

**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		

Mayor Anderson led the Pledge of Allegiance.

Guests signed the book on page 31.

Mayor Anderson presented a plaque to Randy Canaan in appreciation as a four-year member of the De Soto Planning Commission.

*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 December 16<sup>th</sup>, 2004.
  - b. Approve Pay Ordinance No. 512.

Motion by Councilman Maniez to approve the Consent Agenda; second by Cannon.

Roll Call:	Cannon	Yes	Urbanek	Yes
	Maniez	Yes	Zindler	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."

Rita Jones, Chairperson for the De Soto Relay for Life, presented Council with Relay thank-you materials. Last year there were 25 teams participating. She said she appreciated the City allowing them to hang the banners in town, for the City's sponsorship, and for Lana speaking at the opening ceremonies. The City team was one of the top teams in 2004. The Relay this year is June 3<sup>rd</sup> and 4<sup>th</sup>. The goal is \$36,000 for 2005. Ms. Jones thanked the Council for having a team and for their continued support in 2005. She said Lori Murdoch will be contacting the City to ask if they want to sponsor a team again this year.

3. Chamber / EDC Report: Sara Ritter, Executive Director, wasn't present. Mayor Anderson asked Council members who would be attending the annual Chamber dinner on January 22, 2005.
4. Old Business:
  - a. Consider Resolution No. 704 for Deer Depredation Permit for Charles Nichols, 8735 Corliss Road – Tabled

Motion by Councilman Maniez to remove this item from future agendas; second by Urbanek.

All Council approved by "ayes".

- b. Consider Ordinance No. 2065 amending the City Code to allow archery hunting of deer within the City. Patrick Reavey, City Attorney, stated Council has requested him to check into policies of other cities. Mr. Reavey has prepared an ordinance patterned after the City of Olathe. He also contacted the Kansas Department of Wildlife. Mr. Reavey introduced Andy Freisen of the Kansas Department of Wildlife. Mr. Freisen provided information to the Council regarding the City of Leavenworth's handling of the deer population. Discussion by Council members regarding the City of Leavenworth's Urban Archery Program Guidelines for deer management. Councilwoman Templin stated she liked the Leavenworth Guidelines and would like to include adjoining property owner notification, as well as a date certain to apply for an application to harvest deer within the City. Discussion by Mayor Anderson and Mr. Freisen regarding the ordinance. Discussion by Councilwoman Templin regarding a "hunting variance" to the City's current ordinance regarding no hunting in the City. Discussion by Officer Mark Leiker regarding the hunting within the City.

Mr. Dan Schneider, Cedar Creek Road, stated according to the City's current ordinance, he can't even practice shooting his bow on his own property, much less use it to hunt within the City boundaries.

Further discussion by Councilman Maniez and Councilwoman Templin regarding a variance being issued to the property owner who is having damage done by the deer population. The property owner would have to request the variance for hunting to be allowed on his/her property. Councilman Maniez asked Mr. Freisen about the use of a cross-bow. Mr. Freisen stated cross-bows are not permitted by the State unless the person requesting to use one has medical documentation, signed by his physician, that there is a physical disability. Further Council discussion on the size of acreage to determine the hunting.

Councilman Urbanek stated he feels the public should not have to come to the Council for everything. He said the City should pass an ordinance with all the rules included and the ordinance should cover it all. Council agreed neighbors should be notified when hunting is going to be done on adjoining property. Councilwoman Zindler asked about hunter safety requirements. Council discussion on not allowing cross – bow hunting by anyone. The hunting permit will be for deer only, no matter what other season is open at the time. Discussion by Councilman Urbanek and Mr. Reavey on prior deer depredation permits.

Motion by Councilman Maniez to table this item to the next scheduled Council meeting; second by Cannon.  
All Council approved by "ayes".

- c. 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. Mr. Reavey stated he has tried to capture all of the Council's comments and changes previously discussed. He reviewed the changes to the proposed ordinance. Discussion by Officer Mark Leiker regarding skateboarding on sidewalks in downtown. Discussion by Mr. Reavey and Officer Leiker. Further discussion by Council and Mayor Anderson regarding motorized scooters and pocket rocket cycles. Comments by Councilman Maniez that this proposed ordinance doesn't state anything about the care or safety of pedestrians. Councilman Urbanek stated he feels the scooters should be prohibited downtown like the skateboards. Mayor Anderson agreed, especially as an enforcement issue. Mayor Anderson said there have been complaints from business owners that kids on skateboards have knocked into people on the sidewalks in the business district. The motorized scooters and skateboards should not be allowed in the downtown business district.

Motion by Councilman Urbanek to add to the ordinance the text from the skateboard ordinance to prohibit riding of all of these in the downtown business area; second by Maniez.

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

Motion carried.

Mayor Anderson called a five-minute recess at 8:20 p.m. Mayor Anderson convened the Council at 8:25 p.m.

- d. Consider waiving sewer system development fee increases for existing developments. Greg Johnson, City Administrator, stated existing development contractors raised concerns about the increase on developments already started. Mr. Johnson provided Council with two alternatives to recover lost revenue from waiving system development fee increases for existing developments that have been started. He also

provided Council with spreadsheet actual figures and future cost projections. Discussion by Councilwoman Templin on properties that have not yet acquired building permits, yet sewer capacity has been reserved for those future permits. Mr. Johnson stated a time line could be set for those developers who have plans approved at this time. Councilman Maniez stated that, as always has happened in the past, the developers will still come and ask for extensions. These developers are already receiving preferential treatment. When other cities change their fees, that's the way it is. It should not be the burden of the people already on line to cover the costs for future development by allowing developers extensions or fee adjustments.

Discussion by Mr. Reavey that instead of exempting these developers, the three developers could come in and pay upfront the fees at the current rate within a specified time period. If they don't, then they would pay the current rate at the time they connect. Further discussion by Councilwoman Templin that if this were the case, the current users would still have to pick up the cost in the future. Discussion that this would be for the three developments which are currently approved and are in the building stage right now.

Councilman Maniez stated he would like to see a longer date out before starting the fees. Discussion by Mr. Brungardt that the fees are collected at the time the building permit is approved. Councilwoman Cannon stated she agreed with Councilman Maniez on lengthening the date, and then the new fees will apply to everyone. City Engineer Brungardt stated there are three developments that already have building plans approved and infrastructure in the ground. Discussion by Councilwoman Templin on those three developments. Mr. Johnson stated he wants to bring the new fee resolution to the Council as soon as possible to increase the revenue stream to prepare for the sewer plant construction. Councilman Urbanek stated he doesn't think it is fair to give three developers a price break on the rate and make other citizens pay that are already connected to the sewer. Councilman Maniez stated no other city or entity makes considerations; when they change their fees, they immediately go into effect. Discussion by Mayor Anderson that current consumers should not have to bear the increased costs for future development. Mr. Reavey stated the three current developers could be given a specific time in which to pay upfront. Discussion by Marty Nohe, the City's Financial Advisor, on upfront payments. Mr. Nohe stated another piece of this puzzle will be to convince the bond authority that the City has the ability to finance and generate revenue for this new sewer project. Council discussion on the funding and revenue sources.

Motion by Councilman Maniez to proceed with the sewer development fee increases as originally proposed and becoming effective upon passage of the Fee Resolution; second by Urbanek.

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

Motion carried.

5. New Business:

- a. Consider Resolution authorizing the public sale of approximately \$1,050,000 principal amount of General Obligation Temporary Notes, Series 2005, of the City of De Soto, Kansas. (Wastewater Treatment Plant).

Mr. Johnson provided Council with a memorandum to cover items 5. a and b. These Resolutions will authorize funding for land acquisition and design of the new wastewater treatment plant. Discussion by Councilman Maniez and Mr. Nohe on the temporary note proceedings. Councilwoman Cannon and Mr. Johnson discussed the funding for the improvements and the temporary note financing mechanism. Discussion by Councilman Maniez and Mr. Nohe on the interest rates and the market conditions for the City's repayment plan.

Mayor Anderson and Councilman Maniez asked about the possibility of borrowing the temporary note amount from the City's electric utility fund interest to save money on bond costs. Discussion on maturity of the certificates of deposit and the timeframe in land acquisition and engineering design fees. Discussion by Councilwoman Zindler regarding the issuance of the General Obligation Bonds.

