

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
March 17th, 2005 7:00 P.M.

MINUTES

The meeting was called to order with Roll Call by Council President, Tim Maniez.

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

Mayor David Anderson was out of town.

Council President Maniez led the Pledge of Allegiance.

Citizens signed the book on page 36.

Motion by Councilwoman Templin to go into Executive Session at 7:03 p.m. to discuss an attorney-client privilege matter, and to return at 7:10 p.m.; second by Zindler.

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

Motion carried.

Motion by Councilwoman Templin to return from Executive Session two (2) minutes early; second by Zindler.

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 3rd, 2005.
 - b. Approve Pay Ordinance No. 517.
 - c. Approve Agreement with Kill Creek Investors not to protest formation of a benefit district -- tabled
 - d. Approve Tower Lease for Wildcat Wireless & Tann Communications
 - e. Approve Lease with Victory Place Church
 - f. Approve Maintenance Agreements for Widow Big Knife Park and Wilderness Park

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

Roll Call:	Cannon	Absent	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.”

George Sherman, 32280 W. 83rd Street, stated he has some concerns regarding the proposal for the east “Y” at the 83rd and Kaw Avenue area. Mr. Sherman said he wasn’t advised of any changes until he heard about it in the paper. He has no objection to progress or safety. His concern is about sharing a “common” driveway and whose benefit is that for. He has a commercial business next door to him and that commercial driveway would also be his residence driveway. He has concerns about that and the maintenance of such a common driveway. Mr. Sherman said he has never complained to the City about the east “Y” and he has some concerns about his property sharing a commercial driveway and how that liability is going to affect his private property. He wants more information from the City.

Councilman Maniez stated he had tried to telephone Mr. Sherman to discuss the concerns. Councilman Maniez stated he has mentioned these concerns to Mike Brungardt, City Engineer. Councilman Maniez said there are safety factors and the City will need to make some changes. He is hopeful the residents will be able to discuss a configuration for the street to resolve this.

Mr. Brungardt stated he has talked with HNTB Engineering to review the area and look at possible configurations for driveway access to both properties. A design concept will hopefully begin by April 7th. Mr. Sherman stated he would like to have more information as it becomes available. Mr. Brungardt provided Mr. Sherman with his business card.

Mrs. Bobbie Sherman stated they did not know about this project until they heard about it from Councilman Maniez. She said she has real concerns about the road being closed and how the property between their real estate boundary and Lexington Avenue will be affected. Will this affect their real estate value and their taxes? Mrs. Sherman said she doesn’t want the extra cost to have to maintain a big driveway and the costs for a commercial driveway. She doesn’t want any more taxes as they are looking forward to their senior years and will be on a retirement budget. They own a private residence. She is not happy about sharing a commercial driveway.

Mrs. Sherman said she has observed traffic violations. Discussion by Councilwoman Zindler and Mrs. Sherman. Mrs. Sherman said people do turn around in her driveway, but it hasn’t really bothered them. She responded the Fire Department has run through the “Y”. Mrs. Sherman said she understands they have emergencies, so she isn’t concerned. She is more concerned about the people that fly down Kaw Avenue and then peel out at the stop sign.

Mr. Thayne Palmberg, 7925 Sunflower Road, said he wants to speak about the new sewer plant proposed site. He thanked Mike Brungardt and Patrick Reavey for showing him the City’s plans. He would like to propose an alternative site and would like to propose that to City staff. Mr. Palmberg hopes the City would not make a permanent decision until this meeting takes place next week with City staff, he, and the architect. Mr. Palmberg is concerned about the cost as he is a taxpayer in the City. Discussion by Mr. Palmberg and Councilwoman Templin. Mr. Palmberg has land that borders three sides of the proposed site for the new sewer plant.

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

4. Old Business:

- a. Kill Creek Farm Special Use Permit. Mike Brungardt, City Engineer, stated this matter was sent back to the Planning Commission for the County to provide their comments as it is in the K-10 Overlay District. Mr. Palos provided comments that were generally in conjunction with the recommendations by the Planning Commission, and also he addressed the parking situation. This language has been included in the permit under the “parking” provisions. Staff is recommending the adoption of the special use permit and the Ordinance.

Discussion by Councilman Urbanek regarding not having parking available on the business property. The City is setting a precedent by allowing people to park on right-of-way. Councilman Urbanek said he does not want to set a precedent by breaking the City’s own regulations regarding business parking. Discussion by Mr. Brungardt on the Planning Commission’s opinion that the use is “seasonal”. Councilwoman Zindler asked if KDOT has given permission. Mr. Brungardt stated KDOT will not condone or prohibit the parking use, and will not provide written documentation to that effect.

