

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
January 15th, 2004 7:00 P.M.

MINUTES

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

Roll Call:	Maniez	Present	Urbanek	Present
	Cannon	Present	Templin	Present
	Zindler	Present		

Mayor Anderson led the Pledge of Allegiance.

Citizens signed the book on page 5.

1. Consent Agenda:
 - a. Approve Minutes from the Council meeting of December 18th, 2003.
 - b. Approve Pay Ordinance No. 489.

Motion by Councilman Templin to approve the Consent Agenda; second by Cannon.
Discussion by Councilman Maniez on Check #11596 for KCADC for dues.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	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.”

No one appeared.

3. Old Business:

- a. Consider proceedings on unsafe structure located at 32955 W. 83rd Street. Patrick Reavey, City Attorney, stated these two residences have had a public hearing and Council concluded both structures are unsafe and dangerous. The property owner has had two months to repair the structures. The condition on both properties is unchanged. The owner of both properties has talked to Mr. Reavey today and she stated she is temporarily staying in Bates City, Missouri and unable to make this meeting. She is requesting the Council grant her an additional 60 days as she has buyers for both properties and she stated she hopes to have both properties sold within that time frame.

She also has property at 8380 Wyandotte and she is requesting Council grant her an

additional 60 days to resolve the conditions on this property. Discussion by Council and Mayor on the requests. Mr. Reavey stated the property owner is willing to put her discussion in writing and will sign an agreement.

Vanessa Gee, Jane Warren's roommate, appeared on behalf of the property owner, Jane Ann Warren. She stated Ms. Warren has three people interested in the properties. Ms. Warren is requesting an additional 60 days to resolve these matters. Discussion by Mayor Anderson and Larry Baxter on the structures at 8245 Wyandotte and 8380 Wyandotte both needing to be torn down due to extensive damage and termites. Discussion by Council and Mr. Reavey.

Discussion by Councilwoman Templin regarding the repairs on the structure at 32955 W. 83rd Street. Mr. Baxter stated there are foundation repairs that must be done, the front porch is falling off, as well as other deterioration. Mayor Anderson stated he would like Ms. Warren to provide a contract for sale by the next Council meeting before granting an extension of time on these properties.

Ms. Gee stated that Ms. Warren knows that the property located at 8380 Wyandotte will have to be torn down. Further discussion by Council and Mr. Baxter on the condition of the structure at 8245 Wyandotte. Councilwoman Cannon stated she would be in favor of an extension on the property if the owner can provide a contract for sale by the next meeting.

Discussion by Councilwoman Templin that the structure at 8245 Wyandotte should be torn down. Councilwoman Zindler discussed with Mr. Baxter the posting of the structures that each one is unsafe and dangerous. Councilman Maniez stated the 8245 Wyandotte structure should be torn down; he is agreeable to leniency on the structure located on 83rd Street. Councilman Urbanek agreed with Councilwoman Cannon that Ms. Warren must produce a real estate contract for the properties. Further discussion by Councilman Maniez and Councilwoman Templin on the structure at 8245 Wyandotte. Discussion by Mayor Anderson regarding the repairs at 8245 Wyandotte be approved by Larry Baxter, Building Official, prior to the next Council meeting on February 5, 2004. Mr. Baxter stated he will post the structures on Friday as "unsafe and dangerous".

Council agreed to proceed with bids for tearing down the structures.

Motion by Councilman Maniez to table Items 3. a and 3. b until the next Council meeting; second by Zindler.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	Yes		

Motion carried.

- b. Consider proceedings on unsafe structure located at 8245 Wyandotte Street. Tabled.
- c. Consider Resolution regarding Findings of Fact and Conclusions for denying rezoning requests by Lambie Geer Homes. Patrick Reavey stated this document codifies the Council's unanimous decision to deny the rezoning request by Lambie Geer Homes. Discussion by Mr. Reavey on the contents of the Findings.

Motion by Councilman Urbanek to adopt Resolution No. 678, as written; second by Cannon.

Roll Call:	Maniez	Yes	Urbanek	Yes
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Cannon	Yes	Templin	Yes
Zindler	Yes		

Motion carried.

