

**APPROVED
REGULAR COUNCIL MEETING
July 28, 2009
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig, Jim Meidinger
Heath Horyna, Vaughn Nun
Chuck Warren, Cheryl Bannon
Tom Haynes, Mark Staats

Flag salute was led by Council President Mark Staats

The invocation was led by Pastor Vic Calcote, Woodlawn United Methodist Church

**CONSIDERATION OF
MINUTES**

Minutes of the July 14, 2009, Regular Council Meeting.

MOTION: Warren moved to approve minutes of July 14, 2009 Regular Council Meeting. Haynes seconded.

VOTE: Motion carried 6-2, Meidinger abstain, Nun abstain.

PUBLIC FORUM

Bob Noller spoke to the council requesting consideration for the senior center to have more space when the library moves to their new quarters. He thanked whoever is responsible for the new shrubs and trees around the senior center, those are lovely. He has been a resident of Derby for over 24 years and has seen the senior center grow from a little bit of nothing to really something. Activities, things to do, meals, fellowship of people, computer lab, exercise room, all kinds of programs for people to attend. Sometimes those rooms are so full they have to look for another place to go. We have over 2,000 and approaching 3,000 people who have signed up to be members of the senior center. They send out somewhere around 2,800 news bulletins a month. Sometimes they have even used the council chambers for some of their activities.

Council Member Haynes commented that the council and the city need to spend some time thinking about the senior center and how we can expand it to better serve the community. The great number of seniors we have in our community bring a lot of wealth of intelligence and well being to the city and he is behind that 100%. This week in the Wichita Business Journal there is an article about the City of Derby and he encourages everyone to read that.

Kathy Sexton, City Manager advised the Wichita Business Journal did an insert about Derby High School and all the schools in the region.

Council Member Haynes advised it was a very good article and it's worth reading.

Mayor Avello advised we had an emergency drill last Friday at the high school involving several emergency agencies from Derby and surrounding areas. It was an interesting project to witness and he hopes we never have to realize what we did Friday.

Ms. Sexton advised it might help Mr. Noller and anyone else interested in the senior center to know that last August the council approved a capital improvement program that included remodeling of the old library partially for expansion of the senior center and partially for future expansion of city hall as needs arise, that also includes application for a federal grant and is slated for 2010. There is money budgeted for that in our 2010 budget, but also expectation that there will be federal grant money we will apply for. Stephanie and Dee have been looking at the federal grant application requirements and that should be on the council agenda in early October as we get that grant application completed. It is due in October; we will send it in and see if the feds want to help us pay for it. We are trying to get an estimate right now to see if we have enough money. She thought it might help everybody to know that it is planned to expand the senior center. We are planning to brief the senior center board at their next meeting, it's an open public meeting and you can contact Dee Williams to make sure she has enough chairs in the room.

Council Member Warren advised he saw an e-mail today that the Derby Informer will have an article about an exhibition baseball game on Friday between Fairbanks, AK and the Derby Twins at Panther stadium. If you want to see some great advanced college level baseball you might try and make it out to that ball game Friday evening.

Council Member Bannon advised at the senior center board meeting she believes there are going to be floor plans or suggested floor plans for what we are looking at for the space. Building the new library was a win win situation for the library patrons, citizens, senior center and city hall. When you see that and knowing it's in the budget hopefully that will allay some of the fears.

Mayor Avello indicated he is getting a lot of calls on the hotel, isn't it August 3rd it's supposed to open?

Ms. Sexton advised that was the last date she has heard. That's what the Wichita Business Journal published last week. There was a parking lot full of contractors out there today.

PRESENTATIONS

Jon Rolfe, Chairman of the board of Visioneering Wichita, presented a "Making a Difference" Proclamation to the City of Derby. **Mayor Avello** accepted the proclamation.

GFOA Award presentation.

Jean Epperson, Director of Finance/City Clerk, advised the city has received the GFOA's Distinguished Budget Presentation Award for the 2009 budget. This is the 5th year the city has received this award. **Mayor Avello** accepted the award.

Council Member Craig thanked Mrs. Epperson and City staff for all of their hard work on the budget and getting it to a point they could understand it.

2008 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Jean Epperson, Director of Finance/City Clerk introduced Karen Linn of Berberich Trahan & Co. P.A.

Karen Linn, Berberich Trahan & Co., presented the audit report to the council. She indicated there is a new accounting standard regarding post-employment benefits other than pensions. This required getting an actuarial report to calculate, similar to how you would calculate pensions but for healthcare benefits provided to retirees. That is a new change for the current year and involved adding a liability to the balance sheet. They did not identify any significant or unusual transactions; they also did not have any alternative treatments except for accounting principals that were discussed as part of the audit. They did have an estimate that they determined to be significant; there is a schedule attached that addresses the estimate. It is related to the new standard relating to other post-employment benefit obligations, and that number is an estimate based on an actuarial calculation. They reviewed the information and determined that number was reasonably determined. They did have some audit adjustments that were identified as part of the audit process; these are included with the letter as an attachment so you can see the types of adjustments that were made. During the audit they accumulated some uncorrected misstatements, journal entries that were identified but because of their immateriality to the financial statements they don't actually record them into the financials. During this audit they identified a significant deficiency and a material weakness; those are included in the schedule of findings and responses. The first one deals with the audit adjustments, the fact they had audit adjustments that were material to the financial statements that were identified during the audit process. That is considered to be a material weakness and it really deals with the general ledger system you have to work with. You can see management's response to that with the authorization of the new financial accounting software that will hopefully address that issue. The significant deficiency deals with bank reconciliations and some differences in bank reconciliation that weren't investigated and resolved throughout the year.

Background:

- The firm of Berberich Trahan & Co. P.A. conducted the audit of the city's financial statements for the year ended December 31, 2008, and a representative will be present at the meeting to answer questions. The independent auditor's report on the audit of the financial statements can be found behind the Financial Section tab.
- In addition, the auditor's report on the city's internal control over financial reporting begins on page 78 and is followed by the Schedule of Findings and Responses on page 80.

City staff has responded to the two findings, and steps have been taken to improve the reporting of accrual entries and internal controls within the accounting system.