Discussion by Councilwoman Templin on how long the farm has been in existence. Mr. Zimmerman said the farm has been in existence for 100 years; he further stated KDOT took 10 acres of the farm by eminent domain for the construction of K-10 highway. Councilwoman Templin said this is not any different than the right-of-way in front of the former Kill Creek Pub as the City’s right-of-way goes almost to the door. Discussion by Councilwoman Zindler and Councilman Urbanek. Councilman Urbanek stated this is a private business, not a community event, and that this business only started at the farm a few years ago. It has now become more than just a farmer’s pumpkin patch. Discussion by Councilwoman Zindler, Councilwoman Templin and Councilman Urbanek.

Councilman Urbanek stated that if it was anyone else asking for business approval, this would not have passed through the Planning Commission’s criteria. He said just look at what happened to Bob Hill when he asked for the golf course exceptions. What did he get from the Planning Commission?

Mr. Reavey explained to the audience that zoning decisions require the vote of entire Governing Body, and the Mayor must have four votes to carry the decision. Mayor Anderson and Councilwoman Cannon are both absent this evening.

Motion by Councilwoman Templin to table this item to the next meeting to the April 7th meeting. Discussion by Councilwoman Zindler with Councilman Urbanek. Comments by Mr. Reavey.

Second by Zindler.

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

Motion carried.

5. New Business:

- a. Consider a rezoning from “C-2” Business - General district to the “O-I” Office - Institutional district for 2 parcels totaling 40 acres generally located at the Southwest corner of Lexington Avenue and 91st Street. Mr. Brungardt stated the Planning Commission has held the hearing and has forwarded this to the Council with a recommendation to approve the requested change. Mr. Brungardt outlined the memo information for Council. Any development under the “O-I” zoning would require a site plan.

Discussion by Councilman Maniez and Mr. Brungardt regarding the traffic signal placement. Councilman Urbanek asked about the economic impact on the community. He said he would like to see an economic impact finding done on this type. Discussion by Mr. Brungardt that this could be relatively burdensome and costly at this stage. Councilwoman Templin asked Rod Corn, of Olathe Medical Center, to speak on the matter.

Mr. Corn stated they will take advantage of the slope of the land and would most likely use the slope for an underground parking area. The building will be some type of masonry similar to the Olathe Medical Center. Mr. Corn stated they hoped to have something built there in the next two years.

Motion by Councilwoman Zindler to adopt Ordinance No. 2082, adopting the Planning Commission's recommendation for the rezoning from "C-2" Business - General district to the "O-I" Office - Institutional district for 2 parcels totaling 40 acres generally located at the Southwest corner of Lexington Avenue and 91st Street; second by Templin.

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

Motion carried.

- b. Consider bids received for construction of new municipal pool. Greg Johnson stated the City received nine bids on the project last week. All nine bids were over funding levels for this project. The low bid was \$2,689,000. Staff is recommending accepting the low base bid from Vanum Construction and authorizing staff to initiate a value engineering study to identify potential cost reductions. Discussion by Councilman Maniez on the bonding amount. Councilwoman Zindler asked if Larkin has worked with Vanum in the past. Mr. Treadwell Jones stated, "yes, and they have done a good job in the past."

Motion by Councilwoman Templin to accept the bid of Vanum Construction and being value to identify; second by Urbanek.

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

Motion carried.

- c. Consider contract with Shafer, Kline, & Warren for engineering services for drainage improvements near Rehrig Pacific and De Meadows subdivision. Mr. Brungardt stated this project is to do drainage and erosion control for approximately 1,500 feet of open channel along Kill Creek. The bid selection was done and the scope of the project has changed. The erosion has become worse and the project is going to cost more than originally thought. Over the past several months, the Johnson County Park and Recreation District has been evaluating alignments for the continuation of the Kill Creek Streamway Park path. Mr. Bill Maussen of Johnson County Parks would like to cooperate with the City in these improvements. Staff is recommending that the DeMeadows drainage channel is a priority over the 95th Street drainage issue. He would propose using the funds slated for the 95th Street project to repair the drainage channel. The contract amount is not to exceed \$74,208.00. Mr. Brungardt recommends authorizing the mayor to enter into the engineering services agreement with Shafer Kline and Warren for the De Meadows drainage and trail improvement project; and to

delay the initiation of the 95th Street drainage project until the total costs of the De Meadows project are determined.

Discussion by Councilman Urbanek on the erosion of the creek. Discussion by Mr. Brungardt on the channel and the reconstruction plan that has been proposed. Discussion by Councilman Urbanek on the undercutting of the creek bank. Council discussion with Mr. Brungardt.

Councilman Maniez asked about the County's reimbursement of the design fees. Mr. Brungardt stated there was a letter agreement from Mr. Maussen in the past on other projects. An inter-local agreement to fund that 50% could be put in writing prior to finalizing the contract.

Motion by Councilwoman Zindler to authorize the Mayor to enter into the engineering study for the De Meadows drainage and trail improvement project; and also to delay the initial 95th Street project until the De Meadows project is completed, in an amount not to exceed \$74,208; second by Templin.

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

Motion carried.

d. Consider mill and overlay projects for 2005:

- 83rd Street from Ferry to Kaw
- East "Y" Reconfiguration
- Commerce Lane/Drive

Mr. Johnson stated he would like to go over the preliminary scope and costs of these projects. He outlined his memo to Council dated March 10th. Mr. Johnson discussed the funding source and the improvements that are being recommended. Staff has met with the Street Committee and they are recommending proceeding with all three projects as presented in the memo. Discussion by Councilwoman Templin regarding the Commerce project. Mr. Johnson stated access will be maintained for all the businesses. Councilwoman Templin asked about the thought behind removing the medians. Discussion by Councilman Maniez that the median by McDonald's and Mr. Goodcents would be left as the driveways do not line up. Discussion with Mr. Brungardt that there is not enough room for turning lanes if the median is not removed. There is always a maintenance issue due to the trimming of the vegetation in the median.

Discussion by Councilman Urbanek on possibly narrowing the medians. Mr. Brungardt and Councilman Urbanek discussed the problem on Commerce and the road construction. Councilman Urbanek asked why the sidewalk is being proposed on the north side of 83rd Street rather than the south side. Mr. Brungardt stated it was a matter of right-of-way as well as the sidewalk would configure in with the walking path.

Motion by Councilwoman Zindler to proceed with further developing scope and engineering services for 83rd Street from Ferry to Kaw and the east "y" reconfiguration and crack repairs on Commerce Drive; second by Templin.

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

Motion carried.

- e. Consider road improvements in Rik-Mar Subdivision. Mr. Johnson stated last September there were several projects that were bid for chip seals on four streets. Upon further review of the condition of Rik-Mar Drive, it was determined that it needs major base stabilization and a surface treatment. Council discussion with Mr. Johnson and Mr. Brungardt on the condition of Rik-Mar Drive.

Motion by Councilwoman Templin for staff to proceed with bidding the Rik-Mar Subdivision improvements as proposed and the project be let for bidding in conjunction with the Waverly Road improvements; second by Urbanek.

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

Motion carried.

- f. Consider amendment(s) to Section 6.05 of Article 6 of the Zoning Regulations pertaining to requiring lighting interior to developments. Mr. Brungardt stated that current regulations do not require a parking lot to be lit. The Planning Commission recognized this and wanted to make a regulation change. A public hearing was held and the Planning Commission recommends approval of an Ordinance. Discussion by Councilman Maniez on who decides the illumination. Mr. Brungardt stated this will be a discretionary item.

Motion by Councilwoman Zindler to approve Ordinance No. 2083 amending Section 6.05 of Article 6 of the Zoning Regulations pertaining to requiring lighting interior to developments; second by Templin.

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

Motion carried.

Discussion by Councilman Urbanek regarding the lighting in rural subdivisions. Discussion by Councilman Urbanek that lighting is something the developer should do in the building process, not the City. Mr. Brungardt stated the regulations do address this.

- g. Consider amendment(s) to Section 3 of Article 5 of the Zoning Regulations pertaining to cul de sac regulations. Mr. Brungardt outlined his comments stated in his memo dated March 15th. He discussed the cul-de-sac length and to change the language to *“Not more than one Cul-de-sac shall extend from another Cul-de-sac.”* Discussion by Councilman Maniez and Mr. Brungardt.

Motion by Councilwoman Zindler to adopt Ordinance No. 2084 amending Section 3 of Article 6 of the Zoning Regulations pertaining to cul-de-sac regulations; second by Templin.

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

Motion carried.

Council President Maniez called a five-minute recess at 8:40 p.m.

Council President Maniez reconvened the Council at 8:45 p.m.

- h. Consider vehicle and equipment leases for acquisitions through MARC purchasing program. Mr. Johnson said Councilmen Maniez and Urbanek have been working with him and Ron Creason, Street Superintendent, on the leases. Mr. Johnson outlined the process they have been working through. Mr. Johnson discussed financing options. Council discussion.

Motion by Councilwoman Templin that staff accept the bids and the financing program through CalFirst; second by Urbanek.

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

Motion carried.

- i. Consider bids for water well treatments. Mr. Johnson stated staff is working to get on an annual treatment schedule. For 2005, staff is recommending a double bleach treatment of wells 10 and 12. Well 10 is one of the highest used and best producing wells. Discussion on the cleaning process. Two bids have been received. Douglas Pump is recommended.

Motion by Councilwoman Zindler to approve the bid from Douglas Pump in the amount of \$17,748; second by Urbanek. Discussion by Councilman Urbanek and Councilwoman Zindler in doing this every year. Mr. Johnson responded.

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

Motion carried.

- j. Consider bids for wood fiber material for use at Miller Park. Mr. Johnson provided information that the Park Board and Jay Garvin would like to replace the sand under the play equipment at the park as it is hard to maintain. The preferred material to sand is wood fiber chips that are in compliance with the National Playground Safety Guidelines. The low bid was from AB Creative in the amount of \$7,236. The funding would come from park funds. Council discussion.

Motion by Councilwoman Templin to accept the bid from ABCreative in the amount of \$7,236.00 and to use park fund money for the materials; second by Zindler.

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

Motion carried.

- k. Consider bids for a total solids and dissolved oxygen meter. Mr. Brungardt stated Doug Smith, Wastewater Superintendent, needs some monitoring equipment for the process control of the oxidation ditch at the wastewater plant. Mr. Smith provided Council with a memo dated March 11th outlining the proposed improvements. The upgrade will save approximately \$2,500 a year and will be transferable to the new plant. Discussion by Mr. Johnson on equipment costs. Discussion by Councilman Maniez on the motor starters.

Motion by Councilman Urbanek to direct staff to accept the bid of \$9,390.85 to install the two meters and the associated components; second by Zindler.

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

Motion carried.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, had nothing more to report.
- b. City Attorney, Patrick Reavey, said he forwarded a confidential email to Council providing them an update. He also brought up the K-10 Overlay Regulation deadline with the County. Lana will provide Council and staff with the approaching deadline date. There is a mandatory meeting required with the County. Councilman Maniez stated he would like to give the County notice that Sunflower needs to be included. Councilwoman Templin agreed that she would like to see Sunflower included in this and she agrees wholeheartedly with Councilman Maniez. Discussion by Mr. Reavey that the County feels Sunflower isn't really in the corridor. Discussion by Mr. Brungardt. Discussion by Councilwoman Zindler.

Motion by Councilman Maniez to direct staff to give the County notice of cancellation on the renewal of the overlay district; second by Urbanek.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Absent	Templin	Yes
	Zindler	No		

Councilwoman Zindler stated she feels it is going down the wrong path by canceling the overlay regulations. She would like to have the Planning Commission's input on this before canceling it without knowing how it has been beneficial in the past.

Motion carried.

Mr. Reavey stated this notice will require a meeting with the County to enter into a discussion regarding the termination request.

- c. City Engineer, Mike Brungardt, no report.
- d. City Clerk, Lana McPherson, thanked Council for permitting her to attend the CCMFOA conference last week.

7 Council & Mayor Comments:

Councilwoman Templin had no comments.

Councilwoman Zindler had no comments.

Councilman Urbanek asked about a petition that was signed regarding the taxes and mill levy and he discussed the tax rates in the County. Councilman Maniez stated he did not know what prompted the petition; however, he thinks the City should respond. He said the mill levy is

almost the same for the City that it has been for about 10 years. It is the other entities that cause the mill levy to go up. He feels the City has been very diligent in trying to keep the City's part of the tax rate the same. Councilman Maniez the Council members that have been elected in the past have been very conscious of where the money comes from and have taken care to keep the citizens' best interests in mind. Discussion by Mr. Johnson that service levels have been enhanced and the City has done its best in keeping the mill levy stable.

Councilman Maniez stated that he hoped the signers on the petition take notice that the City is doing its part in keeping taxes as low as possible and still provide services to the citizens.

Motion by Councilwoman Templin to adjourn at 9:25 p.m.; second by Maniez.

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk