

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
January 20<sup>th</sup>, 2005 7:00 P.M.

**MINUTES**

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

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

Citizens signed the book on page 32.

Mayor Anderson led the Pledge of Allegiance.

Motion by Councilman Maniez to go into Executive Session at 7:01p.m. for five minutes for attorney-client privilege; second by Urbanek. All Council approved by "ayes".

Motion by Councilman Maniez to return at 7:06 p.m. from Executive Session and only the item mentioned was discussed and no votes were taken; second by Urbanek.

All Council approved by "ayes".

**PUBLIC HEARING:** To determine if structure at 30415 W. 83<sup>rd</sup> Street should be declared unsafe and dangerous. City Attorney Patrick Reavey stated this is a structure that has been investigated by the City Building Official. Mrs. Patty Frampton, owner of the property, was introduced to the Council. Mayor Anderson opened the Public Hearing. Mrs. Patty Frampton, 30415 W. 83<sup>rd</sup> Street, stated she agreed the structure does look unsafe and dangerous and does need attention. She wants to know what the minimum requirements are to satisfy the City Code and how much time she has to make the needed repairs. Discussion by Councilman Maniez with Mrs. Frampton on whether or not she is going to restore the property. Mayor Anderson stated she has thirty (30) days to begin repairs or remove the structure. Mrs. Frampton will contact Larry Baxter, City Building Official, to discuss the needed repairs. Mayor Anderson closed the Public Hearing.

Motion by Councilwoman Templin to adopt Resolution No. 711; second by Zindler.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	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 January 6<sup>th</sup>, 2005.
  - b. Approve Pay Ordinance No. 513.
  - c. Approve Ordinance regulating solicitation activities within the City of De Soto.
  - d. Approve Interlocal Agreement for resurfacing on Lexington Avenue.

Motion by Councilwoman Templin to remove Item 1 c. from the Agenda for discussion; second by Maniez.

All Council approved by "ayes".

Discussion by Councilman Urbanek on the check to Bucher, Willis & Ratliff on the payment of their review of a

traffic study for the proposed Arbor Ridge Development. Discussion by Mike Brungardt, City Engineer, that this amount will be not be reimbursed by the developer to the City for this direct cost. At present, there is no mechanism in place for the City to direct bill planning review costs. Councilwoman Cannon stated she would like this to be considered in the next fee resolution so that these types of matters can be direct billed to developers rather than coming to the City to be paid. Discussion by Councilman Maniez on the excise tax refund. Mr. Johnson stated this was pursuant to their agreement.

Motion by Councilwoman Templin to approve Items 1. a., b. and d.; second by Cannon.

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

Motion carried.

Councilwoman Templin stated she feels this proposed ordinance is going to be difficult to enforce by the City. She feels it is up to the individual property owner to enforce their feelings and to put up a "no solicitation" sign on their property. Councilman Maniez stated he feels Councilwoman Templin is partially correct; however, there has been a big outcry from the public for the City to put something on the books to enforce the solicitation rules, especially the cut-off time for solicitation at night.

Motion by Councilman Maniez to approve Ordinance No. 2068; second by Cannon.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	No
	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."

Jerry McDaniel stated he wants to speak regarding the trash contract. Mayor Anderson asked him to wait until this item comes up later in the Agenda.

Bart and Marty Hall, stated they run the greenhouse next to Widow Big Knife Park. He would like some answers regarding the survey that went around regarding this park. He said there are signs stating this is a park, but signs don't make this a park. He feels this isn't a real good area of land for a park due to its proximity to the river. He states people travel the road at all times of the day and night and throw out trash and no things that are not good for the public. Mr. Hall stated it would take a lot of money to bring this land up to park standards and it would also endanger some species of rare orchids as well as the eagles that have nests in the area along the river. He stated this eagle protection under the Federal government would not allow public improvements for a park development in this area. He stated it might be better for the City to transfer the rights to this property to an agency or department that is more into wildlife conservation and preservation. Mayor Anderson asked them to also discuss their concerns with the Park Board.

Discussion by Councilwoman Templin and Mr. Johnson regarding the findings of the survey. Councilwoman Templin stated if signs are up stating there is a park, then maybe the City should take the signs down until the City makes a decision on this property.

3. Chamber / EDC Report: Sara Ritter, Executive Director, was not present this evening. Mr. Johnson reminded Council of the forthcoming Annual Chamber Dinner on Saturday evening.

