



MINUTES

City Council Meeting

6:30 PM - Tuesday, January 28, 2025
Council Room

1 CALL MEETING TO ORDER

The City Council meeting was called to order on January 28, 2025 at 6:30 p.m. in the Council Room.

2 FLAG SALUTE

Council President Nick Engle led the flag salute.

3 INVOCATION

Pastor Kirk Hayden, Grace Communion 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 Rick Coleman Council Member Chris Unkel
ABSENT:	Council Member Jenny Webster Council Member Wayne Molt, Jr.

5 ACCEPTANCE OF AGENDA

5.1 Adoption of the Agenda

Nick Engle moved, seconded by Rick Coleman, to approve the meeting agenda, as presented.

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

6 PRESENTATIONS

6.1 Neighbor of the Year Award

Judy Morris, HOA Liaison, gave the presentation.

BACKGROUND:

- The Neighbor of the Year Award honors a Derby resident who makes a positive contribution at the neighborhood level in the spirit of cooperation and connection.
 - The City started this award in 2021.
- **Dr. Roger Thomas** was selected as the 2024 Neighbor of the Year. Mr. Thomas was nominated by his neighbor "Skeeter" White (President of the Courtyard at The Oaks HOA). The nomination states:
 - "Occasionally a neighborhood is blessed by a neighbor who is so selfless that it is almost like a parent taking care of its children. We at the Courtyards at the Oaks have such an individual who deserves the utmost recognition. We would like to nominate Dr. Roger Thomas as the Neighbor of the Year. Roger has been the chairman of the Building and Grounds Committee for the last three years for our HOA, but that is only a small part of what he does for the community. Our HOA takes care of the mowing and irrigation, common area landscaping, snow removal, and advising neighbors on horticulture issues. Roger and his committee are responsible for seeing that our contractors take care of those items. In addition to those responsibilities, Roger helps neighbors with small house issues and our common properties such as our Clubhouse with functional repairs and storm door installations to name a few. In other words, he is the "go to" person if you need help or answers. He is the kind of person who you can call at 8:00 p.m. about a sprinkler head "spraying crazy", and he will come over immediately and fix it. We have several single ladies in the subdivision who need something fixed, and he is the one who researches the fix and completes it before they realize it's done...and normally at no cost to the individual. He is the go-between for our subdivision with our horticulture company, making sure everything is done the way it should be. If a project needs to be done, and it's not in the budget, he will willingly pay for it to be completed until he can be repaid (but honestly many times he is doing it "gratis"). You are getting the picture. Roger is one of a kind, and we are so blessed to have him as a part of the community. He is selfless and caring, quietly moving trash bins up to our houses, sprinkling salt on a slippery porch or walkway, and spreading kindness wherever he goes. Roger was a family physician to hundreds of Derby residents and retired as a well-respected doctor. Roger continues to share his servant leadership in our home community. This neighborhood appreciates what he does and who he is as a person. He helps our neighborhood be the place you want to live and be a part of every single day."

Dr. Roger Thomas said my wife and I have resided in 5 different neighborhoods throughout Derby since 1979. Each one has been an excellent

place to live. I have always tried to live out the principle it is better to give than to receive, and I believe the one who gives gets blessed by doing so. When I was young and visited my grandparents, before breakfast, my grandfather would always read a little bit of scripture and pray. He would close his prayer with, "And Lord, show me today who is my neighbor." That has stuck with me to this day.

Mayor Mark Staats thanked Dr. Thomas for graciously accepting the award. We were neighbors when I was in high school, and I recall you have always gone above and beyond to care for those around you. Congratulations on a well-deserved recognition.

6.2 Neighborhood of the Year Award

Judy Morris, HOA Liaison, gave the presentation.

BACKGROUND:

- The Neighborhood of the Year award celebrates Derby's neighborhoods and recognizes them for the contributions they make to the quality of life for their residents and our community.
 - The City started the award in 2021.
- Any homeowner's association or neighborhood within the City limits of Derby is eligible to be nominated based on its projects or activities that create physical or social improvements to the neighborhood, build or enhance neighborhood cohesion and communication, and/or enable a neighborhood organization to better serve the community.
- The **Tiara Pines** homeowners have exemplified the spirit of this award program by working together and conducting projects that engage their residents and serve not only their neighborhood, but the entire Derby community. The nomination states:
 - Residents work together as volunteers to maintain the grounds, ponds, pool, landscaping and other common areas.
 - They are a self-run HOA with volunteer board members and active committees. They decorate for every holiday at the main entrance.
 - They help their elderly residents with maintaining their yards and work together for the benefit of the entire neighborhood.
 - They also hold community events to unite the neighbors, such as the celebratory "hot chocolate & cookie" event after their 2024 neighborhood contest for Christmas decorating, and most of the community joins in the fun.

