

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
May 18<sup>th</sup>, 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	Absent
	Maniez	Present	Zindler	Present
	Morse	Present		

Citizens signed the book on page 67.

Mayor Anderson led the Pledge of Allegiance.

Public Hearing to Vacate Right-of-Way at 8245 Wyandotte Street. This matter was requested to be tabled at the request of Patrick Reavey, City Attorney, pursuant the applicant's request.

Motion by Councilman Maniez to table the Public Hearing to Vacate Right-of-Way at 8245 Wyandotte Street; second by Cannon.

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

Motion carried.

Public Hearing to select Community Development Block Grant project for 2007. Planning Coordinator Kim Gordanier explained the projects and the funding for 2007. Council had indicated at past meetings their interest in Project A; Mill and overlay of Old Town De Soto streets; and Project B: Water well improvements. All of 82<sup>nd</sup> Street from Ferry to Ottawa is of high priority, at an estimated cost of \$143,000. Total project cost for the water well improvements to the seven (7) water wells is estimated at \$126,000. She requested Council select the project.

Mayor Anderson opened the public hearing. No one appeared from the public to speak. Mayor Anderson closed the public hearing.

Councilman Morse said he feels the water well project is a basic necessity, as did Councilwoman Cannon. Councilman Maniez asked if it would be more appropriate to fund water well improvements from the water fund. Discussion by Mayor Anderson and Planning Coordinator Gordanier on the criteria for the grant fund projects. Councilman Maniez asked if the Council decides on the street project, is there money in the water fund for the well improvements. Discussion by Engineer Brungardt on the 2007 budget cycle for at least two of the water wells. Councilwoman Zindler said she liked the street improvement as it focuses on the downtown revitalization and it is a good use to match CDBG funds with property tax funds. She feels the streets are the more appropriate use of the CDBG funds for the community.

Discussion by Councilman Morse and Engineer Brungardt on the condition of the water wells and the improvements needed. Engineer Brungardt stated the current condition of some of the

wells is serious. Discussion by Councilwoman Zindler on what would happen if the funding is put into the water wells and then the City makes another decision on the future of the water.

Mayor Anderson said the water wells do not serve the entire population of citizens within the City Limits of De Soto, and if the CDBG committee looks at every project critically, water wells may not be considered a service to the entire community. Discussion by the Mayor. City Administrator Guilfoyle said the water fund is an enterprise fund; therefore, he leans toward repairing the streets. Discussion by Engineer Brungardt on the water wells coming on line in 2007. Mayor Anderson talked about the utility fund that could be used in the case of an extreme emergency. Discussion by Councilwoman Cannon.

Motion by Councilwoman Zindler to select Project A for the 2007 CDBG project; second by Maniez.

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

Motion carried.

*Consent Agenda Items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.*

1. Consent Agenda:
  - a. Approve Minutes of the Council Meeting of May 4<sup>th</sup>, 2006.
  - b. Approve Pay Ordinance No. 545.
  - c. Approve Agreement for Financial Advisor Services with Columbia Capital Mgmt
  - d. Approve Agreement for Bond Counsel Services with Gilmore & Bell

Discussion by Councilman Maniez on Check No. 16827 for a rear window replacement. Administrator Guilfoyle discussed that this may have been from the hail damage; he will check on this.

Motion by Councilman Maniez to approve the Consent Agenda as presented; second by Zindler.

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

Motion carried.

Mayor Anderson introduced Jeff White, the City's new Financial Advisor, with Columbia Capital Management.

Mayor Anderson introduced Dorothy Nalley and Betty O'Dell, the citizens who rode the FlexRide bus here this evening. He also introduced Lauri Henry with Johnson County Transit; Jodi Hitchcock with Johnson County Multi-Service Center; Jim Courtney with Mr. Goodcents Foundation; and Michael Davis with Johnson County Transit. Diana Zwahlen is the chairperson of the committee.

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.”

Dorothy Nalley stated that where she lives on 83<sup>rd</sup> Street, behind her house, at the back of her property that joins the VFW property, there is a ton of junk on that property. Mrs. Nalley asked if the City owns the road that goes by the VFW and to the back of her property. She would appreciate the City doing something about the eyesore and the junk vehicles. The junk is also visible from 83<sup>rd</sup> Street. City Engineer Brungardt stated the City does have Codes Enforcement to take care of the junk issue. He will check on the street ownership.

Justin Love, band director for DHS and a resident of De Soto, said he wanted to share good news that the De Soto High School Band will be leaving for Washington, D.C. for the annual Memorial Day parade. This is a very exciting time for the 87 students who will be on the trip. The students will be participating in a project while they are there and they will be looking for De Soto veterans' names at the war memorials. He said the DHS Band is very honored to represent the state of Kansas and the City of De Soto.

Councilman Morse said the DHS Band is just great. Mayor Anderson said he agrees and asked if the Council would be interested in assisting with any funding. Discussion by Councilman Morse on what the balance of the fund is currently. Mr. Love was encouraged to submit an application for a donation.

3. Chamber / EDC Report: Sara Ritter, Executive Director, said she and Lana have been working together on the ribbon cutting for the boat ramp this Saturday at 9:30 a.m. The ribbon cutting for the new aquatic center is May 26<sup>th</sup> at 5:00 p.m. Round Trip Imports has been named the New Business of the Year for the City and will be going to the state awards luncheon. There have been several requests for building locations in the downtown area. There is more and more interest in the downtown area. Marty Shugart will be coming back in June and will be making an update progress report to the Council. Discussion on a schedule for Marty to meet with the Council.

(Councilwoman Templin joined the meeting at 7:35 p.m.)

4. Old Business:

- a. Discuss IRB and Tax Abatement Application and Policy. Mayor Anderson stated this is a large amount to go through tonight. Attorney Reavey said this is a new policy and any areas can be adjusted at any time. Staff feels comfortable with the document and he has provided a memo to the Council regarding the changes. Councilwoman Cannon said she would like to take more time to review and think about this before making a decision. She said a workshop would be beneficial; as did Councilman Morse. Councilman Maniez agreed that a workshop would be a better forum to be able to discuss the policy. Councilwomen Templin and Zindler agreed on a workshop.

City Administrator Guilfoyle said two applicants are very interested in moving their projects along and are awaiting a decision on the new policy. Discussion by Administrator Guilfoyle and Councilwoman Templin regarding the amount of the request by Engineered Air. The offer was presented to Engineered Air with a 50% abatement on

a ten-year basis. Discussion by Attorney Reavey on the pending application. Mayor Anderson asked if anyone has a concern with the statement that was made to the applicant; and Council said there were no concerns. Discussion by Attorney Reavey on the proposed policy and the present policy. Council discussion regarding the policy.

Councilman Maniez stated if the request falls within the 50%, then he is comfortable with that. However, if it falls into the Pilot Agreement and applicants wanting more, then it needs to be discussed. Councilman Morse said the Council really needs a workshop. Council discussed having the workshop on Wednesday, May 24<sup>th</sup>, at 4:00 p.m.

5. New Business:

- a. Consider amendment(s) to Chapter 7 and Map 12 of the Comprehensive Plan pertaining to the Future Land Use Plan. Planning Coordinator Gordanier provided Council with a power point presentation. She also reviewed the comments provided to the Council in a memo dated May 12, 2006. The Planning Commission recommended approval of the Plan amendments with the exception of the deleting the View Shed buffer. These areas offer scenic views and promote De Soto's "sense of place" and unique beauty as viewed from the regional thoroughfare.

Discussion by Councilman Maniez with Planning Coordinator Gordanier on the opposition of the property owners to the view shed buffer. Mayor Anderson said this whole process was done by Kim Gordanier and she has done a great job on this.

Councilwoman Cannon said she was pleased the overlay was removed because the property owners do have rights and should be able to use their property. Discussion by Councilman Morse and Mayor Anderson on the reason for the overlay. Councilman Maniez said the only thing he differs on is the park area being low density, and not the low-to-moderate density. He feels low to moderate density with 3 units per acre isn't a natural transition from a park. Discussion by Mayor Anderson regarding the Renner Road area next to Shawnee Mission Park. Council discussion. Mayor Anderson said the urban service area will develop once the sewer lines are there. Councilwoman Templin asked about the view shed areas and discussed this with Planning Coordinator Gordanier. Design guidelines will be drafted later this year and will address design issues along major thoroughfares. The view shed preservation is a new topic of discussion for many areas.

Motion by Councilwoman Templin to approve Ordinance No. 2123 amending the City of De Soto Comp Plan; second by Morse.

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

Motion carried.

Motion by Councilman Morse to move Item e. up to item b. due to the people waiting here for this matter to be discussed; second by Cannon.

All Council approved by "ayes".

- b. Discuss De Soto FlexRide Transit Program plan and funding. Planning Coordinator Gordanier stated Mayor Anderson has asked Diana Zwahlen to chair this committee. This

committee was formed to discuss a transit program with regular stops and a curb to curb service targeted particularly for elderly or disabled residents. The Transit Committee has worked with Johnson County Transit to create such a program. There is a two-year grant that will fund 70% of the program, with the remaining 30% to come from private sponsorships and donations, and City contributions.

The De Soto schools have a community service program. Jack Deyoe said this would be a good program for the students to earn community service credit by assisting passengers with boarding and deboarding, carrying shopping bags, and providing companionship and assistance to the passengers.

Mayor Anderson discussed the Mr. Goodcents Foundation transit program and how this Transit Committee has worked hard to get this program going. Lauri Henry said the federal grant focuses on non-urban communities, like De Soto. She said De Soto is one of the first cities to push this program. Mayor Anderson stated the committee is trying to raise 15% of the cost from sponsorship and the other 15% from the City. The service will be free to the general public, with donations accepted..

Discussion by Councilwoman Templin and Lauri Henry regarding the Mr. Goodride program a few years ago. The hitch was that the route didn't hit along the main corridor of the City. Jim Courtney said one of the strengths of this program is that it is a locally driven program; the task force will be the first ones to hear about the problem and they will be the ones to fix the program. He said it is about the residents first; the communities first; and making the system work for your residents. Discussion by the Mayor and transit committee members.

Council agreed to the four recommendations discussed in Staff's memo dated May 12, 2006.

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

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

- c. Receive presentation of draft Water Facilities Plan by Burns & McDonnell. Engineer Brungardt turned the presentation over to Jeff Kline and Jeff Barnard, Engineers at Burns & McDonnell. They gave a power point presentation and made comments pertaining to the staff report dated May 11, 2006. There were no "Fatal Flaws" found on this project. The Council discussed items as Mr. Kline went through the slide presentation. Councilman Maniez asked what value does the City have in the water rights and the ability to offer raw water, as in the case of the potential soccer complex. Further discussion by Mayor Anderson and Engineer Brungardt. Council discussion. A Council workshop will be held on June 1<sup>st</sup> at 5:30 p.m. to further discuss the plan.
- d. Discuss potential revisions to Excise Tax Ordinance. TABLED
- e. Consider appeal from Brad Burton regarding excise tax assessment. Engineer Brungardt said the applicant is present. The lot split application has been submitted and the number of lots in the subdivision will decrease from 9 to 8. The approved final plat has 9 lots and Mr. Burton needs to file the plat soon due to pending lot sales. Discussion by Mayor and Council. Councilman Maniez stated the issue is whether to open the door and allow developers to come in for a refund if they change the final plat. Discussion by Attorney Reavey. Councilwoman Zindler said, legally, where would the City stand and would this establish a precedent for future. Engineer Brungardt stated this is a unique situation in

that the final plat hasn't been filed yet, and the lot split is on file with the City, and no excise tax has been collected yet. Mayor Anderson said this is a timing issue and this isn't a matter of a rebate situation. Further discussion by Attorney Reavey on the assurance of addressing the ninth lot excise tax in future when, or if, a building permit is issued for that lot. Councilman Morse asked about the filing of the final plat and the lot split on the same day. This matter is before the Council on appeal and Council has discretion to act on the appeal.

Councilwoman Cannon said she would like the Ordinance followed and the entire \$81,382 paid. Councilwoman Templin said she feels the other suggestion is better. Councilwoman Zindler said she doesn't want to see this happen again, and she is very concerned about this not happening in the future when a final plat is approved and filed. This is the developer's choice. Councilman Maniez said it is the developer's choice, and there is an ordinance in place and the \$10,000 cap is a benefit. The developer's timing problem is not the Council's concern. The policy is in place and if he doesn't want to pay it, then he needs to replat the property. Councilman Morse said Mr. Burton is here on appeal and he feels the developer was misinformed on the collection of the excise tax.

Brad Burton, Shawnee, said the Council gave him positive feedback in that this is a unique situation. He hasn't yet filed the final plat or paid excise tax. He has a hardship in the timing on two contracts that are closing that will be detrimental if he has to replat the property. He has submitted the application and lot split plat to the City. Mr. Burton stated he has to file the Final Plat before the end of May in order to close two other contracts.

Discussion with Council and Staff that Staff is comfortable with the language proposed.

Motion by Councilman Morse to withhold one lot, Lot 4, from the final plat and collect excise tax on the remaining lots and grant the applicant's appeal; second by Templin.

Roll Call:	Cannon	No		
	Maniez	Yes, due to the uniqueness of the filing of the split and the timing		
	Zindler	Yes		
	Morse	Yes		
	Templin	Yes		

Motion carried.

- f. Consider a zoning map revision from the 'RUR' Johnson County Rural district to the 'C-2' General Business district for property located at the northwest corner of 95<sup>th</sup> Street and Lexington Avenue, addressed 35000 W. 95<sup>th</sup> Street. Planning Coordinator Gordanier reviewed the memo dated May 11, 2006, and stated this is a 24-acre tract of land north of 95<sup>th</sup> Street. There is a single-family residence on the property, which would become a legal non-conforming use upon rezoning approval. The 13 criteria were either neutral or positive, except for 2 criteria, which were deemed "negative". Engineer Brungardt reviewed those two items. The Planning Commission has recommended approval of the requested zoning change. Staff recommends approval.

Motion by Councilwoman Zindler to adopt Ordinance No. 2124 accepting the Planning Commission's recommendation to rezone the property from 'RUR' to 'C-2'; second by Cannon.

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

Motion carried.

Councilwoman Templin recused herself from the following item and left the Council Chamber.

- g. Consider a zoning map revision from the 'P-D' Planned Development district to the 'P-D' Planned Development district for the purpose of revising the site plan for property located at the southwest corner of Lexington and 95<sup>th</sup> Street (Parcel No. AF221305-3021). Planning Coordinator Gordanier stated the applicants brought on a builder and he noted some problem areas in the original site plan. Some moderate layout revisions were made to the self-storage area, as addressed in Staff's memo dated May 10, 2006. The Planning Commission recommended approval of the zoning change with one condition: a lighting plan be added to the revised site plan. Gordanier reviewed the exterior façade materials that were depicted on the revised site plan, and said Staff is comfortable with the revised materials as they are better than the previous. However, staff did not expressly discuss this change at the Planning Commission meeting. Since the materials are an improvement, staff is confident with the Council approving this change. Discussion by Attorney Reavey and Council.

Councilman Morse said maybe the Planning Commission should review the materials. Councilman Maniez asked if the Planning Commissioners would take offense to the Council approving this without their approval. Mayor Anderson said he didn't think an improvement to the materials would cause any concern to the Commissioners. Council discussion.

Motion by Councilman Morse to approve Ordinance No. 2125 ; second by Cannon.

Roll Call:	Cannon	Yes	Templin	Recused
	Maniez	Yes	Zindler	Yes
	Morse	Yes		

Motion carried.

City Attorney Reavey stated he was going to discuss the FCB request under the staff reports. They have requested the City quit claim deed a parcel of land belonging to the City, No. AF221228-4002, which is located at the northeast corner of the Golden Lane alignment and Lexington Avenue. Discussion by Councilman Maniez on what this property is. This is a small triangular piece of property at .01 acre that is located at the northeast corner of the Golden Lane alignment and Lexington Avenue.

Motion by Councilwoman Zindler to authorize the Mayor to sign the Quit Claim Deed to FCB on the property described; second by Cannon.

Roll Call:	Cannon	Yes	Templin	Recused
	Maniez	Yes	Zindler	Yes
	Morse	Yes		

Motion carried.

Councilwoman Templin was recalled to the meeting at 10:12 p.m.

- h. Consider a zoning map revision from the 'R-1' Residential Low Density district to the

'M-1' Light Industrial district for property generally located between 95<sup>th</sup> and 103<sup>rd</sup> Streets on Sunflower Road (a portion of Parcel No. AF221306-3002). Planning Coordinator Gordanier reviewed the previous history of this revision for the Lumber One property. This is for a 50-foot wide section of the parcel to the south of Lumber One, the subject of a quit-claim deed. The Planning Commission did recommend approval.

Motion by Councilwoman Templin to approve Ordinance No. 2126, rezoning the subject property from 'R-1' to 'M-1'; second by Zindler.

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

Motion carried.

- i. Consider Ordinance Amending Article 3 of Chapter 7 of the City Code pertaining to Display, Discharge and Retail Sale of Fireworks. Attorney Reavey said he wanted the Council to review the red-lined revisions and provide any comments to him.

Motion by Councilwoman Templin to table Agenda Item 5 i. to the next meeting; second by Cannon.

All Council approved by "ayes".

6. Executive Session: None

7. Advisory Reports:

- a. City Administrator, Patrick Guilfoyle, said he has two organizational matters. One, he is going to take the Finance Officer and shift that responsibility from the Clerk's Office to his supervision. Since Marge Morse has resigned her part-time position, he would like to fill her position with a full-time position to provide backup for some of the day-to-day load and also cover the front office duties. He would like the Council's approval to shift this position from a part-time to a full-time position. It is his desire to hire a full-time person that is bi-lingual for the front office position.

City Administrator Guilfoyle said he would like to revise Kim Gordanier's title, based on her achievements and the role she has taken on as a planner for the City. He said Kim is now providing the City planning responsibilities to the point where the City is no longer using a planning consultant. He would like to shift Kim's title from Planning Coordinator to City Planner.

Neither of these role shifts have any budgetary impact to this year's budget.

Councilwoman Cannon said she is for it. Councilman Morse said he is in support of it; however, he is amazed that there is no schedule at City Hall. Discussion by Councilman Morse on who covers lunch hours. Council and staff discussion. City Administrator Guilfoyle said he believes Bonnie has the financial aptitude for doing the job. Council concurred with Administrator Guilfoyle's recommendations.

City Administrator Guilfoyle said he has made a field decision on Well No. 8. On Tuesday, the well went down and a contractor was on site at Well No. 10. He looked

at the well and the motor and pump were gone. Clarence picked up a new pump in Springfield and got it back here for the contractor to put in. The total expense is \$11,900. Councilwoman Cannon said she was glad that he took the initiative to get it repaired; Councilmen Morse and Maniez agreed, as did Councilwomen Templin and Zindler.

Councilwoman Zindler asked if the Council is going to get financial reports again.

- b. City Attorney, Patrick Reavey, had no comments.
- c. City Engineer, Mike Brungardt, said the new DeMeadows Recreation Path will have a ribbon-cutting ceremony on Saturday, June 3<sup>rd</sup>, at 9:00 a.m. This is sponsored in part by Johnson County Parks and Recreation and National Trail Day.

The proposal submitted for the K-10 recreational path was not approved by the committee. Lenexa's plan was approved for the \$300,000.

- d. City Clerk, Lana McPherson, said the ribbon-cutting and the grand opening of the boat ramp is Saturday at 9:30 a.m. with the race to follow.

8. Council & Mayor Comments:

Councilwomen Templin and Zindler had no comments.

Councilman Maniez said the Sign Committee met and Planning Coordinator Gordanier will provide the Council with a report of that meeting's discussion.

Councilman Maniez said he wanted to help the DHS band on their trip to Washington, D.C. Mayor Anderson and Councilman Morse agreed it is a good cause.

Motion by Councilman Maniez to authorize \$1,000 for the DHS band trip, pending their application for the donation; second by Morse.

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

Motion carried.

Councilman Morse said the trees on the market property have been trimmed now.

Discussion by Attorney Reavey on the tax abatement question Councilman Morse had discussed regarding businesses.

Councilwoman Cannon asked about the concrete that was taken out by the bridge. Engineer Brungardt said the contractor poured it too wide and had to take it out. Discussion.

Mayor Anderson said he has initiatives he needs Council help with. He named the projects and asked Council members to think about which ones they would like to assist on. Mayor Anderson will email the list to the Council members for their consideration.

Mayor Anderson said Thursday, June 8<sup>th</sup>, at 5:30 p.m., John Segale is inviting the Mayor

and Council to attend the Transportation Future Focus Task Force meeting.

Motion by Councilwoman Templin to adjourn at 10:42 p.m.; second by Zindler.

All Council approved by “ayes”.

Respectfully submitted:

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Lana R. McPherson, CMC  
City Clerk