

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

MINUTES

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

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

Mayor Anderson led the Pledge of Allegiance.

PUBLIC HEARING: To declare unsafe and dangerous a structure located at 8350 Osage Street. Patrick Reavey, City Attorney, explained the procedure that has been followed regarding the condition of this structure. This hearing is for the property owner to offer any statements concerning the structure and any repairs that have been made or will be made. Mayor Anderson opened the public hearing for comments from the audience. No one appeared. Mayor Anderson closed the public hearing.

Councilman Maniez asked if the property owner had made any response to the notice sent. Staff stated no response has been received.

Resolution finding structure located at 8350 Osage to be unsafe and dangerous.

Motion by Councilwoman Templin adopting Resolution No. 715; second by Maniez.

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

Motion carried.

Proclamation by Mayor Anderson declaring April as "Fair Housing Month".

Mayor Anderson introduced John Krudwig to the Council and citizens. Mr. Krudwig attended school in Kansas and now lives in De Soto. Mayor Anderson is requesting approval of the Council to appoint John Krudwig to the Planning Commission.

Motion by Councilwoman Zindler to appoint John Krudwig to the Planning Commission ; second by Urbanek.

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 17th, 2005.
- b. Approve Pay Ordinance No. 518.
- c. Approve Agreement with Kill Creek Investors not to protest formation of a benefit district
- d. Approve Resolution No. 716 ordering violation of Section 8-208 of Article 2 Chapter 8 of the City Code at 8150 Hadley.

Discussion by Councilman Urbanek regarding the benefit district formation. Discussion with Mr. Brungardt. Councilwoman Cannon would like to have Item 1.a removed and voted on separately as she was not at the last meeting. Discussion by Councilman Maniez on the natural gas franchise rebates.

Motion by Councilwoman Templin to approve Items b, c, and d; second by Zindler.

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

Motion carried.

Motion by Councilman Urbanek to approve the Minutes; second by Templin.

Roll Call:	Maniez	Yes	Urbanek	Yes
	Cannon	Abstain	Templin	Yes
	Zindler	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.”

Mark Smith, 33402 W. 88th Terrace, on behalf of Boy Scout Troop 54 in De Soto, stated he is here regarding a fund-raising effort for the Spanish Peaks Scout Ranch in Walsenburg, Colorado. The troop has been doing fundraisers and they are working to raise \$3,000 to help fund the cost of the trip and camp. He is asking the City for funds since the City has donated funds to other organizations.

Councilman Maniez asked how many scouts will be going. Mr. Smith stated there are 29 scouts and 9 adults planning on attending. Councilman Maniez stated the Boy Scouts is a good group for giving young men a direction in life. He feels the City should help in some way because it is always a struggle to provide for the boys. Councilwoman Templin stated she feels the same way about scouting, and her children are involved with scouting. However, Councilwoman Templin stated she does feel it really isn't the City's place to give money to every youth organization that comes asking for money.

Councilman Urbanek stated his sons were Eagle Scouts and he feels scouting is a great benefit for the person, as well as the community. Mayor Anderson stated it is hard to draw the line on where the funding requests are granted. Mayor Anderson stated he has asked Mr. Johnson and Mr. Reavey to draft a policy on requests for donations and some criteria to govern it. Councilwoman Templin stated there are many worthwhile organizations that she would love to give money to, but you have to draw a line. Councilman Maniez stated Troop 54 has been in De Soto for about 50 years. He said it has been a struggle to keep this organization going, and it is good for young adults. He feels since the City has given to other organizations, there has to be a fair consideration until a policy is made and approved.

Motion by Councilman Maniez that the City donate \$1,000.00 to Troop 54 to help pay the transportation costs for the trip; second by Urbanek.

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

Motion carried.

Kent Dvorak, 31975 W. 93rd Street, stated he wanted to thank Emil Urbanek for his time served as a City Council person. He said the previous decision was one of those Council members had to make.

3. Chamber / EDC Report: Sara Ritter, Executive Director, gave the Council an update on Chamber activities. She stated Insurance Commissioner, Sandy Praeger, addressed the group last week. The Chamber will be hosting its' 2nd Musical Extravaganza in April. The goal is to have 200 people in attendance.

Mrs. Ritter said she has a lot of information from the Economic Development conference she attended. She explained the mentoring program. Mrs. Ritter invited Council to take a look at the information.

4. Old Business:

- a. Consider Kill Creek Special Use Permit. Mr. Brungardt stated this item was tabled from the last meeting as there wasn't a full Council present. This matter has been back to the Planning Commission for the language additions that were requested by the Council, and the Johnson County Planning staff have reviewed the request. Council discussion about the outdoor privy on the property.

Councilman Maniez stated the City's regulations need to be followed. He said he has had numerous calls from citizens regarding this matter. Councilman Maniez feels that due to health and safety issues, this matter does need to be formally addressed. The use of an outhouse with that many people could be a health concern. Mr. Brungardt stated this was also a discussion at the Planning Commission. The report stated this is a codes issue and a privy is not allowed within the City. Mr. Brungardt stated that assuming the privy isn't in use, then what would the sanitation situation be. There could be temporary hand-washing stations available, and portable toilet units could be on-site year round for the facility. These issues are not spoken to within the permit in the form of the ordinance that has been drafted. Mr. Brungardt stated that if this is a concern, then it should be stated in the special use permit.

Discussion by Mayor Anderson that if someone is in violation of a City code, then can that code violation be taken against the special use permit. Discussion by Mr. Brungardt that an acceptable and approved toilet facility be provided on site, with a hand-washing station, and that language be specified in the special use permit. Discussion that permanent placement of a portable toilet is not in the current regulations. Councilwoman Cannon stated the specific language should be included in the special use permit.

Councilwoman Templin asked if the City has an ordinance requiring portable toilets for any festival event. Councilwoman Zindler stated this is an historic farm and a privy is a part of that history. She said she would certainly not want to see it go away and believes it belongs there; however, she does agree there should be hand washing facilities. Discussion by Mr. Brungardt on the use of the privy and how it would have to be brought into standards. Discussion that the privy can stay on the property, but not be in use.

Councilman Urbanek stated the City and the County have ordinances specifically stating no privies, and he has a problem with violating our ordinances. Why should we make an exception and who is going to check the waste product if there is an active privy? What are the environmental issues involved?

Councilman Maniez stated he would like to see the language discussed be included in the special use permit. Discussion by Mr. Brungardt on the language to include the hand washing stations. Discussion by Mr. Reavey on adding the language to page 4 of the special use permit ordinance as "sanitary facilities". Discussion by Councilwoman Templin on when this would be in effect. Mr. Brungardt stated this would be required for any public use of the facility. Discussion by Councilman Maniez that there be some discretion on the applicant's behalf for the events where the public is in attendance. Discussion by Mr. Brungardt and Mr. Reavey on the language to be included in the special use permit. Council agreed to insert the following language:

"For any planned event, approved temporary toilet facilities and a hand washing station shall be provided by the applicant."

Councilman Maniez stated he has had numerous complaints regarding the use of the right-of-way for business parking. The City does not allow this for other businesses. The applicant does have ample property to park the vehicles, rather than on the right-of-way. Discussion by Councilwoman Templin that the essence of the farm would be taken away if it had to be turned into a parking area. Mayor Anderson commented that the applicant can use inside parking when available, and then use the right-of-way for overflow when the crowd dictates.

Discussion that this is a gray area and who is to enforce the parking when it is overflow from inside of the property. Discussion by Council that when there are smaller events, parking should be monitored by the applicant to use his property first, not the right-of-way. Then, in allowing the applicant some discretion on a large event, the right-of-way would be used for parking when the inside is too full.

