

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
May 4th, 2006, at 7:00 P.M.

MINUTES

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

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

The Mayor led the Pledge of Allegiance.

Citizens signed the book on page 66.

Public Hearing to Vacate Right-of-Way at 8245 Wyandotte Street. - TABLED

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 April 20th, 2006.
 - b. Approve Pay Ordinance No. 544.

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

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

Motion carried.

Motion by Councilman Maniez to amend the Agenda to add Executive Session prior to 5. A., New Business, for attorney-client privilege and to invite Mike Brungardt and Pat Guilfoyle to the session; second by Templin.

All Council approved by "ayes".

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."

Rita Jones, Relay for Life Chairwoman, presented the Wall of Hope Banner for all Council members to sign as well as the members of the audience. This banner will be taken to Washington, D.C. by Rita. Lana thanked Rita for her dedication to the Relay event. She also thanked Mrs. Ted Jones for the work she does on behalf of the cancer survivors in De Soto and the time she spends sending letters and information on behalf of the Relay event.

3. Chamber / EDC Report: Sara Ritter, Executive Director, is out of town.

4. Old Business:

- a. Discuss Fees for Pool Parties. Justin Huslig, Aquatics Manager, discussed the proposed fee schedule with the Council members. Councilwoman Templin stated she felt the fees were a little low. She suggested the City look at fees for non-residents. Councilwoman Zindler said she thought the City should require a member to rent the pool. Councilman Maniez stated he felt the costs are in line with surrounding areas and are appropriate. He doesn't have a problem with the 10% increase for non-residents. Councilman Morse said he would like to go to \$150. Discussion by Councilwoman Templin with Mr. Huslig regarding the lifeguards. Councilwoman Cannon asked what the maximum should be for the number of people at a pool party. Discussion on the charge for the number of people in the pool for a pool party. Discussion on charging \$150 for the base fee for 100 people. Further discussion by Councilman Morse to charge \$150 for up to 100 people and \$2 for each additional person; discussion by Councilwoman Templin on recommending another charge. Further Council discussion on rates to charge.

Motion by Councilwoman Templin to set the pool party fees at \$150 per hour with a charge of \$1.00 per individual who walks through the gate; second by Zindler.

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

Motion carried.

Motion by Councilwoman Templin to amend Resolution No. 742 to add the pool party fees; second by Zindler.

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

Motion carried.

- b. Approve Agreement with Columbia Capital Management for Financial Advisory Services. Discussion by Patrick Reavey, City Attorney, regarding the contents of the agreement. Staff recommends approval of the Agreement. Discussion by Councilman Maniez on the fee structure in comparison to what the City has had in the past. Discussion by Councilwoman Zindler on the comparison of the fee structure. City Attorney Reavey stated these fees are comparable to other firms. Councilman Maniez asked what these fees are in comparison to our previous financial advisor. Discussion by Council.

Motion by Councilman Maniez to table Item 4.b., the Agreement for Financial Advisory Services, until Patrick does further investigation; second by Morse.

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

Motion carried.

- c. Approve Agreement For Bond Counsel Services with Gilmore & Bell. Council discussion.

Motion by Councilwoman Zindler to table Item 4.c. to the next meeting; second by Cannon.

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

Motion carried.

Executive Session:

Motion by Councilman Maniez to go into Executive Session at 7:30 p.m. for an attorney-client privilege matter for 20 minutes and to return at 7:50 p.m., and to include Pat Guilfoyle and Mike Brungardt; second by Cannon.

All Council approved by "ayes".

At 7:50 p.m., the Council requested an additional 10 minutes for Executive Session.

Motion by Councilman Maniez to return to regular session at 8:03 p.m., with one extension of time, and only the one item stated was discussed and no votes were taken; second by Templin.

All Council approved by "ayes".

Motion by Councilman Maniez to untable Item 5.A. and move it to the end of New Business as item 5. H.; second by Cannon.

All Council approved by "ayes".

5. New Business:

- a. Consider request from Cedar Springs Estates, LLC. on collection of Excise Tax. TABLED
- b. Approve Aquatic Center landscaping. Parks and Recreation Director Jay Garvin stated that within the pool bond, \$7,500 was budgeted for landscaping. Bids were let and only one bid was received which was higher than budget. Value engineering was done and the cost of the project was scaled down to \$10,000. Staff is requesting to use \$2,500 from the general Owner Furnished Equipment Budget, as the major purchases have been made and there is funding available in this budget. Discussion by Engineer Brungardt on the value engineering that was done. Discussion by Mayor Anderson and Engineer Brungardt on the change order amount.

Motion by Councilwoman Templin to award the aquatics landscaping contract to S&F Mowing not to exceed \$10,000 and to authorize the reallocation of funds; second by Morse. Discussion.

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

Motion carried.

- c. Approve Fireworks Sales Permit for De Soto VFW Post #6654. Steve Chick, Building Official, stated Chief Ritter and he reviewed the permit and recommend

approval. All documentation has been approved and the insurance is in place. The VFW is requesting the \$500 permit fee be waived as this is a non-profit organization. The \$500 permit fee, if waived, will be deposited 100% into the VFW building fund to help finish the building construction. Council discussion.

Motion by Councilman Morse to approve the fireworks sales permit for De Soto VFW Post #6654; second by Cannon.

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

Motion carried.

Motion by Councilman Morse to waive the \$500 permit fee for the VFW; second by Cannon.

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

Motion carried.

- d. Deny Fireworks Sales Permit Request for Meiners' Market, LLC. Mr. Chick stated there has been two applications submitted by Meiners' Market. However, the Fire Chief and Building Official have requested denial of the permit based on the proximity of the gas pumps, along with concerns of controlling the public in possession of fireworks in and around the gas pumps. The requirements have been met as far as the tent and storage of the fireworks.

Councilwoman Zindler asked about the ordinance stating that all persons requesting a permit had to be residents of the City. Discussion by Attorney Reavey on resident requirement as to a business owner, and that under applicable law a business is a resident of the location where their principal place of business is. Attorney Reavey indicated he previously spoke with a representative from Meiners about this issue, informed them it may be an issue as the Council likely did not consider whether a business would be a resident of the City for purposes of the Code provision as the resident requirement talks in terms of individuals. Discussion by Council that when considering the ordinance they were thinking of residents of the City, and hoped it would be a way not-for-profit groups could raise funding, such as the Boy Scouts, Rotary, VFW, etc.

Councilman Maniez asked if Chief Ritter was a part of the decision process on both applications. Mr. Chick said, "yes" Chief Ritter was involved. Discussion by Mr. Chick regarding the first denial of the application. Discussion on the proximity of the fireworks from the flammable fueling station site. The risk is greater at the gas station.

Jerry Meiners, applicant, said his family owns the station. He introduced his two sons to the Council. He said he is surprised he is not considered a "resident" of the City, although the business has been here for over ten years. He and his family do not live here; but said they have probably paid over a \$1 million in taxes. He discussed the three original concerns Chief Ritter and Mr. Chick had that were addressed in Mr. Meiners letter directed to Steve Chick on April 26, 2006, and

included in the Council packet.

Councilman Morse stated the sale of fireworks idea was his and he'll take the blame for it. The original idea, in his mind, was not intended for the "for-profit" groups. He believed allowing sale of fireworks was originally intended for the City's not-for-profit groups to make money on fireworks, instead of the money going out of town. He said he is personally going to vote to deny the request because Meiners is a "for-profit" organization and the fireworks sales would be too close to the fueling pumps and too hard to control.

Councilman Maniez asked if Mr. Meiners has another location he could sell from. Councilman Maniez said he has a concern with the close proximity of the fueling pumps. He doesn't want to be one that is responsible for voting for this and a bad situation arises because it is too close to a gas station. Councilwoman Templin said for her it falls back to the staff recommendations because Chief Ritter is experienced in fireworks, and if he doesn't recommend it, she can't. Councilwoman Zindler said she will follow staff's comments. She further commented that, in her mind, the debate about whether Meiners should be given the permit seems inconsistent with the Council's decision of putting responsibility for fireworks back to the private citizen.

Motion by Councilman Morse to deny the fireworks sales permit for Meiners' Market, LLC; second by Cannon.

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

Motion carried.

Mayor Anderson called a five-minute recess at 8:40 p.m.

Mayor Anderson reconvened the Council at 8:46 p.m.

- e. Discuss IRB and Tax Abatement Application and Policy. Attorney Reavey stated Pat Guilfoyle has done a lot of work on this. He requested the Council discuss the level of investment as a benchmark to use, the targeted industries, and the maximum percentage abatement.

City Administrator Guilfoyle stated this document has had a quite a lot of review by several people. He has also looked at what other communities in the area have so that De Soto can be on the same playing field as other cities in our area. There is no set pattern that is being followed by surrounding cities, and Administrator Guilfoyle gave some examples of the other cities' abatement policies. Staff has attempted to address some concerns that Council has expressed in the past. He has tried to set a threshold for established businesses in the community as well as a threshold for new businesses coming into the community. He discussed some requirements that staff has looked at, and the variables that can be considered. He also has all the comments made by the professional staff that he will bring back to Council in future.

Council discussed the threshold for abatements, i.e. 1.5 million for existing businesses and 5 million for new businesses. Councilman Morse said the threshold looks all right and it could be a bit lower for established businesses. Discussion with Administrator Guilfoyle and Mayor Anderson. Councilwoman Zindler said she is comfortable with the

threshold staff has outlined. Councilman Maniez stated the threshold could be a little high for established businesses. He said he would rather give a tax abatement to a fast food restaurant than some other entity that doesn't bring in a high sales tax being paid back to the City.

Discussion by Attorney Reavey and Councilman Morse on abatements being given to retail businesses. Councilman Maniez said he would like to see a lesser threshold to existing businesses in the City. Discussion by Councilwoman Templin on setting the threshold at \$1 million for existing businesses. Councilwoman Cannon agreed on the \$1 million for existing businesses. Discussion by Administrator Guilfoyle on Industrial Revenue Bond application criteria. Comments by Attorney Reavey.

Mayor Anderson asked about the Council's direction on targeted businesses. He said it would be good to have Sara Ritter and the Economic Development Council to review this. The EDC's list includes life sciences, manufacturing of medical supplies, wholesale packaging and distribution, administrative service centers, corporate offices, and research centers as reflected on page 36. Council discussion on the targeted businesses.

Council discussed the maximum abatement amount and whether or not a 50% abatement will be the maximum. Attorney Reavey discussed the PILOT Agreement language that ties into the abatement policy. Councilman Maniez asked why put in the percentage if there is going to be a back door to changing the amount. Discussion by Council that this will allow the City discretion in the abatement amount.

Mayor Anderson discussed the PILOT agreement language in response to Councilman Maniez's concerns about "giving away everything" to a new business coming in that hasn't contributed anything to the City. Council discussion. Councilman Maniez said he would like some language that can reference the specifics.

Administrator Guilfoyle said he would like Council to consider employment guidelines in accordance with the Kansas state guidelines.

Mayor Anderson recused himself from the targeted area list discussion and left the Council Chamber.

Council discussed the list on page 36 of the draft. Councilman Maniez and Councilwoman Cannon discussed the targeted areas with Administrator Guilfoyle. Councilman Maniez said it would be better to entice new businesses to areas that are already developed and have utilities available. Further comments from Administrator Guilfoyle regarding the targeted areas that could be used to bring new businesses to town. Discussion by Councilman Morse on how to keep the property owner from skyrocketing the price of his land if it becomes a targeted area.

Administrator Guilfoyle stated he has heard much discussion about the downtown area being revitalized. Councilman Maniez said the Commerce Park area has been a target in the past years; however, the developer has raised the price astronomically through the years when someone is interested in the ground. Councilman Morse said business developers will go somewhere else where the ground is cheaper and they can get a better deal. Discussion by Administrator Guilfoyle and Councilman Maniez on the Cost Benefit Analysis. Councilman Maniez said they always look good because figures can be manipulated to whatever fits the situation.

Councilman Maniez asked for comments regarding the targeted areas as proposed. Discussion by Attorney Reavey on these areas being given a break on abatements. Council discussion on review of targeted areas being looked at periodically. Councilman Maniez asked about the downtown area as a targeted area. Council agreed with the three stated areas.

Mayor Anderson was recalled to the Council Chambers.

- f. Consider request for advertising in DHS Wildcat Sports Calendar. Lana reviewed the request that was received from Rod Farmer, on behalf of the DHS Wildcat sports, and the information that was provided to the Council regarding advertising. The size and content of the ad was discussed by Councilman Maniez. He said he would like to see some useful numbers in the ad. Council discussion. Council agreed to purchase the 4 X 4.
- g. Consider request from Cedar Springs Estates, LLC. on collection of Excise Tax. City Engineer Brungardt stated he would like Council to address the final plat. Mr. Burton, the applicant, is present this evening. The cap on residential is \$10,000. Mr. Burton is wanting to come back at a later date and combine two of the lots which would amount to about \$6,300 difference. Discussion by Councilman Maniez that he feels there are extenuating circumstances.

Motion by Councilman Maniez that due to extenuating circumstances to Mr. Burton's particular development being large lots, the City apply the \$10,000 cap on the large lots; second by Cannon.

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

Motion carried.

Discussion on whether the Council is receptive to reviewing the lots at a later date when the two lots have been joined. Councilman Morse said the Council could review the lots at that time when the applicant brings it back. Council said they want to follow the ordinance at this time and collect the full excise tax. Discussion by Engineer Brungardt on the replatting of the lots after the filing of the plat of the original nine (9) lots. Discussion by Councilwoman Zindler and Mr. Brungardt. Councilman Maniez said he would like to see more information before revising the ordinance.

Engineer Brungardt confirmed with the Council that they will reconsider any rebate after the filing of the plat.

Brad Burton, 7172 Mize Road, Shawnee, stated he is the applicant. He thanked Council for their time. He said he and his wife are developing the property and they want to move here. He wants to go from 9 lots to 8 lots. He said he understands the Council has approved the cap for the \$10,000 per lot and he thanks the Council. The Council will consider the excise tax refund once the lot split has been approved.

Mayor Anderson stated the Council does not want to set any type of precedence with this matter. He recommended Mr. Burton be very careful in meeting all the criteria in filing his documentation for an appeal of the tax. Discussion by Council and Mayor that Mr. Burton should make his lot change before he files the final plat.

6. Executive Session: This item was moved and preceded New Business.

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, stated Fish Development is interested in pursuing a tax abatement and will wait until the Council has worked out a new policy. They would ask that the Council not be disinclined to consider a 50% tax abatement. Councilwoman Cannon said she is open to the 50% amount; Councilmen Morse and Maniez agreed. Councilwoman Zindler asked about the phasing in of the project and the amount of the abatement. Mayor Anderson said the City can ask for a “call back” clause if the project fails to totally build out.

Building Official Steve Chick said Kevin Crawley of Crawley Construction approached him. There is a construction group that is going to do a hometown makeover of a home here in De Soto with about 30 trades people and building material suppliers. The house will have a new roof, new siding, new windows and landscaping. There is no cost to the family and all products and materials have been donated. He is requesting the Council to waive the permits valued at approximately \$200. Council agreed to waive the fees.

Motion by Councilman Maniez to waive the building permit fees at 8225 Delaware; second by Cannon.

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

Motion carried.

- b. City Attorney, Patrick Reavey, stated he asked Pam Graff, Codes Officer to take photographs of the Steve Hall property. There do not appear to be any code violations at the residence at this time.
- c. City Engineer, Mike Brungardt, said there are three trees on the right-of-way next to Morse’s Market that need to be either trimmed or removed. Westar would like to remove the trees. Councilman Morse said remove the trees. Councilwoman Templin asked if all three trees must be removed. Engineer Brungardt said one of the trees is diseased. Council would like to see the other two trees trimmed rather than cut down.
- d. City Clerk, Lana McPherson, said there haven’t been many entries received yet on the 2007 Sesquicentennial logo and motto contest. The City Relay for Life Team will be putting a basket of items together for the silent auction to be held at the Relay on Friday night, June 2nd. The scrap metal that was taken in from the Spring Cleanup netted a little over \$800 and that helped pay for the dumpsters and the tire amnesty of 157 tires. Several residents have requested the City to provide another clean up day in July, as well as continue with the one in September.

8. Council & Mayor Comments:

Councilwoman Cannon had no comments.

Councilman Morse had no comments.

Councilman Maniez asked about all the mud that was on the street from the bank. There was mud all over the street and it was raining and it was a slick mess. Councilman Maniez asked Engineer Brungardt how fast the City can take action on a mud bond. Mayor

Anderson asked Engineer Brungardt to look into the mud bond situation. Councilman Maniez said this is a matter of safety with mud all over the road and it is raining. Discussion by Engineer Brungardt and Building Official Chick on the contractor's response to the mud situation. Councilman Maniez said he felt this was a case where immediate action should have been taken as a matter of safety.

Councilwoman Zindler said Mike Brungardt did a great job on the smart trail proposal.

Councilwoman Templin said she will be a little late for the next Council meeting due to a school conflict. She thanked Lana, Pat and Rockey for the great City Hall tour given to the Cub Scouts. She said the boys really enjoyed the tour and learned some interesting facts.

Mayor Anderson attended the Council of Mayors' meeting and discussed the sales tax issue.

Motion by Councilman Maniez to adjourn at 10:30 p.m.; second by Morse.
All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk