

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
December 6<sup>th</sup>, 2007, at 7:00 P.M.

**MINUTES**

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

Roll Call:	Cannon	Present	Maniez	Present
	Drennon	Present	Morse	Present
	Templin	Present		

Citizens signed the book on page 106. Mayor Anderson led the Pledge of Allegiance.

**PUBLIC HEARING:** Proposed Assessments for the Lexington Avenue Improvement District.

City Attorney Patrick Reavey stated the Resolution has been adopted approving the improvements in the benefit district. The ordinance is the final step in making the assessments. The time for filing a protest has already expired. Mayor Anderson opened the Public hearing.

Mr. Jack Deyoe, representing USD #232, De Soto, said the Board sent a letter to the Council objecting to being included in the benefit district. He said USD #232 still asserts that it is the city's responsibility to provide infrastructure and safety services, while it is the school district's responsibility to educate the community's children. Mr. Deyoe said the Board of Education objects to the three parcels listed for the benefit district that belong to the school district. Currently, the abatements given to companies within the City amount to approximately \$642,000 per year in lost tax revenue to the school district. The schools are not a business and do not create a profit. The letter from USD #232 dated December 6, 2007, is made a part of these Minutes and will be attached and incorporated hereto by reference. The Board of Education requests the City exclude the three parcels from the assessments referenced in Resolution No. 768.

Councilman Morse said that in the state of Kansas, tax abatements are necessary. Mr. Deyoe said abatements are fine, but school districts should not be included as they are not a profit-based corporation. The school district doesn't get any franchise fees. Discussion between Councilman Morse and Councilwoman Templin. Continued discussion between Mr. Deyoe and Council members.

Councilman Drennon discussed the cost with Engineer Brungardt. Discussion by Council and Mayor Anderson. Councilman Maniez said he agrees, in theory, with Mr. Deyoe. However, what concerns him is the taxpayers having to pay for the benefit of the businesses. The businesses need to pay their fair share as they have helped create the problems above and beyond the normal traffic flow.

Councilwoman Templin asked how the businesses were assessed. Engineer Brungardt said traffic numbers were taken for both intersections. Discussion that this cost is associated only for the one light. Mayor Anderson said this was based on traffic volume counts that arrived at the 45/55 split. Councilwoman Cannon asked if the same property owners will pick up the cost for the light on 91<sup>st</sup> Street. Mayor Anderson said this is a policy matter regarding the school district that is under discussion. Continued discussion by Council and Mr. Deyoe. Businesses are receiving a profit; school districts are government.

Discussion between Councilman Drennon and Engineer Brungardt. The amount for the school district's portion is about \$15,300. The City could pick up that amount or it can be spread between each member of the properties. Attorney Reavey said all the documents would have to be changed. Councilman Maniez said the Council needs to look ahead on this for the future signal that will be needed on 91<sup>st</sup> Street. Councilwoman Templin said the businesses have brought on the traffic, and not the school district. Discussion by Mayor Anderson that development will warrant another signal. Continuing discussion by Councilwoman Templin that she believes the school district should not be paying into the benefit district. Councilman Morse said that once the school district is let out of a benefit district, then it will set a policy and precedent for the future. Comments by Attorney Reavey that if the Council is going to back track, then this process needs to start over. The properties included within the benefit district, and the public, need to receive new notice of any revised assessments. Mayor Anderson commented that the vote on the ordinance will come later in the meeting. Mr. Deyoe said this is a taxing policy for the school district; he continued to discuss the cities around the district that do not charge excise tax to the district.

Attorney Reavey stated the question of whether to assess school district property is a policy decision and not a legal one. Despite Mr. Deyoe's reference to an Attorney General Opinion, there is nothing illegal about what the City is proposing to do. The City's bond counsel has talked with the school district's counsel and they are in agreement the law has changed, and the City can assess the school district for the benefit district.

Mayor Anderson closed the public hearing.

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 Councilman Maniez to remove Item 1.c. from the Consent Agenda; second by Templin.

All Council approved by "ayes".

1. Consent Agenda:
  - a. Approve Minutes of the Council Meeting of November 15<sup>th</sup>, 2007.
  - b. Approve Pay Ordinance No. 582.

Motion by Councilwoman Templin to amend the Minutes on page 5; to strike the first sentence of the last paragraph, and replace it with: "Councilwoman Templin asked if the City was aware of softball fields and lights being used at Miller Park. Administrator Guilfoyle stated he was aware of the fact and that the user was paying for their use four evenings per week."

Motion by Councilwoman Templin to approve the Consent Agenda with the Minutes amended as stated; second by Cannon.

Roll Call:	Cannon	Yes	Maniez	Abstained, absent from last meeting
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried.

- c. Authorize Mayor to enter into 5-Year Refuse Contract with Weldon Enterprises-REMOVED

Mayor Anderson said Item 1.c. has been tabled at the request of Councilman Maniez, as well as the contractor, Mr. Weldon.

Councilman Maniez said he understands there is a move towards more recycling and that is a good thing. But, there is a time when a person is going to have excess trash and he would like to see something in the contract stating there is a way to address that excess trash for the one or two times a year a person has more trash. Sometimes people will have more than one container will hold and that should be addressed in the contract. Discussion on ordering a second container for \$3.00 per month. Discussion by Councilman Morse on just staying the same as we are now. The idea here is to go fully automated. Council discussion on a way to handle the once or twice a year when there is extra trash that won't fit in the container. Councilman Morse and Councilman Drennon said they would like to see it stay as it is.

Motion by Councilman Maniez to table 1.c. until Weldon has a chance to review the contract and make a revision; second by Drennon.

All Council approved by "ayes".

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."

Darrel Zimmerman, 34055 W. 86<sup>th</sup> Terrace, read a letter to the Council regarding a need for commercial development. He said too restrictive zoning regulations will turn away businesses. There is a need for commercial, retail and housing. He asks that the Council focus on building communities, rather than barriers that divide, like the stockade being built at Kill Creek bridge.

Bob Garrett, 8361 Wyandotte, said he purchased the ground adjacent to his house. He said for about the last ten years, he mowed the property. He paid all the back taxes and assessments, and now he has assessments for mowings of the property the City had done. He is requesting the City excuse this bill or cut the bill in half. Discussion between Mr. Garrett and the Council. Council discussed when Mr. Garrett took possession of the property. Council discussion on the liens being assessed before or after Mr. Garrett took possession. Councilwoman Templin requested Attorney Reavey check this date on Friday.

Mr. Garrett asked if the gravel trucks are supposed to be using Wyandotte Street. Wesley from Basehor is sending all their gravel trucks down Wyandotte Street every morning between 6:30 a.m. to 7 a.m. Engineer Brungardt said he would check to see if there is a load limit posted for Wyandotte Street, and will post the signs in a more visible place.

Kirk Johnson, on behalf of Mr. Goodcents Franchise Systems, said the U.S. headquarters are here in De Soto and they are associated with Custom Foods. He is here with a request for the Council and has a power point presentation.

Discussion by Councilman Maniez that if this is going to be a presentation, then it should have been addressed as an agenda item. Discussion by Mayor Anderson and Councilwoman Templin. Councilwoman Templin said she agrees with Councilman Maniez that this should have been made an agenda item, and not a call to public. Councilman Maniez said the urgency is on Goodcents part, not on the Council's. Discussion by

Attorney Reavey and Council on the issue of the pole sign.

Motion by Councilman Drennon to add Mr. Goodcents' presentation under New Business, Item 5.d; second by Maniez.

Discussion by Mayor Anderson regarding the time frame of Mr. Goodcents' on this project.

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried.

3. Chamber / EDC Report: Executive Director, Sara Ritter, provided the new "De Soto Advantage". De Soto's home values have increased, but they are still well under the Johnson County average. CERI did a great job of researching demographics in the trade area for the new brochure. Mayor Anderson said this brochure is "fantastic". Councilman Maniez said he was surprised there are more children in town than he realized. She stated Duke Neeland has resigned from the CERI Board and Rick Rambacher of Engineered Air has agreed to serve on the CERI board. On December 19<sup>th</sup>, the EDC will have its membership meeting. Occlmmune will also be sharing their plans for their business coming to De Soto. The annual Chamber dinner will be held on January 19<sup>th</sup> and will be hosted by the VFW. There is some exciting entertainment lined up for this year's program. She encouraged Council members to attend the event.

4. Old Business:

a. Annual report on VFW Post 6654 Development Agreement and review proposed building façade enhancements. Engineer Brungardt stated members of the VFW are here to give their annual report, which is required by the development agreement entered into in 2004. The development agreement included some deferred improvements and this is the annual report for this year.

Larie Davis, representing the VFW, said Roger Sellers couldn't be here because he is a little under the weather. Mr. Davis said the asphalt is around the building now and in the back. They did pour the footings yesterday for the memorial. Councilwoman Templin asked if the Planning Commission had seen the changes. Engineer Brungardt said the development agreement is under the direction of the Council unless the Council directs it to be sent back to the Planning Commission.

Andrew Culbertson, stated he lives on Golden Lane, is commander now at the VFW Post. He said the design aspect was a "little over the top" when pencil was put to paper. The panels on the rendering would have to be custom made as they are not in-stock type panels. Discussion between Mr. Davis and Mayor Anderson on the depth of the panels being 4 to 6 inches deep. Councilwoman Templin said she doesn't feel comfortable with approving any changes to the panels and contradict what the Planning Commission has worked for in the process.

Councilman Drennon said he doesn't see why it has to go back to the Planning Commission. Engineer Brungardt said in reviewing this, he doesn't see the triggers that would send it back to the Planning Commission. The Agreement doesn't state this would need to go back before the Planning Commission. Comments by Mr. Davis. Councilman Maniez said he remembers the whole process and it was a lot of give and take to make the best of a bad situation. If Engineer Brungardt said the Planning Commission doesn't have to review this, and it is not in violation of the

spirit and intent of the Planning Commission, then he doesn't have a problem with going ahead and approving it. Councilman Morse agreed. Councilwoman Cannon said the revised plan in October showed stucco, and this plan doesn't. Comments by Engineer Brungardt and Mayor Anderson regarding the plan drawings.

Councilwoman Templin said she is worried that by not going back to the Planning Commission, the process is degraded. She said she isn't opposed, but she doesn't want the Council to overstep the intent of the process. Mr. Culbertson asked if there had been previous changes. Engineer Brungardt said there have not been any other changes since the agreement has come up for review. Mr. Culbertson said this organization is community-based, and they need to move forward with some other improvements. As soon as they can get moving on this, they will know the direction they could go forward with. They want to put in the sidewalk and going with these panels would help expedite the sidewalk improvement.

Councilman Drennon said he doesn't want this to go back to the Planning Commission. Discussion by Councilman Morse on the panel design with Mayor Anderson.

Motion by Councilman Morse to approve the west side of the VFW for their panels under the revised plan dated 12-03-07; second by Cannon.

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	No, because it is going against the spirit and intent of the policies without sending it back to the Planning Commission		

Motion carried.

Mayor Anderson called a five-minute recess at 8:35 p.m.

Mayor Anderson reconvened the Council at 8:40 p.m.

5. New Business:

- a. Consider Economic Development Goals and Objectives. Administrator Guilfoyle said this is a result of the workshop discussion on November 13<sup>th</sup>. The Council discussed a list of goals and objectives that the City Council, Planning Commission, EDC, and potential community investors could work together to enhance our economic vitality.

Discussion by Councilman Maniez and Mayor Anderson on the list of possible ideas to target for added discussion. Councilman Maniez said he is surprised that there was only one vote for Downtown revitalization. Discussion by Councilman Drennon regarding the Edgerton Road/K-10 intersection development. Mayor Anderson said this is just brainstorming economic development direction. Councilwoman Cannon asked where Councilman Maniez would put his four votes. He commented on item 17 and 20 and what the differences are between the two items. Discussion.

Mayor Anderson said he has not received any calls or anyone knocking on his door asking for a new grocery store. Councilwoman Templin said the partnering aspect of developing a retail center was the difference between number 17 and 20. Discussion by Councilman Morse that the City has to take an active role in developing the City infrastructure to bring retail into town. Councilman Drennon said there needs to be more starter homes in De Soto. The starter home in De Soto is

\$250,000. Councilman Morse said you can always go back to trailers. Mayor Anderson replied they are not little “trailers” with wheels and axles anymore; these are manufactured housing units. Continued discussion by Mayor Anderson and Council on the list of items discussed.

Councilman Drennon said he would choose items 6, 7, 20, 21. Councilman Maniez said his votes are items 8, because he feels downtown revitalization is still important to a few people and there is some downtown housing that could be revitalized; item 14, because everyone is interested in 95<sup>th</sup> Street; item 15, because he still leans toward the retail market on K-10 to give people a reason to stop in De Soto; and item 21. Councilman Drennon said he didn't vote for item 8 because it is included in the CIP. Discussion between Councilman Maniez and Mayor Anderson on the impact of these items as they apply to the CIP. Comments by Administrator Guilfoyle on the CIP. Continued discussion by Mayor Anderson and Councilman Maniez regarding the downtown revitalization. Councilman Maniez asked if money would be directed differently in the CIP if the voting on these items was different.

Mayor Anderson commented that if the City used \$100,000 in debt service bonds, there would not be a one-cent raise in property taxes, and you could finance the debt for 25 years. The interest on the electric fund is currently used to offset taxes. Continued discussion by Councilman Maniez on the hope that there is more money coming in to fund the CIP projects. He said he is going on record to state that he does not want to float the City's debt way out in the future and have our children and grandchildren paying for it. He said he voted for the downtown revitalization because he doesn't want it to disappear off the CIP as he feels it is very important.

- b. Consider Bid Award for Water Plant's High Service Pump. Administrator Guilfoyle said this is part of the CIP program to provide for pumping capability at the water plant and this is a high-service pump that will serve as a back-up in case one pump goes down. He referred to the comments in his memo to Council dated November 30, 2007.

Motion by Councilman Maniez to accept the bid from Douglas Pump for \$39,211.19 and the difference to be made up from the Water Development Fee Fund; second by Cannon.

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried.

- c. Consider Ordinance Levying Special Assessments for Traffic Signals at Lexington and Commerce Drive.

Motion by Councilman Morse to approve Ordinance No. 2180 for the special assessments for the traffic signals at Lexington and Commerce Drive; second by Maniez.

Roll Call:	Cannon	Yes	Maniez	No
	Drennon	No	Morse	Yes
	Templin	No		

Motion failed.

Discussion by Attorney Reavey with Council.

Motion by Councilman Maniez to direct staff to rewrite the Ordinance excluding the school district and to present considerations to Council for assessments; second by Drennon.

Discussion by Councilman Morse and Mayor Anderson.

Roll Call:	Cannon	Yes	Maniez	Yes
	Drennon	Yes	Morse	Yes
	Templin	Yes		

Motion carried.

Motion by Councilman Maniez to modify the Agenda to move the Executive Session up prior to 5.d. for attorney-client privilege; second by Templin.

All Council approved by "ayes".

Motion carried.

d. Executive Session:

Motion by Councilman Maniez to go into Executive Session for Attorney-Client privilege at 9:20 p.m. and return at 9:35 p.m. and invite Administrator Guilfoyle into the session; second by Cannon.

All Council approved by "ayes".

Motion by Councilman Maniez to return to Regular Session at 9:40 p.m., slightly late, and only the item stated was discussed and no votes were taken; second by Cannon.

All Council approved by "ayes".

Motion carried.

e. Presentation by Mr. Goodcents Franchise Systems. Kirk Johnson, sated he is the compliance officer for Mr. Goodcents Franchise Systems (MGFS), and he lives and works here in De Soto. Mr. Johnson stated MGFS is also affiliated with Custom Foods, who makes bread dough for companies all across America. Mr. Johnson provided Council with a power point presentation on the MGFS request to utilize the pole sign located in the De Soto Business Park.

Mr. Goodcents wants to build a restaurant to generate sales taxes, property taxes and jobs. They would like help with signage at the De Soto Business Park. There is a pole sign. MGFS will repair and upgrade the sign and they are prepared to spend a minimum of \$25,000 in signage. They are asking the Council to amend the current sign regulation. The previous owner was asked to take the sign down; however, the owner has not yet complied. Mr. Johnson provided a rendering of the proposed Mr. Goodcents sign and the Welcome to De Soto, Kansas that would appear on the sign. He said MGFS would also update the De Soto Business Park signage. Mr. Johnson said MGFS is willing to make the investment to improve the sign and it will be a welcome to the City of De Soto.

Mr. Johnson said he read in the De Soto Explorer that the City Council was willing to be flexible in order to attract more businesses to De Soto. The MGFS is asking for flexibility to upgrade the last pole sign in De Soto. MGFS will bring employment and job growth at a time when it is really needed. MGFS asks that as Mr. Goodcents

supports De Soto, De Soto support Mr. Goodcents.

Councilman Morse asked if MGFS has looked at bringing this sign into compliance. Mr. Johnson said there is a visibility issue in that the pole sign is a high visibility sign. Attorney Reavey provided Council with a memo from Planning Staff regarding bringing the sign into compliance with the City's sign regulations.

Discussion by Mayor Anderson and Engineer Brungardt on the timing of the possibility of the Planning Commission and Council amending the sign regulations. Attorney Reavey stated the Council has no ability to control the content of the sign. The landlord could take control of the sign and the City would have no control of the sign content. Discussion by Attorney Reavey and Mr. Johnson. Councilman Drennon said the Council has a good opportunity to make the sign better than it is. Attorney Reavey said the owner has been put on notice that the sign must be taken down. Comments by Councilman Morse that the sign could be dropped down. Councilwoman Templin said there are regulations regarding the height and the width of the sign.

Discussion by Mayor Anderson and Attorney Reavey. Attorney Reavey said the owner will be cited with code violations until they remove the sign, and if they refuse to remove it, the City can seek a Court order from Johnson County Court to remove the sign. Continued discussion by Mayor Anderson on whether or not the City is going to stay by the rules or they are going to change the rules. Councilman Maniez said the regulations were made and the decision was made to not allow pole signs; so, either follow the regulations or throw them out and let every business put up a pole sign. Continued discussion between Council members and Mr. Johnson. Councilwoman Templin provided a background history of pole signs and the decision to disallow them in De Soto. She stated this regulation went through a very extensive process and involved many people.

Mr. Johnson said MGFS is looking at the sign because it is already there. Councilman Morse said the sign ordinance that we have now is a fair ordinance. Councilwoman Cannon said she doesn't feel we need to change the rules and the sign needs to come down. Councilman Maniez and Councilwoman Templin agreed the sign should come down. Councilman Drennon said he disagrees; the sign is there and regulations shouldn't stop it.

Mayor Anderson said this particular pole sign is coming down. Mr. Johnson thanked the Council for their time. Mayor Anderson thanked Mr. Johnson for his presentation.

6. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, said on December 20<sup>th</sup> Council meeting, there will be a public hearing on the Agenda to amend the 2007 budget. We will be modifying five funds for the end of the year, and he provided Council with a memo. Administrator Guilfoyle will be out of town on that meeting and Bonnie Bennett will be here to answer any questions on the amendments.

In talking with the County, on the meeting scheduled for January 10<sup>th</sup>, the County Board of Commissioners will be considering the City's Sand Royalty Fund grant request, as reviewed and recommended for full funding from the County's Park and Rec. Board. The Grant is for the Riverfront Park.

- b. City Attorney, Patrick Reavey, provided Council with a copy of the lawsuit in their packet regarding the legal interpretation on the water right issue.

- c. City Engineer, Mike Brungardt, said at the next Council meeting, there will be bid proposals for the Riverfront Park project. He explained the process in determining the local contractors and the bid packet process.
- d. City Planner, Linda Bohnsack, no report tonight. There will be some text amendments and a special use permit on the next meeting's agenda.
- e. City Clerk, Lana McPherson, no report.

7. Council & Mayor Comments:

Councilwoman Cannon had no comments.

Councilman Morse had no comments.

Councilman Maniez asked about the bridge inspections. Discussion by Engineer Brungardt on the responsibility for the bridge inspections. The City will be responsible from now on for those inspections since we are now a City of the Second Class and the population is over 5,000. The City will be contracting with Bucher, Willis & Ratliff in 2009. He stated there haven't been any red flags on any of the bridges in the City. Councilman Maniez said he feels the bridge on 83<sup>rd</sup> Street over the railroad tracks should be moved up higher on the CIP, and not wait several more years to repair it. He asked Engineer Brungardt to look at some considerations for barriers on the bridge.

Councilman Maniez stated there were not many potholes fixed on the east end of town.

No comments from Councilwoman Templin.

Councilman Drennon asked about the Planning Commission agenda for the December 18<sup>th</sup> meeting.

Motion by Councilwoman Templin to adjourn at 10:22 p.m.; second by Cannon.

All Council approved by "ayes."

Motion carried.

Respectfully submitted:

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Lana R. McPherson, MMC  
City Clerk