



MINUTES

City Council Meeting

6:30 PM - Tuesday, April 22, 2025
Council Room

1 CALL MEETING TO ORDER

The City Council meeting was called to order on April 22, 2025, at 6:30 p.m. in the Council Room.

2 FLAG SALUTE

Council President Nick Engle led the flag salute.

3 INVOCATION

Pastor Jim Zenger, Harvest Church, gave the invocation.

4 ROLL CALL

PRESENT: Council Member Mike Neel
Council Member Elizabeth Stanton
Council President Nick Engle
Mayor Mark Staats
Council Member Jenny Webster
Council Member Chris Unkel
Council Member Wayne Molt, Jr.

ABSENT: Council Member Kristi Truitt
Council Member Rick Coleman

5 ACCEPTANCE OF AGENDA

5.1 Adoption of the Agenda

Nick Engle moved, seconded by Jenny Webster, to approve the meeting agenda, as presented.

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Jenny Webster
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

6 PRESENTATIONS

6.1 National Water Safety Month Proclamation

Mayor Mark Staats presented the Proclamation to Donita Grinde-Houtman, Aquatics Director, DRC.

BACKGROUND:

- National Water Safety Month began in May 2007 through a decision by the World Waterpark Association (WWA), Association of Pool and Spa Professionals (APSP), and the National Recreation and Park Association (NRPA) to celebrate a month-long water safety initiative when swim activity increases across the country.
- National Water Safety Month focuses on the importance of communicating water safety rules and programs to families and individuals of all ages.

Donita Grinde-Houtman, Aquatics Director, Derby Recreation

Commission, thanked the Mayor and Council for recognizing the importance of water safety education. The DRC has a goal to promote water safety all year long, not just during this recognized month. We offer the Unsinkables program, which is 8 days of free swimming lessons to all second graders in the Derby School District each year. This year we had 480 participants in the program. We invite everyone to come participate with us at Rock River Rapids on June 26 in the World's Largest Swim Lesson at 10:00 a.m.

6.2 Bike Month Proclamation

Mayor Mark Staats presented the Proclamation to Vanessa Rugg, Director of Programs, Derby Recreation Commission.

BACKGROUND:

- May is National Bike Month.
 - It is a chance to showcase the many benefits of bicycling, as well as an opportunity to encourage people to give biking a try.
- The national designation was established in 1956, and the Derby Health Collaborative has been working with local bicycle enthusiasts for the past several years to celebrate biking as both a transportation and recreation activity, and as an essential thing to support our well-being and everyday lives.
- The National Bike Month campaign highlights both the physical and mental health benefits of biking and also promotes the movement for safer streets, connected communities, a healthier planet, and healthy people.

Vanessa Rugg, Director of Programs, Derby Recreation Commission, thanked the Mayor and Council for partnering with the DRC in promoting I Bike Derby Month. There are a few different ways residents can participate throughout the month of May. The first Sunday in May is National Ride a Bike Day. May 16th is National Bike to Work Day. In addition, the DRC is holding an I Bike Derby drawing contest for youth ages 18 and under. We hope to see several community members out riding their bikes and enjoying the outdoors in May and beyond.

7 PUBLIC FORUM & ANNOUNCEMENTS

Council Member Elizabeth Stanton commended the Communications and Public Works teams for a wonderful Third Thursday event last week at Madison Avenue Central Park. There was a large crowd, and everyone had a good time. Public Works also has been instrumental in helping Council holding groundbreaking ceremonies recently, including the one for our new Senior Center yesterday. You are appreciated.

Mayor Mark Staats again recognized the generous donation of property from Cross of Glory which allowed us to move forward with our new Senior Center. It is a gift that will enhance our community for many years to come.

8 CONSENT AGENDA

8.1 Consideration of Minutes

8.2 Purchase of Police Patrol Vehicle

BACKGROUND:

- This item is for the replacement of police patrol vehicle 146 that was damaged in a crash on 02/07/2025.
- The 2025 Equipment Replacement Plan included the replacement of one vehicle and the addition of one vehicle to the Police Department patrol fleet.
- Since vehicle 146 was damaged prior to bidding out these planned replacements, we included a request for bids for Vehicle 146 in case it was a total loss as determined by insurance.
 - As of 04/15/2025, the insurance company determined vehicle 146 a total loss and will cover the cost of the replacement vehicle.

- Bid results were as follows:

<u>Vendor</u>	<u>Vehicle</u>	<u>Price</u>
Rusty Eck Ford	Police Interceptor Hybrid & Replacement Equipment	\$53,467
Shawnee Mission Ford	Police Interceptor Hybrid & Replacement Equipment	\$53,783

- Rusty Eck Ford had the lowest, responsible bid for a Ford Interceptor patrol vehicle and associated replacement equipment.
- We have purchased patrol vehicles from Rusty Eck Ford in the past and been happy with their service.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Total purchase price for the vehicle, movement of equipment not damaged in the crash, and replacement of damaged equipment is \$53,467.
- Insurance is covering the cost of the replacement as the fault in the crash was not the City of Derby.
- Bid Board recommended approval of the low bid from Rusty Eck Ford on 02/28/2025 when we received bids back for the vehicles on the replacement plan and this vehicle.

RECOMMENDED MOTION

- Approve the purchase of a Ford Interceptor and associated equipment from Rusty Eck Ford in the amount of \$53,467.

Nick Engle moved, seconded by Wayne Molt, Jr., to approve the Consent Agenda, as presented.

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Wayne Molt, Jr.
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

9 NEW BUSINESS

9.1 Sale of General Obligation Bonds Series 2025-A and Temporary Notes Series 2025-1

Dan Bronson, Deputy City Manager, gave the agenda report.

BACKGROUND:

- On March 25, the City Council authorized the sale of General Obligation Bonds Series 2025-A and Temporary Notes Series 2025-1 to finance the following projects:
 - General Obligation Bonds:
 - Decarsky Park Phase II
 - Building Automation Improvements
 - Temporary Notes:
 - Senior Center design/construction, City Hall and Police Department design
- The competitive sale was held the morning of April 17. The resolution authorizing the sale contained parameters that allowed the Mayor to award the sale if the bids were within the following parameters:
 - General Obligation Bonds
 - Maximum principal of \$20,000,000
 - Maximum true interest cost of 4.50%
 - Temporary Notes
 - Maximum principal of \$8,400,000
 - Maximum true interest cost of 4.25%
- City Council approval of the bond ordinance and resolution will ratify the sale.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Resolution 05-2025 adopted the sale resolution, authorized the sale of the bonds and provided that the aggregate principal amount shall not exceed \$20,000,000.
 - An agreement was entered into with Robert W. Baird & Co. Inc. on April 17, 2025 with a principal amount of \$18,815,000.

- A true interest cost (TIC) of the bonds is 3.6662%, which was lower than the maximum rate provided for in the authorizing bond resolutions of 4.50%.
- Resolution 05-2025 adopted the sale resolution, authorized the sale of the temp notes and provided that the aggregate principal amount shall not exceed \$8,400,000.
 - A temp note agreement was entered into with Robert W. Baird & Co., Inc. on April 17, 2025 with a principal amount of \$8,400,000.
 - A true interest cost (TIC) of the notes is 4.1361%, which was lower than the maximum rate provided for in the authorizing temp note resolution of 4.25%.
- The resolutions and ordinances are still being finalized at the time of this report and are not attached but will be available the night of the meeting.

LEGAL CONSIDERATIONS:

- Gilmore and Bell serves as the City's bond counsel and has verified this issue is in full compliance with state laws and local resolutions and ordinances.

RECOMMENDED MOTION

- Adopt an ordinance authorizing and providing for issuance of \$18,815,000 principal amount of General Obligation Bonds Series 2025-A, and
- Adopt a resolution prescribing the form and details of and authorizing and directing the sale and delivery of \$18,815,000 principal amount of General Obligation Bonds Series 2025-A, and
- Adopt a resolution prescribing the form and details of and authorizing and directing the sale and delivery of \$8,400,000 principal amount of Temporary Notes Series 2025-1.

Nick Engle moved, seconded by Wayne Molt, Jr., to:

- **Adopt an ordinance authorizing and providing for issuance of \$18,815,000 principal amount of General Obligation Bonds Series 2025-A, and**
- **Adopt a resolution prescribing the form and details of and authorizing and directing the sale and delivery of \$18,815,000 principal amount of General Obligation Bonds Series 2025-A, and**
- **Adopt a resolution prescribing the form and details of and authorizing and directing the sale and delivery of \$8,400,000 principal amount of Temporary Notes Series 2025-1.**

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Wayne Molt, Jr.
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

9.2 First Reading: Zoning and Subdivision Regulation Amendments

Scott Knebel, City Planner, gave the agenda report.

BACKGROUND:

- On November 7, 2024, the Planning Commission initiated the process to amend the zoning and subdivision regulations. This typically occurs after conducting the annual review of the Vision Derby 2040 Comprehensive Plan and determining that amendments to the zoning and subdivision regulations are warranted.
 - The Planning Commission identified 16 areas where amendments should be considered.
 - These areas to consider typically come from issues or questions that arise from planning and zoning projects during the year.
- The Planning Commission appointed a steering committee to guide the process and to develop recommended amendments to the zoning and subdivision regulations.
 - The steering committee included the following people:
 - City Council members Mike Neel and Jenny Webster;
 - Planning commissioners Dana Quigley and Gary Renberger;
 - Community Development Advisory Board member Jennifer Brown; and
 - City staff including City Manager Kiel Mangus, Assistant Public Works Director Tom Keil, Code Enforcement Officer II Brent Lichti, City Planner Scott Knebel, and Development Director Dan Squires.
 - In its report to the Planning Commission, the steering committee recommended amendments in 15 areas and recommended not adopting design criteria for duplexes at this time due to the complexity of the issue.
 - The recommended amendments are summarized in the Policy Considerations section, and detailed recommendations for each amendment are attached.

LEGAL CONSIDERATIONS:

- K.S.A. 12-749 and K.S.A. 12-757 require the Planning Commission to set a public hearing for the formal consideration of amendments to the zoning and subdivision regulations.
 - The Planning Commission set the public hearing for April 3, 2025, and notice of the public hearing was published in the official City newspaper (the Derby Informer) on March 12, 2025, as required by state law.
 - At the public hearing, an opportunity was granted to interested parties to be heard.
 - Several people spoke in opposition to the recommended regulations regarding window signage.
- Upon conclusion of the public hearing, the Planning Commission voted (9-0) to recommend City Council approval of the committee's recommended zoning and subdivision regulation amendments with the exception of the regulations pertaining to window signs and the design criteria for duplexes.
 - The Planning Commission requested additional research and public discussion regarding regulations for window signs and agreed with

the committee's recommendation not to adopt design criteria for duplexes at this time.

- It is likely the subcommittee will reconvene to work further on regulations regarding window signs.
- The draft minutes of the Planning Commission public hearing are attached.
- All conditions precedent to the Council's consideration of adoption of the recommended amendments have been satisfied.
- In accordance with state law, the Council may take one of the following three actions when considering adoption of the recommended amendments:
 - Adopt the recommendation of the Planning Commission and adopt the amendments by ordinance by a majority vote (5 votes).
 - Override the recommendation of the Planning Commission and disapprove or modify the amendments by a 2/3 majority vote (6 votes).
 - Return the recommendation to the Planning Commission with a statement specifying the basis for the Council's failure to approve or disapprove (5 votes).
- The attached ordinances to enact the recommended amendments to the zoning and subdivision regulations have been reviewed and approved as to form by the City Attorney.

POLICY IMPLICATIONS:

1. Temporary Signs: The regulation of temporary signage is a challenge balancing the need for flexibility for businesses and property owners to advertise, with the need to protect community aesthetics. The committee reviewed issues such as the length of time temporary signs can be displayed, including the ability for time extensions, the size of temporary signs, and the placement of temporary signs.
 - The Planning Commission recommends that the length of time temporary signs are permitted to be displayed on non-residential properties be increased from 30 days to 45 days to match the period of time temporary signs can be displayed on residential properties.
 - The Planning Commission recommends that larger temporary signage and inflatable signs be permitted on residential property for a period of seven days to celebrate life events such as birthdays, anniversaries, graduations, retirements, and similar events.
 - The Planning Commission recommends that City staff be permitted to issue a 30-day extension for the display of a temporary sign.
2. Office-Flex Use: Developers increasingly are inquiring about an "office-flex" use, which typically combines an office or storefront with a warehouse space. The zoning regulations do not have a defined use that clearly fits this use type, and it has been determined to be permitted only in the B-5 and M-1 zoning districts, due to the warehouse use. Developers increasingly are interested in including this use type as part of B-3 zoned developments.

- The Planning Commission recommends establishing a new use called "Office/Retail-Flex Warehouse" to accommodate establishments providing office facilities and/or retail sales combined with a storage warehouse for plumbers, electricians, mechanical contractors, roofers, carpenters, flooring installers, fence installers, masons, painters, landscapers, cleaning services, property maintenance services, pest exterminators, or similar uses.
 - The Planning Commission recommends that the new use be permitted without use limitation in the B-5 and M-1 districts and in the B-3 and B-4 districts subject to the following use limitations.
 - The entire frontage of the ground floor that faces a public or private street shall be used for office space and/or retail sales.
 - Overhead doors to warehouse spaces shall not be permitted to face a public or private street.
 - Outdoor storage of vehicles and equipment shall not be permitted.
3. Driveways in Landscaped Street Yard: Many designers have expressed confusion about how the landscaped street yard requirements are calculated when a driveway is located within the yard.
- The Planning Commission recommends that the zoning regulations be clarified to indicate that the minimum required size of the landscaped street yard is calculated based on lot frontage and depth and that the required number of trees is to be calculated based on the result of this equation. If a driveway is permitted to be constructed within the landscaped street yard, the required number of trees shall not be reduced.
4. Planting Right-of-Way Side Strip: The zoning regulations need to be amended to clarify the adjoining property owner's responsibility to plant and maintain the right-of-way side strip.
- The Planning Commission recommends adding the following requirement, "Unpaved portions of the right-of-way adjacent to a development project shall be planted in a ground surface covering with living grass or other living plant materials and/or be covered with bark, wood chips, rock, bricks, stone or similar materials."
 - The Planning Commission also recommends that the zoning regulations be amended to include a reference to the Derby Municipal Code requirement that each property owner maintain the right-of-way side strip adjacent their property.
5. Screening of Mechanical Equipment: Many designers have expressed confusion about the zoning regulation requirements for screening mechanical equipment.
- The Planning Commission recommends that the example list of mechanical equipment required to be screened be expanded to include transformers and utility/communication pedestals.
 - The Planning Commission recommends that roof mounted screens and similar screening methods be permitted as an alternative to a parapet wall for screening roof-mounted mechanical equipment.

6. Height of Accessory Structures: Accessory structures are limited to a maximum of 60% of the zoning district's height maximum. This essentially prohibits a two-story accessory structure in single-family and two-family residential districts.
 - The Planning Commission recommends that the permitted height of accessory structures in residential districts be increased from 60% to 80% of the zoning district's height maximum.
7. Limits on Congregations of People in the APZ: The Accident Potential Zone for the approach to McConnell Air Force Base limits principal uses based on the general characteristics of the use and prohibits uses that generally involve large concentrations of people. The APZ does not, however, have any restrictions on temporary congregations of people.
 - The Planning Commission recommends that temporary outdoor carnivals, circuses, music festivals, community celebrations and other events involving congregations of people be limited to an occupancy of 50 people per acre.
8. Screening Fences in M-1: The zoning regulations prohibit the use of metal panel screening fences; however, the design regulations require that screening fences coordinate with the principal structure. In the M-1 district, principal structures are permitted with predominately metal panel siding; therefore, a metal panel screening fence would comply with the design requirement but still not be permitted by the zoning regulations.
 - The Planning Commission recommends that metal panel screening fences be permitted in the M-1 district if the principal structure has metal panels as a primary exterior building material.
9. Special Use for Mini-Storage Warehouse in B-3: The Zoning Regulations permit mini-storage warehouse by right in the B-5 and M-1 districts and permit it by special use in the B-4 district. There is increasing interest in developing mini-storage warehouse uses along Rock Rd. where the commercial property is predominately zoned B-3. Changing the zoning of a property along Rock Rd. to B-5 to permit a mini-storage warehouse would not be appropriate due to the more intense industrial uses allowed in B-5. The existing mini-storage warehouse on Rock Rd. was permitted by a Planned Unit Development (PUD). However, using a PUD simply to allow an additional use in an area is a misuse of the PUD zoning tool, which is intended for master planned developments. When an additional use could be appropriate in a base zoning classification, it should be permitted by special use, which allows supplemental regulations to be established to ensure the use is compatible with surrounding uses.
 - The Planning Commission recommends permitting mini-storage warehouses in the B-3 district with approval of a Special Use by the Planning Commission and/or City Council (depending upon if the request is protested by neighboring property owners).
 - The Planning Commission recommends that mini-storage warehouses, when permitted by Special Use in the B-3 district, be subject to the following use limitations.

- When the use is in proximity to residential development, the architectural design shall be compatible with surrounding residential development.
 - Any side of a building providing doorways to storage areas shall be set back from the property line at least 40 feet when abutting a residential zoning district.
 - All storage on the property shall be kept within an enclosed building, unless a portion of the property is properly zoned to otherwise permit a designated area for outside storage.
 - The servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall not be conducted on the premises.
10. One-Step Plats: The one-step plat requirements need to be modified to clarify that both a preliminary and final plat document are required to be submitted for a one-step plat.
- The Planning Commission recommends an amendment that explicitly states that an application for a one-step plat requires submittal of both a preliminary and a final plat document.
11. Annexation Certificate for County Plats: The Subdivision Regulations were amended in 2022 to modify the annexation certificate for final plats from language indicating the owner would not protest a future annexation action by the City to language requesting and consenting to annexation. Several owners have claimed that the clause is not applicable to their plat because they are not requesting City services such as water and sanitary sewer. However, properties outside the city limits that request such services are already required to consent to annexation as part of that process; therefore, it was determined that it was the intent of this clause is for all county plats to consent to annexation at such time the City determines it to be appropriate (even without provision of water and sanitary sewer service). This clause is important to prevent islands of unincorporated Sedgwick County from being surrounded by the City of Derby, which is particularly problematic for safety response from police and fire. Other owners were concerned with the language regarding “petition and request” with concerns that the language could be construed to permit an island annexation.
- The Planning Commission recommends an amendment that the annexation certificate be modified to require property owners to consent to annexation at such time as the property adjoins the City and the City determines it to be appropriate to annex.
12. Signature Block and Position Responsibilities: The position title for the Development Director has changed, and the regulations reflect two former position titles.
- The Planning Commission recommends an amendment that updates references to the position in the zoning and subdivision regulations.
13. PUD Drainage Provisions for Reduced Setbacks: The PUD provisions have been used to increase density, in part, by allowing dwellings to be built closer together than permitted by the base zoning districts. This has resulted in some drainage issues due to the lack of

additional provisions for drainage in the reduced area between structures. A provision needs to be added to address the issue.

- The Planning Commission recommends an amendment that requires PUDs proposing to increase density be evaluated to determine if adequate stormwater management techniques are proposed to adequately address the impact on drainage facilities from increased density.

14. Design Criteria: Designers have expressed confusion about how to apply the design criteria. Understanding of the design criteria can be improved with amendments.

- The Planning Commission recommends an amendment that would clarify the design criteria related to architectural metal panels as an exterior building material, use of wood as a screening material, design of ground-mounted signage, and design of detention/retention basins.

RECOMMENDED MOTION

- Schedule a second reading of the ordinances to adopt the zoning and subdivision regulation amendments for May 13, 2025.

Council Member Elizabeth Stanton asked about the requirement to screen mechanical equipment. Does that apply to already existing businesses and properties, or only newly developed ones?

Scott Knebel, City Planner, replied this update is not adding or changing any requirements for screening, it is simply clarifying the requirements that already exist.

Ms. Stanton said regarding Item #11, when we annexed homes on the south side of Madison near High Park, I believe those property owners were not allowed to protest because they already had city water and sewer service. Does this now mean we have to offer city services if property owners request annexation?

Kiel Mangus, City Manager, noted when we annexed the properties on East Madison, some had already tied into our services, but not all. When we looked at it, none of them could leave their properties without driving on a city street, so that annexation was considered unilateral.

Jacque Butler, City Attorney, clarified occasionally people outside the city limits will request we extend services, sewer or water, to their property. There is a statute that allows Derby to require them to sign an agreement saying they will not protest annexation if we extend services to them. When land adjoins the City, like on Madison, it is subject to unilateral annexation. As presented in the update, there will be a restrictive covenant that will run with the land stating that when a county plat is approved, they are agreeing to future annexation, regardless if water or sewer services are provided. Then at such time the property adjoins the City, it can be annexed by consent.

Mr. Knebel pointed out it also does not obligate the City to annex the property when it adjoins the city limits; it simply offers the option for such an annexation.

Mr. Mangus stated the majority of annexations we see are consent annexations. An example of an island consent annexation is the Pleasantview Baptist property off 63rd Street. It has County properties on each side, so it required both the City Council and the Board of County Commissioners to approve it.

Ms. Butler explained the County needs to approve island annexations to ensure Derby is not encroaching on future growth of another city. In our area this is not as common as a more populous area where neighboring communities might vie for the opportunity to develop and annex in the same area.

Ms. Stanton said thank you, this helps me understand it more clearly.

Council Member Wayne Molt, Jr. thanked Mr. Knebel for the work his team and the Planning Commission put into the annual review of regulations. I also appreciate that you listened to those who came to speak at the latest Planning Commission meeting and from those discussions, two items were removed from the list of updates for further investigation and consideration.

Wayne Molt, Jr. moved, seconded by Chris Unkel, to schedule a second reading of the ordinances to adopt the zoning and subdivision regulation amendments for May 13, 2025.

Mr. Mangus said one of the items not brought tonight was the matter of window signs. We have had several business owners come speak to us about that. Can you share a little about that process and what will take place before the item comes to Council later?

Mr. Knebel said the steering committee recommended there be some limitation on the amount of sign coverage on windows. They tied this to the percentage of a facade that is allowed to be covered. Currently window signage is completely exempt from restrictions in all zoning districts. The idea to limit window signs initially came through the West End Business Park and K-15 comments from the community regarding sign clutter. Staff has noticed this kind of signage becoming more and more prevalent, so it was brought to the committee's attention. Members of the Chamber of Commerce and others raised concerns about the recommendation from the steering committee, so the Planning Commission decided to table the item and send it back to the committee for further discussion. They will bring a new recommendation regarding window signs to the Planning Commission, and then to the Council, once additional review has taken place.

Mr. Molt commented I have heard feedback on that particular item as well and can understand both sides of the issue. If certain properties are grandfathered in and a newer business is not allowed to have the same kind of signage, that doesn't seem right. We need to have regulations, but do not want to be so restrictive that businesses decide not to come to Derby.

Mayor Mark Staats mentioned for the record, I am the President and CEO of the Derby Chamber of Commerce, and Council Member Webster serves on our Board. If this does come back to Council, we will abstain and excuse ourselves from the room for those discussions.

Ms. Butler said since this is an item that is going back to the committee and then through the formal process for recommendations and voting, I caution us to limit discussion right now since we do not yet have a recommendation on which to vote. It is fine to explain what the procedure will be, but we should limit discussing the item itself until a recommendation comes to Council through the appropriate process.

Council Member Webster asked Ms. Butler, since I serve on that steering committee, should I abstain from those meetings moving forward on this topic?

Ms. Butler said I'll need to look into that a bit further and get back to you regarding conflicts of interest. If we were discussing a specific contract or property in which you hold interest, then abstention would be required, but I am uncertain about a matter of city-wide regulations.

Ms. Stanton said there are people who chose to move to a certain area or neighborhood because of the HOA for that area. There are also people who chose to live in a certain area because there is not an HOA. With some of these regulations, it seems we are making all of Derby one big HOA. In some cases, specifically with signage, we are holding back the marketing opportunities for some businesses. I'd encourage those of us on Council to speak to business owners and learn what they think and what they want.

Mr. Mangus said we met with some business owners today on the issue and no solutions were brought forward. The group we met with would just prefer no regulations on window signage. We already regulate all other types of signs. We will have to try to work together to find a balance between the various options, which is why we have committees and processes to explore those options. Since we do have zoning and subdivision regulations to provide for organized growth, I suppose in a way we might be viewed as a kind of city-wide HOA.

Ms. Butler again cautioned against too much discussion without a recommendation on which to vote. It is a good idea to talk to people and find out what they think, but it is extremely important to let our processes play out and have recommendations come from those processes for the credibility of the Council's decision.

Ms. Stanton said once there is a recommendation, could we have more notice than usual before voting on the item? We usually get our agenda packet on Thursday for items being voted on the following Tuesday.

Mr. Mangus pointed out there will be a first and second reading, which allows additional time for consideration and to hear from the public.

Mr. Knebel added another good way to stay up to date would be signing up for Planning Commission meeting notifications. Any recommendations will first go to the Commission for discussion and a vote before moving on to the Council.

Mayor Staats posed a question about Item #4, planting right-of-way side strip. It states, "or other living plant materials", does that mean dandelions count? They and other weeds are technically plants.

Mr. Knebel replied that while someone could list dandelions as their landscaping choice during the site plan review process, it likely would not be approved.

Mayor Staats said with the street signs and other things in these strips, I always thought this right-of-way area was the City's responsibility.

Mr. Knebel said the property owner is responsible for initially establishing and maintaining the right-of-way landscaping.

Mayor Staats said in the example photo shown, would Schlotsky's have to run irrigation sprinklers all the way out to the curb?

Mr. Knebel clarified it is not required to be covered with living plant material at all. In fact, our zoning regulations have encouraged xeriscaping and for the last 25 years. Regulations regarding what type of plants or other material can go here are intentionally vague to allow for flexibility and discretion during the site plan review process.

Mayor Staats said for a long stretch of street, such as on Rock Rd., this means there might be good patches and bad patches all up and down the corridor.

Mr. Mangus said we have that now. There are areas that are green and well-kept and others that are not. It comes down to whether or not an owner is reinvesting in maintaining their landscape. This update is like several of the others, it is to add clarity, rather than to make a change or additional requirement.

Mr. Knebel concurred; this is simply clarifying the already existing requirement.

Council Member Chris Unkel asked if someone who originally planted fescue wants to change to something else due to current drought conditions, can they do so?

Mr. Knebel said yes. They just need to submit a new landscape plan for approval.

RESULT:	Carried
MOVER:	Wayne Molt, Jr.
SECONDER:	Chris Unkel

AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

9.3 Zone Change: 1219 S. Rock Rd. (R-1 "Single-Family Residential District" to B-3 "General Business District")

Scott Knebel, City Planner, gave the agenda report.

BACKGROUND:

General Location:

- West of Rock Rd. and south of Chet Smith Ave. at 1219 S. Rock Rd. (Location Map attached).

Applicant:

- Property Owners: 1219 Ventures, LLC and City of Derby
- Agent: Jeff Mills, Earles Engineering and Inspection, Inc.

Background Information:

- The subject property is 4.33 acres consisting of two unplatted parcels. One parcel is currently developed with a single-family residence and the other is the north portion of the Cross of Glory Lutheran Church Addition, that is currently owned by the City.
 - In February, the City Council granted authority for the City to enter into a future land transfer agreement.
 - The agreement will transfer a portion of the Cross of Glory Lutheran Church Addition in exchange for construction of shared parking, two pickleball courts, a gazebo, and sidewalk trail connections for use by Senior Center members.
- The applicant intends to construct a five-story, multi-family senior living development on the property.
 - The property is currently zoned R-1 "Single-Family Residential District", and the applicant requests B-3 "General Business District" zoning (Proposed Rezoning Exhibit attached).
 - B-3 zoning is necessary to permit the proposed height of the building, as the B-3 district permits multi-family development up to a maximum height of 65 ft.
 - The B-3 district also permits a wide range of commercial uses including retail, restaurant, convenience store, vehicle repair, office, and service businesses.
 - Since a portion of the property is unplatted, the property will be required to be platted to complete the zone change process.
 - A preliminary plat of the property was approved by the Planning Commission on March 20, 2025, subject to conditions.
 - Site plan review will be required prior to development of the property. The Planning Commission will review further details pertaining to the site layout, building design, landscaping/screening, parking, signage, and other site elements during site plan review.

- The Planning Commission held the required public hearing for the zone change request on March 20, 2025, and voted (10-0) to recommend approval of a zone change from R-1 "Single-Family Residential District" to B-3 "General Business District", subject to platting the property within one year.
 - The Planning Commission recommendation is based on the findings of fact stated in the attached Planning Commission Minutes Excerpt.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Development of the property as proposed will result in an increase in the taxable value of the property; and consequently, an increase in property tax revenue.
- Infrastructure necessary to serve the development is in close proximity to the site and can reasonably be extended.
- Financial guarantees for infrastructure necessary to serve the site and associated cost sharing will be presented for consideration with the final plat.

LEGAL CONSIDERATIONS:

- All conditions precedent to the Council's consideration of this requested zone change have been satisfied, including notification of surrounding properties in accordance with state law.
- No protest petitions were filed with the City Clerk within the statutory 14-day protest period following the public hearing.
- Rezoning a specific tract of land is a quasi-judicial proceeding and requires disclosure of *ex parte* communications.
- In accordance with state law, the Council may take one of the following actions when considering adoption of the requested zone change.
 - Adopt the recommendation of the Planning Commission and approve the zone change via ordinance by a majority vote of the City Council (5 votes).
 - Override the Planning Commission by two-thirds majority vote of the City Council membership (6 votes) and modify or disapprove the zone change. If this option is selected, the City Council must adopt findings of fact in support of modification or disapproval.
 - Return the recommendation to the Planning Commission with a statement specifying the basis for the Council's failure to approve or disapprove by a majority vote of the City Council members present.
- The attached zone change ordinance has been reviewed and approved by the City Attorney.