Councilman Urbanek stated the City passed an ordinance just a few months ago about not parking on the

grass, and Councilwoman Templin had been in agreement with that. The property owner must come to the City and request permission to park on the grass for a special event. Council discussion with Mr. Reavey and Mr. Brungardt on the language to be inserted in Section 2 , after the word "parking":

"on site parking shall be required unless the applicant notifies the City that off-site parking in the western Kill Creek right-of-way is needed for a planned event. Off-site parking in the western Kill Creek right-of-way will be allowed so long as the permittee is..." and the language continues as written in the special use permit ordinance.

Discussion by Councilman Urbanek regarding the cell tower on this property and the special use permit regarding this tower. Staff discussion.

Motion by Councilman Maniez to approve Ordinance No. 2085, the special use permit for Zimmerman's Kill Creek Farm with the language modifications to Items 2 and 4 as previously discussed; second by Urbanek.

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

Motion carried.

5. New Business:

- a. Consider ordinance approving the description and survey of lands necessary for the location and construction of a new city sanitary sewer plant to be located at 79th Street and Sunflower Road. Mr. Reavey stated K.S.A. 26-201 requires that the City, prior to filing an eminent domain proceeding, must have the Council approve legal descriptions and surveys of the land to be taken by eminent domain. He provided Council with a memo describing this property and the procedures that must be followed. The property is a parcel comprised of 20 acres at the corner of 79th Street and Sunflower Road. The first parcel is the southern 20 acres that abuts the railroad tracks. The second parcel is an access road for the City to have access to the sewer plant. This road runs parallel to the government road alongside the property. The third parcel is a permanent utility easement south of the railroad tracks and is owned by Michael Beatty and his wife. There is also a temporary construction easement that runs parallel with the permanent utility easement. He recommends adoption of the ordinance as written. Mr. Reavey stated the City is still working with the property owner and he is hopeful there will be an agreement. Discussion by Councilman Maniez and Mr. Reavey regarding the purchase of the needed land. Council discussion with Mr. Reavey regarding possible eminent domain on other easements in future. Staff discussion that the main issue currently is to have the property so that the plant design can proceed. Discussion by Mr. Brungardt and Council regarding the easements that will be needed.

Motion by Councilwoman Cannon to adopt Ordinance No. 2086 for eminent domain of this property, according to the ordinance as written; second by Urbanek.

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

Motion carried.

- b. Consider HNTB engineering services contract for 2005 CDBG project (bike pedestrian tunnel on Lexington Avenue). Mr. Brungardt stated this is for services for the pedestrian tunnel to cross under the U.S. Army railroad. He explained the contents of his memo to the Council detailing the project. The amount of this engineering service is \$32,923. Mr. Reavey has reviewed the contract provided by HNTB and is comfortable with the language. Discussion by Councilman Maniez regarding why the tunnel is so far away from the bridge. Mr. Brungardt stated the embankment slope is necessary for the tunnel clearance. Discussion by Councilman Maniez that he would prefer the alignment to be with the sidewalk. Councilman Urbanek stated he would like to see that possible school crossing zone moved. Discussion by Council. Mr. Brungardt stated this is all conceptual at present, and he will bring plans back to the Council as they are developed.

Motion by Councilman Maniez to authorize the Mayor to enter into the agreement with HNTB for the 2005 CDBG project in the amount of \$32,923; second by Cannon.

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

Motion carried.

- c. Consider HNTB engineering services contract for east wye improvements. Mr. Brungardt stated the design services are outlined and the fees are \$17,895. Discussion by Councilman Maniez that he absolutely insists that the alignment of that street NOT line up with 83rd Street. It must be offset on the north or there will be the same problem as there is now. Councilman Maniez stated he has talked with the Bedford's and there must be an offset alignment so vehicles won't be turning around in their driveway. Discussion by Council and Mr. Brungardt. A design concept will be brought for Council's approval.

Motion by Councilman Maniez to authorize the Mayor to enter into the engineering services contract with HNTB for the design services in the amount of \$17,895; second by Urbanek.

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

Motion carried.

Mayor Anderson called a five-minute recess at 8:30 p.m.

Mayor Anderson reconvened the Council at 8:35 p.m.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, stated the Mayor, Mike, Patrick, and he met with the Sunflower Redevelopment LLC. There is a follow up meeting scheduled next Tuesday. He will provide Council with updates.

Mr. Johnson said the pool committee has met with Vanum Construction to review the pool construction plans. Several recommendations were made and they are very interested in making the project work. He is waiting for final approval of the numbers on the adjustments. He hopes to have those by the first meeting in May. Discussion by Councilman Maniez on the amount of relocating the sewer line. Discussion by Mr. Johnson on the relocation of the sewer line.

Mr. Johnson stated he and Patrick have met with the new representative on the Time-Warner contract negotiations. Time-Warner is wanting the City to assist in paying for extension of the service south of K-10. Discussion by Councilman Maniez on where service is provided.

- b. City Attorney, Patrick Reavey, had no report.
- c. City Engineer, Mike Brungardt, had no report.
- d. City Clerk, Lana McPherson, said Mr. Deyoe of USD 232 said a movie company will be filming Friday evening at the school so the lights will be on until around midnight. She also said Rita Jones, chair of the Relay for Life committee, has asked if the City will have a team this year.

7. Council & Mayor Comments:

Councilwoman Templin had no comments.

Councilwoman Cannon thanked Councilman Urbanek for serving on the Council.

Councilwoman Zindler asked for an update on the boat ramp construction. Discussion by Councilwoman Zindler that a part of the City's history was rafting on the river. She said this would be a great event of the 150th anniversary celebration. Discussion with Mayor Anderson and Councilwoman Cannon. Mayor Anderson stated he has talked to Paul Pingleton, Walt Johnston, and others who are interested in this. He will meet later

with Councilwoman Cannon and Councilwoman Zindler to discuss the construction of the boat ramp.

Councilman Maniez asked about the waterway on 87th & Corliss. The whistle has been extended about 40 or 50 feet north to try to direct the water away from the property. Discussion with Mr. Brungardt. Mr. Brungardt stated he was unaware of this and he will look into it. Mr. Brungardt has asked the property owner to submit a plan regarding the drainage issue. Discussion.

Councilman Maniez stated he would like to also express his thanks to Councilman Urbanek for serving for four years. He said it is always tough to bring the issues to light, especially when it is a conflict. Councilman Maniez said it is hard to speak up and state your opinion, or address concerns brought to you by citizens. He said Councilman Urbanek has always addressed those concerns, and he will miss his comments.

Councilman Urbanek stated he appreciated the thanks and he also thanked the citizens for allowing him to serve. Councilman Urbanek stated he works the elections and there was a question on the voting location due to the City boundaries. The County sets up the location. Mr. Johnson explained the situation to the Council regarding property that sits on Sunflower Road. One part of the parcel is legally in the City and the other part of the parcel is in the County. The County assigned the voting location to the County rather than the City. Mr. Johnson has talked to the County Election office and the situation will be corrected. Discussion by Councilwoman Templin that the City should consider taking in the other parcel in future.

Councilwoman Cannon had no comments.

Mayor Anderson stated the Sunflower Redevelopment meeting was good, and there are a lot of items the group must work through. He will keep the Council apprised.

8. Executive Session: Mr. Reavey stated there is a land-acquisition matter for 15 minutes and a personnel item for 5 minutes that need to be discussed.

Motion by Councilwoman Templin to go into Executive Session at 8:57 p.m. to discuss matters of land acquisition and personnel; and to return at 9:27 p.m.; second by Maniez.

All Council approved by "ayes".

Motion by Councilwoman Templin to return from Executive Session 10 minutes early, and only the items mentioned were discussed and no votes were taken; second by Maniez.

All Council approved by "ayes".

Motion by Councilwoman Templin to adjourn at 9:15 p.m.; second by Zindler.

All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk