale price of \$3,245, which approximates \$1.50 per square foot.
- The City will pay outstanding special assessments of \$15.17 at closing.

### Recommend a Motion to:

- Approve the contract of sale.

## 9. B. **Assessment Ordinance for Nuisance Abatement**

### Background:

- City ordinance requires debris be removed from properties and lawns be maintained at 10 inches or less to protect the public health and safety.
- The City has incurred costs in abating nuisances found to exist upon certain properties. This ordinance includes 11 properties, of which 3 are vacant, 4 are vacant lots, 2 are occupied, 1 is in foreclosure and 1 is a rental.
- Each owner of record at the time the charges were incurred was sent notification that the City Council will consider assessment of the charges by ordinance.
- Ordinances are brought before the City Council for action as soon as possible so that recovery of the City's costs can occur from the owner of record at the time of assessment. Because the affected lots are often in

foreclosure or in process of being sold, timely assessment is important to an equitable recovery of City funds.

Financial/Sustainability Considerations:

- Costs total \$1,905 which includes the City's mowing and trash removal costs plus administrative fees.

Legal Considerations:

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

Recommend a Motion to:

- Adopt an ordinance levying a special assessment upon certain properties the costs incurred by the City of Derby in abating nuisances found to exist thereon.

**9. C. Traffic Signal Repair at Rock Road & Madison Ave.**

Background:

- Due to intermittent signal failures at the Rock Rd. and Madison Ave. intersection, a full inspection of the equipment was accomplished.
- Results show electrical conductors (wiring) have become brittle and corroded.
- Damaged conductors interrupt digital communication between the controllers and signal heads.
- Existing spare conductors built into the system for redundancy have been used to maintain functionality. All conductors must be replaced.
- A Request for Proposals was issued Aug 14, and two proposals were received:

Phillips Southern Electrical Co. Inc.	\$10,875
Sims Electric Service, Inc.	\$15,250

- The Bid Board recommends the proposal from Phillips Southern Electric Co. Inc.
- The Intersection will remain operational throughout the repair.

Financial/Sustainability Considerations:

- Funding is provided in the approved 2015 Capital Improvement Plan.

Recommend a Motion to:

- Authorize execution of an agreement with Phillips Southern Electric Co.

Inc for \$10,875 to replace all conductors for the traffic signals at Rock Rd. and Madison Ave.

9. D. **Issuance of Cereal Malt Beverage License**

Background:

- Vendors of cereal malt beverage in the City are required to be licensed by the City.
- An application to sell cereal malt beverage has been received from Circle K Stores, Inc. at 230 S. Baltimore.
- The convenience store ownership has changed from The Pantry (Presto) and Circle K Stores will begin their management of the store in mid-September.
- All qualifications for license to sell cereal malt beverages at this location have been met.

Financial/Sustainability Considerations:

- The license fee of \$100 has been received in accordance with City of Derby Resolution No. 58-2014 for limited retail. A limited retailer is permitted to sell only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises.

Legal Considerations:

- City ordinances establish qualifications for cereal malt beverage licenses.
- A license may not be issued until the applicant meets all qualifications.

Recommend a Motion to:

- Authorize the issuance of a cereal malt beverage license for the year 2015 to Circle K Stores, Inc. for the location at 230 S. Baltimore Avenue.

9. E. **Purchase of Police Staff Car**

Background:

- On January 27, the City Council approved the purchase five 2015 marked police vehicles (Ford SUV) and one 2015 unmarked staff car (Chevy Impala).
- In regards to the 2015 Chevy Impala, we were later notified that production of the 2015 model had stopped sooner than dealers expected and we could not order a 2015 Chevy Impala. We decided to order a 2016 Chevy Impala once the production began again. Production began again in August 2015 for the 2016 model.

- The following bids were received:

Dealership	Vehicle	Price Per Unit
Don Hattan Chevrolet (Wichita, Ks.)	2016 Chevy Impala	\$18,200
Davis-Moore Chevrolet, Inc. (Wichita, Ks.)	2016 Chevy Impala	\$18,275

- This 2016 Chevrolet Impala will replace a 1998 Ford Crown Victoria which currently has 105,785 miles on it.

Financial/Sustainability Considerations:

- The \$18,200 low bid is under the budgeted amount of \$25,000.
- Bid board approved on 8/31/15.

Recommend a Motion to:

- Approve the purchase of one 2016 Chevrolet Impala from Don Hattan Chevrolet in the amount of \$18,200.

9. F. **Purchase of Digital Phone and Radio Logger/recorder**

Background:

- The police department has many incoming phone lines as well as a radio channel used by officers. The ability to log and record phone and radio conversations is critical.
- It is not unusual for victims, witnesses, suspects or others with critical information to call and pass information on to members of the department.
- Maintaining a way to log and record information assists with investigations and may at times be the only contact the department has with people with critical information. Sometimes callers are anonymous with no way to re-contact them.
- Being able to produce a transcript of that conversation is important and furthers investigations.
- Our current phone-radio logger/recorder is at the end of its life and has experienced significant mechanical issues. By replacing the system, we can ensure that we can continue to record critical interactions.
- We solicited bids and received responses from the following companies to provide a new phone and radio logger/recorder. All prices include a 5-year maintenance contract.

Vendor	Model	Price per
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		Unit
<b>Voice Products (Wichita, Ks.)</b>	<b>REVCORD</b>	<b>\$18,747</b>
Voice Products (Wichita, Ks.)	NICE	\$31,795
DSS Corp. (Southfield, Michigan)	DSS EQUATURE	\$19,200
Stancil Logging (Melbourne, Florida)		\$27,995

Financial/Sustainability Considerations:

- In the 2015 Equipment Replacement Plan, the digital phone recorder is budgeted for \$25,000.
- The low bid from Voice Products of \$18,747 is considerably under budget.
- Bids were received and approved by the bid board on 8/31/15.

Recommend a Motion to:

- Approve the purchase of the REVCORD model digital phone & radio logger/recorder from Voice Products for \$18,747.

Moved by Tom Haynes, seconded by Cheryl Bannon, to approve the Consent Agenda, as presented.

**Vote: 8 - 0**

## 10. EXECUTIVE SESSION

Moved by Tom Haynes, seconded by Chuck Warren, to recess to executive session at 8:57 p.m. to discuss:

1. Preliminary discussion about acquisition of real estate for a potential infrastructure project; and
2. Consultation with the City Attorney on matters deemed to be of attorney-client privilege, specifically matters regarding pending litigation in the case of Carol DeVault v. The City of Derby and Lusk Communities, Inc.;

and reconvene the open meeting here in the Council Room no sooner than 9:30 p.m., after a five-minute break.

**Vote: 8 - 0**

**Mayor White** reconvened the meeting at 9:44 p.m.

**Council President Haynes** stated there was no binding action taken during executive session.

Tom Haynes moved, Cheryl Bannon seconded, to authorize the City Attorney to initiate and pursue a cross-appeal in the case *DeVault v. City of Derby and Lusk Communities, Inc.*, and to grant authority to the City Manager, in consultation with the City Attorney, to approve the subjects of said cross-appeal and to authorize such other and further legal action necessary to continue to defend the City's rezoning decision interest(s) in the ongoing litigation.

**VOTE: 8-0**

**Council Member Warren** said earlier this evening, Council Member Nun brought up a concern to delay action until the school district was given an appraisal of a situation. Within our Code of Meeting Procedures, we do not allow a substitute motion. He wants to find out why we do not allow a substitute motion.

**Ms. Sexton** said the issue in question could have been done if Council Member Nun would have made a motion to amend or a motion to table. If he was saying he did not want to do this until X, Y or Z happens, he could have made a motion to table.

**Council Member Warren** asked if a motion to table would not have been the same as a substitute motion. He asked can he make a motion to table in the middle of a motion.

**Ms. Sexton** replied he could have made a motion to amend.

**Council Member Warren** stated there was a motion that was made and it was seconded.

**Mrs. Butler** said Council Member Nun could have made a motion to amend to remove the addition of the historical museum.

**Ms. Sexton** said this was regarding the first agenda item tonight on the Homestead Affordable Housing. We are required to provide notice of the IRB's to the County Commission, the School District, and Cemetery board. Council Member Nun's idea was what if they received the notice on the IRB, but they were not actually told this is a non-profit that was going to ask the state for a permanent tax exemption. He suggested the idea of waiting and not voting on this tonight until these entities were notified of such. Nobody agreed with him on that, and he did not make a motion. If we did not have a policy that you don't make substitute motions, he could have made a substitute motion.

**Council Member Warren** asked what is the theory of not allowing substitute

motions. What is the advantage or disadvantage from our policy and procedures?

**Ms. Sexton** said generally when governing bodies ban substitute motions, it is because some people know parliamentary procedure really well, and others do not. She assumed that is why it is included in our Code of Meeting Procedure over the years.

**Council Member Bannon** said it may be because it can become unwieldy. Sometimes we get confused on the way we do it now. We have ways to make it less difficult.

## 11. ADJOURNMENT

Moved by Tom Keil, seconded by Tom Haynes, to adjourn the meeting at 9:50 p.m.

**Vote: 8 - 0**

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Randy White, Mayor

ATTEST:

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Karen Friend, City Clerk