- The installation of accounting software (scheduled for early 2010) includes a fixed asset module and an application to aid in the preparation of the adjusting entries and reports in compliance with GAAP will greatly mitigate this finding.
- The second finding relates to a variance that was the result of a duplicate posting of an interest earnings receipt and was difficult to recognize due to the volume of transactions. The variance was identified upon reconciliation of the 1099-INT forms received in January for year-end 2008. Software installed in mid-year 2009 has aided in the reconciliation and requires that variances must be investigated before moving forward with the following month's reconciliation.
- This comprehensive annual financial report (CAFR), in addition to the basic financial statements, involves statistical reports as well as additional data in the notes to the financial statements.
- The statistical section begins on page 84 of the report to provide a broad range of financial and demographic information useful in assessing a government's economic condition. Most of the reports present ten-year trend data, but schedules on pages 84-87 contain six years of data, since the City implemented GASB Statement 34 beginning in fiscal year 2003 and the reporting of accrual information in the financial statements.

Financial Considerations:

- Acceptance of the report will have no financial impact.

Legal Considerations:

- K.S.A. 75-1122 requires an annual audit of the books and financial records of the City.
- The Kansas Department of Administration establishes the standards by which municipal audits are conducted.
- The audit firm selected by the City is qualified pursuant to Kansas law to perform municipal audits.

Policy Considerations:

- A key duty of the Governing Body is oversight of the financial affairs of the City organization. A primary tool in performing this oversight is the annual audit and financial report.
- The CAFR will be placed on the city's website to provide easy access to Derby citizens and users of the information. In addition, paper copies are available for viewing at City Hall and the Derby Public Library.

DISCUSSION:

Council Member Craig asked about the status of software implementation.

Mrs. Epperson advised we have implemented several of the modules of the financial software; payroll, accounts payable and the general ledger. The module is called the GASB rollup. The programmers do not have it ready just yet; we are shooting for the end of this year or early next

year to be in place. We have purchased the newest version of the software, and it comes with some challenges when you get the newest version, kind of like buying the newest model of a car. They are working the bugs out and we are hoping that we can get that thing on board by the end of this year.

Council Member Craig asked if this was somewhat tailored to us or is it just a standard package.

Mrs. Epperson advised it is for cities.

Council Member Craig asked if there were any special requirements they are trying to put in the package, it's pretty much standard software.

Mrs. Epperson advised there are not special requirements.

Council Member Craig pointed out we were looking at it in 2007 as a write up and are looking at it again while waiting for the latest software. He hates to see repeat write ups.

Ms. Sexton explained we weren't waiting for the latest software; we were waiting until we had the money. This is an expensive piece of software, and we saved up money over two years to buy it. We weren't waiting for any version, we just happened to be in the market for software at the time they had a new version come out. We didn't want to buy the old version and then later feel we should upgrade in a few years. The company has been real supportive, they have had people here on site helping get it installed and training people.

Council Member Craig asked if the auditor saw any problem with that, it will be cleared up for a follow on.

Mrs. Linn advised that was the expectation.

Mayor Avello clarified that the deficiencies we have are minor and correctable.

Mrs. Linn agreed. They are listed as a material weakness. There are three levels of deficiencies, internal control deficiencies, significant deficiencies and material weakness is the highest or worst level. They have listed it as a material weakness and that's related to the dollar amount of adjustments that had to be made as a part of the audit process. If there are material adjustments then it's required to be reported as a material weakness. We believe it to be correctable and the new software should completely aid in that process.

Mrs. Epperson explained that the city's books are kept on a cash basis, which is standard in Kansas. There are also reports in the CAFR that are on a modified accrual basis and you also have reports that are on an accrual basis. This rollup means you go from a cash basis to all sorts of accrual entries. She clarified that the cash basis books are sound and accurate; these are adjustments for reporting in the GASB format of reports.

Council Member Craig added that all the blanks in the report have to be filled and this is one of them.

Ms. Sexton agreed. Auditors have to audit based on GASB, but we have to keep our books based on cash basis so you have to make that conversion.

Council Member Craig clarified that there wasn't anything out of the ordinary in the adjustments that he could see.

Mrs. Linn agreed.

Council Member Craig advised they had to do with a transfer in time that was documented but not finalized.

Mrs. Epperson explained that the GASB rollup will take the cash basis numbers and adds in all of the accruals and rolls it up into the GASB format of reports.

MOTION: Craig moved to receive and file the report. Haynes seconded.

VOTE: Motion carried 8-0.

RECESS TO WATER COMPANY BOARD MEETING

MOTION: Craig moved to recess to the Water Company meeting at 7:05 p.m. Haynes seconded.

VOTE: Motion carried 8-0

City Council meeting back in session at 7:15 p.m.

ORDINANCE DEFERRING EFFECTIVE DATE OF SOLID WASTE ORDINANCE

Kathy Sexton, City Manager presented the staff report.

Background:

- Collection and transportation of solid waste in Derby are currently performed by four private contractors. The City does not exercise significant control over services provided or fees charged to customers.
- In establishing its policy priorities, the Council directed staff to examine alternatives to the status quo.
 - After reviewing practices throughout the country, the City solicited proposals for residential refuse and recyclables collection and transportation services.
 - After reviewing four proposals received in March, on April 28 the Council directed staff to negotiate a contract with Waste Connections of Kansas, Inc.
- Highlights of the contract proposed today include the following provisions:

- An exclusive franchise for seven years to provide weekly trash collection and bi-weekly curbside recyclables collection at residential locations throughout the City and at small business locations that require only cart-type services. Commercial service (dumpsters) are not affected.
- Transition & customer education plans, including an account credit of up to \$30 for payment of a service cancellation fee to the customer's previous trash provider.
- Specific customer service agreement, standards of service, and financial penalties (liquidated damages) for not meeting service standards.
- Provision of two sizes of trash cart, with different service rates, for customers to choose from based on the amount of trash they generate.
- Participation in the RecycleBank program, which provides for customers to earn points for each pound they recycle and use those points for discounts at local and on-line businesses or for donation to charity.
- Free cart roll-out service for customers 65 years of age and older or disabled.
- Provision of two free coupons to each customer each year for either a special pick-up of bulky items or delivery of a pickup load to the transfer station.
- Discounted rates for weekly service to small businesses and for non-commercial use of portable restrooms and dumpsters.
- An annual review of the base rates to allow for increases only based on the Consumer Price Index, increases and decreases in regulatory fees imposed by governmental agencies, and change in fuel cost based on a specific formula. Rates may only change once per year following written notice to customers explaining the reasons for the adjustment.
- In addition to the contract, an ordinance is recommended to defer the July 1 implementation date of Ordinance #1980 (passed by the Council on March 24, 2009) to December 1, which is consistent with the recommended contract.