Mayor Mark Staats congratulated the HOA and residents of Tiara Pines and thanked Ms. Morris for working to put together the awards this evening. Last Saturday, I attended a meeting with all the Derby HOAs she had put together. It was a good event where a lot of information was shared between residents. Thank you for doing such a great job.

6.3 Optimist Day Proclamation

Mayor Mark Staats presented the Proclamation to Andree Sisco, President, Jim Morris, Secretary, Derby Optimist Club.

BACKGROUND:

- Since 2013, Optimist Day has been celebrated world-wide on the first Thursday of February.
- Clubs throughout many communities use the day to promote their efforts and bring awareness on how they are making a difference for the youth in their communities.
- This year's Optimist Day is February 6, and the Derby Optimist Club encourages everyone to celebrate by volunteering in our community, and by doing so, spreading optimism throughout Derby.

Andree Sisco, President, Derby Optimist Club thanked the Mayor for recognizing the work of their organization with the Proclamation.

7 PUBLIC FORUM & ANNOUNCEMENTS

There were no comments shared from the public, Council, or staff.

8 CONSENT AGENDA

- 8.1** Consideration of Minutes
8.2 Reappointment to Sedgwick County Community Corrections Advisory Board

BACKGROUND:

- When Derby transitioned to a city of the first class on November 11, 2020, we gained a seat on Sedgwick County's Community Corrections Advisory Board.
- Sandra Clinard-Flanders has served Derby as our representative on this board since February of 2021, and is nearing completion of her second two-year term.
- Due to the County's schedule and when Derby first gained this seat, this position has a different renewal date than the City's Boards & Commissions.
- Ms. Clinard-Flanders has been a very active member of this Board. She served as the Chair last year and is on the ballot for Secretary this year. The CCAB would like for her to continue in her role, and she has also indicated interest in continuing her service.

RECOMMENDED MOTION

- Approve the Mayor's reappointment of Sandra Clinard-Flanders to Sedgwick County's Community Corrections Advisory Board, through February 28, 2027.

- 8.3** City Hall Second Floor Carpet Replacement

BACKGROUND:

- The 2025 budget included funds for replacing the carpet on the second floor of City Hall. The first-floor carpet was replaced with the lobby and security project last year.
 - Carpet would be replaced in the hallways, offices and stairwell.
 - The current carpet is original and showing signs of wear.
 - Replacing the carpet will help maintain a professional welcoming atmosphere on the second floor and complete the carpet replacement project of the north end of City Hall.
- Bids were posted on the City website, and several known vendors were contacted.
- Floor Coverings International submitted the only bid for \$35,555.
- Staff feels the bid price given is fair for the project proposed and recommend moving forward with Floor Covering International as the lowest, responsible bidder.
- The project would be managed by City facility maintenance staff.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- There is a planned improvement and funds are available in the 2025 Facility Maintenance budget.
- Bid board reviewed and recommended approval of the bid on January 21, 2025.

RECOMMENDED MOTION

- Approve an agreement with Floor Coverings International in the amount of \$35,555 for replacing the carpet on City Hall second Floor.

8.4 Purchase of Microsoft Office 365

BACKGROUND:

- The City of Derby was awarded a State of Kansas Cyber Security grant in the amount of \$67,306 to cover costs of transitioning from an individual Microsoft license model to a subscription based (Office 365) model.
- The migration to Office 365 Business Premium gives the City's IT department access to advanced security and management tools, which create a more efficient and safer software system environment.
 - New productivity and enhanced communications software (SharePoint, Teams, Forms, Planner) will also be available to all city employees.
- RapidScale Inc., the City's Microsoft Exchange vendor, will manage the migration and provide ongoing support for IT staff.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The overall cost of the project in 2025 is \$67,596 and will be funded by the grant.
 - This includes approximately \$66K in licensing and costs from RapidScale for implementation of the migration.

- The additional \$290 for 2025 outside of the grant will come from the IT operating Budget.
- Annual renewal costs (~\$66K) for Office 365 licensing will be included in the IT Operating budget moving forward.

RECOMMENDED MOTION

- Approve the purchase of Microsoft Office 365 Business Premium from RapidScale Inc. in the amount of \$67,596.

8.5 Fire Chief Vehicle Purchase

BACKGROUND:

- The 2025 Vehicle Replacement Schedule calls for the replacement of the Fire Chief's vehicle.
- The vehicle will replace the 2015 Chevrolet Tahoe he is currently using.
 - The 2015 will become a backup vehicle, replacing the 2008 Chevrolet Silverado.
- A Request for Bids was published December 18, 2024.
- Bids were closed January 7, 2025.
 - Two bids were received for the vehicle package
 - Don Hattan Chevrolet-\$71,200 with 90-120 days estimated delivery.
 - Superior Emergency Response Vehicles-\$71,350 with a delivery date estimated to be 9-15-2025.
- Both bids included lights, sirens, and the specialized equipment needed to outfit the vehicle.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The 2025 Equipment Replacement Plan budget allocates \$91,000 for the purchase of a new vehicle for the Fire Chief.
- Fire Department administration vehicles are on a 10-year replacement plan.
- The City Bid Board recommended approval of the bid to purchase on January 8, 2025.

POLICY IMPLICATIONS:

- The City Purchasing Policy requires a competitive bid process for equipment of this cost.

RECOMMENDED MOTION

- Approve the purchase of a 2025 Chevrolet Tahoe from Don Hattan Chevrolet for the total price of \$71,200.

8.6 Anonymous Donation to Derby Fire & Rescue

BACKGROUND:

- Occasionally, individuals or companies make donations to the City or one of its departments. Donors may choose formal recognition or anonymity.
- The City recently received a donation of \$1,400 from a donor who wishes to remain anonymous. The donor requests the money be deposited in the Fire Donation Account.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Donations given to the City are tax deductible to the extent the law allows.

LEGAL CONSIDERATIONS:

- The City may accept donations made either without restrictions or with restrictions that do not violate public policy.

RECOMMENDED MOTION

- Recognize the donation and authorize the Mayor to sign a letter of appreciation.

8.7 Decarsky Park Phase II Design Services Change Order

BACKGROUND:

- On January 23, 2024, City Council approved a Design and Construction Services agreement with Professional Engineering Consultants for Decarsky Park Phase II.
- Since that time, PEC has met with City staff to design and develop the scope of work for phase II construction.
- At the City's request, some of the design elements went beyond the original scope of work and fees outlined in the original signed agreement with PEC.
- Design elements outside of the original scope include the following:
 - Additional Technology & Audio/Visual design services as follows:
 - Design and specify field cameras (for 5 new fields and existing 4 fields) to take the place of original Musco Vision. This included additional networking, power, cabling, equipment and distribution.
 - Specify (23) new CCTV cameras specific to the locations, power, cabling, distribution and networking for a complete system. This will be an addition to the City's existing Avigilon system.
 - Specify (15) new Access Control locations and provide distribution, power cabling, pathway and networking for a complete system. This will also be an addition to the City's Avigilon system.
 - Relocating existing fiber network entrance service from existing concessions building IT room.
 - Additional Structural design services as follows:

- Produce design drawings, calculations, and analysis of structures (dugouts, scorers box structure, score board foundations, and shade structure foundations) matching phase I. This work entailed matching previously provided drawings by a different structural engineer/firm not being PEC.
- Additional Mechanical design services as follows:
 - Redesign of heating, ventilation and air conditioning systems for City preferred equipment manufactured by Daikin. Previous design was based upon Aason as the manufacturer.
- Additional Grant Writing services to include composition and submission for 2025 Musco Lighting Youth Sports Equity Grant.
- Staff has reviewed the proposed change order and recommends approval based upon the additional services rendered.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The Decarsky Park Phase II design and construction services original budgeted amount was \$1.4M.
- The design contract approved by Council with PEC for the project totaled \$804,805 (\$595,195 under budgeted amount).
- The proposed change order for additional services amount is \$53,500.
 - Even with approval of the change order this still leaves the agreement \$541K under budget.
- Design and construction of Decarsky Park Phase 2 are being paid for using Derby Difference Sales Tax funds.

RECOMMENDED MOTION

- Authorize the City Manager to approve a change order in the amount of \$53,500 to Professional Engineering Consultants for the Decarsky Park Phase II Design and Construction Services agreement.

