

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
September 18<sup>th</sup>, 2008, at 7:00 P.M.

**MINUTES**

The meeting was called to order with Roll Call by Mayor David Anderson.

Roll Call:	Cannon	Present	Maniez	Present
	Drennon	Present	Morse	Present
			Templin	Present

Mayor Anderson led the Pledge of Allegiance. Citizens signed the book on page 126.

Councilman Maniez moved to amend the Agenda to move Item 5.d before 5.a; second by Cannon.

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried.

Consent Agenda Items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.

1. Consent Agenda:
  - a. Approve Minutes of the Council Meeting of September 4<sup>th</sup>, 2008.
  - b. Approve Pay Ordinance No. 601.

Motion by Councilwoman Templin to add Resolution #828 to the Consent Agenda and approve the Consent Agenda; second by Maniez

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
			Templin	Yes

Motion carried.

2. Call to Public:

"Members of the public are welcome to use this time to comment about any matter relating to City business that is not listed on this Agenda. The comments that are discussed under Call to Public may or may not be acted upon by the Council during this meeting. **There is a four-minute time limit.** Please stand and wait to be recognized by the Mayor."

John Richmore, 21060 W 89th St. Olathe, spoke to the Council concerning a bike run (~250 motorcycles expected) to be held October 2. He will submit applications for a temporary beer license and a temporary use permit to staff for action at the next Council meeting. He passed a flier on the event to the council. City Attorney Reavey indicated the applications would be reviewed by staff and placed on the consent agenda for the next meeting.

No one else appeared

3. Chamber / EDC Report: Executive Director, Sara Ritter, was absent but sent an email to Administrator Guilfoyle to update the Mayor and Council concerning the following items

- The EDC Quarterly Membership Meeting is next Wednesday, September 24<sup>th</sup> at 8:30 a.m. at Intervet. The guest speaker is Dr. Dan Richardson with the K-State Olathe Innovation Campus. The meeting is open to the Chamber membership as well and there is no cost to attend. Reservations are required for security purposes.
- The Office Depot Chamber Day at the Kansas Speedway is Friday, September 26<sup>th</sup>. The Chamber hit an all-time record with the number of tickets sold for our chamber. Mayor Anderson has purchased 10 tickets and he made them available if the council would like to attend.
- The Chamber will host a Candidates Forum at their October 9<sup>th</sup> chamber luncheon, along with a presentation by Mary Birch with the Johnson County Education Research Triangle. October is also Nomination of Officers for the 2009 Chamber Board of Directors.
- The Ambassadors are meeting weekly in preparations for the Blues & BBQ Festival. We've activated the "Chamber Challenge" which has all of the members in teams and competing with each other to sell the most tickets. We have 3 BBQ slots remaining and expect to have the maximum 48 teams by next week. Ms. Ritter will provide an update at the next council meeting on expected attendance for the event.

4. Old Business: None

5. New Business:

- Consider a Special Use Permit for a monopole located by the Waverly water tower. Engineer Brungardt reviewed the application for the Council, stating that part of the agreement between Selective Site Consultants and the City for a new tower requires Selective Site Consultants to obtain a Special Use Permit. The SUP process requires approval of a site plan to be considered of the application at a public hearing—very similar to a rezoning process. The Planning Commission did consider the permit and recommended approval with conditions. The proposed tower will be 190' feet tall or as tall as the existing water tower. Also, the Planning Commission recommendation follows the regulations in limiting the permit to only 5 years to consider the impact of the tower on the community. The Commission recommended approval of the Special Use Permit with conditions as noted in the staff report.

Councilman Maniez asked about the waiver of the RFE engineer report. Engineer Brungardt pointed out that this regulation relates to a new tower where there is a potential for interference with existing radio frequencies, and since existing equipment is simply being transferred from one structure to another, there is no concern for interference and this is why the requirement was waived.

Motion by Councilman Morse to approve Ordinance 2212 for a communications tower; second by Maniez

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes	Anderson	Yes

Motion carried.

- Consider a general text amendment for Article 7, Sign Regulations. Planner Bohnsack reviewed the basis for the proposed amendments to Article 7 for the Council, pointing out that the proposed revisions are designed to correct some errors and discrepancies that have evolved over the years and to make the regulations generally easier for both the public and staff to use. The Planning Commission recommends approval of the proposed revisions.

Motion by Councilman Maniez to approve Ordinance 2213 for Sign regulations; second by Cannon

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Abstain
	Templin	Yes	Mayor Anderson	Abstain

Motion carried

- c. Consider Bids for Replacement HVAC System for East End of City Hall. Administrator Guilfoyle discussed the bids with the Council, noting that although the bid from AM/PM Heating, Cooling, Plumbing was the lowest, it did not meet one of the specifications of the proposal so the next lowest bid from Harding Heating & Air Conditioning for \$11,400 is the recommendation to the Council.

Motion by Councilman Maniez accept the bid from Harding Heating & Air Conditioning in the amount of \$11,400 for replacement of the furnace and A/C units; second by Cannon

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried

This item considered prior to item 5a.

- d. Receive presentation from Johnson County on the Kill Creek CARNP corridor study.

Mack Andrew, County Public Works Director brought a presentation to the council on the Kill Creek alignment. With him were Dean Palos, Director of Planning & Zoning, Brian Pietig Assistant County Engineer and Geoffrey Vohs Design Engineer. Mr. Andrew noted that there has been a considerable amount of work on this project to date and touched on earlier planning sessions and studies. Mr. Pietig spoke on the importance of planning for transportation. Johnson County has grown considerably over the past 5 years—mostly in the northwest portion of county. Growth is projected to continue over the next 20 yrs—even through the current economic downturn. It's best to plan before growth rather than try to catch up with it. In western areas, the placement of roads is not as definite as in the eastern part of the county where major roads already exist. Their studies determined that two N/S routes are needed—one through the Sunflower property and one along Kill Creek Rd, which were originally identified by a 400' wide corridor on their study maps. The E/W corridor is along 111<sup>th</sup> St. Mr. Vohs then spoke on preliminary engineering for these routes. He said to bear in mind that they are looking forward 20 years to the needs for traffic then. In July 2007 they began preliminary engineering for a proposed parkway that will be a 4-lane divided highway with a center median and access control. A trail will be incorporated into one side of the parkway. In order to restrict access, the route was been shifted to the west. Otherwise, multiple residences would have to have access points along the road. The north point of route then shifts back to the intersection of Kill Creek just north of 95<sup>th</sup> Street. They will only require a 150-200 foot wide right-of-way. That route (Alternative 1) will only require the relocation of two homes and create the fewest danger points. Another alternative shows the road shifting back to Kill Creek Road south of 95<sup>th</sup> Street. This route also only relocates two homes, but would not allow access at 95<sup>th</sup> Street. Alternative 1 calls for a slight realignment of 95<sup>th</sup> Street. All other alternatives require larger shifts of 95<sup>th</sup> with more disruption of the area. Alternative 1 would also allow an

access from the new road to adjoining properties between K-10 and 95<sup>th</sup> Street—an advantage for development of the property.. Per the maps displayed, gross developable area is basically the same after the re-alignment under Alternative 1 and vacating of the existing Kill Creek Road right-of-way between 95<sup>th</sup> & K-10. Mr. Pietig then returned to discuss the next steps in the process. They are seeking a memorandum of understanding between the county and the city. Following that, they will want to decide the type of facilities needed, establish access management policies, adopt a preliminary engineering plan and begin ROW preservation. Mr. Andrew pointed out that it is important to begin planning early to avoid situations like Santa Fe in Olathe.

Mayor Anderson commented on meetings he has had with the county concerning the project, then asked for questions and comments from the Council. Councilman Drennon stated he does not support the Alternative 1 plan because it will interfere with important development land for the City. Councilwoman Templin is concerned that the road is not projected for another 20-30 years, but the City sees development of the area in the immediate future and preservation of ROW could interfere with that development for a long period of time. Councilman Maniez asked if they had considered a reverse access road for the existing residences along Kill Creek Road and could then retain the current alignment. Mr. Pietig said they had, and also at shared access drives. Councilmembers Templin and Cannon asked how the County went about acquiring ROW and how right-of-way preservation worked. Mr. Pietig said they do so as the opportunity arises. Mr. Andrew pointed out that using the current alignment would require moving at least 14 residences. Mr. Palos commented on ROW preservation, stating that it can be done in several ways. They may be able to relocate the proposed building site for new construction, use CARNP funds to buy a site, phased development, and other options. He suggested that the site at the NW corner of Kill Creek & K-10 could be developed in phases to allow for the ROW preservation needed on the site. Long term, the proposed route provides more options than it does currently. The current route of Kill Creek north of 95<sup>th</sup> would be vacated and become developable land.

Engineer Brungardt stated that the original plan was a result of a need to connect K-10 with Gardener. Mayor Anderson pointed out that the City does not have a 'CARNP fund' to purchase ROW to prevent development. Councilman Drennon pointed out that the most developable area of the property is where the ROW will be located. Councilwoman Templin pointed out that the possibility of development prior to the construction of the new road is highly likely and the Council would have to work with developers to be sure everything works, that the City should work with developers as plans come up to preserve the ROW needed to avoid liability in these locations. Councilman Morse asked about the possibility of actually building the portion of the new road between K-10 and 95<sup>th</sup> Street earlier. This location should develop within the next 5 years and waiting that long for the road could be detrimental. This may be possible, but would require acquisition of about \$1.3M of ROW. The Mayor stated that this property is very important to De Soto development because other properties at the K-10 intersections are much less desirable for development. Mr. Palos pointed out that commercial development in the area is still very limited and now is the time to implement plans in order to guide development, not stop it. Mr. Vohs stated that several options had been looked at and that they had taken the City's recent revisions to the Comprehensive Plan for the 95<sup>th</sup> Street corridor into consideration for the route. Alternative 1 provides the best alignment. The Council and Mr. Andrews team further discussed aspects of the plan.

Mayor Anderson asked Mr. Honomichel from the Planning Commission for his comments. Mr. Honomichel observed that the presentation had provided additional information and several positive points that he had not considered previously. He also

stated that the plan appeared to be very well thought out and provided additional frontage and access opportunities to this parcel. He came to the meeting today to gain insight on the direction of the Council on this issue. It is difficult for the Planning Commission to make recommendations without a clear indication about what the Council wants to do.

Mr. Brungardt stated that the City has not adopted the CARNP plan and right-of-way alignment and that preservation may put the City under some liability. Mr. Andrew stated that it is much easier and less expensive to buy undeveloped land than to buy residential properties and relocate residents.. Councilwoman Templin asked about the next steps for the City. Mayor Anderson suggested that the plan be presented to the Planning Commission at their regular meeting next week and then they could prepare a recommendation for the next Council meeting.

Mr. Guilfoyle thanked Mr. Andrew concerning the county's help in clean-up efforts following the tornado damage in De Soto this last week.

Mayor Anderson called a five-minute recess at 8:02 p.m.

Mayor Anderson reconvened the Council at 8:07 p.m.

- e. Consider a request by Fish Development for extension of time to invest \$5 million in The Commons' project. Attorney Reavey discussed the approval by the City Council of a tax abatement and the issuance of industrial Revenue Bonds for The Commons in 2006. The criteria governing the approval of tax abatements and bonds require the expenditure of at least \$5 million in the City. The Council previously authorized Fish Development a 3 year timeframe to meet the \$5 million threshold. The deadline for Fish Development is September 6, 2009. Mr. Shannon Nelson is here to request an extension of 12-18 months on that deadline. Staff recommends approval of the extension on the condition that the \$10,000 escrow fund must be replenished (currently at just over \$4,000).

Councilwoman Templin asked Mr. Nelson about his current plans for completing the development. Mr. Nelson stated that if they can put up one more building they will come very close to the \$5M threshold. If the new deadline imposed by the Council is not met, Attorney Reavey stated the tax abatement would end for the development.

Motion by Councilman Maniez to extend the deadline for The Commons development by 18 months on the condition that Fish Development replenishes the \$10,000 escrow fund; second by Templin

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried

- f. Consider Ordinance Authorizing expenditure from electric Utility Fund of up to \$105,000 for purchase and rehabilitation of property at 83<sup>rd</sup> and Kill Creek Road.

Planner Bohnsack stated for the record that this structure is probably the only one in De Soto that might qualify for historic designation.

Attorney Reavey stated that the ordinance covers both the purchase price and the fees for the clean-up of the site. The hydraulic tanks and lifts recently were removed. The

environmental company retained by the city did not see any obvious leakage and results of soil tests are expected next week. The Ordinance is for "up to \$105,000" so if the entire amount is not needed, it will not be used. The closing on the property is set for the beginning of November but can be completed earlier if the soil tests are negative for contamination.

Motion by Councilman Maniez to approve Ordinance 2214 for purchase of the property, demolition of structures and restoration of the site; second by Templin

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes	Anderson	Yes

Motion carried

6. Executive Session:--None

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, briefed the Council on a request from Street Supt. Ron Creason to authorize a street striping proposal from Twin Traffic Marking Corp. of Kansas City, Ks. Since the \$7,775.40 quote exceeds the Administrator's \$5,000 authorization limit, Mr. Guilfoyle is asking the Council to approve the bid.

Motion by Councilman Maniez to approve the bid for the street striping; second by Templin

All Council approved by Ayes

Administrator Guilfoyle then requested that the Council schedule a tour of the De Soto and Olathe water plants. Two separate dates are needed. This will be an open meeting and members of the public may wish to attend. Council will meet at City Hall and carpool to the water treatment plants. The tours will take place at 5 p.m. on October 16 for the De Soto plant and the Olathe plant at 5 p.m. on November 6.

Guilfoyle briefed the Council on the status of the fire unification process. He noted for the Council's information that the Memorandum of Understanding (MOU) has been completed and reviewed by both the County and by Johnson County Fire District #3's board of directors. The MOU is now ready to be considered by all three entities for their approval. The MOU will be placed on the Council's October 2 agenda.

- b. City Attorney, Patrick Reavey, No report
- c. City Engineer, Mike Brungardt, No report
- d. City Planner, Linda Bohnsack, No report
- e. City Clerk, Lana McPherson, was not present.

8. Council & Mayor Comments:

Mayor Anderson had no comments.

Councilman Maniez said he would like to express his appreciation to fire dept for their help with the tornado damage and the assistance they provided to property owners and also in

providing security for the area. They did a very good job and performed above and beyond the call. It was a wonderful thing.

Councilwoman Templin affirmed Mr. Maniez's statements and also commended the sheriff's department stating both groups behaved very efficiently and professionally.

Councilman Drennon asked Engineer Brungardt who would be watching over the Riverfest Park project in his absence. Engineer Brungardt stated that the remaining work is mostly electric installation and then getting Westar to hook-up the power. Both and Administrator Guilfoyle and Jay Garvin have been involved in the project from the beginning and will oversee during his absence. Mr. Garvin's and Ron Creason's crews will be watching closely to be sure no problems occur before the finish and to clean up and prepared the park for the festival.

Councilman Morse and Cannon had no comments.

Motion by Councilman Maniez to adjourn at 8:51 p.m.; second by Templin

All Council approved by "ayes".

Respectfully submitted:

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Linda Bohnsack, City Planner