4. New Business:

- a. Consider request from R-30 Enterprises regarding system development fees and excise tax. Mayor Anderson introduced Bob Dannevik, owner of Timber Lake subdivision. Mr. Dannevik stated 16 lots have been sold. Mr. Dannevik reviewed his letter directed to the Council regarding the increase in system development fees and excise tax. He would like Council to allow him some time to phase in these costs due to pending contracts on the lots.

Councilman Urbanek stated the fees were too low and the citizens in De Soto have been subsidizing the developers. The Council did not feel they could continue asking the citizens to pay for new systems instead of the developers. Mr. Dannevik stated the fees here are higher than other cities and he is just asking for some extension to phase in the fees. Discussion by Councilwoman Cannon asking if developers had been notified that these fees were going into effect. Mr. Reavey stated these fees had not been sent out to developers due to Council's decision that a phase-in period was not in the City's best interest.

Mayor Anderson stated he has also received a letter from Steve Brady, developer. Councilwoman Templin stated these fees were discussed and voted on in a public meeting. Councilwoman Zindler stated staff has researched the fees and the Council had studied the fees and determined these fees were not subjective; they had to be increased. Further discussion by Mr. Dannevik on the future impact of the fees to his development. He stated he felt there should have been some prior notice. Councilwoman Zindler stated there was also quite an increase in the final construction cost of 87th Street. Councilman Maniez stated he sympathized with Mr. Dannevik; however, he feels our fees are still under some other cities. He stated, personally, he would be open to discussion on the excise tax, but not in waiving the increases in the system development fees. Mr. Dannevik stated he checked with the City of Shawnee on their excise tax rate. Councilman Maniez stated De Soto cannot be compared to cities the size of Shawnee; we are more in line with Edgerton and Eudora.

Councilman Maniez stated he would agree to a six-month phase in on excise tax on the lots under contract, but not on the system development fees. Discussion by Mayor Anderson and Council on a date certain regarding the phasing in of an excise tax. Mr. Brungardt stated Timber Lake is the only subdivision this phase-in of excise tax. Discussion by Mr. Reavey on the agreement previously entered into with R-30 Enterprises. Discussion by Council that this opens up another problem. Councilman Urbanek stated the City is always on the short end of the stick on development agreements. Further discussion by Mayor Anderson on R-30's agreement on Timber Lake.

Discussion by Councilman Urbanek on the development fees. Councilman Urbanek stated he is willing to go back on the excise tax, but not on the development fees. Discussion by Mr. Reavey that under the agreement with R-30 Enterprises, they would pay off all the excise tax within five (5) years of the date of the agreement at the applicable rate of excise tax at the time the remaining lots are to be paid off. Council discussion on phase-in of the new excise tax rate for this specific development.

Councilwoman Cannon stated she felt the development fees need to remain where they are, and she said she would be in favor of the excise tax for six months. Discussion by Councilwoman Zindler and Templin on a three-month extension. Councilman Maniez agreed

with Councilman Urbanek on the development fees. He said he would agree with an extension on the excise tax.

Motion by Councilman Maniez to direct Patrick to prepare an addendum to the agreement to reflect an extension of the excise tax fee of \$.14 until July 1st, 2004; second by Urbanek.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	Yes		

Motion carried.

- b. Discuss request from Nathan Harding to consider forming a benefit district related to street improvements for Brook West subdivision. Frank Jenkins, attorney for Mr. Harding, reviewed the letter from Mr. Harding directed to the Council. Mr. Jenkins stated this matter dates back to September, 2002. Mr. Jenkins provided a map of this area for Council's review. The Cherokee Woods proposed subdivision plat has expired and this development was to pay for the road improvement that leads into Brook West Subdivision. Mr. Jenkins stated this constitutes a "gift" to the Cherokee Woods property. Mr. Harding has an issue with paying \$150,000 to construct this street. He does not have an issue with the system development fees and the excise tax. Mr. Harding strongly objects to the construction of this street through Cherokee Woods.

Mr. Harding requests that the City not require him to construct an off-site street. Mr. Jenkins outlined the developer's proposal as set out in Mr. Harding's letter dated January 8, 2004.

Councilwoman Templin discussed the streets in the adjoining subdivision with Mr. Brungardt. Primrose Drive must be extended to support the traffic flow into this proposed subdivision. Mr. Brungardt stated the proposed Cherokee Woods subdivision had been discussed at length by the Planning Commission and the preliminary plat has now lapsed. Discussion by Patrick Reavey that the Council cannot take the requirement off the plat that was approved. Discussion by Mr. Reavey and Mr. Jenkins regarding the street condition of the plat. This project is dead if Mr. Harding has to "gift" a street to the adjoining developer's property. Mr. Taylor stated he feels this requirement is unfair and inequitable to Mr. Harding.

Mayor Anderson asked the Council for comments. Councilman Maniez stated he is not willing to take out the Primrose Drive stipulation. He stated he has discussed this issue with staff, the Fire Chief, and he doesn't feel this street should have been allowed in the first place with the safety issues. Councilman Maniez stated the City must be willing to go through condemnation of right-of-way for a private development and he isn't in favor of doing that. Mayor Anderson stated he has talked with JoAnn Thompson, the property owner of the proposed Cherokee Woods subdivision, and stated Ms. Thompson said she was not informed properly and could not be here tonight, nor could her attorney.

Mr. Harding stated he has tried on numerous occasions by letter and by telephone to discuss this, and Ms. Thompson has not responded to him. Mr. Reavey stated there was a stipulation on the Cherokee Woods preliminary plat that Primrose Drive be extended. That plat has now expired. Mr. Brungardt stated he has talked with the developer and Ms. Thompson told him today that she is concerned about the proposed street extension and how the financing would work. Ms. Thompson did not want her property encumbered until she is sure she can develop the property.

Councilwoman Templin discussed the option of a benefit district with Mr. Reavey.

Councilwoman Templin stated she would like a legal opinion, but she agrees with Councilman Maniez that we can't continue to build homes without proper streets to address safety issues. Councilwoman Zindler, Councilman Urbanek and Councilwoman Cannon agreed. Discussion by Mayor Anderson. Councilman Maniez stated the City is not in the business of building streets for the developers and it is his opinion the City should not be in the condemnation business for a developer; he has argued this point before.

Council stated they would like staff to review the options in Mr. Harding's letter and to also try to meet with the adjoining property owner. Council would like to have staff report back at the second meeting in February, 2004.

Mayor Anderson called a five-minute recess at 8:30 p.m. Mayor Anderson reconvened the Council at 8:36 p.m.

- c. Presentation and update on disaster readiness plan from Gary Cantrell. Greg Johnson reviewed his memo dated January 9, 2004, directed to the Council regarding the increased emphasis on disaster preparedness in accordance with the federal Homeland Security Act. Mr. Johnson introduced Mr. Cantrell, of Excelliant. He has been working on a continuity plan for several months. Mr. Cantrell stated they are currently working on 40 other plans for cities in the country. Mr. Cantrell stated his company comes in and meets with each department head and finds out the critical processes, critical equipment and all information that is necessary to conduct business in the City. Mr. Cantrell stated when this plan is completed, each department will have a critical recovery plan and should practice this plan at least every six months to become familiar with it. This is at no charge to the City.

Greg Johnson stated the plan is being worked on with Clarence Brunk and Kevin Ritter and they are reviewing the plan to avoid any overlap. Discussion by Greg Johnson that the federal government has also introduced legislation including a Disaster Mitigation Act.

- d. Consider approval of Interlocal Agreement for Lexington Avenue Bridge ½ mile south of 95th Street. Mike Brungardt stated this agreement is similar to the one for the Wyandotte Bridge. KDOT will fund 80% of the construction cost and the County will pay 20% of the costs. The County is also responsible for the design. The City may have to relocate a force main. If necessary, the cost estimate is under \$5,000 and could probably be done by City crews. The County will help with excavation, if necessary.

Discussion by Councilman Maniez and Mr. Brungardt that the force main is connected to the Countryside school. Councilman Urbanek asked about the fiber optic cable that is buried. Mr. Brungardt stated they have surveyed and located all the utilities and they have been identified.

Motion by Councilwoman Zindler to adopt Resolution No. 679 authorizing the Mayor to execute the Agreement for this project, and to authorize funding not to exceed \$5,000 for the potential force main relocation; second by Urbanek.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	Yes		

Motion carried.

