

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
November 5<sup>th</sup>, at 7:00 P.M.

**MINUTES**

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 153.

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

Special recognition by Mayor Anderson of 10-year City employees: James Briggs, Bill Collins, Pam Graff, and Kevin Ritter. Mayor Anderson introduced James Briggs and Kevin Ritter and stated these employees were recognized at the annual League of Kansas Municipalities meeting. He thanked them for their dedication and commitment to the City of De Soto.

1. Consent Agenda:
  - a. Approve Minutes of the Council Meeting of October 15<sup>th</sup>, 2009.
  - b. Approve Pay Ordinance No. 628.
  - c. Approve Resolution No. 855 for Code Violation at 8930 Lexington Avenue.
  - d. Approve Resolution No. 856 for Allowing Discharge of Bow and Arrow.

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.

Motion by Councilwoman Templin to amend the Agenda to include New Business Item 5. h. to Consider an Ordinance Granting Annexation for Specific Land to the City of De Soto, Kansas, Pursuant to K.S.A. 12-520; second by Drennon.

All Council approved by "ayes".

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. You must state your name and address."

Darrel Zimmerman, 34055 W. 86<sup>th</sup> Terrace, said he wanted to start a fund for the three additional historic markers to be added to the City and these were discussed at a previous Council meeting. He has opened an account at the bank and the fund now has \$300 in it.

Kathy Ross will be working on this project with him, and she is also a co-signer on the bank account. Mr. Zimmerman stated the signs will cost approximately \$1,500 each.

Drew Culbertson, 8777 Golden Lane, said the completion of the VFW memorial is being finalized and there will be a dedication ceremony on Saturday, November 14<sup>th</sup>. Mayor Anderson will be speaking at the ceremony. Mr. Culbertson is formally requesting to use a portion of Penner Avenue during the time of the dedication. He has talked with City staff and has worked out a plan that would allow for the blocking of Penner Avenue, and leaving access for emergency vehicles. The time frame would be 11:30 a.m. until 1:00 p.m. for Penner Avenue to be barricaded during the dedication ceremony. Engineer Brungardt said staff has confirmed the plan is workable. The Street Department can provide signage.

Motion by Councilman Walker to allow the VFW to close Penner Avenue as requested in their plan from 11:30 a.m. to 1:00 p.m. on November 14<sup>th</sup> for the dedication ceremony; second by Cannon.

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

Motion carried.

3. Chamber / EDC Report: Executive Director, Sara Ritter, had no report.

4. Old Business: N/A

5. New Business:

- a. Presentation on findings from the Western Johnson County Public Wholesale Water District Feasibility Study. Engineer Brungardt said the group met on Tuesday to get the final report. He provided Council with an executive summary in their packet, and the table in that summary has some changes. He stated Tony O'Malley with Larkin could not be here tonight due to a previous commitment. Mr. O'Malley will be here at the next meeting to present the formal report. Engineer Brungardt discussed the changes in cost estimates and he hasn't talked with the other members yet. Engineer Brungardt commented on the costs and potential water rates based on the number of entities who might join in the district verses the costs of the City solely financing the improvements. Larkin will be providing comments back to the group and then the final report will be going to the printer. After that, there will be a call to the group to determine who is in and who is out. Those who are going to participate will be asked to put in some funding commitment for the project.

Councilwoman Templin asked about the legal partnership for the group. Engineer Brungardt stated the group will choose an attorney or law firm to handle the legal for the group. The water purchase contracts will need to be worked out as a first step and a cost associated with signing up with the group.

Councilman McDaniel asked if Sunflower has been approached to join in the group. Engineer Brungardt said he has met with Kise Randall about the thought of becoming involved with the wholesale district up front. Councilman McDaniel asked about the costs that could be saved when the City's water losses have been corrected with new lines.

- b. Consider proposal for Structural Engineering services for a structural condition survey of the Sunflower Water Treatment Plant. Engineer Brungardt said one of the big questions that the other group members has is what is the expected life of the

concrete structures, and the basic elements of infrastructure at Sunflower that we plan to continue using. The only way to answer these questions is to do a structural engineering analysis of the existing facilities. Engineer Brungardt stated that John Krudwig's credentials show that he is an expert in this field, and these are services that will need to be done in the study of whether or not to rehabilitate Sunflower.

Attorney Reavey said a small change needs to be made to paragraph 6 regarding Indirect Damages. Mr. Krudwig is amenable to the requested change.

Councilman McDaniel asked if this study's costs will be reimbursed by those who join in the wholesale water supply group. Engineer Brungardt said he would expect that the cost would be reimbursed by the wholesale district, just like the other improvements being pursued. Councilman McDaniel and Engineer Brungardt discussed some of the terms of the contract and why this particular proposal was chosen.