Discussion by Councilman Maniez and Mr. Brungardt on why Shafer, Kline and Warren should be given the contract without procuring bids from other firms. Mr. Brungardt stated that this firm has done good work for the City and other cities around, and they designed the present plant. Time is also a concern. Mayor Anderson asked Mr. Brungardt how he would evaluate this firm as being fair. Mr. Brungardt stated there are criteria standards that are published annually by the ASCE on these types of firms, and Shafer, Kline and

Warren are in high standing in these ASCE areas. Mayor Anderson stated the Council has to have some criteria in just awarding this company the contract without seeking out other proposals. The citizens have to be assured the Council has chosen the best firm for the money spent. Discussions by Mr. Brungardt that there are always qualification-based criteria to determine which firm would be best suited for the project.

Mr. Johnson provided Council with the maturity dates of the certificates of deposit in the electric utility fund. The Council agreed to use the electric utility funds. Mr. Reavey will bring back a Resolution to the Council.

Motion by Councilman Maniez to direct staff to prepare documentation to authorize spending the \$1,050,000 out of the electric utility fund, with the money to be paid back by the General Obligation Bond at a later date; second by Templin. Discussion by Mr. Johnson regarding the wording in the resolution for repayment of the funds.

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

Motion carried.

- b. Consider Resolution authorizing certain sewer improvements in the City of De Soto, Kansas, and authorizing General Obligation Bonds to be issued in an amount not to exceed \$8,230,000 to pay the cost of such improvements, all pursuant to K.S.A. 12-617 and 12-618.

Motion by Councilwoman Zindler to adopt Resolution No. 709 authorizing certain sewer improvements and authorizing General Obligation Bonds to be issued in an amount not to exceed \$8,230,000 to pay the cost of such improvements; second by Cannon.

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

Motion carried.

- c. Consider creating ordinance regulating solicitation activities (Discussion only). Mr. Johnson provided Council with a memorandum containing solicitation ordinance summaries from Olathe, Overland Park and Lenexa. Councilman Urbanek stated he liked the legislative findings paragraph. Councilman Maniez stated he would like to see the hours set back to 6:00 p.m. because 9:00 p.m. is too late for most working people. Councilwoman Zindler stated she liked the start date at 10:00 a.m. Council discussed the provisions. Mr. Reavey will bring back an ordinance for Council's review.
- d. Consider bids for repairs to City shop facility. Mr. Johnson provided two bids that have been obtained to make repairs and improvements to the City shop. Council discussion on the products in each bid proposal, and the materials to be used in the improvements. Council agreed to upgrade to the James Hardie siding and trim.

Motion by Councilwoman Cannon to authorize Greg to contract with Harding Contracting to replace and repair the City Shop not to exceed \$8600; second by Maniez.

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

Motion carried.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, had no further comments.
- b. City Attorney, Patrick Reavey, stated Don Cooper approached the City this week about building an additional 28 units at Valley Springs. They are requesting a tax credit application with the Kansas Housing Resources Corporation. They are requesting support in the form of a resolution from the City. Mr. Reavey stated the Council has provided them a similar resolution in the past.

Motion by Councilman Maniez to approved Resolution No. 710 supporting the Valley Springs Phase 2 project; second by Cannon.

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

Motion carried.

- c. City Engineer, Mike Brungardt, stated he would like to continue the sewer project design with Shafer, Kline and Warren, as previously discussed. Councilwoman Templin said she didn't have a problem with this as she was a part of the previous discussions with them in the beginning phase. Councilwoman Cannon stated she would like to see comparisons and wants a qualification process. Councilwoman Zindler stated she is completely comfortable with them and has a confidence with them from working with them in the past on City projects. Councilwoman Templin and Mr. Brungardt stated this wouldn't be a bid-based comparison, but a qualification process. Discussion by Mr. Brungardt on the qualification selection process. Councilman Urbanek stated he would like to see a qualification process. This is about a cost of \$825,000 on this project. He thinks there should be some type of bid process. Discussion by Councilman Maniez and Mr. Brungardt regarding the process of determining the bids or the qualifications.

Councilman Maniez asked about a cost-comparison for the project as it is developed. He wants to make sure that at some point the City has some assurance that the firm is being fair and equitable. Discussion by Mayor Anderson and Mr. Johnson in negotiating a fee by reviewing other comparable firms and comparisons. The selection process was done on the initial scope. Councilman Urbanek stated he would be willing to go to the second firm from the initial scope regarding the professional services. Discussion by Councilman Maniez that there should be at least one other proposal instead of just handing over the project to Shafer Kline and Warren just because they did the design work. Discussion by Mr. Johnson and Mr. Brungardt that they will work on the project scope and the proposal process for the top two firms.

Mr. Brungardt said the Planning Commission has formed a sub-committee to review the City's rural sub-division street standards. He stated the Planning Commission has requested one Council member serve on this committee. He outlined the meeting schedule and the intent of the committees. Discussion by Council members Maniez and Cannon on whether the Planning Commission has already determined relaxing the regulations. They expressed concerns that some rural development streets are already deteriorating. Discussion by Mayor Anderson about the concerns of the citizens several years ago on Corliss Road. Mr. Reavey stated any text amendment would have to come before the Council for approval. Councilwoman Cannon agreed to sit on the committee as a Council representative.

Mr. Brungardt provided an update on the current sewer plant. He said the new aerators and mechanical elements have been installed. Doug Smith said he has seen a definite improvement.

Discussions by Councilwoman Zindler and Mr. Brungardt on the 2005 CDBG improvements along Lexington Avenue.

- d. City Clerk, Lana McPherson, thanked the Council for allowing her to attend the KMIT Board of Trustees meeting in Sedgwick. The City of De Soto was recognized as a top five "safe" City for 2004 in Workers' Compensation claims as no claims were submitted in 2004.

7 Council & Mayor Comments:

Councilwoman Cannon had no comments.

Councilwoman Templin thanked Greg for the storm updates and said the Street Department did a great job.

Councilwoman Zindler asked about the a-frames being removed north of the Kill Creek Bridge. Mr. Brungardt will check into this. She asked if cars are supposed to stop at all crosswalks. Councilwoman Zindler stated traffic doesn't stop at the new crosswalk on Lexington where the walking trail crosses Lexington. Councilman Maniez asked for advance warning signs to be posted near the crosswalk. Discussion with the Sheriff's officers to enforce it. Discussion about the crosswalk in the business district by the Post Office.

Councilman Urbanek asked about the culvert in Oak Country on Lynne Road that he has brought up before.

He said there is a new owner now. He also stated the City crews did a good job on cleaning the streets.

Councilman Maniez stated the crews did a really great job on Cedar Creek hill. He also asked about the drainage ditch on the new house being built on 87<sup>th</sup> Street. Mr. Brungardt stated he talked with the builder today. The plans did show a grading plan for the property. Discussion by Councilwoman Templin on citizens just taking it upon themselves to redirect water and restructure culverts. Mr. Brungardt stated this area is not on City right-of-way or easements. Mr. Reavey stated the City is not liable for a property owner building in a natural drainage area. Mayor Anderson asked Mr. Brungardt if a septic system plan has been approved for this property. Mr. Brungardt stated the property owner has told him he plans to redirect the runoff. Discussion by Mayor Anderson and Mr. Brungardt regarding grading permits and drainage issues on new construction.

Councilman Maniez stated it was mentioned at the last meeting that Arbor Ridge developers made some comments about coming back to the Council for benefit districts for their property. Councilman Maniez stated in the past the builders were required to make the development improvements. He would like to have discussion on the City allowing developers to form benefit districts for improvements. Councilman Maniez said the City needs to review the policy or set a new policy on this as other developers have been denied in the past. Mr. Brungardt stated there was a policy set in 1995 regarding the formation of benefit districts. Mr. Brungardt has had some discussion with the Arbor Ridge people. Councilman Maniez stated the City has never allowed developers to form a benefit district to pay for their development improvements. Discussion by Mayor Anderson, Mr. Brungardt and Councilman Maniez on benefit district formations.

Mayor Anderson stated he has had one meeting with Chuck Hunter. Mr. Hunter wrote a letter to him and this is a start. Mayor Anderson said he requested another meeting with Mr. Hunter. Mayor Anderson stated he had a good telephone conversation with Commissioner John Toplikar.

Motion by Councilman Maniez to adjourn at 10:35 p.m.; second by Cannon.  
All Council approved by "ayes".

Respectfully submitted:

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Lana R. McPherson, CMC  
City Clerk