Financial/Sustainability Considerations:

- Under the contract, quarterly rates will cover both trash and recycling and will be \$38.25 or \$44.25, depending on the size of the trash cart selected by residents. These amounts represent cost reductions for nearly all Derby residents, and for some residents these amounts represent rates approximately half of what they are paying now.
- The contract includes collection of trash and recyclables at all City-owned facilities for no additional cost and provides that a 5% franchise fee be paid to the City, which would yield approximately \$60,000 per year. Such fee revenue would offset the cost to the City for developing and maintaining the program.
- Commercial and industrial refuse collection and transportation would continue to be performed by private firms under existing regulations.

Legal Considerations:

- State law (K.S.A. 12-2101 et seq.) authorizes the City to undertake solid waste collection and transportation, either directly or through a contractor.
- The proposed contract has been reviewed by the City Attorney.

Policy Considerations:

- Following Council approval of the contract, residents will be informed over the next several months about how and when to transfer their service to Waste Connections, start the recycling program if they so desire, and begin seeing the savings in their quarterly trash bills.

ORDINANCE NO. 1991

AN ORDINANCE DEFERRING THE EFFECTIVE DATE OF ORDINANCE NO. 1980 OF THE CITY OF DERBY, KANSAS, REGULATING COLLECTION AND TRANSPORTATION OF SOLID WASTE AND RECYCLABLES, UNTIL DECEMBER 1, 2009; AND REPEALING SECTION 5 OF ORDINANCE NO. 1980 OF THE CITY.

DISCUSSION:

Council Member Haynes commended the staff and the WCI representatives for the time and effort put into the contract, it's a very good contract. WCI has stepped up to the plate with recycling and it's great to see that. This is a very fair contract from a price standpoint. Customer service was one of the points he made several weeks ago and how important it is, he was glad to see that put in here and the time and effort to make sure we receive great customer service for the citizens of Derby. There are also control mechanisms in place to ensure great customer service, those are very important and he's glad to see that in this contract.

Council Member Bannon asked if there was voice mail available after 6:00 p.m.

Jim Spencer, WCI advised there is.

Council Member Bannon asked if plastic bags are recyclable.

Mr. Spencer explained that the plastic bags you would get at Wal-Mart, Dillon's or anywhere else are recyclable, but not in this program. We know we are going to get some of the bags although it is not on the list of accepted materials. The reason for that is that the single stream processing has to sort out all of the material and the bags get wrapped around the sorting machines. The bags are recyclable in your community and you are encouraged first of all to not take them from the store and use a reusable bag, but if you get stuck with taking a plastic bag, both Wal-Mart and Dillon's have containers to recycle the plastic bags.

Council Member Bannon asked about item #10 on page 5, do the customers have to ask for the credit of the service cancellation by a previous hauler.

Mr. Spencer advised they do. We wouldn't have any other way of knowing they are going to get it. The reason for that is that not all of your current haulers have a cancellation fee. Lies

specifically does not have a cancellation fee. To the best of his knowledge Derby Disposal did not have a cancellation fee until approximately June 1st of this year. When this became public knowledge, they implemented one. We won't know unless the customer tells us that they are being charged a container pick up fee from the current hauler, at which time we will credit their account.

Council Member Bannon advised that when one of the haulers implemented a cancellation fee in place, she does not know if it was a written agreement.

Mr. Spencer stated that quite frankly it's not legal because it wasn't disclosed properly with proper notice. That's a matter for somebody else and they don't intend to get in to that argument with a customer. If a customer tells us they are being charged a cancellation fee they intend to credit the account.

Council Member Bannon asked if that will be in the literature that will be sent out.

Mr. Spencer advised it would.

Council Member Bannon stated she has received a lot of calls from people who are very anxious to get this program started. We are not being slow, we are doing it the way we have to do it, we don't have a choice. She stated you can sign up for Waste Connections now for a lower fee than what a lot are currently paying but if you wait until December 3rd, if your current hauler has any cancellation fees it will be handled at that time and the fee will be much more reduced at that time.

Council Member Meidinger asked, regarding page 7, what percent of households take the paper?

Mr. Spencer advised that would not be the major way of communication. The dissemination of materials to the customers communicating date of collection, program implementation, recycle calendar, etc. will be multimedia but the most effective way will be direct mail to the homeowner. To include it in the local publication was just another media we were using to supplement not only direct mail but also Channel 7 where we will be communicating public meetings. We will hold at a minimum four public town hall meetings to educate the citizens. The success of their rollout of this program is totally reliant on them and their ability to educate the citizens on when everything is going to take place and how it's going to work. We realize that we've done this a number of times and have learned from our mistakes about what works the best and we think we are pretty good at communicating with the customer. We will give customers ways to ask questions of us both by the internet and by phone or they can come to our town hall meetings.

Council Member Meidinger addressed page #8 regarding additional bags. He has a concern about taking grass clippings to a landfill. If Derby is going to be a leader in recycling you should eliminate these 10 bags. Essentially what you are doing with this rate schedule you are penalizing those people that don't put 10 bags out there. In your rate schedule you are figuring

in the 10 bags that a portion of people are going to put out. Those people that don't put out 10 bags and use a compost or a lawnmower that mulches are being penalized.

Mr. Spencer agreed.

Council Member Meidinger asked if they would lower the rates for those that don't put 10 bags out.

Mr. Spencer advised that was impossible to control. What would need to happen is the city would need to pass a yard waste ban, banning yard waste from solid waste, forcing people to have a yard waste collection service, which they could provide for an additional charge, or to compost in their back yard or to haul their compostable material to a compost site. To try to do it within the establishment of the existing program the way it is today, you may have yard waste this week but you may not have it next week. We don't have any way to monitor that on a weekly basis. There are some people for example that have Bermuda grass and they scalp it in the spring because that is what they have always done. They have 50 bags of Bermuda grass in the spring but the rest of the year they may mulch mow. The other thing that happens is people mulch mow all year but when the leaves fall in the fall they bag all their leaves and every week they have 10 bags of leaves to get rid of, but only for four weeks. There are so many variables in it we really can't do it for one and not another because it's so unpredictable. We can go the next step which has been in the Sedgwick County solid waste management plan for a long time for the county to implement a yard waste ban county wide. Every time they get close to doing it there has been a citizen uproar that has shown up at the county commission meeting and told the commissioners they are going to put their yard waste on the courthouse steps, the commissioners have backed away from doing it. We are one of the few states and communities in the country that has not banned yard waste.

Council Member Meidinger stated this is not WCI's concern, it is our concern and if we are going to do it we should do it right to begin with.

Ms. Sexton advised that is a great idea but the timing of it, we made a conscious choice to get this done first, let's not bite off more than we can chew and let's work to encourage the county which we are trying to do the best we can. The city could pass it but it would be better if the county passed it. The reason it would be better is it's all about the market place. If you want the market to respond, more than one business to respond with commercial composting facilities and/or pick up collection curbside, you would rather have the volume of Wichita and the rest of the county doing it rather than just Derby, it would be better for everybody. We look forward to working on that another time.

Council Member Meidinger referring to page #9, how do you classify a small business?

Mr. Spencer explained they are not judging a business on their size, volume or revenue, it's the fact that they can use a cart for trash collection.

Council Member Meidinger asked about people who have businesses in their home, are they considered a small business?

Mr. Spencer advised it would be residential.

Council Member Meidinger asked if there would be any city staff designated as a liaison person to Waste Connections.

Ms. Sexton advised that at this point that is her. She has staffed the committee and worked the contract, along with Phil. That will continue to be her until we get things transitioned and once we know the bugs have been worked out, this will become normal. Our culture will change and as that occurs there will be very little for city staff to do but there will be some routine things like quarterly reports and annual reports and annual meetings, etc. She will do that but it is something that we would like to get routinely put in the public works department. We don't have the management capacity in public works right now to do anything of that sort. That will be something we evolve into over time.

Council Member Meidinger asked about terms of the contract, is this something we want to get into as a council for 7 or 8 years from now that is automatic and renewed for three years?

Mr. Spencer advised it is not automatic. It is based on some qualifications that are spelled out in the contract.

Ms. Sexton pointed out that is addressed in section #25. She advised that the city, at our option may extend the agreement for up to three additional years based on the performance of the contractor, including customer satisfaction survey, liquidated damages being assessed and timely payment of money. It would be a conscious decision that this council would have to make. If at the time, in 7 years you decided to continue with this company or you could go out with an RFP, we would probably make that decision about year 6 to give us time to do the RFP and plan the transition.

Council Member Meidinger commented on section #32, damage to streets. This concerns him considerably because one of the factors we were talking about in wanting to go to one trash hauler was to eliminate the volume of trucks. One of the proposals was a single axle truck, now we are going to tandem axle trucks and based on what his street looks like, something is tearing it up. He thinks the bigger trucks on the street is going to have an adverse effect.

Mr. Spencer explained that with the size of the truck it boils down to pounds per square inch on the ground. With a single axle truck you have essentially four tires that are spreading the weight of a 20 yard compaction vehicle; you will actually have six tires, four on the back and two on the front. When you go to a tandem axle you are adding four more tires and five additional cubic yards of capacity to the truck. When you measure it out the tandem axle truck will actually put less pounds per square inch of pressure on your asphalt or concrete because you have more tires and more rubber to spread the weight out on your driving surface than if you are actually using a single axle truck.

Council Member Meidinger advised he sees the ruts in highways that are caused by these heavy trucks, so he was equating that to city streets also.

Mr. Spencer stated that on a highway you can legally run 80,000 lbs, our trash trucks aren't licensed at 80,000 lbs. The trucks that would be running here will be licensed at 62,000 lbs and that's well under the 80,000 lb. legal limit that your streets are supposed to be designed for. What you get in to with, especially older streets is, how were they designed, what design standards were used. In every city there are newer streets that were designed with tougher standards, curbs and gutters, then we all have older neighborhoods that don't have curbs and gutters, with asphalt that was laid out over the dirt. Anybody in the engineering field will tell you that asphalt and concrete are really only as good as the base you put under it, that's where your design criteria come in to play and what is going to happen to the street over time.

Council Member Meidinger asked about section #7 and insurance requirements, \$1,000,000 liability insurance seems rather low to him. Households have that type of insurance on an umbrella plan.

Phil Alexander, City Attorney explained that policy limit Mr. Meidinger referred to is per occurrence, the aggregate limit is \$2,000,000. He advised we collaborated very closely with the city's insurance advisor to be sure we had coverage's they felt were adequate.

Council Member Horyna advised he was happy to see the annual review of base rates allowing for increases based on consumer price indexes and increases/decreases in regulatory fees imposed by the government. That was important to him and he wanted to be sure we entered into this contract knowing that we are getting a rate that is going to be well watched. He asked if this contract can be put on our website.

Ms. Sexton advised once we get everything signed we will put it on the website. If we don't put it on our website we will have so many other cities calling asking her to send it to them, she can just tell them to look at our website. Derby is one of the leaders in the state on this effort, whether it is the curbside recycling or franchising. We have been approached by a number of cities just in the last six months looking for documents and asking why the contract isn't ready; everything has been very public in this whole process. Every set of minutes, every document is on that trash page of our website.

Council Member Meidinger asked if the gas price website is based on local prices or national prices.

Mr. Spencer explained it is specific by region and we will be using the Midwest region for the index.

MOTION: Bannon moved to approve a contract with Waste Connections of Kansas, Inc. in substantially the form presented and authorize the City Manager to sign. Haynes seconded.

Mayor Avello commented that people have been piling their recyclables by the light pole in the old Dillon's parking lot because the bins are gone. Please don't do that. The recycle bins are at the new Dillon's on the northeast side in the back. Please use those, don't use the old Dillon's store.

VOTE: Motion carried 8-0.

MOTION: Bannon moved to adopt an ordinance deferring the effective date of Ordinance #1980 regulating collection and transportation of solid waste and recyclables until December 1, 2009. Horyna seconded.

VOTE: Motion carried 8-0.

CONTRACT FOR CUSTODIAL SERVICES

Ted Austin, Director of Operations presented the staff report.

Background:

- With the growing need for custodial services in the City, staff researched contracting options as an alternative to adding personnel.
- We currently have five night custodial staff (one supervisor and four custodians). With the addition of the new Library, an additional custodian was to be hired in the fourth quarter of 2009.
- Area companies with many years of experience were contacted for input and five were selected to provide proposals for service. This service would replace our existing night custodial personnel. The two part-time positions assigned to the day shift will continue to provide for room setup, emergencies, and building maintenance items.
- Three proposals were received. Air Capital Building Maintenance provided the most cost effective program.
- Air Capital has 32 years of experience in the Wichita area including such businesses as the WSU Rhatigan Student Center, Warren Theaters, office buildings, schools, credit unions, and medical facilities.
- Staff recommends that our current staff's last day would be Friday, September 4, and Air Capital would start service on Tuesday, September 8 (after the Labor Day holiday).
- Our current staff will be given the opportunity to apply for positions at Air Capital as well as other positions at the City of Derby.

Financial/Sustainability Considerations:

- Air Capital proposes to provide our cleaning services for \$9,517.75 per month.
- Accepting this offer would result in approximate reduced expenses for 2009 of \$30,072 and for 2010 of \$90,217.

Legal Considerations:

- All applicable policies and procedures were followed in this proposal process.

Policy Considerations:

- This action would eliminate six positions from the City's staffing table (one not yet filled).

DISCUSSION:

Council Member Horyna asked where the other two proposals came from.

Mr. Austin advised they were Wilson Company and the EMS (Executive Management Services) Group; they used to be Mid America Building Maintenance. All three companies are based in Wichita. They had also sent to the S&B Group, which has a Wichita office but is a national chain that currently does the county as well as Spotless Janitorial.

Council Member Horyna asked what the criteria were that was really focused on when the proposals were evaluated.

Mr. Austin advised there was a 26-page RFP that identified the types of cleaning we wanted done, the frequency, uses of our buildings and requirements for when they could be in to clean. We asked them to identify the types of materials they clean with, because it can make a lot of difference in damage to fixtures or how long the floor coverings are going to last, etc. We also asked about programs they have for training their employees, for federal requirements regarding blood-borne pathogens and protective systems. We tried to ask about all components of their operations and mimic what we are doing now and asked what it will cost to do the same thing we are doing now, or hopefully even better.

Council Member Bannon asked if the company toured the library so they knew what they were getting into.

Mr. Austin advised they did not actually tour in the building; they went through the plans and talked about the various uses of the areas. We are comfortable with the review of the plans.

Council Member Bannon asked if the duct work that is 25 foot tall in the library will be cleaned semi-annually.

Mr. Austin advised they did not specifically discuss that, but technically it would be included. They will have devices to go over that pretty easily.

Council Member Bannon asked about paragraph b, scope of work, is the gathering area in the library included in that.

Mr. Austin explained they would treat that as a conference room, it's just a large conference room.

Council Member Bannon advised the library board just had a meeting where they agreed they would have after-hours social events that the public can book anytime the library is closed, specifically Friday, Saturday and Sunday nights. In the contract it's a cleaning period of

Monday-Friday. Has there been any discussions on fees for them to come in and do the extra cleaning.

Mr. Austin advised there is an hourly rate for that included in the contract, although we've also had internal discussions about the people renting those spaces being responsible for that cleaning. It depends on the situation on how that would be handled. He added that the motion should say Stevens Industry, Incorporated, doing business as Air Capital Building Maintenance.

Council Member Staats asked if we are paying them extra for the 2-3 months before the library opens since it won't be open when they start, or will the rate increase after the library is open?

Mr. Austin advised we told them to include that in the rate so it wouldn't change. We have not discussed a reduction for that. We essentially may get the building around the first of October so we won't be very far off from that. We can have that discussion if you would like us to. We had them calculate all the square feet at a monthly rate.

Council Member Staats stated he doesn't want to split hairs if it's going to be 2-3 weeks but if it is going to go a couple of months out...

Mr. Austin advised it would be easy to have that discussion. We could ask them what the rate will be for September.

Ms. Sexton commented we can look into that. One thing to note is in the old library as they are packing, cleaning and moving out there might be additional work for them to do at that time, but there might also be some time after they move that that old space would be left vacant. We will watch that and make sure we account for that.

Council Member Craig asked if this was for night cleaning only.

Mr. Austin advised that was correct. We have two part-time positions during the day, right now only one of those is filled, that would handle any small emergencies, plus he does room set ups, painting, picture hanging, etc. Those positions will remain.

Council Member Craig thanked staff for including the opportunity for the current employees to get a job with the contractor. He was somewhat surprised when he took the savings and added it up to the projected amount it was going to cost us. It really opened his eyes that was over \$200,000. When you take what the projection was for what we were going to pay them and the savings of \$90,000, that's quite significant. It's another cost saving situation but as he stated before he hates to lose jobs but at least they have the opportunity to apply to the company.

MOTION: Craig moved to approve the contract with Air Capital Building Maintenance at a monthly cost of \$9,517.75 in substantially the form provided and authorize the City Manager to execute the document. Horyna seconded

Ms. Sexton clarified that the motion is to do business with Steven Industries, doing business as Air Capital Building Maintenance.

Council Member Craig advised that was correct.

RESTATED MOTION: Craig moved to approve the contract with Steven Industries, d/b/a Air Capital Building Maintenance at a monthly cost of \$9,517.75 in substantially the form provided and authorize the City Manager to execute the document. Horyna seconded.

Mayor Avello stated he has never worked with a man who was more thorough in his job as Mr. Austin. We are very fortunate to have Mr. Austin. If you assign him something to do you can bet your bottom dollar every stone is going to be turned over and he will have an answer for everything.

VOTE: Motion carried 8-0.

CONSENT AGENDA

Mayor Avello stated he has been asked several times by citizens what is on the consent agenda. He advised it would be a good idea to read what's on the agenda.

Ms. Sexton presented the consent agenda.

Purchase Lighted Message Board

Background:

- Due to the traffic volumes and maintenance requirements for our streets, it has become increasingly important to communicate hazards, weather conditions and road construction directions to our traveling public.
- The Public Works Department currently uses orange warning signs, traffic cones, orange flags and a portable towed arrow board to alert motorists of potential hazards and to protect staff while they are in the right of way. These tools are often confusing for motorists and provide no real information other than a visual indication of a hazard.
- The use of a lighted message sign board increases our ability to “spell out” the situation for motorists providing better information and a greater degree of safety for the motorist and the operators working in the right of way.
- This type of signage will also provide a valuable service for Water and Wastewater utility work, and could assist Fire and Police with evacuation assistance information, public safety notices, emergency traffic control, and speed reduction information.
- The lighted message sign board will be useful in many non-emergency situations such as special event notifications.

Financial Considerations/Sustainability Considerations:

- This unit will be purchased from the Community Safety Education Fund. This revenue is derived from 25% of the fireworks stand permit fees. The 2009 Operating Budget includes \$16,000 for this message board.
- Seven quotes were received from six different companies. The Bid Board reviewed and approved the quote received from Roadsafe Traffic Systems on July 6, 2009.

- Roadsafe Traffic Systems provided the lowest and best quote in the amount of \$13,275, which is within the approved budget.

Legal Considerations:

- City staff complied with applicable purchasing procedures in soliciting and evaluating quotes for this equipment.

Recommendation:

- Approve the purchase of one ADDCO Mag. Sign Trailer Message Board for \$13,275 from Roadsafe Traffic Systems.

Cancellation of August 25 and November 24 Council Meeting

Background:

- The second regular meeting of the Derby City Council in August is currently scheduled for August 25. Because many staff and council members traditionally are very busy with budget development during the summer months, many take vacations immediately following budget adoption at the first August meeting. The recommendation is to cancel the second meeting in August to allow for vacations.
- The second regular meeting of the Derby City Council in November is currently scheduled for November 24, which is during the week of the Thanksgiving holiday. Staff recommends canceling this meeting to allow staff and Council members to enjoy the holiday week.
 - Past practice over the years has been to cancel the 2nd meeting in December since it falls on or very close to the Christmas holiday.
 - In 2008, that meeting fell on December 23 which was a convenient date for a meeting and was held as scheduled. Instead, the November 11 meeting was canceled because it fell on the observed holiday of Veterans Day.
 - In 2009, the second meeting in December falls on Dec. 22. Staff recommends continuing to hold this meeting because, due to the way the calendar lines up this year, canceling it would result in having no council meeting for five weeks (Dec. 8 – Jan. 12). Such a gap is not desirable and would likely result in projects being delayed.

Policy Considerations:

- Consistent scheduling of governing body meetings enhances operating efficiencies and alleviates confusion among staff and the public.
- Cancellation at this early date will enable staff to communicate to the public the altered calendar of Council meetings.

Financial Considerations/Sustainability Considerations:

- None.

Legal Considerations:

- The Council has the authority to set its meeting schedule.

Recommendation:

- Cancel the August 25 and November 24, 2009 Council meetings.

Library Furniture Direct Purchases

Background:

- As the architect put together the furniture package for the new library, there were some pieces identified that, due to their specific nature, did not lend themselves well to open lines of bidding. This was discussed when the furniture bids were prepared and presented recently at the June 23rd City Council meeting.

- It was decided that these items would be purchased directly by the City, saving the cost of the contractor markup and assuring that the desired pieces would be obtained.
- This furniture includes two “greeter” stations, one for the research area and one for the youth area. It also includes the “market place” furniture you see as you enter the Library where new releases and featured items will be displayed, and the periodical shelving that will be housed in the same part of the Library.
- The architect and staff worked together to identify the units that would best fit the needs of the Library and maintain the quality and aesthetics of the other furniture.

Financial Considerations/Sustainability Considerations:

- The cost for this furniture is \$26,214.37 from Gaylord Brothers out of New York.
- Monies are available in the Library project from funds identified for furniture purchases.

Legal Considerations:

- Competitive bidding is not required when another method of acquisition is more advantageous to the City.
- All applicable City purchasing policies and procedures have been followed in negotiation of the proposed contract.

Recommendation:

- Approve the purchase of identified Library furniture from Gaylord Brothers for \$26,214.37

HOME Rehabilitation Grant Bids – 2007 Grant Award, Round 2

Background:

- In 2007, the City of Derby received a \$200,000 grant award from the Kansas Housing Resources Corporation from the HOME Rehabilitation Program. This program provides funding to renovate houses in a specified target area that are owner-occupied by households that earn no more than 80% of the Sedgwick County median annual income. This is the second grant of its kind received by the City. The first was awarded in 2006.
- Since the City began the program in early 2007, the City has evaluated applicants and maintained a waiting list of qualified homeowners. The City selected a grant administrator, South Central Kansas Economic Development District (SCKEDD) to manage the applications, inspections and required documentation for the program.
- Each house is bid as a single project. A list of all improvements for each home is generated by the project inspector/administrator based on federal guidelines and the lists are provided to the contractors on SCKEDD’s list of registered general contractors. Each contractor participates in a tour of each home to be rehabilitated prior to submitting bids.
- A bid opening was held at Derby City Hall on Monday, July 13 at 1:00 p.m. The following bids were received:

	401 N. Kokomo	117 E. Edgemoor	418 N. Buckner	932 N. El Paso	1133 N. Kokomo	927 N. Derby	715 N. Georgie
New Windows for America	\$28,700	\$16,095	\$16,900	\$14,295	\$23,285	\$22,925	\$26,310

Arambula Construction	\$37,350	\$21,613	\$17,770*	\$16,150	\$24,180	\$29,113	\$47,949 <34,849>
Stringer & Sons Remodeling	\$29,050	\$15,800	\$21,050	\$14,400	\$24,555	\$22,750	\$40,755 <33,755>

- The lowest bid for each project, shown in bold type and shaded, is recommended for approval with one exception. New Windows for America was the low bidder on five of the seven Derby homes, plus several homes in Douglass and El Dorado. To expedite completion of all homes and maximize Derby’s chance to be awarded additional HOME funds this Fall, SCKEDD staff has recommended awarding one home to the second lowest bidder. As recommended by SCKEDD, the home at 418 N. Buckner will be completed by Arambula Construction instead of New Windows for America. The owner of New Windows for America has agreed to the change, which is a cost difference of \$870. There are adequate funds available to cover this amount.
- Two of the three bidders included the cost of a new HVAC system for 715 N. Georgie in their total bids. However, the HVAC will be installed through SCKEDD’s KWAP program, not with HOME program funds. To reflect this change, the HVAC bid amounts were subtracted from the full bids of the two contractors who included HVAC in the original bid. The adjusted bid is shown in italics below the full bid amount.
- This is the second and final phase of homes to be completed under the 2007 HOME grant; one other home has been completed. The projects will be bid and funds committed for a few houses at a time to ensure that the exact grant amount is spent. Staff estimates we will be able to complete 9 homes with the 2007 grant.

Financial Considerations:

- The HOME Grant funds will cover two-thirds of the total project expenses. A matching contribution by the City will pay for the remaining one-third of the project. Funds from two other state programs, KWAP (Kansas Weatherization Assistance Program and KAMP (Kansas Accessibility Modifications Program), will also be levied.
- The City will pay the contractors directly after the work is completed and approved by the SCKEDD project inspector and the City building inspector. The City will request reimbursement from the State of Kansas, thus drawing down funds from the grant award.

Legal Considerations:

- As the City’s grant administrator, SCKEDD oversees the project to ensure that all HOME Program requirements are followed, including federal procurement (competitive bidding) practices.
- All contractors are or will be licensed by the City of Derby prior to beginning work. All contractors meet the requirements set forth by the State of Kansas for participation as a contractor for the HOME program.

Policy Considerations:

- The bids have been reviewed and recommended for approval by the City’s Bid Board.
- Upon approval of the bids, SCKEDD will prepare contracts for the city manager’s signature.
- SCKEDD personnel will coordinate the scheduling of work and record the progress on each property.

Recommendation:

- Approve the bids for HOME rehabilitation work by New Windows for America at 401 N. Kokomo for \$28,700, 932 N. El Paso for \$14,295, 1133 N. Kokomo for \$23,285, and 715 N. Georgie for \$26,310; Arambula Construction at 418 N. Buckner for \$17,770; and Stringer & Sons Remodeling at 117 E. Edgemoor for \$15,800 and 927 N. Derby for \$22,750.

Purchase of Mobile Computer Laptops

Background:

- Police patrol cars are equipped with mobile computer terminals used to securely transmit information to officers in the field.
- Using the MCT, an officer is able to obtain detailed call information from dispatchers, check driver's license and tag information, identify wanted or missing persons and stolen property, and access local information such as mapping and procedural guidelines.
- A schedule to replace older laptops began in 2003.
- This purchase will replace four (4) laptops that are now more than five years old and require more frequent maintenance.
- Since the last purchase of MCT laptops in 2005, design changes and decreased cost allow the purchase of computers that will last longer, require less maintenance, and increase driving safety for the officer.

Financial Considerations/Sustainability Considerations:

- The purchase price for four (4) Panasonic Toughbook CF-19 ruggedized laptops is \$13,526.
- The 2009 Operating Budget provides funding for this purchase.

Legal Considerations:

- None.

Policy Considerations:

- The City of Derby Purchasing Policy was followed and requirements met. Bids were reviewed and approved by the Bid Board.
- Staff recommends acceptance of the low bid submitted by GovConnection.

Recommendation:

- Approve the purchase of four Panasonic Toughbook CF-19 laptop computers for \$13,526 from GovConnection.

Pay Matrix Adjustment for Arborist Position

Background:

- At the September 26, 2006 City Council meeting, the City Council approved a new pay plan that provided market competitive pay ranges for all City positions.
- Updates to the pay matrix were made on September 25, 2007 for four police supervisory positions; on October 9, 2007 for the City Planner position; and on May 26, 2009 for three Court and three GIS positions.
- Due to a recent vacancy in an Arborist position, a review of the duties of the several Arborists and the management of the group was conducted followed by a salary study.
 - The salary survey indicated that an adjustment in the pay plan for this position is appropriate based on market conditions.

- The position is also recommended for an upgrade from Arborist to Landscape Foreman to more adequately represent the duties of the position. This foreman position will supervise the other two full-time arborists as well as the summer seasonal employees. This organizational structure is expected to provide enhanced supervisory capacity, which is an identified need in the Park Division.
- Below is the current pay matrix for the Arborist position, as well as the proposed pay matrix for the newly titled Landscape Foreman, which incorporates the salary survey information.

Current 2009 Pay Matrix

Position	Department	Current 2009 Min	Current 2009 Max
Arborist	Public Works	\$15.96	\$21.59

Proposed 2009 Pay Matrix

Position	Department	Revised 2009 Min	Revised 2009 Max
Landscape Foreman	Public Works	\$ 17.37	\$ 23.50

Financial Considerations:

- The estimated financial impact of this change is minimal, as we were likely to fill this Arborist position with an experienced candidate anyway. This change will extend the maximum to allow for growth in the position.

Legal Considerations:

- Pursuant to Charter Ordinance 38, responsibility for setting salary scales for City employees rests with the City Council.
- The City Council may establish those pay ranges for specific positions or classes of positions which, in its judgment and after consultation with the City Manager, will enable the City to attract and retain qualified employees.

Policy Considerations:

- The need for an organization-wide pay study can be avoided in the future if the matrix continues to be updated as needs arise.
- Since the 2006 salary study, pay plan adjustments for eleven positions have been approved by the City Council.

Recommendation:

- Adopt the change to the pay matrix as presented.

Revisions to Personnel Policy Manual

Background:

- A rewrite of the Personnel Policy Manual was approved by the Council on August 28, 2007. This rewrite was necessary as changes in federal and state laws, as well as

numerous changes in the workplace, had occurred in the 12 years since the entire manual was last brought before the Council.

- An update to the Personnel Policy Manual was made on June 24, 2008, to ensure that the Personnel Policy Manual included changes in federal and state law, as well as changing needs of the organization.
- City staff intends to review the manual annually to determine if there is a need for any updates or changes. This year's review resulted in this agenda item.
 - Many of the proposed changes are a product of suggestions and concerns received from employees and supervisors.
 - The U.S. Department of Labor's Wage and Hour Division published a Final Rule under the Family and Medical Leave Act (FMLA), which became effective January 16, 2009. The Final Rule provides clarification on changes to the FMLA enacted under the National Defense Authorization Act for FY 2008.