4. Old Business:

a. Consider Ordinance amending the City Code to allow archery hunting of deer within the City. Mr. Reavey stated the City does have a regulation against discharging a bow and arrow within the City. This would

make an exception to that regulation upon certain requirements granted by the City. Mr. Reavey stated he has talked with Andy Freisen, of Kansas Wildlife and Parks, and Mr. Reavey has taken his comments to revise some of the language. Discussion by Councilwoman Zindler regarding the aerial photograph requirements. Discussion that the City can provide this. Discussion by Councilman Maniez on the previous comments regarding the target practice with a bow and arrow. Discussion by Mr. Reavey that there is language allowing that thirty (30) days prior to the season opening. Councilman Maniez stated there are some concerns about the shooting lane and there should be some provision for those people who want to practice archery in his backyard. Discussion by Mayor Anderson and Mr. Reavey that this type of target practice or archery practice would be an amendment to the City Code.

Motion by Councilwoman Templin to table Item 4 a. and direct staff to bring back language regarding target practice; second by Cannon.

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

Motion carried.

- b. Consider Ordinance regulating use of motorized wheeled devices not subject to being registered as a vehicle by the Division of Vehicles at the Department of Revenue. Discussion by Mr. Reavey on the revisions made regarding Council's discussion at the last meeting. Councilwoman Zindler stated she is o.k. with allowing them in the downtown area, and she feels this ordinance has a very strong enforcement clause. Discussion by Mr. Reavey. She wants to add a code of conduct that would give some "teeth" for enforcement. Discussion by Councilman Maniez that the Sheriff's Department doesn't want to make these "judgmental" calls on behavior. Mr. Reavey stated it would have to be defined and that criteria would have to be established. Councilwoman Templin stated she feels we are creating a "punishment" before there really is a problem. Officer Leiker stated there is still a City Ordinance stating skateboards are not allowed in the downtown area. There is an enforcement issue here if the motorized devices are allowed. Mayor Anderson stated these people can go one block either side of downtown to ride through the area. Councilwoman Cannon stated she does not like to see the kids in town on skateboards in front of the bank or other businesses. Councilman Urbanek stated he agrees. He does not feel they should be on the sidewalks in the downtown business area. Councilman Maniez stated he agrees. There isn't enough time or warning when you step out onto the sidewalk and can get hit by someone on a scooter or a skateboard. It's only two blocks they can't ride on and they can go over one block each way to get across town.

Motion by Councilman Maniez to approve Ordinance No. 2069; second by Urbanek.

Roll Call:	Cannon	Yes	Urbanek	Yes
	Maniez	Yes	Zindler	No
	Templin	No		

Motion carried.

- c. Consider Ordinance Amending Article 3 of Chapter XI related to regulation of roller skates, street skates, and skateboards. Mr. Reavey stated this is an amendment to the City Code to make it consistent with the motorized devices and skateboards.

Motion by Councilman Maniez to approve Ordinance No. 2070; second by Urbanek.

Councilwoman Zindler stated she feels this ordinance lacks a code of conduct and she feels a code of conduct should be written for all parts of the City. Discussion by Mr. Reavey regarding the law enforcement of this ordinance. Councilman Maniez discussed the provisions of the motorized devices parental responsibility for this ordinance. Discussion by Mr. Reavey and Councilwoman Templin on fines. Discussion by Mayor Anderson that enforcement of a code of conduct would be extremely hard.

Roll Call:	Cannon	Yes	Urbanek	Yes
	Maniez	Yes	Zindler	No
	Templin	No		

Motion carried.

- d. Consider Ordinance authorizing the use of the electric utility funds in an amount not to exceed \$1,000,000 for aid in the construction of a new wastewater treatment plant. Discussion by Mr. Reavey that this needs a ¾ majority vote of Council to approve the use of these funds and that this does meet the requirements for utilizing these funds.

Motion by Councilwoman Templin to approve Ordinance No. 2071; second by Zindler.

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

Motion carried.

5. New Business:

- a. Consider Ordinance providing for a Special Use Permit for continuation of the commercial operation of the Zimmerman Kill Creek Farm property, zoned "R-1" Residential – Low Density, addressed as 9210 Kill Creek Road. Mike Brungardt, City Engineer, stated this for a continued use of operation and the staff report from the Planning Commission has been provided to the Council. The Planning Commission is recommending approval with two conditions as expressed in the Ordinance. Discussion by Mr. Brungardt on the use of the right-of-way owned by KDOT, and they have not made any opinion in association of this particular application. Staff's review centered around the "golden criteria" and the majority of these items were approved by the Planning Commission.

Discussion by Councilman Urbanek on whether or not this land is in the Overlay District and if so, has the County approved of this. Mr. Brungardt stated he has not heard from the County on this matter. Mr. Reavey stated he will check, but he does not think the overlay regulations apply to special use permits, only to new structures or rezoning applications.

Mayor Anderson called a five-minute recess at 8:12 p.m. Mayor Anderson reconvened the meeting at 8:17 p.m.

Mr. Reavey stated the overlay district does apply to special use applications. He recommends this matter be tabled until staff contacts Johnson County and receives their response on this application. Discussion by Council on the time involved for this. Mr. Brungardt stated this is handled at the staff level and usually their comments are received back within several days. Councilman Maniez stated this is why he hasn't liked this

Motion by Councilman Urbanek to table this special use permit application while staff sends it to the County for their recommendations; second by Cannon.

All Council approved by "ayes".

- b. Consider Ordinance providing for a Special Use Permit for a Municipal Pool in the "O-I" Office – Institutional district for five parcels totaling 7.38 acres, addressed as 32905 W. 84<sup>th</sup> Street. Mr. Johnson stated this was recommended for approval by the Planning Commission. He also provided Council with an update on the pool budget bids. The extra features have been deducted from the project budget so as to come in line with the bid packet.

Motion by Councilwoman Templin to approve Ordinance No. 2072, providing a special use permit for the municipal pool; second by Zindler.

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

Motion carried.

Councilman Urbanek asked if all these parcels can be combined into one parcel. Discussion with Mr. Reavey that the school district has given us the deeds and the final plat will be filed this week.

Mr. Johnson introduced Treadwell Jones. Mr. Jones stated the construction costs are beginning to increase

and now we are over budget on some things. The “extras” that were included are being reviewed and some items are being considered to take out and make modifications to bring this project back into budget. Mr. Johnson wanted Council to provide some guidelines after seeing the “real” numbers for this project. Mr. Jones stated the bid packets should be going out by February 1<sup>st</sup>. Discussion by Mayor Anderson and Mr. Jones on how the bid process works. Mr. Jones stated they let all contractors know the bid packets are going out.

- c. Discuss proposals for waste hauling services. Mr. Johnson provided Council with information regarding the City’s existing contract and provided a spreadsheet on the two quotes that were received and the City’s present financial status on refuse rates. Mr. Johnson asked representatives of both bidders to be present. Mayor Anderson discussed the refuse funds with Mr. Johnson. Councilwoman Cannon said she would like to use some of the excess funds to have a “hazardous pickup” such as tires, chemicals, paint, etc. Discussion by Councilman Maniez that Johnson County has a hazardous waste site to take these items to. He said he doesn’t want our employees handling this since they aren’t trained in this area. Councilman Maniez said he would like to see a dumpster placed for the recycling, and hold the rates. Discussion by Councilwoman Templin on saving the paper for the school and Rotary organizations. Councilwoman Templin asked Mr. Weldon how many people use the first of the month large item pickup. Mr. Weldon stated there is a lot that is put out every month. Councilwoman Templin asked about the recycling dumpster. Mr. Weldon stated he has a concern that if this dumpster isn’t placed in a locked area, people will think it is a trash dumpster. Mr. Weldon stated he agreed to the 90-day extension of his contract at no extra charge.

Jerry McDaniel, 8155 Delaware, stated he wanted to speak in behalf of Mr. Weldon. He said Mr. Weldon has done a wonderful job and he hasn’t hurt anyone on price in many years. Mr. McDaniel stated the trash cans are picked up and dumped and the trash can lids are placed back on the cans. The other company doesn’t do that. Mr. McDaniel stated the Council does a good job and sometimes they need to be reminded by the old-timers. Mr. McDaniel stated many folks in town want to keep Mr. Weldon because he has done the City a wonderful job.

Darrel Zimmerman, 34055 W. 86<sup>th</sup> Terrace, said he doesn’t know what the bids are, but the current provider has taken care of the citizens for many years. He is asking that the Council weigh the many years of loyal service and not lose the trust and confidence of a long association.

Mrs. Hall stated they are not in the City, but they do use Mr. Weldon’s service. She said when they moved on to the property, Weldon’s came out and hauled away 30 years of trash and junk. She said Mr. Weldon takes very good care of his customers. His loyalty should mean something to the citizens of De Soto.

Mayor Anderson asked for Council comments. Councilwoman Zindler stated she was a little surprised at the rates quoted by Deffenbaugh on the large once-a-month pickup.

Motion by Councilwoman Cannon to retain Weldon as the refuse contractor and extend the contract, and to include the recycling dumpster; second by Urbanek.

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

Motion carried.

- d. Discuss existing park fees and sewer rates. Mr. Brungardt stated that in preparation for the revised fee resolution, the sewer rate fees will be increased from \$1,400 to \$3,000 for single-family residences, and from \$1,000 to \$2,500 for multi-family connections. The fee is correlated to the amount of capacity that will be used in the new sewer plant, and the total bond cost for the new plant. Mr. Brungardt discussed the proposed rate structure and sewer rate changes that will be required to meet the revenue needs and fund the wastewater improvements. He provided Council with a staff report incorporating usage tables and revenue projections.

Discussion by Councilman Maniez and Mr. Brungardt on what would need to occur if the revenue projection doesn’t materialize each year. Mr. Brungardt stated the numbers would definitely have to change. Councilman Maniez stated he would rather have a minimal rate increase each year instead of hitting people with a big increase in a couple of years. Discussion by Mr. Johnson that the revenues for the past year were better than he had anticipated; and, that the numbers must be looked at on a regular basis. Mayor Anderson stated he agrees with Councilman Maniez and would like to see the rates flattened out rather than a big jump

all at once. Councilwoman Cannon agreed, as did Councilman Urbanek. Councilwomen Templin and Zindler agreed that a gradual increase would be better. Mr. Brungardt stated he would revise his projections. He asked Council for input on whether to increase the base rates or the usage rates. Council agreed they would rather see the usage increase rather than the base increase.

Kim Gordanier, Planning Coordinator, stated park fees need to be increased to provide for improvements as well as establish new park lands. She provided an analysis for Council to review. Ms. Gordanier explained the tables and fees in her analysis. The Park Board has reviewed the fees and feels the City should increase the park fees. The recommendation is \$350 for both single and multi-family residences; \$.10 square foot on commercial and \$.07 per square foot on industrial.

Discussion by Councilman Maniez on what the figures are in smaller communities around us, such as Eudora, Baldwin, or Spring Hill. Ms. Gordanier stated she had not looked at the smaller communities, and had used the studies used by the City of Gardner. Discussion by Mr. Doug Pickert, Park Board member.

Councilwoman Zindler stated she is in support of what staff is recommending as De Soto is growing and we need to keep up. Discussion by Ms. Gordanier that the Park Board is looking at doing a master plan for park land and area. Discussion by Mayor Anderson that these fees will be looked at again in a new fee resolution. Councilman Maniez stated he would like to see what the smaller communities around us are charging. Discussion that when these fees are passed, there must be a sunset clause on ground that has been final platted.

Mr. Barry Theirer, Park Board member, stated the Board has looked at Gardner and Shawnee as the communities that would be competing with De Soto for development and industry in Johnson County. Councilman Maniez said he understood, but he still wants to know what the smaller cities around us are doing because he has to have some justification for raising fees.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, provided Council with a memo that Cru-Cut Mowing does not want to bid for 2005. Mr. Johnson has started a new proposal for the 2005 mowing season and would like to negotiate with S & F Mowing for 2005. Discussion by Councilwoman Templin. Council agreed.
- b. City Attorney, Patrick Reavey, provided Council an update on the Hunt-Midwest litigation. He received the ruling from the Kansas Court of Appeals regarding the Sunflower Neighbors Group. The Court of Appeals reversed the ruling of Judge Foster on the payment of the legal fees.

The special use permit for Zimmerman Farms must go back to the Planning Commission if the County makes any recommendations or changes to the application. Discussion by Mr. Reavey on the process.

Motion by Councilwoman Zindler to disregard tabling Item 5 a., and send this matter back to the Planning Commission for their review of the overlay regulations; second by Templin.

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

Motion carried.

- c. City Engineer, Mike Brungardt, had no report.
- d. City Clerk, Lana McPherson, asked Council about the annual Mayor's Prayer Breakfast reservations.

7 Council & Mayor Comments:

Councilman Maniez said he wanted to make mention that all of a sudden some of the streets are falling apart. Corliss Road is crumbling away, as is 89<sup>th</sup> Street. Mr. Brungardt will ask the Street Superintendent to look into these areas. Councilman Maniez said it is mostly the chip and seal streets he has driven on.

Councilman Maniez asked about the new home on Corliss Road and Rik-Mar Drive. The contractors are tracking mud everywhere. Mr. Brungardt stated there is a requirement for a gravel entrance and he will ask the

Building Official to look into this.

Councilman Urbanek said he had a complaint that the streets were not treated in Valley Springs. Discussion by Mr. Johnson and Mr. Brungardt that it is a public street only to the front of the property and then it becomes a private community. Councilman Urbanek thanked Mr. Johnson for getting the project going on the fire-damaged house on Lynne Road.

No comments from Councilwomen Cannon, Templin and Zindler.

8. Executive Session: Motion by Councilwoman Templin to go into Executive Session at 9:30 p.m. to discuss land acquisition, an attorney-client privilege, and a personnel matter, to return at 10:10 p.m.; second by Cannon.

All Council approved by "ayes".

Motion by Councilwoman Templin to return from Executive Session at 10:10 p.m. and only the three items stated were discussed and no votes were taken; second by Councilman Maniez.

All Council approved by "ayes".

Motion by Councilwoman Cannon to increase City Administrator Greg Johnson's wages to \$72,000 per year and approve the Employment Agreement with the changes as presented. Second by Councilwoman Templin.

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

Motion carried.

Motion by Councilwoman Zindler to adjourn at 10:13 p.m.; second by Cannon.

All Council approved by "ayes".

Respectfully submitted:

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Lana R. McPherson, CMC  
City Clerk