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

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

9 NEW BUSINESS

9.1 Election of Council President

Mayor Mark Staats opened the floor for nominations.

BACKGROUND:

- The term of a Council President is one year. The process for the election is as follows:
 - The floor is opened for nominations. Nominations (with seconds) are received.
 - The floor is closed, and nominees are voted on publicly.
 - A majority vote of Council members present and voting is required.
- The Council President's duties are as follows:
 - During temporary absences of the mayor, the Council President shall preside at Council meetings and perform all the duties of the office of mayor, except the Council President shall neither make appointments to boards, commissions, or other agencies, nor veto ordinances.
 - This position helps supervise certain duties of the City Manager, including approving time sheets, travel and expense reports, and managing the annual performance review process.
 - When a vacancy occurs in the office of mayor, whether by reason of death, resignation, removal from the City, removal from office, refusal to qualify or other cause, the Council President succeeds to the office of mayor with all its rights, privileges and obligations, and serves until the next regular City election.

LEGAL CONSIDERATIONS:

- Charter Ordinance No. 60 states that a president of the Council shall be elected "at a regular meeting in January" and details the duties of the position.
- The position and election of Council President is also addressed in the Governing Body Manual approved by the Council.

RECOMMENDED MOTION

- Hold the election.

Council Member Elizabeth Stanton nominated Rick Coleman. The nomination died for lack of a second.

Chris Unkel moved, seconded by Mike Neel, to nominate Nick Engle.

Mayor Staats asked Mr. Engle if he was willing to serve.

Mr. Engle replied he was.

Mayor Staats closed the floor for nominations and called for the vote.

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

9.2 Purchase of Public Works Street Equipment

Tom Keil, Assistant Public Works Director, gave the agenda report.

BACKGROUND:

- The 2025 budget provides for the replacement of a 2005 Tandem Axle Dump Truck.
- This would replace our largest and oldest dump truck in the fleet.
- The truck is for hauling large loads of materials, including salt and sand during winter weather operations.
- The truck is also our largest piece of equipment for snow removal operations.
- Bids were posted and an opening held on January 7, 2025, with two companies responding and Truck Center being the lowest responsible bidder meeting specs.
- Bid results were as follows:

<u>Vendor</u>	<u>Model</u>	<u>Bid Price</u>	<u>Trade Allowance</u>	<u>Total Bid Price</u>	<u>Meets Specifications</u>
Truck Center	Freightliner 108SD	\$288,587	\$10,000	\$278,587	Yes
MasterTech	Kenworth T80	\$350,567	\$8,500	\$342,067	Yes

- The 2025 budget also provides for the replacement of a 2000 John Deere Backhoe.
 - The backhoe is used for tasks related to road maintenance and repair.
- Bids were posted and a bid opening held on January 14, 2025.
- Bids were evaluated and verified with the submitting vendors.
- Two bids met the minimum specifications with Murphy Tractor being the lowest, responsible bidder.
- Bid results were as follows:

<u>Vendor</u>	<u>Model</u>	<u>Bid Price</u>	<u>Trade Allowance</u>	<u>Total Bid Price</u>	<u>Met Specifications</u>
Kansas Equipment	JCB 3CX-Super	\$162,526	\$0	\$162,526	No
Murphy Tractor	John Deere 410P	\$173,302	\$20,000	\$153,302	Yes
Foley Equipment	Caterpillar 430	\$189,986	\$18,500	\$171,486	Yes

- Staff recommends moving forward with the purchase of the Freightliner 108SD dump truck from Truck Center and the John Deere 410P backhoe from Murphy Tractor.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The budget for the dump truck is \$3,587 over the approved budgeted amount of \$275K. The budget for the backhoe is \$16,698 below the approved 2025 budget.
- Both pieces of equipment are being purchased using Derby Difference sales tax funds (streets).
- Bid Board reviewed both bids and recommend approval of the bids on January 21, 2025.

RECOMMENDED MOTION

- Approve a purchase of a dump truck from the Truck Center in the amount of \$278,587 and a backhoe from Murphy Tractor in the amount of \$153,302.

Council Member Chris Unkel said I like to see the Derby Difference being used. The trade-in allowance seems low to me considering this truck was still removing snow just a few weeks ago. I think the dump-bed alone would be worth around \$30,000. Have we considered just selling it outright, or even keeping it, instead of trading for such a small amount?

Tom Keil, Assistant Public Works Director, noted we do not know what the total bid price would be without the trade-in amount. Remember, the trade-in value is figured in to the price being offered. This piece of equipment has around 4800 hours of use which is around the equivalent of 90,000 miles.

Kiel Mangus, City Manager, said we always evaluate whether to hold onto or trade out a piece of equipment when it is time to replace it. We have very limited space for storing such a large vehicle as a back-up. We would likely not get near the \$10,000 trade allowance if we were to try to sell it on Purple Wave.

Mr. Keil added these vehicles have to be ready at any time for use by the City. If this were my own personal truck, I'd probably keep it another 10 years. That just is not practical for a vehicle used as this one is by the City. We have to be ready to go at a moment's notice and cannot take a chance it may not start or need some kind of repair.

Chris Unkel moved, seconded by Nick Engle, to approve a purchase of a dump truck from the Truck Center in the amount of \$278,587 and a backhoe from Murphy Tractor in the amount of \$153,302.

Mr. Mangus pointed out although the report shows these purchases will come from the Derby Difference, the money is not there yet since it just began on January 1. We do, however, have funds in the prior Derby Difference we will use and then reimburse the purchase once the money comes in from the new Derby Difference Sales Tax.

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

9.3 Purchase of Public Works Parks and Street Vehicles

Tom Keil, Assistant Public Works Director, gave the agenda report.

BACKGROUND:

- The approved 2025 budget provides for replacing two older trucks used by the Parks Division.
 - Both trucks are 2008 model years with 97,256 and 99,464 miles respectively.
 - Both of these trucks are diesels and have developed a history of mechanical and emission issues.
- To date, total cost of repairs for unit 290 is \$17,490 and for unit 291 it is \$18,257.
- Bid specifications were created based on department need and planned usage of the vehicles.
- Bids were posted and a bid opening was held on January 14, 2025, with four vendors submitting bids.
- Midway Motors provided the lowest, responsible bid meeting specifications with a bid for a Ram Tradesman 2500 in the amount of \$94,658 for two trucks.

<u>Company</u>	<u>Make</u>	<u>Model</u>	<u>Price Per Truck</u>	<u>Total Bid Price</u>
Midway Motors	Ram	Tradesman 2500	\$47,329	\$94,658
Don Hattan	Chevy	Silverado 2500 HD	\$49,700	\$99,400
Shawnee Mission Ford	Ford	F-250	\$49,736	\$99,472
Legacy Brothers Inc.	Ford	F-250	\$62,840	\$125,680

- The approved 2025 budget also provides for replacing a 2008 F-250 Utility truck for the Sign and Signal division.
 - The truck is equipped to handle the transportation and installation of traffic signs and signal equipment.
 - The utility box carries tools, signs, poles and materials, as well as compartments for storing smaller equipment and electronic signal components.
 - It will also be outfitted with necessary safety lighting.
- Bids were posted and a bid opening held on January 14th with 3 vendors submitting bids.
- Each bid was evaluated by staff. The bids from Shawnee Mission and MasterTech Truck did not meet the required minimum specifications of the Utility box.
- The bid from Don Hattan met all minimum bid specifications so City staff recommends moving forward with the bid from Don Hattan for the Chevy 2500.

<u>Company</u>	<u>Make</u>	<u>Model</u>	<u>Price</u>	<u>Met Bid Specification</u>
Don Hattan	Chevy	2500	\$57,636	Yes
Shawnee	Ford	250	\$55,589	No
MasterTech	Ford	250	\$62,466	No

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The budget included \$121,800 for the purchase of the parks trucks.
 - The recommended low bid is \$27,142 under budget.
- The budget included \$60,000 for the purchase of the sign and signal utility truck.
 - The recommended low bid is \$2,365 under budget.
- Bid Board approved and recommended approval of bids on January 21, 2025.
- Purchase of all of these trucks will be paid for using Derby Difference Sales Tax funds (parks and streets).

RECOMMENDED MOTION

- Approve a purchase of two pickup trucks from Midway Motors for \$94,658 and one utility truck from Don Hattan for \$57,636.

Council President Nick Engle said it is important to remember the miles on these vehicles are not the same as those we put on our personal vehicles. None of the miles are highway miles, and they are used for much more than just getting somewhere; they are worked hard.

Tom Keil, Assistant Public Works Director, agreed and pointed out the vehicles bid are all crewcabs (4 doors), which Mr. White, our Parks Director, refers to as "people-movers". An example of how helpful the extra room for personnel can be was witnessed during the recent snowstorm. I was going to go help our crews clearing the Police Department sidewalks, which was about a 15-minute drive for me. By the time I got there, it was nearly clear because two trucks had brought 8 workers over and were able to quickly take care of it.

Nick Engle moved, seconded by Mike Neel, to approve a purchase of two pickup trucks from Midway Motors for \$94,658 and one utility truck from Don Hattan for \$57,636.

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

9.4 Review of Kansas Open Meetings Act and Kansas Open Records Act

Jacque Butler, City Attorney, gave the agenda report.

BACKGROUND:

- Transparency in government promotes public trust.
- Kansas laws governing open meetings and open records are designed to promote transparency in government by making decisions and records accessible to the public. The KOMA statute states that "a representative government is dependent upon an informed electorate."
 - The general rules found in KOMA & KORA are not absolute; practical exceptions are incorporated into the laws.
- Review and training on the laws builds familiarity with the legal requirements and terminology found in KOMA & KORA. Compliance with these laws is necessary to avoid legal challenges to official actions.
- Attention to open government practices is a responsibility shared by elected officials, appointed officials, and staff.
- The City Attorney will review the basics of KOMA & KORA, as well as discussing recent guidance and enforcement decisions concerning the laws.

Kiel Mangus, City Manager, said when emails come in to the "all Council" email address, I am included on those and will typically reply. I know sometimes we see a group email and wonder if anyone has responded yet. When I do respond, I'll reach out to let you know so we are not sending out multiple replies or conflicting information.

Council Member Rick Coleman noted whenever I answer a public inquiry, I am sure to cc the City Manager, the Mayor and our Council President just so they are aware of the conversation.

Mayor Mark Staats said I appreciate that you do that, Mr. Coleman. It is not a violation, and helps to keep us in the loop.

Jacque Butler, City Attorney, said that is a good practice, but please be mindful of the number of council members included. If just one or two, who both serve the same ward, that is fine, but we need to be careful not to have a quorum involved. Also, it is important not to share the exchange with other members not included in the email because that could then exceed the number needed for a majority.

Mayor Staats asked about social media, in particular Facebook. In the past, I've seen informal surveys from a council member asking for input from the public on a certain issue to understand how the community feels about it. Or, for instance, I am Facebook friends with all the other members of our governing body. If I post my personal opinion, stating, "I am definitely for or against this" and the other members may or may not see it, is that a violation? It was a public statement, not a private conversation.

Ms. Butler replied you should be cautious in that respect. It is your personal Facebook account, but if any of the other members respond to the post in any way, that becomes an interactive discussion. Honestly, I do not know what the

Attorney General's opinion of such an interaction would be. I have only seen one opinion with enforcement action regarding a social media interaction. It did find a violation in a back-and-forth discussion. I do want to point out it is fine for you to post and ask for community input without sharing your own opinion; however, you should always assume other council members may see it.

Mayor Staats said there are times I've seen blatantly false information on social media forums, so I've sent responses correcting the wrong information or linking the correct information.

Mr. Mangus said at the bare minimum, I think you should avoid interacting with one another's' posts regarding City business. When you see something on social media that is incorrect, forward it to staff. Our Communications Director or I will work to correct the misinformation and post the correct data.

Ms. Butler reminded this law was written in 1984 when we did not have text messaging, email, or social media. Remember, this is not about public versus private discussions, but about giving notice of the meeting. Penalties for violations can be against individuals as well as the Council. I am a full-time employee of the City and am here to help you navigate issues like these. Call me any time with questions; that is what I am here for. The vast majority of violations are inadvertent or technical in nature. When meting out a penalty, that is taken into consideration.

Council Member Elizabeth Stanton said I believe the advice being given is if the Mayor posts something on his social media, leave it to him to battle it out and reply. If we see posts that are incorrect, take a screen shot and send it to our City Manager to allow our official City account reply and respond with the right information.

Mr. Mangus said that is the best way to handle it, yes. We have people in each department with the correct information who are best-suited to create the reply or rebuttal to false posts. In the everyday operations of the City, situations and circumstances can change; you may not be aware of the latest information on a certain topic, but staff will be. Unfortunately, a lot of times, those posting are doing so to try to get into a debate with you, rather than to find out what is really happening. The worst part about potentially getting a violation is not the penalty, but the loss of trust from the public.

Ms. Butler said you might also reply letting the poster know you are on City Council and would like to talk to you about this. My email is on the City website; please reach out. This shows you are willing to discuss it and address their concerns.

Mr. Coleman said I want to be sure the people of Derby know that their governing body does, however, have good communication when issues arise. They need to know we are all working for them, not just when we are at the bench. Mr. Mangus does a good job of passing information along to us and

answering our questions about matters, so we do care and work together to make the best decisions for our residents.

Ms. Butler pointed out we do try to have open communication while still following the KOMA rules. Mr. Mangus is good about reaching out to you with information and then compiling each of your questions, responses, and information bringing them into an open public meeting as an agenda item. In this way, we are not working around the rules, but within them.

Ms. Stanton said I hate executive sessions. How is it helpful to work in those time limits and try to really discuss the matter at-hand? We are all in there trying to hurry up our thoughts and get out the points we want to make, so we don't really absorb what others may have shared or said. Is there a way to make it better?

Ms. Butler said the time limit is only an estimate. If the session is too long, we risk the chance of talking about other topics which is not allowed, and you cannot reconvene the open meeting early.

Ms. Stanton asked why?

Ms. Butler replied because we have already stated when we will reconvene, so anyone in the audience can expect to return at that time and be part of the meeting. It is about informing the public and allowing them to be in the open meeting. We can always extend the time by reconvening and making the same motion again with a new time.

Mr. Mangus said I appreciate Ms. Stanton's comments. I think when we are in executive session, rather than saying we have 3 minutes left so everyone hurries up to say what they want to, we can say there are 3 minutes left, how much more time do you think we need to cover this?

Ms. Stanton said I'd like to go back to the example you gave where the motion stated we would reconvene at 7:00, but we come back at 6:45. Since everything is recorded, the public can see what took place.

Ms. Butler said the plain language of the statute requires you to state the time and place the open meeting will resume. If you do not follow this, you are in violation. Again, in 1984 when the law was written, meetings were not largely recorded or broadcast.

Mr. Mangus said we try our best to estimate how much time will be needed. I would rather we go too short and need to extend with another motion rather than go too long. Staff works to practice what we will share in the session and anticipate what kind of questions may come up, but sometimes things arise we didn't think of.

Ms. Stanton said now that we do not have the meetings broadcast and re-run on Channel 7, are they only accessible on our website?

Mr. Mangus said yes. When we upgraded equipment, we were no longer compatible with linking to Cox Channel 7, so we livestream the meetings and also have the recordings available for watching later.

Ms. Stanton asked would there be any value to posting the link to the last meeting on the City's Facebook page? I think folks might look at it there before they go to our website to find it.

Mr. Mangus said we could look into it. That is a good idea.

Council Member Chris Unkel thanked Ms. Stanton for asking the question. The executive session is always the last thing on the agenda, so why can't we just go in and take as long as we need, then come back and adjourn?

Ms. Butler said while we typically schedule executive sessions to be the final agenda item, they can arise anytime during the regular meeting. An executive session does not have to be planned. If our public discussion on an item brings up questions that lean toward providing legal advice, I can respond saying I will be happy to discuss this, but believe we should do so in executive session. Then, I can provide the appropriate motion for us to recess into executive session and continue the open meeting again later.

Mr. Mangus pointed out sometimes after executive session there is a vote or action taken, which needs to be done publicly.

Mr. Coleman commented we can also come out of executive session and add another agenda item.

Ms. Butler agreed and reminded everyone we only recess to executive session, not adjourn. When we reconvene, it is into an open meeting where business is still taking place until we actually adjourn.

Mr. Mangus thanked Ms. Butler for a great refresher course on KOMA and KORA. I know Council sometimes has questions about *ex parte* communications. They know they need to disclose it, but are not sure how to state it. Just give Ms. Butler or me a call and we can assist you.

10 ADJOURNMENT

Nick Engle moved, seconded by Rick Coleman, to adjourn the meeting at 8:09 p.m.

RESULT:	Carried
MOVER:	Nick Engle
SECONDER:	Rick Coleman
ABSENT:	Jenny Webster and Wayne Molt, Jr.

City Clerk

Mayor

DRAFT