HIGHLIGHTS OF CHANGES:

- Updates Table of Contents to reflect changes (p. 2-5).
- Changes "elected officials" to "Governing Body" to clarify that the Personnel Policy Manual does not apply to the Mayor or City Council (p. 6).
- Adds Ethics Policy to communicate the City's commitment to ethical behavior and the duty of employees to report unethical behavior. (p. 27).
- Adds information to explain exempt and non-exempt status (p. 30).
- Provides for leave that is required to be paid out due to a promotion or transfer (when in a position that accrues a particular type of leave and moving to a position that doesn't) to be paid out at the pre-promotion rate of pay (p. 34-35).
- Clarifies the duty of supervisors to communicate to employees how their departments handle compensatory time and overtime (p. 39).
- Changes longevity pay policy to freeze at the 2009 level for employees currently receiving it and to discontinue it for employees with fewer than five years of service as of December 31, 2009 (p. 40).
- Adds minimum of one hour of call back pay for all staff called back to work outside of their regularly scheduled shifts (p. 43).
- Documents the new KPERS rule (changed as of July 1, 2009), which eliminates the year of service wait for membership to begin (p. 46).
- Documents September 9, 2007 as the date that "new" and "old" holiday leaves were established. Employees with old holiday balances must use 40 hours of this time prior to December 31, 2013 or the portion of the unused 40 hours will be forfeited. Creates the obligation for the City to pay out 25% of old holiday balances in excess of 40 hours in March 2010. The City reserves the right to pay out the remainder of the old holiday balance. Provides for 6 months to dispute balance of holiday leave (p. 50-51).
- Changes vacation accrual schedule for part-time employees and changes 12 days requirement for accrual to a 30% requirement of time worked or paid leave in order for vacation to accrue during that pay period. This change essentially adapts a policy written for 40-hour/week employees to more easily apply to fire and police employees. Provides for 6 months to dispute balance of vacation leave (p. 51-52).
- Changes sick leave accrual from monthly to bi-weekly, changes accrual amount for part-time employees based on time worked, and changes accrual for all employees to

- the first day of work instead of a month following the first day, which was a change necessary when we implemented the new software system recently. Provides for 6 months to dispute balance of sick leave (p. 53-54).
- Removes language pertaining to the “spouse’s immediate family” from bereavement leave, as the members of the spouse’s family who are covered are listed under the definition of “immediate family” (p. 55).
 - Changes FMLA in accordance with changes in federal law (p.57-61).
 - Rewords the purpose of the alcohol and drug-free workplace policy for clarity (p. 65).
 - Changes “personnel” to “employees” for consistency. Adds “derogatory language and gestures,” “incompetency and inefficiency,” and “dissemination of confidential information” as prohibited conduct (p. 73-74).
 - Allows for grievance of major discipline and changes the grievance procedures to reflect this change (p. 75-78).
 - Adds updated titles to list of job families (p. 83-84).

Financial Considerations:

- Freezing longevity pay will reduce the City’s cost by approximately \$7,600 in 2010 and anticipates additional savings each year thereafter.
- Providing for a minimum of one hour for call-back pay should have a minimal impact as the current response time allowed for positions subject to call is 30 minutes. One hour is a more common minimum used by many employers and is fairer to employees.
- Changing the accrual schedule for part-time employees working less than 15 hours per week will have a minimal impact, as the majority of part-time employees regularly work 20 hours per week.
- Limiting the time to dispute the balance of holiday, vacation, and sick leave balances to six months will reduce the City’s costs associated with Payroll staff researching an error from a previous year.

Legal Considerations:

- A legal compliance review of the proposed changes was conducted by the City Attorney.

Policy Considerations:

- A personnel manual that is updated yearly to account for changes in federal and state law will ensure that the City of Derby maintains compliance.

Recommendation:

- Adopt the revised personnel manual as presented.

MOTION: Warren moved to approve Consent Agenda as presented. Craig seconded.
VOTE: Motion carried 8-0.

Ms. Sexton advised that Rock River Rapids was featured in this month’s Aquatics International Magazine. It’s a nice two-page article that Robert Mendoza and Allison Moeding helped write but was mostly our designers who submitted it. It’s a nice feature and we are pleased to get some additional national exposure. It was in a park and recreation magazine a few months ago. It is clearly a very unique and impressive facility to others around the country. We are not pimping this out and asking people to put us in their magazine, people are doing it because they see how unique a facility it is. It’s having a great year by the way, our average daily attendance is higher than it’s ever been, and the DRC is doing a good job of running it.

Council Member Meidinger asked for an update on Buckner street construction and when it will be done.

Ms. Sexton advised they are doing fine. David Vansickle sends updates to us every once in awhile, they are making real good progress but it is a big project and will take some time.

Council Member Haynes advised when the east YMCA came online in Andover they have a very beautiful facility and a very nice water park, he doesn't recall hearing of a downturn in our participation in Rock River Rapids.

Ms. Sexton indicated that is the most frequent question she has had the last few months. The facility is similar to the other YMCA's, it's adequate but smallish. It's intended to be there for YMCA members, and Rock River Rapids is quite a bit larger than that facility. We wish them well, but we are not concerned about competition or anything of the sort. If you remember last year Mulvane's new pool opened up and she recommends that if people have really little kids, go to a small city pool somewhere unless your child is used to the high-stimulus activity of Rock River Rapids. There are a lot of people at Rock River Rapids and you have to be ready to supervise your little bitty kids pretty well. We are running 1,400 people per day and we can thank the nice weather for that. She thinks after a few years people get to know about it better, we are doing some good marketing and advertising to bring in people from around the region. Certainly the season passes have been great for Derby people and local people, but part of it's the staycations this year. The zoo and Warren theaters report really good attendance this year and we all know people who normally take a week and go to Branson or somewhere but now they are staying put. Weather, good marketing and the economy: it's a very affordable place to be entertained and have parties.

ADJOURNMENT

MOTION: Craig moved to adjourn at 8:14 p.m. Meidinger seconded.

VOTE: Motion carried 8-0.

ATTEST:

Dion P. Avello, Mayor

Jean Epperson, City Clerk