

MINUTES

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

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

Mayor Anderson led the Pledge of Allegiance. Anderson presented Gary Pannell with a plaque in appreciation of his dedication and service on the Planning Commission from May, 2001 to October, 2004.

PUBLIC HEARING: 2004 Budget Amendments

City Administrator Greg Johnson stated that amendments have been made to the excise tax, parks, and reimbursements funds. The adjustments are to reflect changes in conditions and projects.

Mayor Anderson opened the public hearing. Anderson closed the hearing as none appeared.

Councilman Maniez inquired about the sewer fund changes. Johnson responded that he is not anticipating needing to use the funding; it was transferred for reimbursement purposes.

Motion by Councilwoman Zindler to adopt the 2004 budget amendment; second by Cannon.

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 from the Council meeting of December 2nd, 2004.
 - b. Approve Pay Ordinance No. 511.
 - c. Approve Resolution No. 707 Authorizing a GAAP Waiver for the City of De Soto.
 - d. Approve Agreement with Springsted, Inc. for financial advisory services.
 - e. Approve Resolution No. 708 Declaring the City's Boundaries for 2004.
 - f. Approve Liquor License for Bob Stevens (Burning Tree Golf Course).

Council members Maniez and Urbanek inquired about specific checks. Maniez stated that \$283 seemed high for a chain saw. Johnson responded that the check included some miscellaneous items for the shop. Urbanek stated that he wished Street Dept. Director Ron Creason had given the Council expense estimates for the salt used on the roads.

Motion by Councilwoman Templin to approve the Consent Agenda; second by Cannon.

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

Motion approved.

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.”

Noel Dirkson, 8610 Waverly Rd., stated that he wasn’t able to attend the public hearing on the Arbor Ridge subdivision rezoning, and wished to go on record as having concerns that there are no buffers provided along where his property is. He suggested a double row of evergreens and a trail connecting the two open space areas, and requested that these suggestions be considered with the final development plan.

Darrel Zimmerman, 34055 W. 86th Ter., stated that he will be issuing an appeal as to why he was required to get a permit for a windmill.

3. Chamber / EDC Report. Sara Ritter, Director, stated that she had nothing.

4. Old Business:

- a. Consider Resolution No. 704 for Deer Depredation Permit for Charles Nichols, 8735 Corliss Road. – Tabled
- b. Approve Ordinance No. 2065 amending the City Code to allow archery hunting of deer within the City.

City Attorney Patrick Reavey noted that he distributed copies of a manual on urban deer management. He asked that the Council table the item until the January 6th meeting, when Andy Creason with the Kansas Dept. of Wildlife will be in able to attend.

Motion by Councilwoman Zindler to table the item to allow archery hunting until the meeting on January 6th to allow for input with the Kansas Dept. of Wildlife; second by Urbanek.

Maniez said he was interested in limiting hunting according to the size of the property, having hunting only in a certain time frame, and disallowing the use of compound bows because of their range and speed.

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

Motion approved.

- c. Consider revisions to sewer rate and system development fee analysis prepared for sewer master plan study.

City Engineer Mike Brungardt stated that the consultant focused solely on the western plant option with a bond cost of 8.64 million dollars. Six fee options with different growth rates and development fees were considered. Mike Duffy with Shafer, Kline and Warren Engineers stated that the goal was to create a reasonable monthly rate increase. De Soto’s fees are currently less than a majority of area communities. They recommend implementing the rate increases immediately in order to phase in the changes and promote growth. Duffy discussed with the Council how increasing rates would impact the generation of revenue. The rates may go down if there is a substantial amount of growth. Responding to a question from Mayor Anderson, Brungardt stated that the growth projections included a mixture of 60% single-family and 40% multi-family densities. City Consultant Marty Nohe

explained the interest rates used, and stated that differing the principal payment would allow time for additional users to help pay the cost.

Brungardt stated that a local developer who could not attend the meeting, Bob Danovich of the Timber Lake Estates subdivision, asked the he speak on his behalf. Danovich would like some consideration given to developments already in progress because they had not anticipated such large rate increases in their financial analyses. Councilman Maniez said he is leaning toward option 3C. He asked what the results would be of falling below the chosen growth rate. Nohe replied that the City could carry through one bad year, but not much more than that. City Attorney Patrick Reavey said the ordinance reads that the increased fees will be paid upon hooking up with the system. This could be changed to allow for the payment of the old rate within a certain time frame. Councilwoman Templin noted that sewer capacity has been reserved for this and several other developments in progress.

Nohe stated that if there was consensus, there could be a resolution drafted to issue temporary notes for land acquisition and initial engineering. The Council voiced their agreement to proceed with option 3C.

5. New Business:

- a. Consider an Ordinance related to zoning change from the "R-1" Residential-Low Density to the "P-D" Planned Development zoning district for a 90-acre parcel generally located south of 83rd Street between Kill Creek and Waverly Roads.

City Engineer Mike Brungardt stated that the Planning Commission had recommended approval of the rezoning and preliminary development plan. The findings related to the Golden Criteria were positive overall, and staff's recommendation is in favor of granting the request and accepting the open space tracts. The applicant has acknowledged the sewer capacity situation and has provided a phasing plan. The Park Board recommended that the applicant provide parkland in addition to the open space requirements. The applicant has proposed paying the park fees, and dedicating open space as well as neighborhood park areas. The Council discussed open space areas, specifically that residents tend to have issues with their maintenance.

Councilman Maniez asked about traffic studies performed in the area. Brungardt responded that the previous traffic study was updated to account for changes in the plan, and reviewed for accuracy by the City's private consultant. The study indicated that east and west turn lanes were warranted, and that a signal may be needed in the future at 83rd and Kill Creek Road. The developer will agree not to protest a benefit district to pay for this improvement. The Council discussed what triggers a need for a traffic signal.

Maniez stated that one of the cul de sacs appears to be overly long. Brungardt agreed that the arrangement is not ideal, but all of the cul de sacs meet city standards of 500' from the nearest intersection. Maniez said he is concerned about allowing one cul de sac to branch off of another in this fashion and he would like the Planning Commission to take a look at this. Responding to another inquiry from Maniez, Brungardt stated that though stub streets to the east and west were strongly recommended by staff with the previous plan, they were removed due to strong opposition from the neighbors.

Chase Simmons with Polsinelli, Shalton, Welte, and Suelthaus, 6201 College Blvd, stated that he was speaking on behalf of Kill Creek Investors and Lambie Geer Homes. The applicant has spent the past year working closely with staff and the neighbors to arrive at the current plan. The perimeter lots that are not buffered by open space have been kept to an "R-1" zoning density. They have agreed not to protest a benefit district, and have suggested a traffic circle instead of a light at this location. The applicant is also willing to either dedicate the parkland and fees, or develop the parks themselves as the Planning Commission suggested. Given the topography of the land, they have tried to give a good mix of streets and cul de sacs. They are agreeable to the architectural design stipulations set by the Planning Commission, but want to avoid having every building plan reviewed by the city unless they start substantially deviating from the photographs and documents submitted to staff. If the rezoning and plan receive approval, the developer will bring forward a final development plan immediately.

The Council indicated that they agreed to a limited review process, triggered by home designs substantially deviating from what is expected. Councilwoman Zindler discussed connectivity with Miller Park, and stated that instead of pocket parks inside the subdivision, she would rather have improvements that will be utilized by the public at large. A home owners association would be more appropriate to develop and maintain neighborhood

parks. After some discussion, Mayor Anderson stated that the Park Board and Planning Commission should be made aware of the Council's position that they would rather invest in community parks. Maniez reiterated his point that overly long cul de sacs are a safety concern. Urbanek stated that he would prefer to live on a cul de sac and he doesn't have a problem with the street layout.

Reavey stated that the applicant has agreed to dismiss the lawsuit pending against the City upon final development plan approval. Simmons voiced his agreement with this statement.

Motion by Councilman Urbanek to adopt Ordinance No. 2066 approving the Planning Commission's recommendation and adopting the staff analysis contained in the staff report to the Planning Commission dated November 18, 2004; second by Zindler.

Roll Call:	Urbanek	Yes	Zindler	Yes
	Cannon	Yes	Templin	Yes
	Anderson	Yes		
	Maniez	No; he would like to see the plan sent back to the Planning Commission for further review on the length of cul de sacs because he does not think it is following the original intent of the regulation.		

Motion carried.

b. Presentation by Mr. Steve Brady regarding status of Country Village Apartments and Town Homes.

City Administrator Greg Johnson stated that Resolution No. 625 waiving the system development fees for the Brady Subdivision expires at the end of this year. The request is to extend this time period. Don Parr, builder, stated that in the past three years the infrastructure is nearly completed, including a problematic detention pond. Construction has begun on the town homes, which will be on the market this spring. Rich Kaplan with Kaplan and Associates stated that he is performing a physical impact study and employer housing needs survey for the project. The City will receive around 125k in tax revenue upon buildout. Tim Duncan with Collateral Home Mortgage, 2001 Shawnee Mission Pkwy., stated that they are pursuing financing through the Dept. of Housing and Urban Development. Their previous application didn't work out because HUD wanted to lower the rents. They are now attempting to cut costs and rebid the project in order to resubmit the application. It is an eight month process to get HUD approval.

Jeff Zimmerman, 8115 Neiman Rd., encouraged the Council to view the town homes and apartments as one project. Without the requested waiver, the 700k in infrastructure improvements could go unused for some time. Responding to Councilwoman Templin, Zimmerman stated that there are other alternatives if HUD turns down their application again. He proposed that the waiver be extended to the first quarter of 2007. Councilman Maniez stated that the project is only paying 9 cents in excise tax, when it is more than double that now. He sympathizes with their situation, but the City has to pay for a new plant. Mayor Anderson noted that if there is no motion the resolution will expire.

Mayor Anderson called for a five-minute recess at 8:45 p.m.

Anderson called the meeting back to order at 8:50 p.m.

c. Consider a zoning change from the "RUR" Rural district to the "R-O" Residential Suburban district for a one-acre parcel addressed 9375 Cedar Creek Rd.

City Engineer Mike Brungardt stated that the applicant is seeking a rezoning in order to build a larger accessory structure. The Planning Commission and staff's recommendation is for approval. The Commission will discuss basing accessory structure size on lot size instead of zoning at their next meeting.

Motion by Councilman Maniez to approve Ordinance No. 2067; second by Templin.

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

Motion carried.

- d. Consider Ordinance regulating non-registered motorized wheeled devices.

City Attorney Patrick Reavey said that the matter is of increasing concern because of conflicts between vehicles and these devices. The ordinance would prohibit devices that cannot be registered with the Dept. of Motor Vehicles from traveling on city streets. Exceptions could include motorized wheelchairs, golf carts, and agricultural equipment, or use in parades. The ordinance would also allow the citing of parents knowingly allowing their child to operate these devices. Councilwoman Zindler stated that she did not have a problem with the devices on paths or sidewalks. Councilwoman Templin agreed that scooters are more pedestrian vehicles, unlike so-called pocket rockets. Reavey said the ordinance could restrict them by speed limits, though this would be difficult to enforce.

Lt. Quigg with the Johnson County Sheriff's Dept. stated that they would like to get ahead of the game because these devices are very affordable and popular. Responding to remarks from the Council supporting the use of scooters in residential neighborhoods and sidewalks, Reavey stated that the ordinance could read "only allowed on street to cross to next sidewalk". Councilman Urbanek voiced that side streets are where kids get hit, to which Lt. Quigg agreed that he doesn't like the idea.

Motion by Councilwoman Templin to direct staff to retool the ordinance to reflect the changes discussed and bring the matter back to the next Council meeting; second by Urbanek.

All approved by "ayes".

6. Advisory Reports:

- a. City Administrator Greg Johnson stated that the refuse contract with Weldon Sanitation expires the end of this year. He has contacted Deffenbaugh and Weldon on their trash and recycling rates. Weldon has agreed to a 90-day extension and has said that their rates would not need to increase in the interim. Johnson recommended this arrangement.

Motion by Councilwoman Templin to approve the 90-day extension of the contract with Weldon Enterprises; second by Urbanek.

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

Motion carried.

- b. City Attorney Patrick Reavey stated that the De Soto School District has delivered to the City the deeds to the properties behind City Hall.
- c. City Engineer Mike Brungardt stated that staff heard presentations from area vendors on different treatment processes for the new sewer plant, and have visited treatment facilities in other cities as well. They will finalize the selection process in a draft report to be submitted next month. Responding to a question from Councilman Urbanek, Brungardt stated that the evaluation will quantify manpower, efficiency, maintenance, and operation costs.
- d. City Clerk Lana McPherson was absent from the meeting.

7. Council & Mayor Comments:

Councilwoman Cannon stated that she has had complaints about door to door solicitation, which can be a problem for the elderly. Reavey stated that several cities have ordinances on solicitation with a permitting process, but it is difficult to limit these to not-for-profit groups without being viewed as discriminatory. Johnson

agreed that the permitting process could also appear to legitimize certain businesses. Councilwoman Zindler said she would rather see it as a matter of personal choice, with residents who do not want solicitation posting a sign on their door. Mayor Anderson said he liked the permitting idea because it gave the Sheriff's Dept. a right to enforcement if there are complaints. Reavey stated that he would research what other communities are doing and return this to the Council.

Councilman Urbanek asked Johnson about the status of the fire damaged house in Oak Country Estates. Johnson replied that he had not heard, but he would keep the Council posted.

Councilwoman Templin asked staff about the trenching work being done in the Snowy Acres subdivision. Brungardt responded that the property owners can redirect storm water flow as long as it is not onto someone else's property or onto the street. After some discussion, the Council asked that staff look into requiring a grading permit.

Councilwoman Zindler asked why the park fees are so low compared to other communities. Johnson responded that staff and the Park Board is discussing this and will begin the analyses.

Councilwoman Templin said that Elvin Jones' editorial in the paper had a good idea about seeking detachment of the Arbor Ridge subdivision from the rural fire district. She would like Johnson to pursue this, to which Zindler agreed that rezoning is a good trigger for detachments.

Mayor Anderson recommended Michael Kroeger for a position on the Planning Commission. Mr. Kroeger lives in the De Meadows subdivision.

Motion by Councilwoman Templin to approve the appointment of Mr. Kroeger to the Planning Commission; second by Zindler.

All Council approved by "ayes".

Motion by Councilwoman Templin to adjourn at 10:04 p.m.; second by Cannon.

All Council approved by "ayes".

Respectfully submitted:

Kim Gordanier
Planning Coordinator