



# MINUTES

## City Council Meeting

6:30 PM - Tuesday, September 9, 2025  
Council Room

### 1 CALL MEETING TO ORDER

The Council meeting was called to order on September 9, 2025, at 6:30 p.m. in the Council Room.

### 2 FLAG SALUTE

Council President Nick Engle led the flag salute.

### 3 INVOCATION

Tanner Buffington, Life.Church, gave the invocation.

### 4 ROLL CALL

<b>PRESENT:</b>	Council Member Kristi Truitt Council Member Mike Neel Council President Nick Engle Mayor Mark Staats Council Member Jenny Webster Council Member Rick Coleman Council Member Wayne Molt, Jr. Council Member Larry Gould
<b>ABSENT:</b>	Council Member Elizabeth Stanton

### 5 ACCEPTANCE OF AGENDA

#### 5.1 Adoption of the Agenda

**Nick Engle moved, seconded by Wayne Molt, Jr., to approve the meeting agenda, as presented.**

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

### 6 PRESENTATIONS

#### 6.1 Constitution Week Proclamation

**Mayor Mark Staats** presented the Proclamation to members of the Eunice Sterling Chapter of the Daughters of the American Revolution in attendance.

**BACKGROUND:**

- Constitution Week is celebrated annually during the week of September 17 through 23 to commemorate America's most important document with the aim to:
  - Emphasize citizens' responsibilities for protecting and defending the Constitution.
  - Inform people the Constitution is the basis for America's great heritage and the foundation for our way of life.
  - Encourage the study of the historical events which led to the framing of the Constitution in September 1787.

**Mary Ayers, Eunice Sterling Chapter Regent, DAR,** thanked the Mayor and Council for recognizing and celebrating the importance of the Constitution. The DAR was founded in 1890 as a non-profit women's volunteer service organization. Today there are over 190,000 members across 3,000 chapters who work to promote patriotism and preserve American history. As we prepare to celebrate the 250th birthday of the United States, I encourage everyone to make the studying and understanding of our Constitution a priority.

**6.2 Promotion of Personnel**

**Brandon Russell, Police Chief,** introduced Captain Lunkenheimer and Sergeant Gabe Gutierrez, whose family members completed the pinning. New Lieutenant Courtney Carlson was also recognized for her promotion, but she was unable to attend the meeting.

**BACKGROUND:**

- The Derby Police Department is proud to promote several personnel within the Department.
- Please join us in congratulating a new Captain, Lieutenant and Sergeant.
  - Keith Lunkenheimer will be the new Captain in charge of the Technical Services Division.
  - Courtney Carlson will be a new Lieutenant and will serve in the Patrol Division.
  - Gabe Gutierrez will be a new Sergeant and will serve in the Patrol Division.
- Their family/guests will join us in pinning on their new ranks.

**7 PUBLIC FORUM & ANNOUNCEMENTS**

There were no comments or announcements from attendees, staff, or members of the bench.

**8 CONSENT AGENDA**

**8.1 Consideration of Minutes**

## **8.2 Appoint Voting Delegate to LKM Business Meeting**

### **BACKGROUND:**

- The annual conference of the League of Kansas Municipalities (LKM) will be held in Overland Park, Thursday, October 9 through Saturday, October 11, 2025.
- Taking place during the conference is the Business Meeting and Convention of Voting Delegates, in which the City of Derby can participate per the LKM bylaws.
- Designation of Voting Delegates is required by September 19. City Manager Kiel Mangus has registered for the event.
- As a City with a population between 17,501 and 37,500, Derby may appoint up to four voting delegates.

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

- Registration fees for the conference were \$275.

### **RECOMMENDED MOTION**

- Appoint City Manager Kiel Mangus as voting delegate to the League of Kansas Municipalities annual meeting.

## **8.3 Scum Baffle Replacement**

### **BACKGROUND:**

- The Scum Baffle is a non-mechanical device located in the aeration basin at the Wastewater Treatment Facility.
  - The scum baffle skims non-beneficial floating solids such as fats, oils and greases from the wastewater allowing treated water to flow underneath.
  - It prevents these solids from flowing into the next steps of the wastewater treatment process that potentially could clog pumps or effect treated water discharge.
- This device has been in operation since 1995, and it has recently broken due to a large rain event.
- The life expectancy of these devices is ~35 to 40 years depending on flow conditions and plant capacity.
- This device was not identified in the Phase 1A improvements projects due to age and upcoming capacity upgrades.
  - Staff decided to push this replacement when additional equipment was to be installed in future years.
- The necessary replacement of this device is outside the scope of operator maintenance for repair, as the repair requires access across the aeration basin.
- Dondlinger Construction, the contractor currently performing Phase 1 and Phase 1A improvements, has the ability to perform the additional work and has offered a proposal for procurement and installation of the Scum Baffle.

- The replacement is an upgraded model and will meet all future specs when a capacity upgrade is necessary.

**FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- The replacement cost of the Scum Baffle with installation is \$50,647.
  - Lead time for this device is approximately 16 weeks.
- Dondlinger Construction has received material pricing from EPEC, the local distributor and is considered a sole source supplier.
- Funding is available for this repair in the Wastewater CIP Treatment Plant Improvements line item.

**POLICY IMPLICATIONS:**

- The City's purchasing policy does not require competitive sealed bidding when the supplier is the sole source of the supply.

**RECOMMENDED MOTION**

- Approve the replacement of the Scum Baffle with installation from Dondlinger Construction in the amount of \$50,647.

**8.4 Designation of Signatory for Opioid Settlement Matters**

**BACKGROUND:**

- Multiple class action lawsuits have been filed throughout the nation concerning the negative impacts to communities and government resources caused by opioid abuse and addiction.
- In Kansas, the Attorney General's office joined multiple class action suits on behalf of the state and pursuant to the 2021 Kansas Fights Addiction Act, settlement funds received by the state are distributed in part to local governments.
- In November 2021, the City Council designated Kiel Mangus as the authorized signatory for the City of Derby on opioid settlement matters.
- On December 28, 2021, the City Council adopted Resolution 12-2021 authorizing the execution of an agreement with the Attorney General to participate in the Kansas Fights Addiction Act and National Opioid Settlements.
- Since 2021, the City has received \$167,632.86 in funds through the Kansas Fights Addiction Act.
- Recently, the City received notification of additional settlements and a request to approve additional settlement documents. The recent settlements include those being run through the Attorney General's office and those where the State is not a party to the settlement.
- Given the passage of time and the recent request to execute additional settlement documents, staff thought it prudent to return this item to Council for updated designation.

**FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- Current estimates from the Attorney General's office indicate that the City could receive in excess of \$300,000 in opioid settlement funds through 2038.
- There are legal restrictions on how the funds may be spent and what expenses are eligible to be paid with settlement funds.

### **RECOMMENDED MOTION**

- Designate and authorize City Manager Kiel Mangus as the authorized signatory for the City of Derby on opioid settlement matters and authorize City Manager Kiel Mangus, in his discretion, to determine which settlements in which the City will participate.

