

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
March 16th, 2006, at 7:00 P.M.

MINUTES

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

| | | | | |
|------------|--------|---------|---------|---------|
| Roll Call: | Cannon | Present | Templin | Present |
| | Maniez | Present | Zindler | Present |
| | Morse | Present | | |

Citizens signed the book on page 62.

Mayor Anderson led the Pledge of Allegiance.

Mayor Anderson introduced Pat Guilfoyle, the City's Administrator. Pat stated he and his wife, Sally, will be moving into their house in Timber Trails on May 4th.

Motion by Councilman Maniez to amend the Agenda to include a new item 5.i. for confidential company information and personnel; second by Cannon.

All Council approved by "ayes".

Motion by Councilwoman Templin to amend the Agenda to add Item 5.d. Consider Ordinance Annexing Lumber One, with remainder of new business items to follow and be renumbered accordingly; second by Cannon.

All Council approved by "ayes".

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 March 2nd, 2006.
- b. Approve Pay Ordinance No. 541.
- c. Approve Maintenance Agreement with Bruce Neis for Wilderness Park.
- d. Approve Maintenance Agreement with Mark Neis for Widow Big Knife Park.

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

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | 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.”

Mr. Duke Neeland, on behalf of the VFW, stated they will be coming to the City to request a permit to construct a flag memorial and will be selling brick to build the memorial.

3. Chamber / EDC Report: Executive Director Sara Ritter had no report this evening.

Mayor Anderson said he would like to make a few comments at this time since the Fire Chief is in the audience. Mayor Anderson commended Fire Department personnel Bob McCoy and Tim Lawrence for their outstanding help to a family in De Soto. The mother of the young boy sent a letter to the Mayor and Council expressing their high regard and appreciation to these two Fire Department personnel.

Councilman Morse stated, a few weeks ago, a newspaper article stated it was difficult to find volunteers in smaller towns. He said our Fire Department is to be commended.

Mayor Anderson stated he had received a letter from the Rural Fire Department and Chief Terry Zahner would like to set a time when both departments can meet and discuss some ideas. The Council will schedule a meeting on a Wednesday in April.

Mayor Anderson said the City of Eudora came over and helped the City with repairs from the storm damage on Sunday. Mayor Anderson and Council stated their appreciation.

4. Old Business:

- a. Discuss follow up with Cinco de Mayo Committee for 2006 celebration. Councilman Maniez stated he has discussed several items with Mr. Neeland and Jay Garvin. He provided a list of the items discussed for Council's review. Councilman Maniez discussed the items that were agreed upon for the Cinco de Mayo celebration as far as the use of the Community Center and the location outside for the mechanical bull. Discussion on this festival being a part of the City's cultural celebrations, and the request for \$3,500 in funding should be considered. Discussion by Council on how to protect the gym floor. Councilman Morse asked about the \$3,500 amount requested by the Cinco de Mayo committee. Councilman Maniez stated the funding is needed by the Committee to go forward this year.

Councilwoman Templin discussed the funding from the City being pared down in future years. Mr. Neeland stated the liability insurance for the event is \$1,500 and that takes a chunk of the money. Discussion on the many costs associated with a festival. Councilman Maniez stated the De Soto Days festival is incorporated and they also receive funds from the carnival. The Cinco de Mayo festival doesn't sell beer and that has also cut down on their funding. Mr. Neeland stated this is a part of the City's cultural exchange and shouldn't necessarily be to make money from the citizens. He would rather the committee focus on fund-raising activities than to charge the public to attend the event. The committee would like to be self-sufficient; however, it takes a lot of money to start an event and keep it going when you rely on the same sponsors. Discussion by Councilwoman Cannon and Mr. Neeland on the charge for the mechanical bull.

Mayor Anderson polled the Council. Councilwoman Cannon stated she still would

like to follow the City's policy. Councilman Morse said he feels the City should think about helping out this year as this is a cultural event for many of our citizens. Councilman Maniez stated he feels the City should help out this year as they are trying to provide a cultural event for everyone in the City. They do many things for everyone at no cost and it is an event to bring everyone together. He also stated the City could help the Committee look into future fund-raising events as this is something that includes everyone in the community.

Councilwoman Zindler stated she agrees with Councilman Maniez and would support the funding this year. She feels the City should discuss the policy. Councilwoman Templin stated she is in favor of supporting it this year; however, she would like to find a way to provide help in establishing the committee as a self-supportive group. She agrees Cinco de Mayo is a cultural, city-wide event and not a specific group. Councilman Maniez stated every year is important, weather-wise, to De Soto Days as they depend upon the carnival and crafters for income. The City may have to help them if the event should have bad weather several years in a row. Discussion by Councilwoman Templin on how De Soto Days has really pumped up their sponsorships over the years; and, she is hopeful the Cinco de Mayo committee could begin doing the same in future.

Mr. Neeland stated the group would appreciate any help from the City in establishing some funding. He said for the amount of hours of entertainment the citizens get, this is a worthwhile cultural event that this group provides at no cost to the participants.

Motion by Councilman Maniez to approve the Cinco de Mayo application request with those items stipulated on the list and attached hereto as a part of the record; second by Templin.

| | | | | |
|------------|--------|--------------------|---------|-----|
| Roll Call: | Cannon | Yes, for this year | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

- b. Consider Agreement not to Protest Benefit District with Cedar Springs Estates, LLC. City Attorney Patrick Reavey stated this agreement is a condition the Planning Commission placed on the owners as a stipulation to the final plat of this property. City Engineer Mike Brungardt stated this is a nine-lot subdivision that could have impact on the surrounding road conditions; and, this agreement states the developer will not protest a future benefit district for improvements, if necessary.

Councilwoman Templin asked about Section C, item 2. She asked if the name of the corporation is changed or sold, would it affect the agreement. Attorney Reavey stated, "no, the agreement runs with the property." Discussion by Councilman Maniez on the possibility of the extension of a road east of Waverly.

Motion by Councilwoman Zindler to authorize the Mayor to sign the Agreement not to Protest Benefit District with Cedar Springs Estates, LLC; second by Templin

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

5. New Business:

- a. Presentation by Rita Jones, Chairwoman of the 2006 Relay for Life Committee. Rita is the chairwoman for the 4th year and this is De Soto's 9th year in celebrating this event. She expressed the Committee's appreciation to the City for allowing them the use of the Community Center in the event of rain this year. Rita said there will be a golf tournament. The De Soto Relay for Life has its own website this year.

This year Rita is asking the Council for a "hunk of money" in the amount of \$1,000 for the Wall of Hope sponsorship. The Wall of Hope will be held on Capital Hill in Washington, D.C. and Rita will be representing this congressional district. Every Relay in the country will have a Wall of Hope banner. The banner will travel around the City and will also be at the Relay. The goal is to obtain as many signatures as possible before it is displayed in Washington, D.C. The committee would like to have the City's name on the banner. Rita read a story from a Relay participant on what the Relay is truly about. Council discussion on getting a team together. Lana said she would be the team captain.

Motion by Councilwoman Templin to approve the donation application for the Relay for Life in the amount of \$1,000; second by Cannon.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

- b. Consider Ordinance amending Article 8 and Map 14 of the Comprehensive Plan pertaining to the standard street classification of Golden Lane. Attorney Reavey stated he has spoken to Councilwoman Templin that there is not a conflict under the City's policy. City Engineer Brungardt stated that the pending Golden Lane construction, the street should be included in the Comprehensive Plan as it is a connector street. The traffic count supports its designation as a collector street. There could be approximately 2,500 trips per day when Golden Lane is completely built out. The public hearing was held at the Planning Commission and they voted to recommend the Council include this street. Engineer Brungardt reviewed his memo to the Council dated February 23, 2006.

Motion by Councilwoman Zindler to adopt Ordinance No. 2117 amending Article 8 and Map 14 of the Comprehensive Plan to include Golden Lane; second by Cannon.

| | | | |
|------------|--------|-----|---------|
| Roll Call: | Cannon | | Templin |
| | Maniez | Yes | Zindler |
| | Morse | Yes | |

Motion carried.

- c. Consider amendment(s) to Article 12 of the Zoning Regulations pertaining to powers and jurisdiction of the Board of Zoning Appeals. Planning Coordinator Kim Gordanier stated the Board of Zoning Appeals has the authority to grant variances to the zoning regulations. The Board has been limited to two instances for granting variances. Kansas State statute 12-759 allows a wider range of authority to the Board. The Planning Commission held a public hearing on this matter, and many

revisions were made. She provided Council with a memo dated March 10, 2006, regarding the revisions.

Discussion by Councilwoman Templin regarding the changes that may affect pole signs in the sign regulations. Discussion by Attorney Reavey that a variance from a sign regulation could be the subject of a variance hearing. Councilwoman Templin asked about the criteria that could be enacted regarding sign regulations. Attorney Reavey stated he attends the Board of Zoning Appeals. He said the current language of the City's regulations need to be revised to be consistent with the state's statutes on the authority of the Board of Zoning Appeals. Attorney Reavey stated he is confident there are still checks in the regulations that certain criteria has to be met before any variance is granted. Planning Coordinator Gordanier stated that less than 50% of the requests are granted due to the strictness of the criteria that must be met. Planning Coordinator Gordanier said the City's regulations were very stringent.

Discussion by Councilman Maniez on giving these broader powers to the Board of Zoning Appeals. He said he agrees with Councilwoman Templin that allowing a broader scope is still somewhat a personal decision on the criteria. Councilman Maniez stated he has the same concerns regarding the pole sign discussion. The case law referred to was over a pole sign and Councilwoman Templin stated that if the Board of Zoning Appeals find there is a "unique" situation, then the Board of Zoning Appeals can basically ignore all the hard work that went into sign regulations, and possibly other regulations.

Discussion by Councilwoman Zindler on whether or not staff can make the recommendation. Attorney Reavey stated that staff's recommendations may not be followed by the Board of Zoning Appeals. Discussion by Planning Coordinator Gordanier on the criteria of "meeting the spirit and intent of the zoning regulations". She said perhaps the Planning Commission needs to review these concerns again.

Councilman Morse stated maybe it should go back to the Planning Commission to address these concerns stated tonight. Attorney Reavey stated there is an application that may be affected by sending this item back to the Planning Commission. Mr. Reavey stated this application will need to be tabled until this is resolved.

City Engineer Brungardt stated some items that may be variance requests could be parking spaces; curb and gutter standards; landscaping buffering requirements; infrastructure standards. Discussion by Planning Coordinator Gordanier. Discussion by Councilman Maniez on the radius of cul-de-sacs and turning radius regulations. The next Planning commission meeting is March 28th, 2006.

Motion by Councilwoman Templin to send the proposed amendment back to the Planning Commission and direct the Planning Commission to specifically discuss items that should not be the subject of a variance request, i.e. signage, landscaping, infrastructure requirements and any other problem areas; second by Morse.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

Mayor Anderson called a five-minute recess at 8:18 p.m.

Mayor Anderson reconvened the Council at 8:24 p.m.

- d. Consider Ordinance Granting Annexation for Specific Land (Lumber One) to the City. Attorney Reavey said several months ago Lumber One came to the City requesting annexation since the county Planning Department was exceeding the previous use of that land, specifically outside storage. The City, under its' Zoning Regulations, have the option of the landowner applying for rezoning and then making a request for annexation. The Planning Commission made a recommendation to approve the rezoning. Discussion by Councilwoman Zindler that this is approximately a 10-acre tract of land.

Motion by Councilwoman Templin to adopt Ordinance No. 2118 annexing Lumber One into the City; second by Cannon.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

- e. Consider a rezoning from 'RUR' Johnson County rural zoning district to 'M-1' Light Industrial zoning district for property located between 95th and 103rd Street on Sunflower Rd., parcel no. 3F221306-3006. Planning Coordinator Gordanier stated this is for an existing business that has been in existence for three years. This property has been used as light industrial for several years in prior businesses. The property will actually have two rezonings for the business. The latter will come forth in a few months concerning a partial lot rezoning.

Planning Coordinator Gordanier discussed the negative finding on the impact to surrounding road networks. These are rural roadways and are not in great condition. With an M-1 zoning, there could be other businesses come into the area and the roadways would then be affected. Councilwoman Templin discussed the negative finding and Planning Coordinator Gordanier stated that in five-to-ten years, there would need to be some major roadway improvements. A benefit district could be entered into in the future for road improvements.

Motion by Councilwoman Templin to approve rezoning from 'RUR' Johnson County rural zoning district to 'M-1' Light Industrial zoning district for Lumber One as Ordinance No. 2119; second by Cannon.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

- f. Consider proposal for equipment repairs on Wells 10 and 12 at a cost not to exceed \$17,341.00. Discussion by City Administrator Guilfoyle regarding the good news/bad news situation with the two wells and the equipment needs. Discussion by Councilman Maniez, Engineer Brungardt and Administrator Guilfoyle on the past acid treatment of Well 12. An acid treatment ranges from \$12,000 to \$15,000 each time. Discussion by Councilman Morse and Engineer Brungardt on the transfer of present

equipment versus purchasing new equipment. Discussion by Councilwoman Zindler on the budget line items appropriated for the Water Department.

Motion by Councilman Maniez to approve Clarence Brunk's proposal to accept the bids in an amount not to exceed \$17,341.00; second by Morse.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

Discussion by Mayor Anderson and City Engineer Brungardt on the water facilities plan. Engineer Brungardt said there will be some additional work done by the consultant. Staff will meet on with the consultant next week.

- g. Consider proposal for cleaning the lagoon at Sunflower Water Plant, to exceed \$5,000. City Administrator Guilfoyle stated this is a routine maintenance requirement to clean out the sludge pool. Clarence Brunk has received three quotes to do the work. Water Superintendent Brunk has requested Council authorization to exceed the \$5,000 limit, subject to review of the specifics with staff if he discovers the need to go beyond \$5,000. Discussion by Councilwoman Templin and staff regarding how many hours are needed to clean out the sludge pool. Discussion by Councilman Morse on the disposal process of the sludge pool. Staff will discuss a disposal site with Mr. Brunk. Councilwoman Cannon asked if there is a cap on the request. Administrator Guilfoyle said Council can set that cap now, or direct staff to make that determination if the need arises. Discussion on whether or not the sludge will need to be removed from the site.

Motion by Councilwoman Zindler to accept the bid from Conley Construction in an amount to exceed the \$5,000 subject to Clarence's review of the specifications and review by the City Administrator; second by Templin.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

- h. Consider Ordinance to Raise Rate of Transient Guest Tax from Four to Six Percent. Attorney Reavey stated the City has had a rate of 4% since 1999. Sara Ritter provided a list of area cities transient guest tax amounts. Attorney Reavey sent letters to the owners of the two hotels in town. No response has been received from the owner of the hotels.

Councilman Maniez asked how much more money would be generated by the increase. Administrator Guilfoyle stated this would be approximately \$6,000 annually. The City Council must approve any expenditures from the Transient Guest Tax Fund.

Motion by Councilman Maniez to Approve Charter Ordinance No. 20 Amending Provisions of Charter Ordinances No. 14 and No. 17 to Raise the Rate of Transient Guest Tax from Four to Six Percent; second by Cannon.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | Mayor | Yes |

Motion carried.

- i. Discuss scope of work for entry signage project. City Engineer Brungardt stated the Council wanted to discuss a proposal for the scope of work. Doug Pickert supplied the renderings and has called out the materials and the extensions of the current signs. The cost could be \$30,000 to \$40,000 potentially. Staff would like Council comments on this project. Councilwoman Templin asked about the funding for this project. Discussion by Engineer Brungardt on the 2005 CDBG funding that might have been used; however, the project used all the funding allocated.

Discussion by Mayor Anderson on the community plaques being placed on the actual monument so that all the signs for the community will be uniform and on the monument. Engineer Brungardt stated these organizations could possibly purchase a plaque to go on the monument. Discussion on lighting of the signs as they are at the entrances to the City. Councilman Maniez stated he thinks the sign is too tall. Discussion on the height of the proposed sign being approximately 8 feet high. Councilman Morse said he likes the old signs; the new signs are too high and limit the sight distance.

Councilman Maniez stated the logo could be moved over to the right and then the top of the sign lowered down to decrease the height. Councilwoman Cannon said the sign is too tall. Mayor Anderson asked about the colors. Councilwoman Templin said she likes the colors; Councilwoman Zindler said she isn't a color expert. Councilwoman Templin said the aluminum should be brushed and not shiny so there isn't a glare. Councilman Morse was not in favor of new signs. Engineer Brungardt said the next step is finding the funding and preparing the bid specs.

- j. Executive Session: Administrator Guilfoyle would like to include an attorney-client privilege matter.

Motion by Councilman Maniez to go into Executive Session at 9:00 a.m. for three items: confidential company information and land acquisition for 15 minutes; personnel matter for 15 minutes; attorney-client privilege matter for 15 minutes; and to include Sara Ritter, Mike Brungardt and Pat Guilfoyle in the session; second by Templin.

All Council approved by "ayes".

Motion by Councilman Maniez to return to regular session at 9:43 p.m. and only the three items stated were discussed and no votes were taken; second by Templin.

All Council approved by "ayes".

6. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, said the hail storm over the weekend did some damage to City property and vehicles. An adjuster has been assigned and he has looked at the roof damages. The park facilities were mostly totaled from the storm. Administrator Guilfoyle said he was very impressed with the adjuster and the way things were handled. There were 12 autos that were damaged by the hail.

Administrator Guilfoyle discussed the cost of health insurance. The City's health insurance is coming up for renewal on April 1st. He provided Council with a cost summary of the plans proposed. He provided a summary of the work that has been done in obtaining the new quotes.

Councilman Maniez asked about the insurance trends and the need to change carriers every other year. Discussion by Administrator Guilfoyle on the market. Council agreed to changing the health and dental coverage to Humana.

- b. City Attorney, Patrick Reavey, said he has talked to the Time-Warner representative about the renewal of the franchise agreement. There is some legislation pending now and the League stated there is a good possibility the legislation will pass. The City will wait on this matter. The Arbor Ridge final action will be held at the County on April 6th. The city's tax abatement policy isn't in a resolution form. Attorney Reavey and staff are looking at the policy and will bring it back for Council's review at the next meeting.
- c. City Engineer, Mike Brungardt, said the CDBG project on the pedestrian tunnel under the railroad overpass has been bid. The construction cost is about \$112,000. During the pre-construction walk-thru the need for an additional drain was determined. There is a change order in the amount of \$8,700. This increases the original cost by the amount of \$5,663. He would like Council authorization for this amount to include the additional drain.

Motion by Councilman Morse to approve \$5,663.00 for the 2005 CDBG sidewalk project; second by Templin.

| | | | | |
|------------|--------|-----|---------|-----|
| Roll Call: | Cannon | Yes | Templin | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Morse | Yes | | |

Motion carried.

A letter was received from Bill Maussen requesting project proposals for the combined multi-use pedestrian path adjacent to the K-10 right-of-way. They are requesting the cities of Olathe, Overland Park and De Soto to participate in this. Johnson County Parks and Recreation are contributing funds and are asking for representatives from the cities involved. They are requesting a proposal from De Soto. The proposals are due April 28th. Engineer Brungardt would like Council to consider this and provide some input. Discussion by Councilwoman Templin and Engineer Brungardt on which trails would be connected. Discussion that all pedestrian and bicycle traffic is now allowed on K-10.

An alternate manufacturer for the pool slide was found. There hasn't been a guarantee from the manufacturer that the slide will be here by opening day.

- d. City Clerk, Lana McPherson, said the Phase II Brownfields Targeted Assessment for the proposed park adjoining the boat ramp has been received. She provided a copy to the Council.

The 2007 Committee Chairs met last Wednesday evening and discussed plans for three major events for the Sesquicentennial celebration. A budget amount was tentatively set at \$25,000.

7. Council & Mayor Comments:

Councilwoman Templin asked about an “all clear” siren when the storms are over. Discussion by Councilman Maniez on a location for those people who don’t have a basement. Discussion that there should be a plan for Emergency Shelter Instructions. Administrator Guilfoyle will discuss this with staff.

Councilwoman Templin asked about the State of the County Address. Mayor Anderson said the Council has a reserved table. She also asked about the Johnson County Leadership Summit on Friday, March 31st. Council will respond to the Mayor or Lana.

No comments from Councilwoman Zindler.

Councilman Maniez asked about the east “wye”. He said the radius is terrible and it needs to be widened. Discussion by Engineer Brungardt and Councilman Maniez on the widening of the radius. Engineer Brungardt will discuss this with LRM Contractors.

Councilman Morse had no comments.

Councilwoman Cannon said the new Plummer’s lift station was approved several meetings ago and she wondered when the work will begin. Engineer Brungardt stated it could be approximately two more months before actual construction.

Mayor Anderson stated he is helping deliver meals next Wednesday for the County’s Meals on Wheels program. Johnson County Mayors are spending time helping deliver.

Mayor Anderson read a letter from the IIMC recognizing Lana’s acceptance into the second level of the Master Municipal Clerks Program. Lana thanked the Council for their support.

Mayor Anderson said there was an annual dinner and research meeting if anyone wants to attend regarding the bio-science facility.

The Johnson County Library Board is ready to launch an enrichment campaign.

The Federal Reserve Bank is putting on a forum and Council has been invited.

Motion by Councilwoman Templin to adjourn at 10:30 p.m.; second by Morse.

All Council approved by “ayes”.

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk