

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
October 7th, 2004 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 25.

The Mayor led the Pledge of Allegiance.

PUBLIC HEARING: Whether to vacate a public drainage easement in the Brady Subdivision. Mayor Anderson asked Patrick Reavey, City Attorney, to review the matter. This is a drainage easement that was placed in the wrong area on the final plat. Mike Brungardt, City Engineer, stated the drainage easement was better situated one lot line to the west. This hearing is to vacate this easement.

Mayor Anderson opened the public hearing. No one appeared. Mayor Anderson closed the public hearing.

Consider Ordinance Ordering Vacation of Drainage Easement in Brady Subdivision.

Motion by Councilman Maniez to approve Ordinance No. 2058 Ordering Vacation of Drainage Easement; second by Cannon.

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

Mayor Anderson introduced Doug Dailey, a new member of the Park Board. Mr. Doug Pickert, also a new member, was unable to attend this evening.

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

Motion by Councilwoman Cannon to amend the Consent Agenda and add Item 1 d. to approve Resolution declaring Order of Violation of Section 8-303 of Article 3 of Chapter 8 at 33704 W. 88th Street; to add Item 1 e. to approve Settlement and Release Agreement for claim brought by Todd Bauer; to add Item 1 f. to appoint Doug Dailey and Doug Pickert to the Park Board; and request that Item 1 a. be pulled and voted on separately; second by Templin.

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

Motion carried.

1. Consent Agenda:

a. Approve Minutes from the Council meetings of September 16th and 22nd, 2004.

- b. Approve Pay Ordinance No. 506.
- c. Approve Resolution declaring Order of Violation of Section 8-208 of Article 2 of Chapter 8 at 33704 W. 88th Street.
- d. Approve Resolution declaring Order of Violation of Section 8-303 of Article 3 of Chapter 8 at 33704 W. 88th Street.
- e. Approve Settlement and Release Agreement for claim brought by Todd Bauer.
- f. Approve Mayor's appointments of Doug Dailey and Doug Pickert as park board members.

Councilman Maniez asked about Check No. 13156 for compressors. Mayor Anderson stated this was an emergency that he approved for the water plant. He also asked about the board and transmitter that was replaced. Mr. Johnson stated this was the fire alarm system at City Hall that was struck by lightning and had to be replaced.

Motion by Councilwoman Zindler to approve the Consent Agenda Items 1 b. through f.; second by Cannon.

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

Motion carried.

Motion by Councilwoman Cannon to approve Item 1 a., Minutes from the Council meetings of September 16th and 22nd, 2004; second by Templin.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Yes	Templin	Yes
	Zindler	Abstained, as she was out of town and did not attend the meetings.		

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. Chamber / EDC Report. Sara Ritter emailed the report to Council members.

4. Old Business:

- a. Consider Ordinance Amending Application of Excise Tax. Patrick Reavey outlined the prior history on the excise tax regarding accessory structures and expansion of single-family dwellings. Mr. Reavey discussed the changes on commercial building expansion. Discussion by Councilman Maniez on the one-year time limit. Discussion by Council.

Motion by Councilwoman Templin to approve Ordinance No. 2059 with the addition of a one-time extension granted by City Council for a structure not being replaced in more than one year's time; second by Maniez.

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

Motion carried.

- b. Consider Ordinance Amending Text of Article 10 of the Zoning Regulations Relating to Wireless Communications Towers. Mike Brungardt reviewed the prior history of this regulation and the language that was added at the request of the City Council.

Motion by Councilman Urbanek to approve Ordinance No. 2060 amending Text of Article 10 of the Zoning Regulations Relating to Wireless Communications Towers; second by Zindler.

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

Motion carried.

5. New Business:

- a. Consider Ordinance Rezoning from “R-1” Residential Low-Density to “C-2” Business-General for the Linden-Tripkos Post 6654 VFW property, four parcels totaling 2.44 acres, located at the southeast corner of 84th Street and Penner Avenue, addressed as 33725 W. 84th Street. Mike Brungardt stated the Planning Commission has sent forward a recommendation for approval on this rezoning. He discussed the reason for the rezoning and the allowable uses within the “C-2” zoning. Discussion by Councilman Maniez on the R-1 lot that will remain R-1 zoning. Mr. Brungardt explained the zoning use.

Motion by Councilwoman Zindler to approve Ordinance No. 2061 rezoning the four parcels of VFW property; second by Urbanek.

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

Motion carried.

- b. Consider Ordinance Rezoning from “M-2” Industrial-Heavy to “R-1” Residential-Low Density for the J-Right, Inc. property generally located west of Sunflower Road, between 95th and 103rd Streets, parcel AF221306-3002. Mike Brungardt outlined the staff report from the Planning Commission and stated the owner wants to down zone the property to build single-family homes. Discussion by Councilman Urbanek as to why the property was not properly signed for the rezoning. Discussion by Mr. Brungardt on the posting notice requirements. Mr. Brungardt stated the signs are required to be posted during the 20-day notification period prior to the Public Hearing at the Planning Commission. They are returned to City Hall after the public hearing. Councilman Urbanek stated he would like to see the signs left until the zoning process is completed and approved by Council. Discussion by Council that the request is still pending until the Council makes the determination. Councilman Maniez stated that the public still has the right to voice their concerns to the Council after the public hearing process.

Motion by Councilman Maniez to approve Ordinance No. 2062 rezoning the J-Right property to R-1; second by Cannon.

Roll Call:	Cannon	Yes	Urbanek	Yes
	Maniez	Yes	Zindler	Yes

Templin Yes

Motion carried.

- c. Discuss policy pertaining to capacity of wastewater treatment plant. Mike Brungardt stated this is an issue that has been present for some time. Staff has presented information in the past, and would like to further present information and have Council input to discuss a policy decision for the future. Mr. Brungardt provided Council a report and exhibits relating to the remaining capacity in the treatment plant. Some subdivisions have streets in and are pulling building permits and there should be a reserve capacity set aside for them. Mr. Steve Brady provided his written comments to the Council and believes the City should reserve capacity for his development. Timber Lake Estates is well into their project and Timber Lake are well into their project and streets are already built.

Adding the pending Arbor Ridge development, and based on the currently approved developments, it is not likely the City will have the excess sewer capacity to serve the full build-out of even the currently approved developments. Discussion by Mr. Brungardt and Council on currently approved developments. Mr. Brungardt stated grab samples are being taken at various locations to determine the strength of the flow. Mr. Brungardt stated the City has issued an average of 45-47 building permits per year since 1999. This would conservatively allow two to three years to capacity for the wastewater treatment facility. Discussion by Mayor and Council that the building permits will be issued on a first come, first serve basis.

Mayor Anderson stated he favored allowing approval of new developments and issuing building permits on a first-come, first-serve basis. Councilwomen Templin and Zindler also stated they favored this option.

Councilman Maniez stated he feels the Council has an obligation to the developers that have been approved and have money invested in their developments. He feels we should be on the conservative side in case the new plant doesn't come on line as expected. Councilman Maniez stated he really feels there is an obligation to the developments that have been granted approval on. A new sewer plant has to be on line before new development comes in. We should plan on the conservative side and not be caught with our backs against the wall. Discussion by Mr. Brungardt on the plant's hydraulic capacity.

Councilman Urbanek stated he agrees with Councilman Maniez and that we should not be at the very edge. He feels one developer could build out in two years and not in four years. There could potentially be more homes than we determine being built out, which could be a real problem. He doesn't want to give away too many permits. Discussion on the way the City could issue permits.

Councilwoman Cannon asked about any pending commercial development. Mr. Brungardt stated nothing has come in. There has been some discussion about K-10 Corridor lots still vacant. Councilwoman Cannon stated if there is an opportunity for commercial to come in, we need to look at that. Discussion that Council would like more information on the weekly reports.

Doug Smith, Waste Water Supervisor, explained the flow and the lack of air in the oxidation ditch. There is insufficient air at times to help with the settling of the solids. Discussion by Steve Baker of Shafer Kline and Warren on the treatment capacity. Councilman Maniez stated we should not be considering discharging any unsafe affluent, and we should not increase the average if it isn't going to be safe.

- d. Consider bids for interim improvements to wastewater treatment plant. Mike Brungardt provided Council with a bid summary. Only one bid was received and it was over the budgeted amount. Staff requests rejection of the bid and to allow the City staff to proceed with arrangements and bids with subcontractors to do the interim improvements.

Motion by Councilwoman Zindler to direct staff to proceed with the interim waste water improvements on a project management basis not to exceed \$127,000; second by Templin.

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

Motion carried.

Mayor Anderson called a five-minute recess at 8:37 p.m.

Mayor Anderson reconvened the Council at 8:42 p.m.

6. Executive Session:

Motion by Councilman Urbanek to go into Executive Session for 30 minutes for attorney-client privilege at 8:43 p.m. and return at 9:13 p.m.; second by Cannon.

All Council approved by "ayes".

Motion by Councilman Urbanek to return to regular session at 9:13 p.m. and only the item stated was discussed and no votes were taken; second by Templin.

All Council approved by "ayes".

Motion by Councilwoman Templin to direct staff to discuss with Burns & McDonald delaying the completion of the water study until April 1, 2005; second by Cannon.

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

Motion carried.

7. Advisory Reports:

- a. City Administrator, Greg Johnson, had no report.
- b. City Attorney, Patrick Reavey, stated the property on Wyandotte Street has an encumbrance on the title and Mr. Harding does not own the property yet. Discussion by Mr. Reavey and Council on proceeding with condemnation of the property.

Bob Watson, City Attorney for Overland Park, has contacted Mr. Reavey regarding excise tax concerns that have been introduced at the state level as House Bill No. 2834. He will attend a meeting next week on this.

Mr. Reavey provided Council with a letter that he has sent regarding an insurance claim for hydrant damage at the Sunflower water plant. Council requested Tony Sparr be copied on the letter.

- c. City Engineer, Mike Brungardt, stated the Kaw Avenue road right-of-way grant is being questioned by Columbian Title Company. Mr. Carpenter has been in contact with them and Mr. Brungardt is going to meet with the Columbian Title Company next week.
- d. City Clerk, Lana McPherson, stated the City was awarded the "gold" safety award from KMIT. This award provides the City with a 5% discount on the workers' compensation premium. Lana said she has been asked to serve on the Board of Trustees for KMIT.

8. Council & Mayor Comments:

Councilwoman Cannon had no comments.

Councilman Urbanek asked about the drainage problem on Lexington since Sprint has worked on the right-of-way. The water stays in the ditch. Mr. Brungardt stated that Sprint repaired the ditch work and they dug it too low below the culvert. Mr. Brungardt will check on the performance bond.

Councilman Urbanek asked about placing lightning protection on the systems at City Hall. Discussion by Mr. Johnson that there is protection; however, the past incident was due to a very large strike.

Councilman Urbanek asked about the culvert down by Kill Creek and the drainage concern. Discussion by Mr. Brungardt on the drainage box.

Councilman Maniez asked again about the island on Commerce Drive being mowed. He also discussed the house on 83rd and Ferry Street being for sale as it borders the park.

Councilwoman Zindler asked about the code violation process. Mr. Johnson stated that citizens can call Larry Baxter or himself for complaints.

Councilwoman Templin had no comments.

Mayor Anderson stated he and some Council members enjoyed the League's golf tournament last weekend.

Motion by Councilwoman Templin to adjourn at 9:43 p.m.; second by Maniez.
All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk