



# MINUTES

## City Council Meeting

6:30 PM - Tuesday, January 14, 2025

Council Room

### 1 CALL MEETING TO ORDER

The City Council meeting was called to order on January 14, 2025 at 6:30 p.m. in the Council Room.

### 2 FLAG SALUTE

Council President Nick Engle led the flag salute.

### 3 INVOCATION

Pastor Ben Ray, First Presbyterian Church, gave the invocation.

### 4 ROLL CALL

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

**ABSENT:** None

### 5 ACCEPTANCE OF AGENDA

#### 5.1 Adoption of the Agenda

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

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

### 6 PUBLIC FORUM & ANNOUNCEMENTS

**Council Member Mike Neel** thanked our Public Works staff, especially those on the streets crew, for their great response to the recent winter weather. Your efforts are very much appreciated.

**Council Member Rick Coleman** echoed Mr. Neel's statement, noting that as he traveled to other cities in our area, our roads were better by far. I don't think most people understand how tirelessly those folks work to make it easier for the rest of us to get around in bad weather. They do an excellent job.

**Mayor Mark Staats** shared that a gentleman who lives in Mulvane and works in Wichita phoned him this week to say Derby does a great job with their streets. On his commute, Derby was the one place he didn't really have to worry about. I've even seen lots of comments on social media applauding our Public Works staff for their response. On this topic, after two big weather incidents within a week, how are we doing on our supplies needed for combating winter weather?

**Kiel Mangus, City Manager**, replied we have lots of brine and salt on-hand. The brine we produce in-house, so we always have plenty of it. The other product we utilize is called Ice Slicer, and while we still have some of it in stock for handling another round of snow and ice, and we have placed an order for more. Thank you, Council, for recognizing the work our streets crew does; I will be sure to pass your words along to them. Mr. Coleman, I also thank you for purchasing coffee for the crews as they worked in the storm one day, they appreciate it. Between the two weather incidents, our team even went down to Mulvane and helped them clear some of their streets due to lacking some materials, providing a great service to our neighbors. Mulvane Public Works plans to come up here and talk with our Streets Superintendent and crews to learn how we treat our streets so they can be better prepared. That is a testament to the excellent work that team does in combating weather challenges.

**Council Member Elizabeth Stanton** said I wanted to thank Public Works not just for their great work on our streets recently, but also for how beautiful and magical they make Derby look during the Christmas season with all of the lights and decorations.

## 7 CONSENT AGENDA

- 7.1 Consideration of Minutes
- 7.2 Donations for Derby Senior Center

### BACKGROUND:

- The Senior Center has many members and community individuals who graciously give donations throughout the year. When someone involved with the Senior Center passes away, they sometimes designate the Senior Center for memorial donations to offset the costs of programming.
- While some people donate to the Senior Center at-large to enhance programming, others will donate to the Derby Dash to assist with transportation costs for those in the community who might not otherwise

- be able to ride due to cost. Occasionally, a donor will specify another specific area where they wish their donation to go.
- The 6 donations listed below total \$710. Donations of \$500 or less and those who wish to remain anonymous are recognized quarterly on the Consent Agenda.

<u>Name</u>	<u>Donation Area</u>	<u>Amount</u>
Linda Black	At-Large	\$50
Patricia Busse	Rudrow Memorial	\$20
Allen & Janet Downs	At-Large	\$500
A. K. Fickel	Rudrow Memorial	\$20
Darlene Grover	Rudrow Memorial	\$20
Paul & Peggy McKenzie	At-Large	\$100

- Donors listed above made contributions between October 1 and December 31, 2024. Each donor was sent a letter of thanks from the Mayor.

#### **RECOMMENDED MOTION**

- Recognize the donations.

#### **7.3 Senior Center Funding Agreement**

##### **BACKGROUND:**

- Each year since Derby's Senior Center has been accredited, Sedgwick County has provided \$115,000 to help fund operations.
- The County has requirements each year for the types of programming/training which must be offered, including record keeping and promotions.
- The City has agreed to these requirements as they are consistent with the mission of the Senior Center.
- Since 2016, Sedgwick County has required the City Council to agree to and approve the terms of the agreement.
- This year's agreement is similar to last year's agreement in terms of requirements for funding.

##### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Approving this agreement provides funding for 2025.
- The agreement is consistent with previous years for the Senior center operations, unless the County chooses to withhold or reduce those monies during this one-year agreement. Should that occur, the City would have to either find other sources of funding or reduce services.

##### **LEGAL CONSIDERATIONS:**

- The City Attorney has reviewed and approved the agreement.

#### **RECOMMENDED MOTION**

- Authorize execution of the agreement.

## **7.4 Sedgwick County Volunteer Transportation Services Agreement**

### **BACKGROUND:**

- The Sedgwick County Volunteer Transportation Services Agreement is an annual renewable contract with Sedgwick County to provide a program of volunteer transportation services provided by the Retired and Senior Volunteer (RSVP) Program drivers.
- The senior services and transportation department will assist community members aged 55 and up who need transportation outside of Derby city limits. Assistance will be provided through coordination of rides which will be provided by Sedgwick County RSVP drivers.
- Rides provided will be reimbursable at \$7 a ride to the City which will be billed on a monthly basis per reporting and contractual requirements.
- RSVP drivers utilize their own vehicles and can provide rides in Sedgwick, Butler, Harper, Harvey, Cowley, Kingman and Reno Counties.
- The contract with Sedgwick County runs from January 1, 2025, through December 15, 2025.

### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- The City will be reimbursed \$7 per coordinated ride through the RSVP Transportation program.
- The service is free to qualifying riders.
- The service assists with filling a gap for persons in the community who need transportation outside the Derby city limits.

### **RECOMMENDED MOTION**

- Authorize execution of the volunteer transportation services agreement with Sedgwick County.