RECOMMENDED MOTION

- Adopt an ordinance changing the zoning district classification of the subject property from R-1 "Single-Family Residential District" to B-3 "General Business District" based on the Planning Commission's findings of fact and instruct the City Clerk to withhold publication of the ordinance

until the plat of the property is recorded, which shall occur no later than one year after adoption of the ordinance.

Mayor Mark Staats asked Council to disclose any *ex parte* communications regarding this zone change. None were reported.

Nick Engle moved, seconded by Wayne Molt, Jr., to adopt an ordinance changing the zoning district classification of the subject property from R-1 "Single-Family Residential District" to B-3 "General Business District" based on the Planning Commission's findings of fact and instruct the City Clerk to withhold publication of the ordinance until the plat of the property is recorded, which shall occur no later than one year after adoption of the ordinance.

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Wayne Molt, Jr.
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

9.4 Emergency Water Regulations Ordinance First Reading and Water Conservation Plan Update

Kiel Mangus, City Manager, gave the agenda report.

BACKGROUND:

- The City of Derby and El Paso Water Company are required by the Kansas Water Office (KWO) to maintain a water conservation plan.
- As a wholesale purchaser of water from the City of Wichita, our contract with Wichita also requires we maintain a water conservation plan and emergency water regulations.
- The conservation plan is part of our operations manual and includes long-term water efficiency guidelines and short-term emergency plans.
- The City Municipal Code lays out basic emergency water regulation stages and the violation and enforcement process.
 - The code provisions contain far less detail than the plan itself. The water conservation plan goes into more details on each stage from a water use and operations perspective, including levying fines.
 - The water conservation plan is intended to provide more flexibility and ease to the Council or City Manager to update and implement provisions as needed based upon water conservation scenarios and direction from the City of Wichita.
- The City added emergency water regulations to the City Code in 2013 and then updated the code in 2018.
- Proposed changes to the emergency code include the following:
 - In Derby's current emergency regulations there are 3 stages, compared to Wichita's 4. A "Stage 4: Critical Water Emergency Stage" is proposed to be added for consistency with Wichita's regulations.

- It is also proposed to update the code to clarify abatement practices and specify that violation fees will be added to customer water bills.
- Proposed changes to the water conservation plan are similar in nature to the emergency regulations in the code.
- These changes are needed to better reflect current practices that we are seeing in Stage 2 and to match Wichita's conservation plan. The proposed changes include the following:
 - Clarifies watering days for areas north of James Street vs. south of James Street.
 - Adds a Stage 4: Critical Water Emergency Stage and details this stage.
 - Stage 4 is a dire water emergency. Many of the components of Stage 3 restrictions are in place but at this stage there is also a component of working to reduce indoor water use.
 - All outdoor watering is banned, and penalties are in place for repeat violators.
 - The City is implementing all water conservation measures possible in its operations.
 - All water customers are required to reduce their household water usage (not just outdoor watering) by 15% from their average winter consumption. This is to match the language from Wichita for a critical water stage.
 - No new pool permits are issued in Stage 4.
 - The water regulation ordinance and the rain sensor ordinance are appendices to the water conservation plan. Council recently approved updates to the rain sensor ordinance so that document is updated to reflect those changes as well.
 - Proposed clarification in the fee schedule portion of the plan to let customers know that any violation fees issued will be added to the next utility bill for the customer.
 - Added language that the City will utilize the utility billing software system to notify customers when entering stage 2/3/4 levels. The software allows us to send text messages/robocalls to customers with alerts and information.
 - There are some other clarification and minor edits to the plan as a whole.
- Once the new Derby water treatment plant is constructed, we intend to discuss the terms of our water contract with Wichita, including watering restrictions and the ability of the City to provide more of its own water over time.
- A general overview of where drought restrictions stand and some updated information from Wichita will be shared at the Council Meeting.
- From the beginning of Phase 2 restrictions in August to the end of the year the City of Derby saved over 92 million gallons of water from the prior year. Residents did a great job of conserving where possible!

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Based upon the watering restrictions required in our emergency water regulations and water conservation plan there is a fiscal impact on the Water Fund.
 - The fund will lose money during drought restrictions due to less use of water, but the City will also have some reduced costs during that same timeframe due to buying less water from the City of Wichita.
 - The City billed out ~\$284K less dollars in 2024 than in 2023, mostly due to watering restrictions (selling less water).
- Violation fees associated with violations of watering restrictions are deposited into the Water Fund.
 - In 2024, \$28,100 in violation fees were charged.

LEGAL CONSIDERATIONS:

- Through our wholesale purchasing agreement for water from the City of Wichita the City of Derby is required to have a water conservation plan in place and that the plan/regulations conform to Wichita's regulations.
- Derby is also required to institute and enforce upon its customers any changes Wichita makes to watering restrictions.

POLICY IMPLICATIONS:

- Water is a finite resource. Emergency water regulations and the water conservation plan ensure the City of Derby is working to be a good steward of the resource well into the future.

RECOMMENDED MOTION

- Provide feedback on the updates to the emergency water regulations code and water conservation plan and schedule a second reading of the code updates.

Council Member Wayne Molt, Jr. expressed frustration with Wichita for not providing data related to how much water they have saved during Stage 2. Derby residents have done a great job following the rules and have reduced water consumption. Can we get a similar report from Wichita?

Kiel Mangus, City Manager, said I have received some data from them recently, but it is not very clear, so I need to ask for some clarification. In our first month of Stage 2, we were at about a 45% reduction in comparing year over year use. I believe Wichita was more in the 20% to 30% range. When I get clarification on the numbers, I will pass it along to Council. We have smart meters, so we know when people are watering in real time. Wichita does not have this same technology, so it is harder for them to see usage until the end-of-month billing cycle. It is also possible Wichita does not want to put their numbers out because there could be some who will hear a good report and decide it is now okay to begin watering again.

Mr. Molt thanked Mr. Mangus for his diligence in keeping Council updated.

Council Member Mike Neel said I have had a few conversations with folks recently about wells. If you have a well on your property, are you exempt from restrictions? Is there any point at which you may also be required to restrict usage?

Mr. Mangus replied per the Kansas Division of Water Resources (DWR), those with private wells are exempt. What we are experiencing in the Wichita area is not prolonged groundwater drought; it is acute drought from Cheney Reservoir. If we did have a prolonged drought which put us into Stage 4, we would ask DWR to come in and provide guidance. As a city, we do not have the authority to regulate private water well use; it would have to come from the state. While we can regulate where people put wells through our permitting process because we do not want them to interfere with our infrastructure, we cannot regulate the use of the water from those wells.

Jacque Butler, City Attorney, said in Kansas, water is considered an overall state resource and the use of it is appropriated through the State. For example, in western Kansas, DWR is sending out notices to individual well owners stating they cannot irrigate as much as usual, or they will face fines because they are pulling too much water and another user has a higher priority level for the use of water in the area. Typically, those notices do not go to residential well users; they are more for those with heavy agricultural usage.

Mr. Mangus agreed their focus tends to be on the heavy ag use. One of those large agricultural operations can easily use more water than all of Derby's private well users combined. With our new water treatment facility coming online in the next few years, if we get into a severe drought situation, we might request DWR come assist us with regulating private well use if we feel it is beginning to pull from the water available to our municipal wells feeding the plant.

Mr. Neel said what about those who do not have a well but have rain barrels. Can that captured rainwater be used?

Mr. Mangus replied yes, we actually encourage the use of rain barrels in our conservation plan. There typically is not enough water captured to fully irrigate, but it could help water your flowers or a small backyard garden.

Council Member Elizabeth Stanton asked does Wichita have a plan to switch over to smart meters at any point?

Mr. Mangus said I am not aware of any such plan. Wichita does have them in some areas, but not everywhere. To install smart meters throughout the city would be quite costly, so I'm sure that is one reason they've not yet done so. Derby received a grant that helped us in making the switch to smart meters.

Ms. Stanton thanked Mr. Mangus for continuing to advocate for Derby residents on this matter. Just because we have more updated technology available, we are

somewhat being penalized compared to Wichita. If our people are watering when they shouldn't, we know about it right away.

Mr. Mangus noted if we ever get to the point we enter Stage 4, we will be monitoring usage on a month-to-month basis rather than in real time. Stage 4 usage is not measured hour-to-hour or daily, but as the overall usage compared to the home's average winter consumption use.

Ms. Stanton commented I appreciate that the amount being used is based individually on 15% of that specific household's average winter use, rather than some arbitrary number. This takes into account how many people are living in the home and using water for showers, cleaning, and washing laundry. That use for a family of 6 is going to be much higher than for a single person or couple.

Mr. Molt gave praise for the smart meters. I had a neighbor who noticed water out on the street over the winter months, so we called the water department's customer service line. They were able to look up his address and confirm that around 20 gallons were being used each hour at his residence. This gave him an early warning there was something wrong that needed to be addressed, rather than waiting to get a huge water bill and then trying to figure what was wrong.

Mr. Mangus said we encourage everyone to sign up on the portal and take the time to check in to see what water is being used. Our customer service staff does run reports looking for oddly high usage over extended periods and then tries to reach the homeowner to let them know there may be a problem. You can check on it yourselves, too, though.

Mayor Staats added you can set your own personal thresholds for alerts to be sent to your phone when usage exceeds that threshold. I got such an alert saying 2 to 3 gallons was being consistently used at times I knew no one was home. I had a leaking toilet that I would never have known to fix without that information being sent.

Nick Engle moved, seconded by Jenny Webster, to provide feedback on the updates to the emergency water regulations code and water conservation plan and schedule a second reading of the code updates.

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Jenny Webster
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

10 **ADJOURNMENT**

Nick Engle moved, seconded by Mike Neel, to adjourn the meeting at 8:20 p.m.

RESULT:	Carried
MOVER:	Nick Engle

SECONDER:	Mike Neel
AYES:	Mike Neel, Elizabeth Stanton, Nick Engle, Jenny Webster, Chris Unkel, and Wayne Molt, Jr.
ABSENT:	Kristi Truitt and Rick Coleman

City Clerk

Mayor