Councilwoman Templin asked how many professional firms are out there that are in the concrete structural engineering. Engineer Brungardt said there is very few that do the architectural concrete structural engineering. Councilman Walker said no one comes to mind that he deals with that could do this type of work locally. He said going through the RFQ process would probably cost the City more due to marketing the project scope and the specialty of the services.

Mayor Anderson asked Mr. Krudwig about the contract being a "boiler plate" contract. Mr. Krudwig said he would be the one doing the work. Councilman Drennon said he had some questions, but after talking with Engineer Brungardt and Mr. Krudwig, he is comfortable with the work. Councilwoman Cannon said she had no concerns. Councilman McDaniel said his questions have been answered.

Mayor Anderson asked a time frame. Mr. Krudwig said some of the testing will have to be sent out of state. Mr. Krudwig said the project completion should be about 90 days, depending on the weather and the testing. Mr. Krudwig said he will fast-track as much as he can. Engineer Brungardt said this time frame will work for the group and the decisions that will have to be made.

Motion by Councilman Drennon to authorize the City Administrator to enter into the structural engineering services agreements with Krudwig & Associates for the amount of \$18,450.00 with funding to come from the Electric Utility Fund, to be reimbursed to the Electric Utility Fund from the funding sources authorized by City Council Resolution 854 adopted on October 15, 2009; with a 90-day completion date, and a change in paragraph 6 that damages will be covered by Krudwig Associates insurance, and a change to paragraph 10 as discussed; second by Templin.

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

Motion carried.

- c. Consider supplemental funding share and contracts for the Kill Creek Mill & Overlay ARRA Project. Engineer Brungardt said these are KDOT formulated boilerplate contracts. The City has received a \$400,000 award toward funding for this project. KDOT will not allow our in-house project manager to oversee this project as he is not KDOT "certified". KDOT wants to award the contract to APAC, but they will not award the project until they receive the \$85,000 from the City. Engineer Brungardt said he has stated his consternation to KDOT regarding their demands and the City

not having any control in the scope and the payment to the contractor.

Administrator Guilfoyle discussed the funding source for this project. He said the target for this funding would be the Capital Improvement Fund for this year. It would require a budget amendment for any over-expenditure for this year. There is \$160,000 in the 2010 Capital Improvement Fund for road projects. The funds required to be spent on the Kill Creek Road project could come from the \$160,000, and then adjust the projects for 2010 based on the revenue stream. Discussion by Councilwoman Templin and Engineer Brungardt regarding KDOT having total control of this project and the City paying the money. A Council discussion ensued.

Motion by Councilman Drennon to authorize the City Administrator to make a payment of \$85,000 to KDOT from the Capital Improvement Fund for the Kill Creek ARRA project and to authorize the Mayor to sign the agreement for the construction observation services and the KDOT supplemental agreement number 1; second by Cannon.

Councilman Walker said he is an employee for Cook, Flatt & Strobel for the construction firm, but he has no direct benefit to this project. Council discussion.

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

Motion carried.

- d. Consider Resolution No. 857 Authorizing Kill Creek Road Improvements and Providing for the Manner of Paying for the Same.

Motion by Councilman Drennon to approve Resolution No. 857 Authorizing Kill Creek Road Improvements and Providing for the Manner of Paying for the Same; second by Templin.

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

Motion carried.

- e. Discussion Regarding Dakota Worldwide Corp's Grocery Study Report. Administrator Guilfoyle said when he read through the report he had questions. He contacted the consultant. He thought the same discussion would be beneficial for all the Council. Mr. O'Connell will be available for a video conference at 6:00 p.m. on November 18<sup>th</sup>.

Councilwoman Templin asked about the costs expended already. She said there wasn't anything in this report that we didn't already know, and she doesn't want to pay another \$500 for the regurgitation of what we already know. Councilman McDaniel said this guy didn't talk to people in De Soto; he had to get all his information from previous reports. Councilwoman Templin said she wouldn't mind asking him to give some money back.

Administrator Guilfoyle said that a big grocery store is coming, but it will be based on when the trade area increases. He commented on the memo provided to Council that re-stated some of the comments and understanding of those comments made in the study. Discussion ensued among Council that they don't want to pay this consultant any more money. Councilman McDaniel said Mr. O'Connell hung up on him when he called to talk to him about the study.

Councilwoman Cannon said she was very disappointed in how it was finished. Mayor Anderson asked where the Council wants to go next with this. Councilman Walker said he doesn't feel the City should invest more time and money into this, and to make the study available to someone who is interested in seeing some numbers. Councilman McDaniel said he would like to do a special edition through the De Soto News four times a year. People could answer a survey as to whether or not they would commit to support a grocery store. Council said they would look at doing a survey of the community. Mayor Anderson said if people are not going to personally support a grocery store, it isn't going to work. There has to be a community commitment.

- f. Consider Ordinance Authorizing Temporary Loan up to \$125,000 for Engineering Costs from the Electric Utility Fund for Water Plant Improvements. Attorney Reavey stated that given there are going to be several loans from the Electric Utility Fund for these water improvements, he has amended the ordinance to cover all the improvements to save on publishing costs.

Motion by Councilwoman Templin to approve Ordinance No. 2238 Authorizing Use of Up to \$2,000,000 from the Electric Utility Fund for Engineering and Construction Costs for Water Plant Improvements; second by McDaniel.

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

Motion carried.

Administrator Guilfoyle said the adopted Resolution 854 on October 15, 2009, allows the City to recapture funds. He said this new Ordinance is a good way to handle the improvements, and commended Attorney Reavey for his approach in this manner.

- g. Consider Ordinance Authorizing Temporary Loan up to \$95,000 for Kill Creek Road Repaving Project from the Electric Utility Fund.

Motion by Councilwoman Templin to approve Ordinance No. 2239 Authorizing Temporary Loan up to \$95,000 for Kill Creek Road Repaving Project from the Electric Utility Fund; second by Drennon.

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

Motion carried.

- h. Consider Ordinance Granting Annexation for Specific Land to the City of De Soto, Kansas, Pursuant K.S.A. 12-520. Attorney Reavey said this ordinance would annex the property comprising the Sunflower water treatment plant. He has talked with Kise Randall of SRL, and no one has specifically stated they are against this annexation.

Motion by Councilwoman Templin to approve Ordinance No. 2240 Granting Annexation for Specific Land to the City of De Soto, comprising the Sunflower water treatment plant; second by Drennon.

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

Motion carried.

6. Executive Session:

Motion by Councilwoman Templin to go into Executive Session at 8:35 p.m. for 20 minutes for the purpose of an attorney-client privilege and to invite the City Administrator and the City Engineer; second by Cannon.

All Council approved by "ayes".

Motion carried.

Motion by Councilwoman Templin to return from Executive Session at 8:57 p.m.; and only the item of attorney-client privilege was discussed and no votes were taken; second by Cannon.

All Council approved by "ayes".

Motion carried.

Motion by Councilman Drennon to accept the formal settlement agreement with the SRL as presented; second by Templin.

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

Motion carried.

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, had no report.
- b. City Attorney, Patrick Reavey, said the wireless carrier dispute was worked out between the parties. He also presented a code violation at 8974 Hillview that Pam Graff, City Codes Officer, has requested.

Motion by Councilwoman Templin to approve Resolution No. 858 for code violation at 8974 Hillview; second by Drennon.

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

Motion carried.

Mayor Anderson said this particular issue has been a lot of work for our staff.

- c. City Engineer, Mike Brungardt, no report
- d. City Planner, Linda Bohnsack, was not present.
- e. City Clerk, Lana McPherson, reminded Council of the meeting date change to Wednesday, November 18, 2009, due to the LKM region supper on November 19<sup>th</sup>. City Hall will be closed on Wednesday, November 11<sup>th</sup>, honoring Veterans' Day.

8. Council & Mayor Comments:

Councilwoman Cannon asked if 83<sup>rd</sup> Street was completed. Engineer Brungardt said there is some grading to be completed yet. There will also be some seal oil put on top of the asphalt millings. She said she has had complaints that the striping looked like a child had painted it. Engineer Brungardt said he will follow up on that.

Mayor Anderson said that at the Council of Mayors' meeting, he submitted Mike Brungardt's name to serve on the Total Transportation Policy Committee of MARC.

Mayor Anderson said Huhtamaki has offered the City a \$20,000 grant and he would like suggestions from the Council on where to use the money. Councilman McDaniel said the VFW could use some assistance in finishing the façade on their building. Administrator Guilfoyle said way-finding signs could be purchased to place around the City. He has also talked to Jay about adding another water feature to the aquatic center. Councilwoman Cannon asked about helping with the historical markers that Darrel Zimmerman is working on. Mayor Anderson said Huhtamaki is a great corporate citizen and this is a wonderful opportunity they are offering the community.

Councilman Drennon asked about the status on the proposed senior housing project. Administrator Guilfoyle said he talked with their attorney a few weeks ago, and they told him they would be approaching the City very soon. Discussion that the 60-day time frame is getting close.

Councilman Walker said one of the projects discussed at an "orange barrel" meeting last evening was the bridge decking on Kill Creek over K-10. He said that project will probably go in the early Spring.

No further comments.

Motion by Councilwoman Templin to adjourn at 9:12 p.m.; second by Drennon.

All Council approved by "ayes".

Motion carried.

Respectfully submitted:

---

Lana R. McPherson, MMC, City Clerk