## **7.5 Annexation of Rock Rd. & 55th St. South Right-of-Way**

### **BACKGROUND:**

- The Sedgwick County Board of County Commissioners adopted Resolution No. 226-2024 (attached) on October 23, 2024, notifying the City of Derby of certain road rights-of-way adjacent to the City's limits that have not been annexed.
  - K.S.A. 12-520(e) authorizes County Boards of Commissioners to notify cities of the existence of rights-of-way abutting city boundaries and direct cities to annex said rights-of-way to assume maintenance responsibilities.
- The subject rights-of-way that are requested to be annexed are:
  - Rock Rd. from Freedom St. to a point 1/2 mile north of the 55th St. South intersection.
  - 55th St. South from the Rock Rd. intersection to a point 1/2 mile east of the intersection.

- The attached location map identifies the subject rights-of-way in red, yellow, blue, and purple.
- It was anticipated that these rights-of-way would be annexed due to the City's continued growth to the north.
  - The subject rights-of-way are adjacent to and will serve the future Sky Ridge and Greenwood Village developments along with the newly annexed property at the northwest corner of 55th St. South and Rock Rd.
- Improvements to Rock Rd. and 55th St. South are currently in design and being reviewed by City Engineering staff.
- Improvements include bringing Rock Rd. to an urban standard with curbs and gutters, widening to five lanes to match the existing sections in Derby city limits, and installing a permanent traffic signal at the Rock Rd. and 55th St. South intersection.
- Improvements to 55th St. South are also planned by bringing it to an urban standard approximately 1/4 mile east of the intersection and 1,000 ft. west of the intersection.

#### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Following annexation, the City will assume responsibility for maintenance of approximately 1 mile of Rock Rd. and 1/2 mile of 55th St. South.

#### **RECOMMENDED MOTION**

- Adopt an ordinance annexing the described portions of Rock Rd. and 55th Street South rights-of-way into the Derby city limits.

#### **7.6 Island Annexation: Pleasantview Baptist Property on East 63rd. St. South**

#### **BACKGROUND:**

**General Location:** South of East 63rd St. South, 3/4 mile east of Rock Rd. intersection, northwest of Courtyards at Crosswater (Location Map Attached)

**Applicant:** Pleasantview Baptist Church (Property Owner)

**Reason for Request:** Complete the annexation process of a 39.27-acre tract of land not adjoining the city limits per K.S.A. 12-520c.

#### **Background Information:**

- The owner of the subject property, Pleasantview Baptist Church, has submitted a request for annexation by consent to annex the undeveloped property south of East 63rd St. South (Patriot Ave.), approximately 3/4 mile east of the Rock Rd./Patriot Ave. intersection.
- The property does not directly adjoin the primary corporate limits of the City of Derby and is therefore considered an "island annexation."
  - The applicant has indicated the intent for the property is to develop a future church on a portion of the property and have the

- remainder developed as residential and commercial development.
- K.S.A. 12-520c requires the governing body of the city considering an island annexation to adopt a resolution requesting the Sedgwick County Board of County Commissioners (BOCC) to make a finding that the annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the County.
  - The City Council adopted Resolution No. 23-2024 on October 22, 2024, requesting the BOCC make the requested finding.
  - The BOCC considered the request on November 13, 2024, and unanimously adopted Resolution No. 234-2024 (attached), determining that the annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city.
- The final step is for the City Council to adopt an ordinance annexing the property into the corporate limits of the City.

#### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Extension of municipal service to serve any future development on the property will be in accordance with the City's policy on Municipal Financing of Public Improvements (Resolution 09-2023).
- Because the property is currently classified as an agricultural use, initial tax revenue to the City will be minimal. Preliminary estimates indicate that the City will receive approximately \$86 annually in property taxes upon annexation. Tax revenue may change if the property is developed, dependent on the future land use(s).

#### **LEGAL CONSIDERATIONS:**

- With the adoptions of the City's Resolution No. 23-2024 and the County's Resolution No. 234-2024, the requirements of K.S.A. 12-520c have been satisfied.
- The road right-of-way of 63rd St. South adjacent to the subject property will not be annexed as part of this annexation and will remain within unincorporated Sedgwick County.
- At least 60 days prior to the effective date of an annexation, K.S.A. 12-539 requires the City to provide written notice to the rural water district in whose territory the land or any portion thereof is located.
  - The City sent a letter to Rural Water District #3 on October 23, 2024, indicating its intent to consider annexation of the property and provide water service.
  - Additional discussions with RWD3 will take place at the time the property is platted.
- Upon annexation and in accordance with the Zoning Regulations, the subject property will be incorporated into the city as a R-1A "Urban Density Residential" zoned district as requested by the property owner.

#### **POLICY IMPLICATIONS:**

- The property is located within the City's growth area as identified in the Vision Derby 2040 Comprehensive Plan.
- The Future Land Use Map of the comprehensive plan identifies the subject property as suitable for Low-Density, Medium-Density Residential, and Mixed-Use development.
  - As currently intended, the future uses of the property as a place of worship, residential use, and commercial uses are compatible with the comprehensive plan.
- If the property owner proceeds with any development of the property, it will be required to be platted, and a zone change(s) may be necessary to facilitate construction of a place of worship and commercial development.

### **RECOMMENDED MOTION**

- Adopt an ordinance annexing the subject property into the limits and boundaries of the City of Derby.

## **7.7 Purchase of Parks Mowers**

### **BACKGROUND:**

- The 2025 equipment replacement budget has \$60,375 for the acquisition of four replacement mowers.
  - Three Grasshopper SO26 mowers and one Hustler Super Z 104 mower.
- Bid specifications were developed and posted on the City's website for two weeks and known vendors were contacted and informed of the posting.
- Bids were received from five vendors. Bid results are listed below.

The results for mower bid #1:

<u>Company</u>	<u>Make</u>	<u>Model</u>	<u>Met Specs</u>	<u>Trade Value</u>	<u>Total Bid Price</u>
CSTK	Grasshopper	SO 26	Yes	\$7,000	\$25,741.40
Maximum Outdoor Equipment All	Grasshopper	SO 26	Yes	\$4,500	\$27,473.40
Elements Auto & Marine	Hustler	S 52	No	\$2,000	\$28,896.85
White Star Machinery	Bobcat	ZS 4000	No	\$3,800	\$27,344
Kansas Golf & Turf	No Bid				

The results for mower bid #2:

<u>Company</u>	<u>Make</u>	<u>Model</u>	<u>Met Specs</u>	<u>Trade Value</u>	<u>Total Bid Price</u>

All Elements Auto & Marine	Hustler	Super Z 104	Yes	\$5,000	\$22,372.72
Kansas Golf and Turf	Hustler	Super Z 104	Yes	\$2,750	\$25,453.28
CSTK	No Bid				
Maximum Outdoor Equipment	No Bid				
White Star Machinery	No Bid				

### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Bid Board reviewed and recommend approval of the lowest bids received.
- Total purchase price for this year's mowers equals \$48,114.12.
  - That amount is \$12,260.88 below budget.
- Mowers will be paid for using Derby Difference Sales Tax Funds.

### **RECOMMENDED MOTION**

- Approve the purchase of 2025 replacement mowers from CSTK and All Elements Auto & Marine in the amount of \$48,114.12.

**Nick Engle moved, seconded by Rick Coleman, to approve the Consent Agenda, as presented.**

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

## **8 NEW BUSINESS**

### **8.1 Schedule City Council Special Meetings for 2025**

**Kiel Mangus, City Manager**, gave the agenda report.

#### **BACKGROUND:**

- A review of the 2025 calendar of regular meetings of the City Council on the second and fourth Tuesdays indicates two holiday conflicts.
  - November 11, 2025 is Veterans Day. An alternate date of Monday, November 10, 2025 is proposed.
  - Historically, the second meeting in December has often been canceled when it falls on or near the Christmas holiday. In 2025, this date is December 23 and cancellation is proposed.
- Two City Council workshops are proposed for Wednesday, May 21 and Tuesday, June 10 to hear from departments and to discuss budget issues

for 2026 and the five-year capital improvement and equipment plans. The regular City Council meeting scheduled for June 10 would be canceled.

#### **LEGAL CONSIDERATIONS:**

- The City Council has the authority to set its meeting schedule. Staff will communicate to the public the altered calendar of meetings.

#### **RECOMMENDED MOTION**

- Move the November 11, 2025 City Council meeting to Monday, November 10; Cancel the June 10 and December 23, 2025 regular City Council meetings; and Schedule budget workshops for May 21 and June 10, 2025.

**Nick Engle moved, seconded by Jenny Webster, to move the November 11, 2025 City Council meeting to Monday, November 10; cancel the June 10 and December 23, 2025 regular City Council meetings; and schedule budget workshops for May 21 and June 10, 2025.**

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

#### **8.2 North Interceptor Sewer Construction Contract**

**Alex Lane, City Engineer,** gave the agenda report.

#### **BACKGROUND:**

- Multiple phases of sanitary sewer extensions are required on the east side of Derby to serve new developments including the STAR bond district at Tall Tree Rd. and Amber Ridge St. as well as proposed developments along north Rock Rd. at 55th St.
- The required sanitary sewer improvements were divided into three distinct projects based on funding mechanisms and type of work required.
- The first project, the North Interceptor, is a sanitary sewer extension required to serve proposed developments north of Patriot Ave. along the east side of Rock Rd. extending just past 55th St.
  - The project directly serves the Sky Ridge and Greenwood Village developments, totaling approximately 280 acres, as well as an additional 200 acres that may request service in the future.
- The second project is a proposed lift station and gravity sewer in the STAR Bond district makes it possible to extend sewer north to serve the active developments.
- The third and final project is a force main that will connect the STAR bond lift station to the existing sanitary sewer interceptor just south of Madison Ave. at High Park.
  - All 3 projects are illustrated on the attached map.
- Due to recent updates to the City Public Improvement Finance Policy, the Sky Ridge and the Greenwood Village developments will participate in

financing a portion of the design and construction of the north interceptor sewer.

- The updated policy provides for the adjacent properties benefitting from the improvements to be assessed for 25% of the project costs commensurate with their portion of the overall tributary area.
- The City will require petitions to recover a portion of the costs as properties in the service area are platted for development.
- Baughman Co. was selected for the design of the portion of sanitary sewer interceptor from Patriot Ave. to 55th St. in June 2023.
- The design is complete, possible bidders were notified and the project was bid on December 17, 2024 with the following results:

<u>Contractor</u>	<u>Bid Amount</u>
Dondlinger & Sons	\$1,756,303.00
Nowak Construction	\$1,872,601.30
Mies Construction	\$1,702,731.00
<i>Engineers Estimate*</i>	<i>\$1,780,912.50</i>

\* Estimate prepared by Baughman Co.

- The lowest responsible bidder was Mies Construction with a total bid of \$1,702,731. The City has worked with Mies in the past and recommends approval of the low bid from them.

#### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- The construction of the north interceptor sewer will be financed by G.O. bonds for the initial construction with 6.5% of the costs assessed to the Sky Ridge Addition.
  - Future properties served by the interceptor will be required to pay an additional 18.5% of the costs as they develop, with the most immediate development likely to occur next being Greenwood Village.
- The Capital Improvement Plan includes \$2.4 million for construction of the north area interceptor improvements.

#### **LEGAL CONSIDERATIONS:**

- The construction contract utilizes standard Planning and Engineering documents that have been reviewed and approved by the City Attorney.
- Two easements required to construct the project have not yet been received but have been negotiated and are expected in the near future.

#### **RECOMMENDED MOTION**

- Authorize a contract in the amount of \$1,702,734 with Mies Construction for construction of the north interceptor sewer project.

**Kiel Mangus, City Manager**, explained an interceptor is gravity-driven, so it has to go very wide and deep in order to create flow; whereas a force main is a pressurized line, so it does not need to be as deep or wide, having less impact on the surrounding property during construction. You'll see as we get closer to High Park and developed residential areas, it switches to the force main because it is

not as impactful and doesn't need gravity fall. Both of these plus a lift station are part of this overall sewer project, but the piece we are looking at tonight is the interceptor.

**Council Member Chris Unkel** said the report shows this will serve the Skyridge and Greenwood Village developments. Will it also serve the recently annexed site near 55th and Rock Rd.?

**Alex Lane, City Engineer**, said no. It will only serve properties to the east of Rock Rd. We are still working out a route to tie in the NW corner of 55th and Rock to the existing lines around Stone Creek.

**Mr. Mangus** stated we face challenges to the east and to the west. There will not be as many developments still coming to the west because we quickly run into McConnell Air Force Base. With more development coming to the east and north, we do plan eventually to have a second treatment plant in the north area. That is several years away still, but we do anticipate the need and are planning for it.

**Mr. Unkel** said it seems it would be a much shorter, easier route to connect to this line rather than attempting to go backward to near Stone Creek. Why can't we do that?

**Mr. Lane** added the main issue is capacity. We have 10-inch and 12-inch pipes, and you can't fit a big pipe into a small pipe.

**Mr. Unkel** asked what is the expected timeframe for completion of this part?

**Mr. Lane** replied we hope to be finished by the end of 2025. This project is not nearly as weather-dependent as some other ones, so it should be able to start early in the spring.

**Mr. Unkel** said nothing can start in Sky Ridge or Greenwood Village until this infrastructure is in place, so how long for the whole project to be completed?

**Mr. Lane** said it depends somewhat on grading needed in the STAR Bond District. Our bidding for the lift station is next week, and we hope to start work on that early in the summer.

**Mr. Mangus** noted we've been pushing for the grading within the STAR Bond District for a while because we need that for the elevation of the sewer. There's kind of a domino effect on this whole projects. In order for us to proceed with sewer in the blue portion of the map we need the grading and drainage done, and in the green section shown on the map, we are still needing to acquire some property for easements. We have obtained a lot of it, but there are still a few smaller pieces needed.

**Mr. Lane** clarified the plan has always been to finish all three portions of the project by the end of 2025, but we are still trying to finalize a few things to be able to keep to that schedule.

**Mr. Unkel** asked could those easements go into eminent domain, if needed?

**Mr. Mangus** said they could, but that would definitely be a last resort. We are following property lines for the most part, and there are no full takings as we had when working out the K-15 properties. At this point, I believe we just need to come to terms and agree on a price; I don't believe eminent domain will be necessary.

**Mr. Unkel** said Meadowlark Landing is going in south of St. Mary's. While they were in construction for their infrastructure, did the City go in at the same time to get our part put in, or will we need to go back in later to add it?

**Mr. Lane** said their work is going to be underneath ours, so it made sense to let them complete work first. We already have the easement; we made sure of that when platting took place. We do have an add-alternate for a temporary lift station, if we need it. At this point, Sky Ridge will not be producing an amount of flow that would require the bigger, full project, so a temporary will suffice if it needs to.

**Mr. Unkel** commented there certainly are many challenges with new developments, but you do a great job in facing them and planning for how we can address them. Thank you for all the efforts, including having an alternate plan ready if it is needed. Keep up the good work.

**Chris Unkel moved, seconded by Wayne Molt, Jr., to authorize a contract in the amount of \$1,702,734 with Mies Construction for construction of the north interceptor sewer project.**

**Council Member Elizabeth Stanton** said with all the bids fairly close, is there any reason other than the lowest price that this contractor was chosen?

**Mr. Lane** replied we typically go with the lowest, responsible bidder on utility projects. We have worked with all the companies that bid on this and would be very comfortable going with any one of them.

**Mr. Mangus** said the policy is written in a way such that if we got a bid that was incredibly low from an unknown company, we could exclude that from the process. When we are looking at utility projects, there really are only a few companies that specialize in them and they are all ones we have good history working with.

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

### **8.3 Updates to Municipal Code regarding Special Purpose Vehicles**

**Hannah Baker, Assistant to the City Manager,** gave the agenda report.

#### **BACKGROUND:**

- A current Council priority is to consider revisions to code language surrounding Special Purpose Vehicles, which include golf carts, micro utility vehicles, and worksite utility vehicles.
  - In 2023, Council expanded the regulations surrounding golf carts and allowed them to be driven citywide on streets with speed limits 30 mph or lower.
- Other special purpose vehicles, micro utility trucks, and worksite utility vehicles, are addressed in our code, and are permitted on streets having speed limits less than 30 mph, but the language requires clarification.
- Over time the types and definitions of these vehicles have changed creating confusion over what is allowed or not, and where.
- Two proposed options are presented to update the code language:
  - The first option would update the code to **disallow** special purpose vehicles, except for golf carts, on streets in the city.
    - This proposal would continue to allow worksite utility vehicles on streets and roads if they are being used for agricultural purposes.
  - The second option would clarify the existing code language regarding special purpose vehicles and **allow** certain types (UTVs or side-by-sides) on limited city streets and define requirements to operate those locally in a manner similar to golf carts.
- The draft ordinance changes propose the following updates regarding special purpose vehicle operations:
  - Updates the definition of Special Purpose Vehicles to add Utility Terrain Vehicles (UTV) to the current definition, which includes golf carts, worksite utility vehicles, and micro utility trucks.
  - Creates a definition for UTVs, these vehicles are often called side-by-sides, recreational off-highway vehicles, and worksite utility vehicles.
  - Clarifies that special purpose vehicles are permitted on streets or roadways with speed limits of 30 mph or less and may cross streets with the same restrictions as golf carts.
  - Prohibits special purpose vehicles from driving on sidewalks, trails, or other pedestrian traffic areas.
  - Clarifies that special purpose vehicles require a licensed driver, liability insurance coverage, and annual registration with the Derby Police Department.
  - Limits the number of passengers in a special purpose vehicle to the number of manufacturer-installed seats.
  - Requires seatbelts be used in all special purpose vehicles originally equipped with them.
- This new proposal maintains the following regarding special purpose vehicles:

- License and insurance requirement
  - Registration requirement
  - Allows those using a worksite utility vehicle for agricultural purposes to utilize them on higher speed roads.
- City Council considered a first reading of these ordinance changes on November 26 and gave feedback and were hopeful to receive more feedback from the public.
- The City conducted a non-scientific survey from December 11- January 2. The survey was hosted on the City website and shared on social media outlets. Results are as follows:
  - 127 responses were received between the online survey and calls to City Hall
  - 75 responses, or about 60% opposed allowing these types of vehicles on City streets.
  - 51 responses, or about 40% supported allowing these types of vehicles on certain City streets.
  - This was not a scientific survey, and it was possible for more than one response to be submitted by the same person online.
  - Of the 51 responses in favor of allowing UTVs, 29 responses indicated they either owned a UTV already or were planning to purchase one.
  - Of the 75 responses opposing these types of vehicles, 10 respondents indicated they already owned UTVs but opposed allowing them on City streets.
- The survey contained one short answer question asking respondents to identify their main concerns about these UTV's on city streets. Below is a short summary of the main concerns mentioned:
  - Dangerous speed on streets to cars and pedestrians
  - Underage drivers
  - Noise
  - Higher risk of accidents
  - Lack of safety equipment
  - Not being able to see them from a vehicle
  - Inattentive Drivers
- The Derby Informer also hosted a non-scientific poll on their website and pushed it out several times after the November 26 Council Meeting. The Derby Informer poll was a yes/no question regarding whether you support UTV vehicles on certain City streets or not.
  - The poll had 442 respondents. 300 (67.8%) said no UTV's should not be allowed on City streets and 142 (32.2%) said yes UTV's should be allowed.
- One question further researched was the possibility and process of making these types of vehicles street legal, and plated.
  - Staff contacted the Kansas Department of Revenue and found that per K.S.A. 8-127 to register a motor vehicle, the vehicle must be "intended to be operated on any highway in this state".
  - These vehicles are not intended to be operated on the highways and therefore cannot be plated in Kansas.

- We did find out some residents have plated their UTV in Oklahoma because Oklahoma passed a state law in 2021 making UTV's street legal there with certain requirements.

### **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Staff anticipates that updating the code to clarify allowing certain special purpose vehicles will generate more permit registrations which will slightly increase police inspection time.
- All special purpose vehicles are required to be registered annually with the police department and to display the annual registration decal in a location clearly visible from the rear of the vehicle. The annual registration fee is \$25.

### **LEGAL CONSIDERATIONS:**

- Updating the City Code to clarify the ways these vehicles can be legally operated on City streets and roads will result in less confusion and more efficient enforcement.
- These updates attempt to address safety, registration, licensure, and insurance requirements in a way that adheres to public safety priorities.

### **POLICY IMPLICATIONS:**

- Updating the municipal code will give a better understanding of the rules and limitations of special purpose vehicles.
- Increased usage of special purpose vehicles on City streets could lead to more accidents or safety concerns between special purpose vehicles and pedestrians/cars
- Updating the municipal code will better clarify requirements and allow for improved enforcement by the Derby Police Department.
- Cities in Kansas handle special purpose vehicles in various ways.
  - Wichita, Leawood, Hutchinson, Junction City, and several others do not permit these types of vehicles to be driven on city streets and roads for recreational use.
  - Some cities, like Leavenworth, Liberal, and Olathe, only permit them to be used for agricultural purposes.
  - Andover, Garden City, Lenexa, Mulvane, and Rose Hill all allow certain special purpose vehicles on their streets in some recreational capacity.

### **RECOMMENDED MOTION**

- Two options are available to the Council:
1. Adopt an ordinance amending the municipal code concerning special purpose vehicles **to disallow** UTVs or Micro Utility Trucks as proposed.  
**OR**
  2. Adopt an ordinance amending the municipal code concerning special purpose vehicles **to allow** UTVs and Micro Utility Trucks as proposed.

**Council Member Wayne Molt, Jr.** commended Ms. Baker for her work in researching and presenting the item to Council. I've done quite a bit of research on this myself since it was first discussed. We already allow golf carts, so why would this be different? Well, because UTVs are very different from a golf cart. They are faster, more powerful, and made for off-road use. I realize the polls conducted by the City and *The Informer* were not scientific polls, but we do need to listen to what our residents want. In addition, I have had several interactions with constituents on this topic. From both the polls and my personal contacts, many more people are against allowing these on our streets. Most of the "yes" comments and reasoning, the main response seemed to be that they don't want the government to tell them what to do. Of the concerns shared by those giving a "no" response, however, there were a variety of reasons: noise, traffic congestion, danger, and abuse of usage particularly by those too young to be driving them. Just last evening I had two separate conversations regarding witnessing someone using their UTV to pull kids on an innertube through the snowy streets. I also have a close relationship with a law enforcement officer in a different community, so I asked him for his thoughts. He replied that originally he was 100% against the idea, but later began to change his stance, kind of like we had a change of view once we starting having golf carts used without incident. He is from a much smaller community, however, so it is not quite an even comparison with Derby's situation. From the feedback I have received from the people I was elected to serve I am going to vote against allowing UTVs on Derby's streets. As we look at the huge growth in population we have experienced over the last decade and all the expected growth and development being planned for, it is quite probable that Derby will be reach 35,000 within the next 15 years. With such continued growth, areas of allowable use would be further restricted and could cause even more problems.