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

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

## **9 NEW BUSINESS**

- 9.1 Zone Change: South of 55th St. S. and west of Woodlawn Blvd. (R-1A "Urban Density Residential District" to R-2 "Two-Family Residential District")**

**Scott Knebel, City Planner**, gave the agenda report.

#### **BACKGROUND:**

##### **General Location:**

- South of 55th St. S. and west of Woodlawn Blvd. (Location Map attached).

##### **Applicant:**

- Property Owners: Equity Trust Company and Derbdev, LLC
- Agent: Philip J. Meyer, Baughman Company, PA

##### **Background Information:**

- The 39.8-acre subject property is part of a larger 50.8-acre unplatte tract located at the southwest corner of 55th St. S. and Woodlawn Blvd.
- The 50.8-acre unplatte tract was annexed effective August 27, 2025, at which time the zoning of the property was established as R-1A "Urban Density Residential District".
- The applicant proposes to develop the portion of the annexed property located outside of the floodplain with two-family development.
  - Two-family dwellings are first permitted by right in the R-2 "Two-Family Residential District"; therefore, a zone change application from R-1A to R-2 for 39.8 acres has been submitted (Proposed Rezoning Exhibit attached).
  - The applicant provided the attached floor plans and building elevations for the five types of two-family dwellings that are proposed to be developed on the property.

- The proposed two-family dwellings contain either three, four, or five bedrooms in either one or two-story buildings with no basements.
- The Planning Commission held the required public hearing for the zone change request on August 7, 2025.
  - Eight people spoke in opposition to the request and cited the following concerns.
    - State and federal reviews have not occurred.
    - Two-family development is not consistent with the single-family and semi-rural character of surrounding development.
    - Development of the property will make flooding on surrounding properties worse.
    - Development of the property will make flooding on Woodlawn Blvd. worse.
    - Annexation and zone change processes lack transparency.
    - City staff provides favorable treatment to developers and ignores resident concerns.
    - The property will be developed with Section 8 housing.
    - Woodlawn Blvd. is required to be widened to support the project.
    - Development of the property will negatively impact operations of McConnell Air Force Base.
    - Commissioners always vote in favor of development projects and ignore citizen concerns.
    - Drainage facilities in the development will not be properly maintained.
  - The applicant spoke at the public hearing to address the concerns and provided the following information.
    - A drainage plan, wetland study, and state and federal agency review will occur as part of the platting process.
    - The drainage impacts of the development is nearly the same if the property is developed with two-family or single-family dwellings.
    - The development will be designed in accordance with standard engineering practices that will limit the discharge rate from the site to the same or less than pre-development conditions as required per City standards.
    - Section 8 housing is not proposed.
    - The proposed two-family housing is much needed entry-level housing.
    - Woodlawn Blvd. is not being widened by them, and there is no correlation between development of the property and the reconstruction of Woodlawn Blvd.
- At the conclusion of the public hearing, the Planning Commission voted (9-0) to recommend approval of a zone change from R-1A "Urban Density Residential District" to R-2 "Two-Family Residential District", subject to platting the subject property within one year.
  - The Planning Commission recommendation is based on the findings of fact stated in the attached Planning Commission Minutes Excerpt.

- One of the findings is that the infrastructure needed to serve the subject property will be financed, designed, and constructed through the platting process.
  - The infrastructure to be designed and constructed includes drainage facilities that will detain stormwater run-off on the subject property and release it at a rate the same or less than pre-development.
  - The drainage plan will be developed by a professional engineer licensed to practice engineering in the State of Kansas and reviewed by the city's engineering staff.
  - The subject property is adjacent to large areas of floodway and floodplain for Dry Creek, which encompasses the proposed drainage reserve to serve the subject property, much of the Woodlawn Blvd. right-of-way, and several lots to the south of the subject property (2016 FEMA Flood Map attached).
  - Development of the subject property, in accordance with accepted engineering standards, will not make the adjacent properties more flood prone. However, the development will not significantly reduce the existing flood prone condition, which has been a known condition since at least 1979 when the Hillsdale Addition was platted with floodway easements and minimum pad elevations.

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

- Development of the property 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 determined through the platting process.

#### **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.
- Multiple protest petitions were filed with the City Clerk within the statutory 14-day protest period following the public hearing.
- Protest petitions were received from owners of eight properties, all of which are located within the statutory notification area.
  - The protest petitions represent 65.79% of the land area within the statutory notification area (Protest Petition Map attached).
  - Because the protest petitions represent more than 20% of the land area within the statutory notification area, a three-fourths majority vote is required to approve the zone change.
- 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 three-fourths majority vote of the City Council (6 votes).
- Override the Planning Commission by two-thirds majority vote of the City Council (6 votes) and deny the zone change. If this option is selected, the City Council must adopt findings of fact in support of 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-1A "Urban Density Residential District" to R-2 "Two-Family Residential 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 1 year after adoption of the ordinance.

**Kiel Mangus, City Manager**, noted the slide showing the flood plain maps from 2007 and 2016 have the Northbrook neighborhood overlayed on them, but the development did not exist at that time.

**Scott Knebel, City Planner**, confirmed that is correct. Northbrook was not platted until after 2016. The overlay was added to help show the area as it currently is.

**Mayor Mark Staats** asked Council to disclose any *ex parte* communications regarding this zone change.

**Council Member Rick Coleman** said I went to Goff's property and walked it with the property owner.

**Council Member Wayne Molt, Jr.** reported receiving several emails, including one just earlier today, and I've had multiple conversations with neighboring property owners, but none of those communications will have any bearing on my vote on this item.

**Council Member Mike Neel** said I spoke with some community members about this months ago in early summer, but that will not impact my decision on the matter.

**Council President Nick Engle** said I believe one of the emails Mr. Molt mentioned is one I also received which was from the developer regarding this project.

**Council Member Larry Gould** added I received the same emails sent to all councilmembers.

**Council Member Kristi Truitt** said I, too, received the email from the developer, but it will have no bearing on my decision.

**Council Member Jenny Webster** noted I was included on the same emails. The only thing we are deciding this evening is the proposed change from R-1A to R-2 zoning, which has nothing to do with the flooding situation we have heard so much about from existing homeowners in the area.

**Mr. Knebel** agreed no decision you make tonight will have anything to do with flood conditions.

**Ms. Webster** said thank you; I wanted that to be clear. We are doing another project in this area to reconstruct a road and are adding stormwater pipe to make improvements, but this item is only about changing the zoning for these parcels.

**Mr. Knebel** said the zone change will change the color on the map indicating what uses are allowed. In this case, the difference between R-1A and R-2 is allowing two-family units instead of single-family units. That's the decision before you; it is recommended the change be subject to platting. The platting process is where the issue of drainage is addressed, and the plat would come back to Council at another meeting to discuss.

**Ms. Webster** stated I appreciate that. I want people to know if this moves forward, it is not because Council has not heard the concerns voiced or that we do not care. The flooding is an issue that is already there because these properties are on or near the flood plain; it has nothing to do with the City's zoning.

**Mr. Neel** asked about zoning for annexed properties. Are newly annexed areas automatically R-1 zoning? Wasn't this an area previously zoned for commercial use?

**Mr. Knebel** replied our zoning regulations indicate the person requesting annexation can select one of four R-1 districts, which is the first zoning classification for any property added to the City.

**Mr. Neel** asked what does that process look like? If I buy land on the outskirts of Derby that has an agricultural use, but desire to have it annexed into the city limits, it will become R-1 zoning upon annexation?

**Mr. Knebel** said that is the process. The property owner would submit a signed and notarized form requesting annexation by consent, and upon annexation the property is zoned R-1.

**Jacque Butler, City Attorney**, added Mr. Knebel said this is our first zoning classification, but I want to clarify it is also our most restrictive classification which is why it is assigned initially.

**Mr. Mangus** pointed out there are two ways annexations take place: annexation by consent and a unilateral annexation. Consent is the process you already outlined where they come to us and ask to be annexed. A unilateral annexation occurs less frequently but is when the city grows around an area on all sides, leaving it as basically an island related to the city limits. Our last unilateral annexation took place a few years ago for a section along Madison toward High Park. A unilateral annexation requires a different process, the City must prove they can provide services.

**Mr. Knebel** said especially if we are annexing against the wishes of the property owners In that situation, the City of Derby would have to prove to the County Commission that we can provide services.

**Ms. Truitt** said Mr. Neel's question brings up a good point about the annexation process. If a private property owner requests annexation by consent, there may not be enough transparency or notice to neighboring property owners that the annexation brings with it an automatic zoning change. I think some of the property owners who have spoken out and signed protest petitions are not necessarily against R-1A to R-2 zoning but are frustrated about what will happen to their property because of incoming development. The development is happening and tonight we are voting whether to rezone from R-1A to R-2. I appreciate people are coming out to speak up and share their concerns. Perhaps we can look at our processes regarding annexations and work to make it more transparent.

**Mr. Mangus** agreed this is something we can look at updating. For zone changes, we put out signs to notify those in the area and letters are sent to neighboring property owners, but no such notification process takes place with consent annexations. Right now, we follow the same process Wichita has in place, but we can look at ways to allow people a chance to be heard and voice their opinions. These are difficult situations because we have to try to balance personal property rights throughout the process; existing neighbors and the developer are both private property owners in these circumstances. Most of concern we hear regarding annexations is, "Are you going to annex me next?" Changes in our process could help ease some of the fear of the unknown and help with transparency. Consent annexations have historically just been on the agenda as consent items; perhaps something as simple as moving them to new business, or discussion items, would help in this regard.

**Mr. Coleman** said in looking at the protest area map, no one to the east protested?

**Mr. Knebel** said that is correct. The only portion of Northbrook Addition that fell within the official notification zone was one of their reserves. The property directly to the east within the notification zone is owned by the applicant.

**Mr. Coleman** said for me, it is significant that nearly everyone with property surrounding this area has protested against this and that will weigh heavily on my decision.

**Mr. Molt** said I am unsure of the rainfall totals received so far this year, but it seems it seems the most we've gotten for the last 5 or 10 years. My heart goes out to those who say they've lived in these same homes for several years but never before had to deal with these levels of water. The fact of the matter is, they purchased property in a floodplain. I don't know if that fact was clearly disclosed when they purchased or not. It does not make their concerns any less valid. The property is R-1A today, what was its zoning prior to annexation?

**Mr. Mangus** replied it was zoned as airport industrial, which is a County designation we do not have in Derby. Several properties to the southwest of McConnell Air Force Base have that zoning classification.

**Mr. Molt** continued, theoretically if this property were to be made into a repo or salvage yard, it would be fully paved and have significant negative effects related to stormwater drainage and flooding. That's an example of why it is good practice to zone newly annexed areas to our most restrictive class. Most of the opposition we have received on this item are related to the flooding issue, not about two-family residences. As a homeowner myself, I've personally experienced frustration with a developer who plans and promotes their product as single-family homes only to later come in and make a change allowing multi-family units. The change proposed tonight is not similar in that this developer is planning this for two-family residences from the start with the request for rezoning to R-2. The addition of two-family units will not impede on established properties or homes; the development will have its own separate entrance from a main artery; and the undevelopable area of the floodplain creates a natural area of buffer or screening for the larger lot single-family homes. To me, I don't know that it really matters whether this property is R-1A or R-2; it seems to be a fitting place for either kind of development.

**Mayor Staats** noted the agent for the applicant in attendance and asked if he would like to speak.

**Phil Meyer, Baughman Company**, said 8 neighbors spoke at the Planning Commission's public hearing on this zone change. Questions and concerns raised were: will we talk to the core of engineers and go through that process; how will we handle the drainage; what will we do regarding wetlands; will we consult USDA; what will the detention ponds be like; will these be Section 8 housing; and what are the Woodlawn improvements? None of these have anything to do with what zoning district is proposed or approved. The majority of those questions regard and are addressed in the platting phase of the process. If you look at the proposed rezoning map, this eastern edge of the property is not being proposed for a zone change. That is because this is the floodplain and floodway, so no development will go in there so the zoning does not need updating. Over the last month since the hearing at the Planning Commission, we

have had several conversations with Mr. Knebel and staff about this project. Ideally, I would like for you tonight to approve the request for a zone change as presented. However, because there was so much discussion and concern, I do have possible alternatives or a compromise to offer for your consideration. We could make the south 150 feet of the area, basically south from where Freedom St. is on both sides as R-1 single-family units. This would have all existing single-family homes on to the south abutting new single-family homes, rather than duplexes. The same could be done from the north edge so that all the properties abutting 55th St. would also be zoned for single-family. This would still allow us to provide two-family units for the center of the property. On the west property line, the adjacent area is zoned B-5 and anything developed there in the future would have to buffer against our residential neighborhood.

**Mr. Coleman** asked can we request this go back to Planning Commission to discuss those options?

**Mr. Mangus** stated that is one of the options listed in the agenda item. You can approve the item as presented with 6 votes; you can deny with 6 votes noting the finding of fact on which denial is based; or you can request it go back to Planning Commission for additional review with a simple majority vote. If it goes back for review, that will allow the applicant time to implement the proposed adjustments for Planning Commission consideration. The Commission will then vote and send it back to Council where it will still require 6 votes to pass because the protest petition is still valid. Our City Attorney did write up an alternate motion for Council, should you choose to send it back to the Planning Commission.

**Rick Coleman moved, seconded by Wayne Molt, Jr., to return this item to the Planning Commission to allow its review and consideration of the proposal by the developer of a reduced area of rezoning to R-2 and establishment of a single-family buffer.**

**Mr. Engle** asked what is Derby's largest duplex development currently? I ask because this is almost 40 acres being proposed as all two-family homes.

**Mr. Knebel** replied I believe the largest one is Meadowlark Landing which is currently being developed. It is approximately 25 acres containing a combination of two- and three-family units.

**Mr. Engle** said we had a housing study done which showed Derby is in need of all types and sizes of housing throughout our community: multi-family, single-family with large lots, senior housing, and everything else. We are aware we need various densities of housing throughout Derby. I think part of the negativity that comes along with proposed duplex or triplex development is the term "affordable housing". It can conjure up pictures of manufactured and mobile homes or government subsidized housing. At a recent forum I attended, I noticed realtors shifting to using the term "attainable housing", which I feel is a more appropriate term for what we are looking at for our community. In this economy, we are looking for opportunities for middle class families to purchase their first home. I asked friends of mine who build houses if you were to build a single-

family home on a standard-sized lot, what would it sell for? They said it would be around \$350,000, which is not approachable for the average middle-class family. Developers are going to build what they can sell. I appreciate developers bringing us ideas like this one where there is variety in the colors, sizes, shapes, and style of homes, rather than the same cookie-cutter look for the whole neighborhood. In my opinion, it is the people in the homes who create what kind of community you have, not the shape or style of the home. Derby has such a strong culture; I believe that will impact our community more than what kind of housing is built. I'm also a big believer in blending different kinds of neighborhoods together and feel doing can add value to the community as a whole. I appreciate the developer offering an alternative I feel will be a great compromise overall.

**Mr. Mangus** added the email mentioned earlier from the developer did indicate some of these will be for sale, which was a question that had come up. Trying to buy half of a duplex for between \$180,000 for smaller units up to \$270,000 for a 5-bedroom, 2- to 3-bath unit is significantly more attainable than a new single-family home, which starts around the \$350,000 range as noted. I'm glad the development will be a blend of for-sale and for-rent options because we need both.

**Ms. Webster** said I am thankful to the developer for the alternative presented, but I'm not sure what we gain by sending this back to Planning Commission. The compromise to blend single- and two-family homes is great, but it still doesn't address the complaints brought by the petitioners which was about flooding, which cannot be changed by zoning. Will those opposed to this be happier with the alternate plan?

**Mr. Mangus** said I do not know that they will be happy with anything being built there. You are correct that whether we approve this or send it back to Planning Commission, we are only voting on the zoning matter. Issues of drainage will be addressed during the platting phase where we have to look at before and after conditions. We cannot increase the rate at which the water leaves the property. When development comes in, there are streets and driveways from which stormwater runs off, but we have to make sure, through platting, to properly funnel it to the detention pond which fills and relieves. Council Member Molt mentioned earlier the large amount of rain we've gotten this year. We build our stormwater systems to a certain standard and it's not a 500-year or 1,000-year flood standard because it is not realistic and would result in extremely expensive special assessments for such over-sized infrastructure. Through platting, the developer is required to meet our subdivision regulations for stormwater drainage regardless of the type or size of homes built.

**Ms. Webster** stated I'm not against requesting the Planning Commission review and consider the compromise offered by the developer, I just wanted to be clear it really is not what the protest seemed to be about. I agree with Mr. Molt's earlier comments regarding developers changing plans and neighborhoods mid-stream, but I also agree this is not the same situation. I have no problem with the whole area being zoned as R-2 or adding the alternative R-1 areas as a compromise. Thank you to Mr. Knebel, his staff, and the developer for all the work put into this.

**Mr. Mangus** pointed out this will not be the last duplex or triplex development we deal with. For a long time, Derby's market was primarily single-family residential. We are not seeing the huge influx of duplexes similar to what west Wichita and Goddard are experiencing, but we are having a lot of developer interest in building more here.

**Mr. Knebel** noted on the map the Stone Creek development that was platted more than twenty years ago included a small portion of two-family homes along one half-block. At that time, we still had duplexes included with most new neighborhoods. It was just a smaller percentage than what I believe we will see moving forward, which Mr. Mangus mentioned is driven by the market demand.

**Ms. Truitt** said I appreciate the dialogue we've had on this tonight. I know we will not be able to fix the flooding issue brought up, but my concern was if you looked directly to the east or to the south, this didn't seem to fit the character of the existing neighborhoods. With the proposed compromise from the developer, I believe we can achieve continuity and have this feel more like it belongs with the surrounding area. Home acquisition is not attainable for those starting out on their own; I have a 22-year-old, so this is a very real concern. If Derby does not adjust and provide options for attainable housing, we will cease to attract new and young residents and as a community we will die. It is time to start thinking differently.

**Mr. Molt** said sending this back to Planning Commission will prolong the process and slow the development. The week I closed on my home was the same week a zone change was approved to allow apartments to be built in my area. The developer made concessions to the existing homeowners, though, that helped make it more palatable. For instance, the apartments have their own direct access in and out via a main artery to avoid increased traffic through our neighborhood. I feel this developer is also trying to be a good steward by listening to those who live in the surrounding area and offering a compromise to help build good will with them. I also want to emphasize, as others have, that nothing we do or decide will change existing flooding issues.

**Mr. Engle** echoed Ms. Truitt's comment appreciating the thoughtful discussion we've had on this item. We must recognize and acknowledge there was a lot of opposition to this item, even though the issue seems not to be directly tied to the zoning. I think what bothered me about the item, though, was it being such a large, sprawling area of nothing but two-family units and no buffer other than the floodplain. I would like to set a precedent for more blended neighborhoods, rather than acres upon acres of multi-family units without buffering of other zoning around it to keep transitions smooth between areas.

**Mr. Coleman** said during platting, we will probably need an arterial street with direct access into and out of the development added to avoid having a peninsula with only one way in or out.

**Mr. Mangus** said correct, that will be addressed during platting. They will probably have an entrance off of 55th and maybe a road over to Woodlawn, or possibly the other way, to Freedom St.

**Mr. Knebel** said our subdivision regulations will require two street extensions, to the east and west, and one to the north.

**Dan Squires, Development Director**, pointed out while our regulations require two access points to the east and west, most likely with the floodplain to the east, the developer will submit a request for an exception due to the expense involved in building over the floodplain. I just want to be upfront about that so later if an exception is requested, it is not an unexpected change to what has been discussed tonight.

<b>RESULT:</b>	<b>Carried</b>
<b>MOVED:</b>	Rick Coleman
<b>SECONDER:</b>	Wayne Molt, Jr.
<b>AYES:</b>	Kristi Truitt, Mike Neel, Nick Engle, Jenny Webster, Rick Coleman, Wayne Molt, Jr., and Larry Gould
<b>ABSENT:</b>	Elizabeth Stanton

## 9.2 Rock Road Corridor Study

**Dan Squires, Development Director**, gave the agenda report.

### BACKGROUND:

- Rock Road has grown over time to be the highest traffic volume count per day street in Derby.
- In 2024, the Derby Police Department (DPD) staff recognized that between 35% and 41% of all vehicle crashes in the City of Derby occur on Rock Rd.
- Specifically, the crash rates for 2021-2024 are shown below:

<u>Year</u>	<u>Percentage of Crashes</u>
2024	41%
2023	35%
2022	37%
2021	41%

- DPD staff approached Planning & Engineering staff with a concept of creating a safety corridor on Rock Rd., similar to safety corridors seen along at high accident locations on the state highway and interstate systems.
- Implementation of the safety corridor could include:
  - Signing identifying the corridor as a safety corridor
  - Increased traffic enforcement
  - Public education
  - Reduced tolerance for infractions
  - New/improved regulations for specific violations
- Planning & Engineering (P&E) staff suggested expanding the scope of the project to include a comprehensive analysis of the corridor to identify other potential safety improvements.

- At the time, funding was available to complete demonstration projects utilizing Safe Streets for All (SS4A) funding through the Wichita Area Metropolitan Planning Organization (WAMPO).
- Staff submitted an application for SS4A funding to include the following scope:
  - An analysis of the accident history along the corridor to identify crash patterns
  - Analysis of each signalized intersection along the corridor (including traffic counts and turning movements)
  - Updating of signal timings to improve signal coordination
  - Identification of future geometric improvements to improve traffic flow and safety
- While the City was awarded funding for the demonstration grant, WAMPO to date has been unable to finalize the grant agreement with the Federal Highway Administration.
  - Subsequent conversations with WAMPO indicate they have no idea when or if the funding may become available.
- P&E and DPD staff desire to proceed with the safety corridor implementation and reached out to GFT (formerly Transystems) to request a scope and fee to complete the corridor analysis.
  - Scope includes items mentioned above (traffic counts, possible geometric improvements, corridor signal timing, and a warrant analysis at Woodbrook and Chet Smith for a signal).
- GFT has significant expertise in traffic engineering and transportation system operations. GFT has assisted the City with similar projects in the past and is currently working with the City and KDOT on a similar corridor analysis of K-15.

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

- GFT has requested \$59,000 for the corridor study.
  - Staff reviewed the scope of work and fee and found the fee reasonable for the anticipated scope.
- Funds for the project will be paid with proceeds from the Special Street Fund (gas tax).

#### **POLICY IMPLICATIONS:**

- The collaborative project between City departments will improve safety and traffic flow on Rock Road, improving the quality of life for residents and visitors utilizing the heavily traveled corridor.

#### **RECOMMENDED MOTION**

- Authorize execution of an agreement with Garret Fanning Transystems in an amount not to exceed \$59,000 for the Rock Road Corridor Study.

**Kiel Mangus, City Manager**, said one of the concerns shared with us from seniors regarding the new Senior Center is they are worried about turning left onto Rock Rd. from Woodbrook. We have to meet warrants to add a stoplight, and at that point so far south on Rock Rd. there are about 7,000 or 8,000 cars

per day. At Meadowlark and Rock Rd., there are approximately 28,000 cars going through daily. Through this study we will be able to evaluate if the traffic warrants meet the need for adding a light at that intersection. We can also determine if speed zones need to be adjusted along that area of the corridor.

**Council Member Kristi Truitt** said I love the idea that this was a coordinated effort between our Police and Planning departments. Do we have any idea how much this might reduce accidents?

**Dan Squires, Development Director**, said no, that is a hard thing to predict. One of the challenges with Rock Rd. is the nature of the adjacent development. There is a lot of traffic, a lot of demand for turning movements, and a lot of distracted drivers. There are what are called modification factors that we use sometimes to get at least an estimate of what kind of reduction might occur at a specific intersection, such as prohibiting a left turn. For an entire corridor, however, we cannot really predict impact using those factors. This study will be used to identify phased improvements we can make. One step may include education for the public, increased enforcement, or placement of additional signs. We might be realigning intersections, lining up lanes, or adding turn lanes as another step. Coordinating signals correctly goes a long way toward preventing occurrences of rear-ending accidents. This will likely be the first designated Safety Corridor in Kansas that is not part of the highway system, and we want to be able to tell a good story about its success. We'll have to look back to what the accident data shows now versus a few years after we've implemented some of those safety measures to be able to show and share that story. So, I cannot tell you what the predicted reduction will be, but it is our intention to be able to tell how much it has decreased once implemented.

**Mr. Mangus** agreed saying the proof will come later when we have a chance to look at the history and compare it see how much things improved with the added measures. I don't foresee there being less traffic on Rock Rd. anytime soon. We will be adding another signal up at 55th St. before too long, and we will need to work to properly coordinate for what Mr. Squires has called "platooning" up Rock Rd., getting through as many signals as you can without a stop. He's correct that most of our accidents are from stops where someone gets rear-ended.

**Mr. Squires** said it is actually easier to coordinate signals along a corridor like Rock Rd. when you don't space them too far apart and can pass traffic through in groups.

**Ms. Truitt** said the price of this study at only \$59,000 seems quite reasonable for what we can learn from it. I realize the bigger price tag comes later with making the changes, but can't we use some of the 1% sales tax toward that cost?

**Mr. Mangus** replied the streets portion of Derby Difference can help to fund the implementation measures, along with using some of our gas tax. We receive around \$1 million per year in gas tax and then whatever amount the sales tax comes in at, we can balance with projects like McIntosh Rd., the intersection at Patriot & Triple Creek, or general pavement management.

**Mr. Squires** pointed out the \$59,000 does include implementing signal timing if we decide to do it. We will also look for state funding which is available for certain safety improvements. Such funds helped us to rebuild Meadowlark and Buckner some years ago.

**Council Member Rick Coleman** said if we can coordinate signals better so more than four cars can get through at a time, that will be great. The report shows percentages of accidents on Rock Rd., but what are the actual numbers making up those percentages?

**Brandon Russell, Police Chief**, said I believe our annual report given earlier this year showed a little over 400 accidents overall with around 40% of those occurring on Rock Rd.

**Mr. Coleman** said I assume the number of accidents has also increased year-over-year, not just an increase in percentages.

**Mr. Squires** said while the percentage may vary year to year, you expect as traffic increases, so will the number of accidents.

**Mr. Mangus** said K-15 used to have the most traffic in Derby, but over the last few years, Rock Rd. has seen more vehicles and taken that number one spot.

**Mr. Squires** noted in 2004 we rebuilt K-15 reducing the number of access points by nearly half, which significantly reduced the accidents there. On Rock Rd. we do not have those same issues due in part to better planning practices.

**Rick Coleman moved, seconded by Jenny Webster, to authorize execution of an agreement with Garret Fanning Transystems in an amount not to exceed \$59,000 for the Rock Road Corridor Study.**

**Council President Nick Engle** quipped the simplest way to reduce accidents is to eliminate drivers from being on the road, like we experienced during Covid, but that's not practical. So, the next simplest option is to conduct a study like this to help us engineer better traffic practices for those drivers. I recall the vote on the Pinion light right before I came on Council. It was a unique situation because the machining and controls for that were not something that there was a call for in a lot of other cities around here.

**Mr. Squires** said we definitely faced some challenges with that. We would have loved to be able to put in a left turn lane, but the high cost to move a gas line for an added lane made that an impractical option. Once we realized how to do split phasing for only a portion of the day, rather than all 24 hours, the situation got better.

**Mr. Engle** said I applaud the previous Council for taking a risk and trying something new with that light, even if there were bugs to work out. We are

looking at a somewhat similar situation with this same corridor again now in searching for ways to enhance safety on the busiest of our streets. I think we all can agree that spending money toward increased safety is worthwhile.

**Council Member Mike Neel** said I appreciate Mr. Squires' very thorough, detailed, and descriptive presentation of this item. Traffic along Rock Rd. is one of the most "contacted about" items we as a Council have from the public. I'm curious, would a change to the speed limit all along the corridor be something considered depending on what this study shows?

**Mr. Squires** said I don't know that we are specifically looking at the speed limit, but we can ask our traffic engineers to evaluate that. When you platoon vehicles through a corridor, you set a speed. If you do not know how fast traffic is moving, they won't hit the signals at the time you've set them for. The problem with changing a speed limit with signs, is you get limited buy-in from the public and that can sometimes decrease safety.

**Mr. Neel** said when I receive complaints about Rock Rd., I've tried to explain that this is kind of a matter of finesse. If the speed limit is 40 mph, but you are driving through at 48 mph, it's probably not going to work out best for you. I think this study will help us learn a lot and be able to make good decisions about what actions to take. You mentioned this may be the first place in Kansas not on a highway to be designated as a Safety Corridor. I think that is great; let's stay on the cutting edge and get that done.

**Mr. Mangus** said driving the speed limit gives you the best chance of fewer stops along the corridor, but there are other factors such as pedestrian crossings that also come into play. I believe this study will give our engineers a chance to talk to the experts and consultants about the whole picture. Up until now, we've done Rock Rd. only in pieces, from one section to the next as they've come online. I'm glad PD brought this up and has worked with Planning & Engineering toward solutions.

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

### 9.3 High Park Renovation

**Steve White, Parks Director**, gave the agenda report.

#### **BACKGROUND:**

- High Park was completed and opened to the public in 2000. It is Derby's largest park offering several amenities including two large playgrounds, picnic shelters, an amphitheater, large fishing pond, two sand volleyball courts, eight soccer fields, 2 1/2 miles of walking paths, four baseball/softball fields and several rental facilities.

- High Park also hosts several community events yearly that include the July 4th fireworks celebration, Smoke on the Plains BBQ and Music Fest, 5K races, concerts, and the Halloween Hullabaloo.
- Adopted in October 2022, the Parks Master Plan identified many areas of improvement the community would like to see in the park system.
  - High priority improvements included the addition of pickleball courts, splash pads, playground upgrades, seating, shade, and restrooms to park facilities.
  - High Park was one of the highlighted parks during the master plan that was specifically targeted for updates.
- In November 2023, Derby residents voted to approve the Derby Difference Sales Tax to help fund park renovations identified in the Parks Master Plan.
- High Park Renovation construction will include the following improvements:
  - New playground and splash pad (11K square feet of play space)
  - Additional parking lot to serve the playground and splash pad
  - Amphitheater restroom upgrades
  - Eight Pickleball Courts, with lighting and fencing
  - Two prefabricated restroom structures.
    - One will be located at the playground/splash pad area and the other will be at the pickleball courts and will also serve the soccer fields to the north.
  - Additional parking adjacent to the pickleball courts
- Construction bid documents were posted on the City website and bids were publicly opened on August 20, with the following results:

<u>Company</u>	<u>Bid</u>
Conco Construction	\$2,217,780.00
Multicon	\$2,548,799.03
Koehn Construction	\$2,633,717.60

- Conco Construction provided the lowest, responsible bid for the project.
- City staff reviewed the bid and alternates and recommends awarding the contract to Conco.
- In addition to the construction contract, the City will be purchasing equipment and services for the playground and splash pad equipment, prefabricated restroom structures, Darrell Zimmerman Family Shelter improvements and High Park Dr. electrical improvements.

## **FINANCIAL/SUSTAINABILITY CONSIDERATIONS:**

- The 2025 Capital Improvement Plan budget allocates \$4.8 million dollars for High Park construction.
- The project will be bonded with repayment of bonds coming from the Derby Difference Sales Tax proceeds.
- The total project cost of \$4,910,310 includes:
  - Construction Services in the amount of \$2,217,780 from Conco Construction
  - Independent purchasing of equipment and services in the amount of \$2,246,138 from Athco and Public Restroom Company
  - A 10% contingency in the amount of \$446,392

- The contingency includes funds to complete improvements to the Darrell Zimmerman Family Shelter and improvements to the High Park Dr. electrical system.
- Sourcewell and Greenbush purchasing cooperatives will be leveraged to purchase items directly from the suppliers. This helps avoid general contractor mark ups and reduces overall costs.
  - Two prefabricated restrooms will be purchased and installed by the Public Restroom Company.
  - Playground and Splash pad equipment will be purchased and installed from Athco.

#### **LEGAL CONSIDERATIONS:**

- The City Attorney will review and approve all construction agreements.

#### **POLICY IMPLICATIONS:**

- The High Park renovation project will address many priorities identified in the Parks Master plan adopted in October 2022, furthering Derby's goal of preserving beautiful green spaces.

#### **RECOMMENDED MOTION**

- Approve a resolution authorizing the High Park Renovation project and providing the issuance of bonds for payment of the costs.
- Authorize the City Manager to enter into an agreement with Conco Construction for High Park Renovation in the amount of \$2,217,780 and approve a project contingency in the amount of \$446,392.
- Authorize City Manager to enter into an agreement with Public Restroom Company for prefabricated restrooms in the amount of \$547,996.
- Authorize the City Manager to enter into an agreement with Athco for playground and splash pad equipment in the amount of \$1,698,141.49.

**Council President Nick Engle** said this is great. That splashpad is like its own mini waterpark.

**Steve White, Parks Director**, said it will become a destination location, for sure.

**Mr. Engle** asked can you explain to us how water reuse comes into play on a feature like the splashpad?

**Mr. White** replied this is a self-contained, enclosed system. The well system holds about 3,000 gallons of water, and everything will recirculate through there with double-disinfection along with chlorination.

**Mr. Engle** said thank you. I know with us just coming out of a drought and continuing to work toward water conservation, building a splashpad might seem counterproductive to those efforts.

**Kiel Mangus, City Manager**, said one of the requested additions from our Parks Master Plan was fenced-in or contained areas. If you look at the rendering of the

splashpad and playground, the whole area will be fenced. You don't have to worry about your child wandering off. The shaded area shown to the north will actually be an elevated viewing area where families can easily and comfortably watch the kids play.

**Mr. White** said there will be a 4-foot fence around the entire area. Picnic tables will be in one of the shaded areas as well.

**Nick Engle moved, seconded by Kristi Truitt,**

- to approve a resolution authorizing High Park Renovation project and providing the issuance of bonds for payment of the costs;
- to authorize the City Manager to enter into an agreement with Conco Construction for High Park Renovation in the amount of \$2,217,780 and approve a project contingency in the amount of \$446,392;
- to authorize City Manager to enter into an agreement with Public Restroom Company for prefabricated restrooms in the amount of \$547,996; and
- to authorize the City Manager to enter into an agreement with Athco for playground and splash pad equipment in the amount of \$1,698,141.49.

**Mr. Mangus** said that long motion included a lot of money being spent, so let's break that down a little bit. We bid out part of the construction which was awarded to Conco. The two direct purchases from Public Restroom Company and Athco will save us a 10% to 15% mark up if the equipment was ordered through a contractor. Athco is the same company we worked with for the Library splashpad that was just finished. Our staff will maintain both the Library and High Park pads, so this will offer some consistency and familiarity for them. Both companies are also part of purchasing cooperatives which is allowed by our purchasing policy and provides additional savings. The contingency for this is a bit higher than we would normally allow on a \$2 million project. This is due to the electrical improvements along High Park Dr. and the structural work needed for the Zimmerman Shelter.

**Council Member Coleman** said I am glad to see we are keeping Zimmerman. At first when the plans came out to remove it, I know we had some folks upset.

**Mr. Mangus** admitted if we had the money, we'd probably tear it down. It was built by our Public Works staff many years ago, and it shows. There are structural issues we will need to address and shore up, but it is one of our most used rentals in Derby and can be saved. When we got the numbers for this project, it was well over budget, so we had to prioritize our list of wants and cut costs from the original plan. We wanted to tear this down and build a new Zimmerman Shelter in a different location, but that added \$1.5 million to the project. The Public Works maintenance shed was also going to be rebuilt, but to do so would have cost over \$1 million as well. We always planned to complete High Park upgrades in two phases because of costs involved. The ballfields need work in regard to drainage issues, but that is planned for Phase 2. As we get toward the end of the Derby Difference and determine how things are looking, we can

decide if we're ready to move forward with Phase 2 or something else. What Mr. White presented tonight is the addition of another regional destination playground to help alleviate some of the traffic from Madison Avenue Central Park. This splashpad will also not be closed due to rentals, as happens as Madison Avenue. I don't know how much bigger this splashpad is than the little one at Madison Avenue, but it will be larger.

**Mr. White** said the High Park splash pad will cover around 11,000 square feet. The renderings don't do it justice. I think you'll be amazed at what you actually see next year.

**Mr. Coleman** asked with the contingency amount will we get fiber brought to High Park?

**Mr. Mangus** replied it is not in the budget at this time to run fiber through the park or have wi-fi, but it does include electrical improvements.

**Mr. Coleman** said I think it would make sense to see about getting it. We are making an investment here of about \$5 million, so it would be a good idea to have cameras installed to protect that investment.

**Mr. Mangus** said I understand, and we can evaluate that. We are trying to be budget-conscious since the original numbers came in around \$9 million for this project and we've now narrowed it down to be closer to \$5 million. The money in Derby Difference for Parks has specific projects rather than regular maintenance, like with streets. So it is possible there will be funding to add some other things like fiber and cameras, but we'll have to see.

**Council Member Kristi Truitt** said what a beautiful park and beautiful renovations! I agree saving the Zimmerman Shelter is a win. We want to capture the things the public has said they want through the Parks Master Plan, but we don't necessarily always need the newest or shiniest versions of those things.

**Mayor Mark Staats** asked will the timeframe for this have it complete in time for next year's BBQ event?

**Mr. White** said yes. A huge thank you to our City Attorney, Jacque Butler, who has been working with me almost continually over the last 6 to 8 weeks looking over contracts involving multiple companies. She's been great handling and coordinating what is not an easy task. The companies are aware of our timeframe and that work needs to be completed before June.

**Mr. Mangus** pointed out the Zimmerman Shelter, splashpad and playground will be done for the BBQ. The pickleball courts and areas further to the north may take a bit longer, but we have prioritized that the main BBQ area needs to be complete before our biggest annual event.

<b>RESULT:</b>	<b>Carried</b>
<b>MOVER:</b>	Nick Engle

<b>SECONDER:</b>	Kristi Truitt
<b>AYES:</b>	Kristi Truitt, Mike Neel, Nick Engle, Jenny Webster, Rick Coleman, Wayne Molt, Jr., and Larry Gould
<b>ABSENT:</b>	Elizabeth Stanton

#### 9.4 Adoption of the Uniform Public Offense Code

**Jacque Butler, City Attorney**, gave the agenda report.

#### BACKGROUND:

- Prior to 2014, Derby utilized the Uniform Public Offense Code (UPOC) to establish and prohibit offenses within the city.
  - The UPOC is published by the League of Kansas Municipalities.
  - It collates numerous public offenses found in state statute and organizes them into book form for easy incorporation and adoption by cities throughout the state.
- In 2014, the Derby Police Department (DPD) requested that Derby establish a local public offense code due to challenges encountered with utilizing the books and a desire to have the code available to officers in an electronic format.
- The Derby Public Offense Code was adopted in December 2014 and is set forth in various chapters of Title 9 of the Derby Municipal Code.
- With recent availability of the UPOC in electronic form and a desire to simplify annual updates to the provisions resulting from legislative action, it was determined that a move back to the UPOC was in Derby's best interests.
- Adopting the UPOC and the Standard Traffic Ordinance were placed on the City Council's priority list in 2024.
- The Standard Traffic Ordinance portion will be presented to the Council for consideration and adoption at the September 23 meeting.

#### FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- At this time, financial impacts to the City are minimal.
- The license to allow the City to publish the UPOC on its website has been obtained at a cost of \$150 per year. Individual book copies of the UPOC are available at a cost of \$8 each although the City does not anticipate maintaining many individual book copies of the UPOC.

#### LEGAL CONSIDERATIONS:

- State law permits cities to incorporate published codes by reference in an adopting ordinance.
- Both state law and the UPOC license allow the City to make local amendments to the published code and Derby is opting to keep its current local ordinances on the following offenses:
  - Disorderly Conduct: In 2024, Derby adopted a local ordinance expanding conduct under this provision in response to local incidents. The local amendment includes intentional obstruction of traffic and intentionally making contact directly or through a person,

- animal or object with the possessions, property, or land of another person as prohibited conduct.
- Unlawful Discharge of a Firearm: Derby's local provision prohibits the taking of wildlife within the city limits.
- Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun, and Paintball Gun provisions: Derby's local ordinance makes certain allowances for use of these items within the city limits subject to certain requirements and exceptions and recognizes that limited use of these items under identified parameters may be permitted with the City's R1-C zoning district.
- Barbed Wire: Derby's local provision recognizes an exception to this provision for the City's R1-C zoning district.
- Smoking: Derby's more restrictive clean indoor air and prohibition on smoking in public places replaces the less restrictive state law provision.
- Cruelty to Animals: Derby's local provision contains provisions identifying a lack of adequate care or carrying an animal in a vehicle in a cruel or inhumane manner as additional violations under this provision.
- In addition to the proposed ordinance adopting the UPOC and making local amendments thereto, a second ordinance is presented for consideration and adoption.
- The second ordinance identifies certain code provisions existing in Derby's current Title 9, but not contained in the UPOC, and reorders their numbering to better fit the structure of the code following repeal of the numerous local offense code provisions.
- Other than renumbering and reordering, one amendment is proposed to expand the prohibition on urination upon public or private property to include defecation and expectoration.

#### **RECOMMENDED MOTION**

- Adopt an ordinance adopting the 41st edition of the Uniform Public Offense Code with certain local amendments and adopt an ordinance amending and updating local provisions found in Title 9 of the Derby Municipal Code.

**Rick Coleman moved, seconded by Jenny Webster, to adopt an ordinance adopting the 41st edition of the Uniform Public Offense Code with certain local amendments and adopt an ordinance amending and updating local provisions found in Title 9 of the Derby Municipal Code.**

**Mayor Staats** asked will we be taking the same action with our traffic code?

**Jacque Butler, City Attorney**, replied yes, I will be bringing that before Council at our next meeting.

**Kiel Mangus, City Manager**, said we usually bring both of these items to Council at the same time, but a few other things popped up like a watering ordinance that

needed to be completed. We only have one Ms. Butler, and we simply ran out of time to get both items on this agenda.

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

## 9.5 Permanent Watering Restrictions Ordinance & Updates to Municipal Water Conservation Plan

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

### BACKGROUND:

- As a wholesale purchaser of water from the City of Wichita, our contract with Wichita requires we maintain a water conservation plan and water regulations that match what Wichita does.
- The City has emergency water regulations laid out in our water conservation plan.
  - 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 and most recently updated the plan and City Code in May of this year.
- The City of Wichita recently passed permanent watering restrictions. Those restrictions included the following:
  - Restricting lawn sprinkler/spray irrigation devices to watering three days per week (days are determined based upon odd or even numbers of your address)
  - No watering is allowed from 10:00 a.m.- 6:00 p.m. during the heat of the day
  - The new permanent restrictions would serve, not during the drought response plan but as a permanent baseline for water conservation actions with the same enforcement process as Stage 2 drought plan restrictions.
  - Businesses that generate their core economic activity from the usage of outdoor water are still exempt and hand watering (which was restricted during Stage 2) would be allowed any day of the week, other than during the heat of the day time restrictions.

- Variances are allowed to be granted to the restrictions for things such as seeding or sodding (isolated and infrequent activity that isn't permanent).
- The new permanent restrictions were to go into effect when the City re-entered Stage 1 of their drought plan, but Wichita Council made the change effective September 15.
- Derby must follow the restrictions per our agreement with Wichita. Wichita has noted they will allow wholesale purchasers like Derby to determine the three days of the week schedule that works best for their community.
- Derby's proposed code changes include the following:
  - Three day a week watering with all customers on the same days. Tuesday, Thursday, Saturday would be the scheduled days for watering.
    - On those designated days watering would be allowed 12:00 midnight to 10:00 a.m. and 6:00 p.m. to 12:00 midnight.
  - The City will develop a variance form that residents could fill out to request exceptions for things such as seeding and/or sodding.
  - No watering during the heat of the day 10:00 a.m.- 6:00 p.m.
  - The enforcement process for fines and fees would match what is already currently occurring during Stage 2 restrictions in Derby.

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

- Based upon these permanent watering restrictions there will likely be some fiscal impact to the Water Fund long-term, but we do not anticipate a major impact.

#### **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. The proposed permanent watering restrictions, and the emergency water regulations and the water conservation plan in place ensure the City of Derby is working to be a good steward of the resource well into the future.

#### **RECOMMENDED MOTION**

- Adopt an ordinance regarding permanent watering restrictions in the City of Derby and update the City Water Conservation Plan to reflect those changes.

**Rick Coleman moved, seconded by Wayne Molt, Jr., to adopt an ordinance regarding permanent watering restrictions in the City of Derby and update the City Water Conservation Plan to reflect those changes.**

**Council President Nick Engle** said at the recent REAP water summit the discussion was had about how we tend to cycle from a panic during a drought to a mentality of "It rained, so now everything is fine," without changing any habits. In reality we are starting to see much longer periods of both dry and wet cycles. We need to adopt ways to maintain our water supply throughout the volatility of weather patterns. It will be helpful when the new Wichita water plant comes online; it will be able to store water back into the Equus bed in the wet seasons. Changing our behaviors will have the most significant impact, however. We are also starting to see some traction on studies for reuse of water. Hopefully Kansas will work toward a plan for such reuse and the regulations thereof.

**Kiel Mangus, City Manager**, agreed. Wichita has a contract in place now for a water reuse study. Our own Mr. Squires actually served on the committee that interviewed and selected the consultant for that study to help them work with the capabilities of their system as well as to work with the State to develop the processes for reuse. In January, we'll bring an item to Council for a study and consultant of our own for reuse specific to our system and needs. I have heard more about water reuse in the last two years than ever before. That is partially due to the drought conditions we've been in, but we need to keep the momentum going and have more forward thinking as it relates to water. We were in Phase 1 for almost two years and when we moved into Phase 2, panic ensued. "The rain is coming" is not a good plan, and we need to move away from it.

**Mr. Engle** said I assume there is no fee to apply for a variance.

**Mr. Mangus** said correct.

**Mr. Engle** said we will be tracking days water is used for irrigation through our smart meter system, so is there any need for the "well water" signs now?

**Mr. Mangus** said no, the signs are no longer needed.

**Council Member Wayne Molt, Jr.** said I am glad to see we will be allowing variances for establishing new lawns. Great job, Derby, in saving water over this last year. That's something we all can be proud of. Throughout Stage 2, I was frustrated Wichita could not show how much their usage decreased, like we could.

**Council Member Jenny Webster** said will the variance allow someone to water more days, but still not during the heat of the day?

**Mr. Mangus** said a variance will allow someone establishing a yard between 4 and 6 weeks to water more than 3 days each week and even to water during the 10 a.m. to 6 p.m. timeframe because the seed needs to stay wet. There will be start and end dates set for each variance.

**Ms. Webster** thanked Mr. Mangus for clarifying. My husband is in the lawncare business, and these are the questions he will ask me about the changes. I

assume someone will need to wait for approval of their variance application before beginning to water more than the days set by the ordinance.

**Mr. Mangus** said yes. We will reply back with approval of variance applications fairly quickly. We hope to go live with those applications on our website tomorrow to allow folks to begin submitting them. This is the time of year many people overseed or lay sod.

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

## 10 ADJOURNMENT

**Rick Coleman moved, seconded by Nick Engle, to adjourn the meeting at 8:55 p.m.**

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

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City Clerk

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Mayor