

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
October 15<sup>th</sup>, at 7:00 P.M.

**MINUTES**

Prior to this evening's business meeting, the Mayor called Reverend Richard Copeland to come and be recognized. At that time, the audience gave Reverend Copeland a standing ovation. Mayor Anderson read a proclamation honoring Reverend Copeland for his 50 years of ministry and for his ministry to this community since September, 1967. Mayor Anderson proclaimed Sunday, October 25<sup>th</sup>, as "Reverend Richard Copeland Day" in the City of De Soto.

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

Roll Call:	Cannon	Present	McDaniel	Present
	Drennon	Present	Templin	Present
	Walker	Present		

Mayor Anderson led the Pledge of Allegiance. Citizens signed the book on page 152.

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 October 1<sup>st</sup>, 2009.
  - b. Approve Pay Ordinance No. 627.
  - c. Authorize Mayor to Sign Engagement Letter.
  - d. Approve Bid for Janitorial Services and Authorize Mayor to Sign Contract.

Motion by Councilwoman Templin to approve the Consent Agenda; second by Drennon.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	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 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. You must state your name and address."

Darrel Zimmerman said there is one historical marker yet to be completed by Johnson County within the City. The remaining marker is about the history of De Soto. Mr. Zimmerman has talked to a Lawrence, Kansas graphics company representative. He said he would like to see another marker be placed by Abbott Hall and one by the rock church building across from the school district building. He feels there should also be a marker at Riverfest Park. He is asking the City to allow him to solicit private funding for the remaining markers, as well as solicit citizen input on this project, and work with the City and the community in funding these markers. Mayor Anderson and the Council

discussed this with Mr. Zimmerman. Everyone was supportive of Mr. Zimmerman's request.

3. Chamber / EDC Report: Sara Ritter, Executive Director, said the Blues & BBQ festival had 49 teams present. There were over 1,200 present.
4. Old Business:
  - a. Consider Evidence on Breach of Tower Lease Agreement. Attorney Reavey stated he has talked with both parties and has provided Council with a memo. Mr. Lee Miller of Radius Broadband has said that his company will be removing their equipment and moving to another tower.

Kameron Klein of Kansas Broadband stated he apologizes for having to bring this before the Council; however, he is tired of dealing with this. He said there is very clear evidence that the lease has been violated for quite some time. He said someone other than himself should verify the lease has been violated. Mr. Klein stated he feels that Kansas Broadband has failed to communicate and this has drawn out the concern. He stated his company works very closely with surrounding competitors and has had no problems.

Attorney Reavey discussed the frequency usage in prior contracts. Kansas Broadband has expanded their frequency use without prior notification to the City or to Kansas Broadband that causes interference to the other provider. Discussion ensued between Council and Mr. Klein regarding interference on the frequencies and the overlapping in the spectrum.

Councilman McDaniel and Attorney Reavey discussed the City's lease agreement with SSC regarding the monopole. Mr. Klein stated there are approximately 190 customers being served from the tower.

Mr. Lee Miller of Kansas Broadband stated both companies operate in two spectrums that are not licensed by the FCC. There are several companies that operate within these two unlicensed spectrums. Mr. Miller stated he has not experienced the interference that Mr. Klein stated he is having. Mr. Miller said he has about 75-80 customers on the De Soto tower. A discussion ensued between Attorney Reavey and Mr. Miller regarding the frequency bands that were attached to the lease agreement.

Mayor Anderson asked Attorney Reavey what the Council's part is in this. Discussion. Councilman McDaniel discussed the monopole contract with Attorney Reavey. Councilwoman Cannon said she didn't want the citizens to be without Internet. Councilwoman Templin asked Mr. Miller if he and Mr. Klein could work out an arrangement within the next week. Mr. Miller stated he was in agreement to working with Mr. Klein to find a frequency range that would benefit both parties, and he could do that in a week. In response to Councilwoman Templin's question, Mr. Miller acknowledged that he understands Kansas Broadband's equipment must be immediately removed from the City's water towers if an agreement with Radius is not reached within the week time period.

Councilman Drennon said he doesn't want citizens to do without Internet access and the two parties need to work this out. Councilman Walker said it is not good for

either customer base to deal with poor service, yet he doesn't feel that there is much the Council can do regarding the monopole. Mayor Anderson asked both parties to specifically address the frequency issues and get it done within the week. Mayor Anderson requested the parties copy Attorney Reavey on their correspondence.

5. New Business:

- a. Consider petition from citizen group to close a portion of 82<sup>nd</sup> Street for a block party. Mrs. T. J. Mayfield, 8225 Cherokee, Lot B, stated she is petitioning to block the street for a 60<sup>th</sup> birthday party. She provided signature approval from the residents on the street. Planner Bohnsack gave details of the request for the Council's consideration.

Motion by Councilwoman Templin to close West 82<sup>nd</sup> Street between Cherokee and Ista Drive on Friday, October 30<sup>th</sup> from 5:30 p.m. to 11:00 p.m.; second by McDaniel.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes		

Motion carried.

- b. Consider an application to rezone property located at 27943 & 27945 W 85<sup>th</sup> Terrace from "RUR" Rural District to "R-1" Residential—Low Density District. Planner Bohnsack provided comments in the staff memo and the Planning Commission's recommendation to Council for approval of the rezoning.

Motion by Councilman Drennon to approve Ordinance No. 2236 to rezone property located at 27943 & 27945 W. 85<sup>th</sup> Terrace from RUR Rural District to "R-1" Residential – Low Density District; second by Templin.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes	Mayor	Yes

Motion carried.

- c. Consideration of the proposed "R-A" Rural Agriculture Zoning District. Planner Bohnsack provided the comments from the Planning Commission and the amendments as recommended by the Planning Commission.

Motion by Councilwoman Templin to approve Ordinance No. 2237 approving the various text amendments to the Zoning Regulations to create the "R-1" Rural Agricultural District as provided in the staff report; second by McDaniel.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes	Mayor	Yes

Motion carried.

- d. Discussion and consideration of proposed logo for the City. Planner Bohnsack provided background information regarding the planning and the committee's recommendation.

Those on the logo committee were Council President Mitra Templin, Planning Commissioner Chairman Michael Kroeger, Planning Commissioner Richard Hemphill, EDC and Chamber Executive Director Sara Ritter, City Administrator Pat Guilfoyle, and City Planner Linda Bohnsack. Mayor and Council discussed the new logo and everyone was in agreement that it was a good design. Planner Bohnsack stated the committee worked very hard on this project and everyone felt a huge responsibility and commitment to providing the City with a logo representative of the City's past and future. City Administrator Guilfoyle commended Planner Bohnsack for her outstanding commitment in keeping the committee on track.

Motion by Councilwoman Templin to approve the logo selected by the Committee; second by Cannon.

All Council approved by "ayes".

Motion carried.

- e. Consider Resolution Authorizing Improvement to the City Public Water Supply System; and Providing for the Payment of the Costs Thereof. Administrator Guilfoyle said the anticipation of all the costs associated with the refurbishment of the water treatment plant will be rolled into the bond package in 2010. The purpose of the resolution is to allow the City to recapture any current cash expenses from the future bond proceeds.

Motion by Councilman Drennon to approve Resolution No. 854 Authorizing Improvement to the City Public Water Supply System and Providing for the Payment of the Costs Thereof; second by McDaniel.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes		

Motion carried.

- f. Consider Engineering Services agreement with Larkin Group for water treatment plant improvements. Engineer Brungardt stated the preliminary design and improvements for the Phase 1 project will include new electrical service to the plant, a back-up generator, and a new distribution line from the Water Treatment Plant to 103<sup>rd</sup> & Sunflower Road.

Councilman McDaniel asked Mr. O'Malley of Larkin Group who would approve the electrical part of the project. Mr. O'Malley stated an electrical engineer will inspect the electrical improvements. Discussion ensued between Mayor Anderson and Mr. O'Malley.

Motion by Councilwoman Templin to authorize the Mayor to enter into the Professional Services agreement with Larkin Group for the design of the Phase I improvements to the Sunflower Water Treatment Plant, in an amount not to exceed \$124,885; second by Cannon.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes		

Motion carried.

- g. Consider request from Don Oxley to waive system development fees for water and sewer connections to an existing structure. Engineer Brungardt reviewed his comments in the Staff Report dated October 15<sup>th</sup>, 2009. The existing garage is used as a legal non-conforming business and has never had water or sewer service. Mr. Oxley is requesting a waiver of both the water and sewer system development fees as the garage has been in existence for 30 years and it would not contribute to any additional infrastructure upgrades.

Mayor Anderson and Engineer Brungardt discussed the “stand alone” possibility of future requests. Mayor Anderson said if there were a number of these type structures, this could set a precedent for future requests. Discussion ensued between Mayor Anderson and Council. Councilman Walker said he could easily separate this particular property from development fees as this property owner has been paying taxes on the property all these years. Discussion ensued between Mayor Anderson and Council regarding the development fee structure being reviewed.

Motion by Councilman McDaniel to waive the water and sewer development fees for 8210 Cherokee Street; second by Cannon.

Roll Call:	Cannon	Yes	McDaniel	Yes
	Drennon	Yes	Templin	Yes
	Walker	Yes		

Motion carried.

Mr. Oxley stated he would like to commend the Council for recognizing Reverend Copeland. Mr. Oxley said he isn't a church-going person, but he wanted to state that Reverend Copeland has always been a really nice guy to him and to everyone in the community, and he is an asset. Mayor Anderson agreed and said the community has been blessed by Reverend Copeland.

6. Executive Session:

Motion by Councilwoman Templin to go into Executive Session at 8:35 p.m. to discuss a personnel issue for 15 minutes; second by Cannon.

All Council approved by “ayes”.

Motion carried.

Motion by Councilwoman Templin to return to regular session at 8:50 p.m. and only the item stated for personnel was discussed and no votes were taken; second by Drennon.

All Council approved by “ayes”.

Motion carried.

Motion by Councilman McDaniel to authorize the City Administrator to provide an additional annual week of vacation to a Street Department employee based on an agreement by a previous city administrator; but not to exceed the maximum allowable vacation allotment; second by Walker.

All Council approved by “ayes”.

Motion carried.

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, stated that the City now has a presence on Facebook thanks to Council President Templin. Attorney Reavey cautioned Council members about making comments or discussing any matter that would come before the Council.
- b. City Attorney, Patrick Reavey, no report.
- c. City Engineer, Mike Brungardt, said on Tuesday he received a draft from Larkin Group for the wholesale water district study. The final report is due on November 3<sup>rd</sup>. He would like to have some time at the November 5<sup>th</sup> Council meeting for discussion of the final draft.
- d. City Planner, Linda Bohnsack, attended the Energy and Wind Systems workshop. She will be providing some information for the Planning Commission’s review at their next meeting regarding wind systems.
- e. City Clerk, Lana McPherson, said the City has once again received the “Gold” award by KMIT for the City’s Loss Prevention and Safety Program. The “Gold” certification means the City will receive a 5% discount on the workers’ compensation premium.

She also reminded Council the LKM regional suppers were coming up and the one for this area will be on Thursday, November 19<sup>th</sup>, in Mission.

8. Council & Mayor Comments:

Mayor Anderson said the Council of Mayors is really pushing for the cities to attend the regional suppers and support the LKM legislative programs. A discussion ensued that this meeting is on the same night as our Council meeting. Mayor Anderson and Council looked at other suppers, but distance is too far for Council to attend a different meeting.

Motion by Councilwoman Cannon to change the November 19<sup>th</sup> Council meeting to Wednesday, November 18<sup>th</sup>; second by Templin.

All Council approved by “ayes”.

Motion carried.

Councilman Walker said the sidewalk connection to Riverfest Park might be submitted for the Infrastructure Grant. Engineer Brungardt said he will look at that project.

Councilman Drennon asked about the 83<sup>rd</sup> Street project resurfacing. Engineer Brungardt said the paving will be done next week, depending on the weather.

Councilwoman Templin had no comments.

Mayor Anderson stated the City had four employees that were recognized for 10 years

of service during the LKM conference. They are: Kevin Ritter, Fire Chief; Bill Collins, Water Department; James Briggs, Mechanic; and Pam Graff, Code Enforcement Officer.

The Johnson County/Wyandotte County Council of Mayors holiday dinner is going to be December 2<sup>nd</sup>. Mayor Anderson provided invitations to Council and staff.

Mayor Anderson was invited to a forum of the Kansas City Civic Council. He has requested to serve on one of the committees and will advise Council when he is notified.

Councilman McDaniel said he was very impressed by the LKM speakers at the conference.

Councilwoman Cannon had no further comments.

No further business or comments from the Council was expressed.

Motion by Councilman Drennon to adjourn at 9:10 p.m.; second by Cannon.

All Council approved by "ayes".

Motion carried.

Respectfully submitted:

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Lana R. McPherson, MMC, City Clerk