**Wayne Molt, Jr. moved, seconded by Nick Engle, to adopt an ordinance amending the municipal code concerning special purpose vehicles to disallow UTVs or Micro Utility Trucks as proposed.**

**Council Member Chris Unkel** said I have a lot of thoughts to share, but all are in a similar direction. First, if we decide how to govern based upon a survey, we are setting bad precedent. The survey, admittedly, was not scientific, had very few respondents, and was conducted during a holiday timeframe when several people may be out of town or not as engaged in community matters. No such survey was conducted before Council voted on allowing golf carts to be on streets. In regard to complaints involving golf cart usage, 90% of them are about kids driving them. So, perhaps as a Council, if we are going to vote against UTVs we should also revoke the allowance of golf carts, too. I don't believe we can have one and not the other. As far as safety goes, a minor could also take the keys to my car and drive it, or get in a golf cart and tip it over. A minor could attach a rope to the back of a golf cart and pull their friends in the snow; I've witnessed that several times this week. A Tesla goes from 0 to 100 in around 3 seconds; it could travel from Chet Smith to Woodlawn at a rate of 150 mph and harming others. So, "safety" as a reason to vote against UTVs doesn't make sense to me. We originally got into the golf cart discussion because one HOA in Derby allowed them and it was unfair that those who lived elsewhere could not

use them. Therefore, Council voted to allow golf carts throughout the City on streets 30 mph or less. That was nearly 2 years ago and we really haven't had any problems. When we voted on that, we didn't know if the public was in favor or not. I feel this survey is kind of like reading Derby Chatter; you're going to see lots of complaints. Those who do not have golf carts are against their use, but those who have them want to drive them more places. Cedar Ranch has more of a country feel than some other neighborhoods. At any time, their HOA could decide they are going to allow UTVs, and then we are back to the issue of one neighborhood can, but others cannot.

**Kiel Mangus, City Manager**, clarified without Council changing our city code to allow these kinds of vehicles (UTVs), no HOA can allow them because those are City streets. Municipal code applies to all streets. Also, I want to point out golf carts did not start out in just one HOA. They were initially allowed in areas adjacent to the golf course, so that encompassed a few different HOAs. Originally city code allowed someone to drive their cart to and from the golf course only. Over time, people wanted to use their carts to also drive to friends' houses and other destinations within their neighborhood, so we looked at expanding the use. An HOA could vote to have stricter rules and disallow something the City allows, but it cannot override the City by allowing something our code prohibits.

**Jacque Butler, City Attorney**, explained just as an HOA can implement more restrictive rules about parking on the street and the like, they can investigate whether or not they wish to have different standards than the City at-large. Those do not become a City enforcement responsibility, however.

**Mr. Unkel** thanked them both for helping clarify the matter. We could approve their use tonight, and if anyone on the bench is so against having UTVs on the streets, we could do it as a trial for 12 or 18 months to bring back again. What would be the harm? These vehicles are quite expensive, so having more of them could really boost sales tax for Derby.

**Mr. Mangus** stated sales tax for a non-tagged vehicle would not come to Derby, other than our usual portion of the County-wide tax.

**Mr. Unkel** said it seems whenever I buy a high-dollar item, they ask for my zip code and that adds in the Derby tax. Wouldn't that apply to these as well?

**Ms. Butler** added the use tax on larger items can sometimes be added in, but it depends on how it is purchased. That is sometimes the case when you make a purchase online. When you buy a car in Wichita, you pay the point-of-sale tax but then when you tag it, the additional Derby tax is applied. Since these vehicles are not tagged, the additional Derby tax is not collected.

**Council President Nick Engle** said Mr. Molt covered much of what I have been thinking on this item, so I will be brief. I always try to start at a point of yes and work from there. The fact is there is a significant difference in types of vehicles between a golf cart and a UTV. If you are in a golf cart which tops out at maybe

20 mph, you're not likely to jump onto Rock Rd. or K-15; it would be terrifying. However, if you have a powerful UTV with the capability to go 50-plus mph, you might be tempted to do so. That would create additional problems for our law enforcement as well as visibility and safety for other drivers. I agree with Mr. Unkel about the nature of complaints shared in the survey. Noise seemed to be a big one, but everything I've found says these are a little less loud than a motorcycle or large truck. On safety, these are probably safer than a motorcycle, but they are not consistent. They are designed to be off-road vehicles. They will still be allowed to be used for agricultural purposes as necessary. In 10, 15, or even 50 years, are we as a City moving to be more agriculturally-focused or urban-focused? The difference in my mind is stark enough between golf carts and the UTVs that allowing them does not make sense for Derby.

**Council Member Elizabeth Stanton** said on the matter of UTVs, I feel I've gotten no real substantial input from residents one way or the other. As a Council, we need to use our best judgement when voting on items like this. As far as the concerns about children driving around on them, that is a parental issue. We are not the safety police; that is not our job. As a society, parents need to step up and protect their children by helping them understand and follow the rules. We have not gotten any golf cart complaints, so I'm not sure where the comments in the survey are coming from. About two years ago, in my own neighborhood, there were a couple of young girls zipping around on a UTV. My husband went out, stopped them, and had them call their father. Dad told them to get home right away, and it has never been a problem since. I think government needs to stay out of the home and not worry about what the kids are doing. I feel bad about not allowing this to go through, when it really should be about the personal responsibility of each party to follow the rules, do what's right, and be safe. I honestly could go either way on this, but do feel more responsibility needs to be placed on the individual and the home.

**Mr. Mangus** thanked everyone for their comments and agreed we have not had any complaints or issues with allowing golf carts. I want to point out the survey was created based upon feedback during the first reading of this item in November; the Council asked for community input. *The Informer* had 442 responses, which is more than we got on the Derby Difference Sales Tax survey. Of the 127 City survey responses, approximately 90 of them came within the first 48 hours. Over next 2-3 weeks, responses slowed down a lot. About a week after it went out, within a 15-minute period we received 12 or 15 "yes" votes right in a row, so it appears possibly one individual submitted all of those, but we have no way of knowing. Again, this was not a scientifically valid survey, but it does help us get a feel for what people are thinking. I agree, Ms. Stanton, that you should not just rely on surveys, we are a representative democracy. You are elected to represent your Ward and the people who voted for you; each Council member needs to vote their conscience about what will be best for those they represent. While I agree people need to take individual and parental responsibility, but as government we do have a part to play when it comes to enforcement by our police officers. They were not in favor of golf carts, but our Police Chief will admit we have not had many issues since allowing them. In discussions with Chief about UTVs, he feels enforcement might be a bit more difficult due to their

capability and speed, but if Council wants to go forward and allow them, we would want them to have the same rules as golf carts. This would allow clear lines for officers to follow related to all special vehicles.

**Council Member Rick Coleman** said I have had people reach out to me in favor of allowing UTVs. To Mr. Engle's example that someone might be tempted to drive a UTV on Rock Rd. because it can go fast, what stops someone from getting behind the wheel of their car while intoxicated? We have a law against it, so based on what someone might do or the choice they might make, should we also outlaw alcohol sales in Derby? I'm for less government control and think we should allow UTVs where golf carts are allowed. Yes, there might be a 12-year-old driving one at some point, but I'm in favor of letting people use their property. The less we as the government get involved, the better.

**Council Member Kristi Truitt** admitted, I do not know a lot about UTVs. What I do know is if someone is driving a golf cart, they are usually trying to get to a place where they can golf.

**Mr. Mangus** said before we opened up the use of golf carts in Derby, that was the case. Now, there is a lot of recreational driving of golf carts as well, like for visiting a friend's house or getting around for trick-or-treating on Halloween.

**Ms. Truitt** agreed I do see them being used for such non-golfing purposes as well. Since Derby does offer a golf course, though, it makes sense to create an easier way for them to get to the course, rather than having to trailer their cart across town. My question about UTVs is, what is the purpose or destination? There isn't anywhere in Derby they could be driven to be used for recreational off-roading. It is not allowed in any of our parks or public properties. My friends who do own them have told me they would never want to just use their UTV to drive around town because they are so noisy; they'd rather just take their car. I'm open to hearing a "why" but so far I haven't.

**Council Member Jenny Webster** asked Ms. Baker to pull up the slide which showed various types of vehicles. I look at these and see vehicles that have seatbelts, usually 5-point harnesses, and even rollbars. To me, these seem safer than a golf cart, even if they can go faster. I've been kind of on the fence about this issue. Ms. Truitt asked where will people be going in these, but it could be anywhere, just as an alternative vehicle. People do buy these for use in the mountains or on large properties, but I feel they should also be able to use them in town, rather than having to buy another type of recreational vehicle, like a golf cart, to do so. I don't think I would get in a side-by-side to go around town, but that doesn't mean those who want that flexibility to use a UTV shouldn't be able to do so. The survey has pros and cons, but it was a nice additional way to hear from people. I wish some had come to our meeting to speak at Public Forum so we could hear from them directly. At this point, I am leaning toward Option #2, to allow UTVs.

**Mr. Coleman** asked Council to remember we have had people come to us asking for alternate transportation choices in Derby, such as our walking and bike paths, scooters, and golf carts. This would just be one more option open to them. If someone has already spent \$40,000 on a UTV, we are telling them they now need to spend another \$20,000 on a golf cart for a recreational vehicle they can drive on the streets. The more transportation choices we allow, I think the better it is for our community.

**Council Member Mike Neel** said I appreciate everyone in the community who took the time to talk with each of us about this or to participate in the survey. From my interactions, whether they were in-person, via email, Facebook, or on the phone, most people I talked to were against allowing UTVs on streets. I do not want to infringe on anyone's right to do what they want to do; just as other members have stated. However, I am not in favor of allowing UTVs on Derby's streets.

**Ms. Webster** said as Mr. Unkel suggested, we could allow them and try it for 12 to 18 months and always come back and change it if we need to. We did a trial of the Bird Scooters, which we all thought was crazy and it didn't work out, so it went away. Why not do a similar trial run with UTVs?

**Mr. Mangus** pointed out a difference between this and the Bird Scooters was the scooters are allowed through the State traffic ordinance already, those types of vehicles were never not allowed. In order to allow UTVs, we would have to change the City code. If we do that, we would need to change code again if we decided later to go back to not allowing them. There isn't any set timeframe we need to add into the motion, but we would want to market it to the public that we are just allowing them on a temporary basis to see how it goes. We wouldn't want anyone to go out and purchase one because we are doing a trial run; we'd want to be up-front that it is a trial.

**Ms. Butler** clarified with the Bird Scooters we had a contract for a pilot program which specified the time-frame for the trial. On something like this, which is actually changing code, we would not be bound by a certain time limit beyond making it clear to the public it may be temporary. Council could at any time request it be brought back for a vote to change or disallow UTVs again.

**Mr. Mangus** thanked Ms. Butler for reminding us of the scooter situation. Scooters were already allowed, and they are still. The pilot program with that was to allow this company to come in and provide these around town by leaving them in our right-of-way.

**Mr. Unkel** said I appreciate everyone sharing their thoughts and relaying what they have heard from our residents. We have had a good conversation with lots of valid points shared. One of the yes vote comments from the survey reads, "These should be allowed on any street as they go 50 mph. We should not be restricted, like a golf cart." I tend to agree. I think if they've invested money in one of these, they should be allowed to use them. As Ms. Webster said, the safety

side is there, possibly even more than a car. A car colliding into a UTV is not going to be as damaging as a car colliding with a motorcycle, which is much more unsafe. I would not have a problem allowing UTVs on all streets, even Rock Rd. Ms. Truitt asked what is the "why"; because someone spent money on it. Personally, I think my golf cart is very unsafe. When it's just me, I'm fine with it, but when I have my 5- and 3-year-old with me, I get really nervous because it does not have seatbelts. That does not make me wish Council had not allowed them; I am glad we did.

**Mayor Mark Staats** said I love the discussion we have had tonight. The conversation has been respectful and allowed everyone to share their view; this is how it should work. I was not on Council when golf carts were voted upon, and I was rather skeptical when it passed. However, I have honestly not seen any problems arise from allowing them to be more widely used. When we talk about UTVs, though, just the power they have makes them more dangerous. Speed kills. I know many include 5-point harnesses and rollbars, but I don't think that makes them safe for street use.

**Mr. Mangus** noted they have the 5-point harness specifically in case you roll the vehicle while off-roading. The harness is not made for protection against collision with another vehicle of any sort. In a clash between a car and a UTV, the car will always win. This is the concern we have, particularly on Rock Rd. or K-15, where the majority of our accidents occur.

**Mayor Staats** continued, as Ms. Truitt stated earlier, when you see a golf cart, many times it is because it is on the way to the golf course, although they are used for other recreational uses. A UTV would be being used just as a means of transportation, not as a way to reach a recreational destination where they can be used. There is no legal area for them to reach by driving on Derby's streets. As I drove our streets on Sunday, checking on weather conditions, I saw a UTV on the lot north of the Library tearing through the snow and damaging property. If this is already happening, will it get even worse when we allow UTVs on our streets? I feel these vehicles are a safety risk for other drivers, not just the driver of the UTV. They have a high center of gravity which causes them to roll easily; hitting a pothole or curb could destabilize them. I agree with Ms. Stanton about personal and parental responsibility needing to increase relating to following the rules. UTVs are significantly louder than most vehicles, but similar to motorcycles. I found records of serious accidents involving UTVs or similar vehicles by doing a simple search. In Kansas City, an ATV collided with a moving ambulance, resulting in the death of the driver. This past September in Hoisington, a UTV with 4 on-board lost control and overturned on a rural road, critically injuring 3 of the 4. In Connecticut in October of 2024, a firefighter died when the UTV he was operating in response to a brush fire flipped over. These are just a few examples of the hazards of these vehicles, whether on or off road. As we continue to grow and become a more urban setting, it does not make sense to allow UTVs. I do not usually vote, but if called upon to break a tie, I will vote against allowing them.

**Mr. Mangus** said it seems everyone is ready to vote. I do not know how this will go, but if we do vote to allow UTVs, Mr. Unkel brought up the idea of these being allowed on a trial basis. I need to know with a yes vote, if that is how we want to move forward, just so we can prepare to market it as a trial run, or just have it as passed and settled?

**Mayor Staats** clarified the current motion before us is on Option #1, to disallow UTVs on streets, so we'd need to see how that vote goes. My opinion on the idea of a trial basis is, what is the benchmark? What would it take to decide the trial is not working? Would it be records from our PD, complaints to City Hall, accidents, or what? I think we should go all-in or not-at-all in, but it is up to the Council, not me. I think each person up here would have a different idea of where that line is.

**Mr. Mangus** followed up, saying I guess I jumped the gun a bit. I was just looking ahead in case the vote is to allow UTVs, what would that mean on how we handle messaging. Thank you for clarifying that is not the current motion being considered.

**Mr. Engle** thanked staff, Ms. Baker in particular, for all the time and research put into this, allowing the Council to make a well-informed decision.

**Ms. Stanton** agreed with Mayor that tonight's conversation has been really good. Ms. Truitt's point about "what is the destination?" has me thinking in a direction I had not previously considered. Golf carts are made, and in some communities even encouraged, to be driven on streets. That's really not the case with the off-roading vehicles.

**Mr. Unkel** replied to the threshold question, there really is no threshold. We would need to look at the information brought to us and decide whether or not to continue allowing them. I don't think there is a certain line or threshold to be met. Regarding the comments these are not made to be on streets, USD 260 and our own Public Works have them on our streets already. We've all seen them. Maybe we should start requiring those to be trailered to their destination for mowing or other tasks.

**Mr. Mangus** said we do have some of these types of vehicles in our public works fleet. When we say they aren't meant to go on streets, we mean these are not legal to plate and drive on streets. There are exceptions for governmental use, parades and agricultural use. We are using them for work purposes as a City.

**Mr. Unkel** said to that point, what if a 16-year-old kid wants to start a mowing business and use one of these to get from customer to customer because he's seen the City workers doing it? He cannot use it for work purposes, but the City employees can. That doesn't seem fair.

<b>RESULT:</b>	<b>Carried</b>
<b>MOVER:</b>	Wayne Molt, Jr.
<b>SECONDER:</b>	Nick Engle
<b>AYES:</b>	Kristi Truitt, Mike Neel, Nick Engle, Mark Staats, and Wayne Molt, Jr.

**NAYS:** Elizabeth Stanton, Jenny Webster, Rick Coleman, and Chris Unkel

## 9 ADJOURNMENT

**Jenny Webster moved, seconded by Nick Engle, to adjourn the meeting at 8:00 p.m.**

**RESULT:** **Carried**

**MOVER:** Jenny Webster

**SECONDER:** Nick Engle

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

City Clerk

Mayor

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