- e. Discuss potential need for an engineering study for a new water plant. Mr. Brungardt stated he needs Council direction on a course of action. The last study that was done was in 1998. He recommends that an outside look would be beneficial at this time. No determination has

been done about how to select a group for a study. The City has upgraded the Sunflower plant, but it is still in a precarious situation.

Councilman Maniez stated he feels this is a bit premature since Sunflower is pending. Mayor Anderson stated the County has approved working with Kessinger-Hunter. The County feels they can close this deal by September, 2004. Again, it is all up to the developer in transferring the plant at Sunflower to the City. Discussion by Mr. Brungardt on the water right diversion amount the City has been given. Discussion by Mayor Anderson on the water rights being critical in operating the Sunflower water plant. He stated that if the City wants to sell water to reduce the cost of the Sunflower operation, then the City should attempt to deal with others who are interested in dealing with water.

Councilman Maniez asked why we were just looking at the Larkin Group. Discussion by Councilwoman Templin that another group had looked at this in the past. Mr. Brungardt stated that Mid-Kansas Engineering had looked at this in 1998. Councilwoman Templin asked why this group had not been asked to do the study. Discussion that the main person of MKE now works for another company; however, Mid-Kansas is qualified to do it. Discussion by Council and Mayor. Mayor Anderson stated this will show everyone the City is serious about this and about operating the Sunflower plant. Councilwoman Zindler stated she feels a study is important; the costs and feasibility study must be looked at. Councilman Urbanek stated she has to remember there is a \$5 million hookup fee to Water One.

Mayor Anderson stated he feels a study of this scope is important. Councilman Urbanek asked if we should begin talking with Rural 6. Discussion by Council that a study will need to be done so that figures are available for discussions. Council stated they would like to send out an RFQ. Mr. Brungardt will bring back a scope of study for the Council's review. Further discussion by Council and Mr. Brungardt. Council would like to include the three items of interest as stated in his memo dated January 8, 2004.

5. Executive Session: Personnel

Motion by Councilman Maniez to go into Executive Session at 9:25 p.m. for 20 minutes to discuss personnel matters and to return at 9:45 p.m.; second by Templin.

All Council approved by "ayes".

Councilman Maniez returned at 9:40 p.m. and stated Council will extend Executive Session until 10:00 p.m. to discuss personnel matters.

Councilman Maniez returned at 10:00 p.m. and stated Council will extend Executive Session until 10:20 p.m.

Councilman Maniez returned at 10:20 p.m. and stated Council will extend Executive Session until 10:30 p.m.

Motion by Councilman Maniez to return to regular session at 10:40 p.m. with three extensions; second by Templin. All Council approved by "ayes".

Mayor Anderson called for a motion on the personnel item discussed in Executive Session.

Motion by Councilwoman Zindler to approve the Employment Agreement with Mike Brungardt as drafted, with the addition of Agenda Item 5, paragraph 9; second by Templin.

Roll Call:	Cannon	Yes
	Urbanek	Yes
	Maniez	In his opinion, we are rewarding an employee for not doing his job. No
	Templin	Yes
	Zindler	Yes

Motion carried.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, stated Bucher Willis' contract has expired and they have submitted a contract for renewal. He asked for Council direction on this item. Mayor Anderson stated he would like to re-evaluate the firm and entertain requests for proposals. All Council agreed.

Mr. Johnson wants to do a joint planning meeting next Tuesday, January 20th, at 7:00 p.m. regarding the comprehensive plan.

He provided Council with a 2003 financial wrap up report.

- b. City Attorney, Patrick Reavey, stated he has been working with Chris Tann on the lease of the water tower. Mr. Tann would like access to both water towers. He has agreed to \$900 per quarter for the two towers. Discussion by Council.
- c. City Engineer, Mike Brungardt, provided the Council with an informational memo on project updates. He stated the Lexington Avenue CIP is coming up and he has estimates in on the design. He has also sent out proposals for the parking lot. He is requesting Council input on the selection. Councilman Urbanek and Councilwoman Templin said they will sit on the selection committee. Mr. Brungardt also discussed the KDOT road safety audit for De Soto reflected the intersection at Lexington and K-10 should be lit but at this time, there is no funding at the state level.

Councilman Urbanek asked about the signage that used to be in that area prior to the bridge being worked on. The signage needs to be replaced regarding the medians.

- d. City Clerk, Lana McPherson, no report.
- e. Chamber/EDC Director, Sara Ritter, reminded the Council the Chamber's annual dinner is next Saturday, January 24th. The Chamber has started a monthly newsletter.

7. Council & Mayor Comments:

Councilwoman Cannon had no comments.

Councilman Urbanek asked about the two houses east of town that have a lot of cars in the yard, one being located at 30740 W. 83rd Street. He would like to see reports from the Codes Department on what is being checked on. The cars on Waverly Road are being cleared out. Who is going to clean up the trash pile at 95th and Waverly Road? Mr. Brungardt stated the contractor will be cleaning up and hauling it away. Councilman Urbanek asked about the motorized scooter law that has been enforced in Kansas. Discussion by Mr. Reavey and Council.

Councilman Maniez stated that in the *Explorer* this week, he was surprised at Greg's comment

that was made about the pool proposal. Councilman Maniez said Mr. Johnson stated he was comfortable with putting the swimming pool issue on the ballot. Councilman Maniez stated he recalled the Council had given direction to the pool committee to obtain the operating costs so we could give a realistic figure to the public that would relate to the mill levy or the true cost that would be incurred. Mr. Johnson stated he has; however that does not get incorporated into how the bond question is legally structured. Mr. Johnson said the information about operating costs and tax rate impacts can be provided to Councilman Maniez for the operating portion, but this does not get reflected on the bond referendum question. The bond referendum question just reflects the cost of the bond issue and the tax impact related to the debt service to pay off the bond. Councilman Maniez asked why this could not all be included in the question.

Discussion by Mr. Reavey, Mr. Johnson and Councilwoman Templin that this information will be distributed to the public in other information regarding the pool question. Mr. Johnson agreed this information does need to come out. Councilman Maniez stated he believes he has seen this kind of information somewhere on a ballot issue that had other costs that showed up on the question. Mr. Reavey stated you can't finance operating costs, but you might be able to reference it in some type of informational content.

Councilman Maniez stated he would like to see some reference as to how this would affect an average \$150,000 home. Mr. Johnson stated he has done all of that. Discussion by Councilman Maniez on the operation cost information showing up on the ballot. Mr. Johnson stated that the ballot question is only going to reference asking permission "yes" or "no" to obtain a bond to construct a new pool. If the answer to that question is "no", then the operating costs will become irrelevant because you won't have any. Councilman Maniez asked that on just financing the pool itself and the construction costs, you cannot add the language to the question to reflect the 3.3 mill levy and how it affects a \$150,000 home. Mr. Johnson stated he could provide this information to Council. Councilman Maniez said he wants to know about putting it on the ballot. Mr. Johnson stated he will double check, but it is his understanding this is how legally it is structured.

Councilwoman Templin stated that in their conversation with Marty Nohe and Dottie Riley, they specifically said the bond question addresses the building and the equipment of the pool. All the other items Greg has put together in a range of five different scenarios comes about in the public information, or in the newspaper and literature. Councilman Maniez stated we have already started off looking like we are at 3.3 mills, and the paper is making it sound like such a good deal at 3.3 mills, I just want to make sure we don't head down that road of deception that the public doesn't know that there are probably another 3 mills included just to run the pool.

Mr. Johnson stated in all the information he has given to the public, he has separated out the cost for debt service and the cost for operating the pool. He said he is not trying to run a deception scheme and he takes offense to that comment. Councilman Maniez stated he takes offense as to how things are being run up here.

(Councilman Maniez then left the meeting at 10:55 p.m.)

Councilwoman Zindler stated she has a question about the clean up at the old gas station at Kill Creek and 83rd Street. Discussion with Mr. Reavey that Larry Baxter has placed some plywood there as the owner did not do it. Councilwoman Zindler said she would like to have someone show her the boundaries of the City's property at 79th Street for the proposed boat ramp. Councilman Urbanek stated maybe someone could stake out the boundaries so others would know where they are.

Councilman Urbanek asked about the gravel on the City's right-of-way at the end of Kill Creek

Road at 83rd Street. Mayor Anderson stated that Southwestern Bell is rewiring some lines, and when they are finished at that location, the gravel will be removed.

Motion to adjourn by Councilwoman Zindler at 11:00 p.m.; second by Templin.
All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk