

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
July 20th, 2006, at 7:00 P.M.

MINUTES

The meeting was called to order with Roll Call by Council President Tim Maniez. Mayor David Anderson is out of town.

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

Citizens signed the book on page 71.

Council President Maniez led the Pledge of Allegiance.

PUBLIC HEARING: Petition to Vacate Public Right-of-Way located at 32799 W. 91st Terrace.

City Attorney Patrick Reavey stated the Council discussed this matter at a previous meeting. Attorney Reavey stated the petitioners discovered, at the time of their home financing, their property is 16 feet into the setback. The Smith's have worked with City Staff and will deed back any of the property for whatever purpose the City requires. Mr. Smith was present and stated the vacation of the right-of-way is necessary for him to complete his home financing.

President Maniez opened the public hearing for comment. Councilwoman Zindler discussed with Attorney Reavey how the setback was missed in the building process. It was determined that it is unclear whether it was the builder or the architect or the building official. Engineer Brungardt stated it is the responsibility of the builder to actually verify the required setback is met before building construction. Attorney Reavey stated there was some miscommunication in the building permit process.

President Maniez closed the public hearing.

Motion by Councilwoman Templin to adopt Ordinance No. 2130 Vacating Public Right-of-Way located at 32799 W. 91st Terrace; second by Cannon.

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

Motion carried.

PUBLIC HEARING: Petition to Vacate Public Right-of-Way located at 8245 Wyandotte Street.

Attorney Reavey stated the Council has discussed this matter at previous meetings. This request is based on a request by the petitioner to construct a fence on his property. The property has part of a previous alley that is now proposed to be vacated. Engineer Brungardt stated no private entrances nor any public utilities are on this property.

Council President Maniez opened the public hearing. No public comments were heard. The public hearing was closed.

Motion by Councilwoman Zindler to adopt Ordinance No. 2131 to Vacate Public Right-of-Way located at 8245 Wyandotte Street; second by Cannon.

Roll Call:	Cannon	Yes	Templin	Yes
	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 July 6th, 2006.
 - b. Approve Pay Ordinance No. 549.

Councilwoman Cannon asked about Check No. 17295; discussion by Engineer Brungardt regarding the contractor's delay in the construction process.

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

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

Motion carried.

2. Call to Public:

"Members of the public are welcome to use this time to comment about any matter relating to City business that is not listed on this Agenda. The comments that are discussed under Call to Public may or may not be acted upon by the Council during this meeting. **There is a four-minute time limit.** Please stand and wait to be recognized by the Mayor."

Mindy Sears, 8580 Penner Avenue, requested the City check into her property because they were notified by the adjoining property owners, David and Shelly Wheatley, that the Sears' septic system is encroaching on the adjoining property. The Sears' house was built seven years ago; the Sears' purchased the property in November, 2005. Mrs. Sears is requesting the City waive the sewer connection fees and pay for the cost of boring under the road to connect the Sears' residence to the sewer line. She said they have also been paying into the benefit district for a sewer line that hasn't been installed.

Discussion by Councilman Maniez with Mrs. Sears. City Planner Gordanier stated she and Building Official Steve Chick have been working with Mrs. Sears and the Wheatley's regarding this situation. City Attorney Reavey stated he has been talking with Mrs. Sears and, unfortunately, the City cannot eminent domain an easement for a private individual. There is no evidence the City had any input seven years ago on where the mound system was being installed by the builder. Attorney Reavey said Council could waive the sewer installation fees. Further discussion by Attorney Reavey that the City is not legally obligated in this dispute. Council discussion regarding history of the property.

Discussion by Councilman Morse and Mrs. Sears on whether a staked survey was done prior to their purchase of the home. Mrs. Sears said there was not one done.

Councilman Maniez said he does not have a problem with agreeing to waive the sewer system connection fees. However, he said it is always a "buyer beware" situation when someone purchases real estate. Further discussion by Engineer Brungardt and Planner Gordanier regarding the possibility of moving the one segment of the mound system. Councilman Morse asked if Mrs. Sears has contacted her title company. She stated that Bank of America, her mortgage company, did not require a staked survey so the title company has stated this is voided under the title insurance. Council directed City staff to work with all parties to try to reach an agreement. Further discussion by Attorney Reavey that cities cannot be held liable for any error made by a building inspector.

Alesa Miller, 33605 W. 84th Street, is a member of the De Soto Days Festival committee. She is requesting the festival signs again be placed on the "Welcome to De Soto" signs. Somehow, Kill Creek's sign was overlooked. She is requesting permission from the Council to allow the Festival to place a sign on Mr. Coker's property. Council approved. Mrs. Miller requested that a De Soto festival sign be placed on the Kill Creek sign by next year. Council agreed to place one on the Kill Creek Road sign.

3. Chamber / EDC Report: Sara Ritter, Executive Director, said the joint networking event was very successful and they hope to do this again next year. The Chamber Ambassador Group is hosting a blues festival and silent auction event in September. There is no charge for admission. Marty Shukart will be here next Friday to work on the 83rd Street revitalization program. Everyone's opinions are very important and the public is encouraged to come and relay their comments, concerns and questions.

There has been a lot of development activity in the past several months. Two companies are interested in expanding in the community. Engineered Air is requesting a tax abatement. Mrs. Ritter then introduced Jeff White of Columbia Capital Management.

Jeff White, Columbia Capital Management, said he has been working with City staff and Sara Ritter on the Engineered Air and Fish Development proposals. Both proposals will require a cost benefit analysis. Mr. White discussed the two model analysis calculations with the Council. Staff is asking for Council to set the public hearing for these proposals. Council agreed to set the public hearings.

4. Old Business: None

5. New Business:

- a. Receive presentation from Phelps Engineering on the 83rd Street improvement concepts. Engineer Brungardt introduced Judd Claussen of Phelps Engineering, Inc. The City is concerned with improving the 83rd Street section between Kill Creek and Waverly Roads adjoining the Arbor Ridge Development. Mr. Claussen stated the purpose was to improve the 3500 foot section of 83rd Street. He provided the report and exhibits along with a power point presentation for the improvement considerations.

Mr. Claussen stated due to the large amount of cuts and fills, it is not feasible to carry traffic through the construction area of the road. The road will need to be closed during that time and an alternate route used. The truck traffic on Waverly Road to 89th Street would impact the integrity of the roadways. Councilwoman

Templin discussed with Engineer Brungardt that heavy semi-trucks could be routed around to K-10 to preserve the roadways. The detour could last two to three months. Discussion by Council that this is one expensive road to improve. Discussion by Councilwoman Templin regarding paving of driveways that intercept the sidewalks.

Mr. Claussen stated the standard "T" intersection at Kill Creek included a traffic signal cost. He also included the cost for a roundabout which would negate the need for a traffic signal. Councilman Morse asked if this roundabout is larger than most. Mr. Claussen stated this is a large one that KDOT has approved for semi-trucks.

Engineer Brungardt showed a short KDOT video describing roundabouts.

Discussion by Councilman Maniez and Mr. Claussen regarding the taking down of the hill. Engineer Brungardt stated there will be a similar presentation to the Planning Commission next Tuesday. With the funding being approximately Five Million Dollars, there will need to be some financial options investigated. Engineer Brungardt said preserving the roadbed and taking core samples will be important. He also asked Council to consider some reductions such as sidewalks on both sides of the streets, boulevard-type street lighting, and intersection construction.

Councilwoman Cannon asked about the requirement of Arbor Ridge to provide turn lanes into their subdivision. Discussion by Engineer Brungardt that they are required to install three turn lanes. Council discussion that sidewalks and lighting on both sides are not necessary at this time. A sidewalk is needed on Kill Creek Road. Discussion by Councilwoman Templin and Engineer Brungardt on improvements.

Phelps Engineering representatives work on cost estimates daily and right now the construction pricing is horrifying; and, no costs are being given for projects in 2007.

Council President Maniez called a five-minute recess at 8:45 p.m.

Council President reconvened the Council at 8:50 p.m.

- b. Consider a Special Use Permit amendment for Beer Thirty, an establishment in the 'C-2' General Business zoning district located at 9150 Lexington Avenue. Planner Gordanier stated the new owner, Mike Emberton, is requesting an amendment that would allow for an outdoor seating area at the establishment. She provided a staff memo to Council detailing the proposed improvements. The Planning Commission has recommended approval with four conditions. Also, the City's Building Official is requesting a licensed Kansas engineer prepare the plans.

Engineer Brungardt said the proposed outside egress is noted for emergency purposes only. He also discussed the parking stall requirements and the gain in parking spaces. Planner Gordanier also reviewed the landscaping sketch plan that was discussed by the Planning Commission. Planner Gordanier reviewed the required criteria as stated in the staff memo dated July 14, 2006. There are four conditions recommended as a part of the approval of this Special Use Permit. The provisions and requirements of the previous Ordinance No. 2026 shall remain in effect.

Discussion by Councilman Maniez regarding the proposed landscaping. He would prefer some type of lattice work or fencing around the outdoor seating area. Discussion by Planner Gordanier. Councilwoman Zindler asked about the new five-year term.

Motion by Councilwoman Zindler to adopt Ordinance No. 2132 as written, except that a new five-year term will commence upon adoption of this ordinance; second by Cannon.

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

Motion carried.

- c. Consider a zoning change from 'RUR' Johnson County Rural district to 'R-O' Residential Suburban district for 28425 W. 83rd Street. Planner Gordanier reviewed the staff report directed to Council dated July 13, 2006. The applicant wasn't able to attend tonight. The Golden factors were considered by staff and the and the majority of the matters considered are in favor of granting the requested zoning change. The Planning Commission recommended approval of the requested rezoning.

Discussion by Councilman Maniez and Planner Gordanier. regarding the size of the accessory building.

Motion by Councilman Morse to approve the zoning change from 'RUR' to 'R-O' zoning; second by Cannon.

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

Motion carried.

- d. Consider Park Board Recommendation to Bid Improvements for Aquatic Center site (shelter, sidewalk, playground equipment installation). City Administrator Guilfoyle said he is covering this for Mr. Doug Pickert of the Park Board. The Park Board has made a unanimous decision to request that the Special Parks Fund be used to construct the shelter, shelter pad, sidewalks and playground equipment. Council agreed unanimously for the bids to proceed.
- e. Discussion Regarding Proposed Rental Property Inspection Program. City Administrator Guilfoyle said a "brainstorming" session was held with several representatives regarding rental properties and the lack of inspection of these rental properties. The concept of the program is that whenever rental property is vacated, that property must be inspected and meet the City's minimum maintenance code before the landlord is allowed to rent to a new tenant.

Planner Gordanier provided a brief power point presentation for the Council's consideration of this proposed program. Thus far, staff has found 560 rental units with 29 landlords, which equates to about 30% rental property in the City. Planner Gordanier provided statistics utilized by the County. There are interior issues as well as exterior issues that affect the community image and citizen welfare. MARC is scheduling a meeting this month for area officials as landlord rental property is becoming a major concern. Planner Gordanier discussed a process timeline and the task force that would be utilized.

City Administrator Guilfoyle said in looking at this program, it is not to “victimize” landlords. However, some landlords do not put income and improvements back into rental property; and, this is the main focus of this program. Discussion by Council that there is a definite need to look into the rental property. Councilwoman Zindler said she volunteers to serve on the committee. Councilwoman Cannon said she will support a program. Councilman Morse said there are two sides to every coin.

Discussion that property owners also have a difficult time in getting a bad renter out of a house when they don't pay the rent or the renter destroys the house. Discussion that landlords assume that risk when they are in the rental business. It is difficult to move out a bad tenant. Administrator Guilfoyle said this program most likely will not make everyone happy. Councilwoman Zindler said rental property still has to be maintained and repaired. Discussion by Council regarding several privately-owned homes around town needing repairs. Discussion on inspection guidelines that are being used by surrounding cities. There are also model standards and ordinances that are being used around the state. The Kansas Court of Appeals has said, given the conditions of rental property, it is appropriate for a municipality to license and require inspections of rental property. Council and staff discussion ensued. Council will like to pursue the project. Councilwoman Templin also volunteered.

6. Executive Session: N/A

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, asked Council's opinion of reduced pool memberships this year. Council said they would consider it for next year. The school district is extending an invitation to the City regarding future initiatives in the district. The date was considered for Thursday, September 28th, at 6:00 p.m.
- b. City Attorney, Patrick Reavey, said there is a new law on eminent domain and a new law on excise tax.
- c. City Engineer, Mike Brungardt, said the family and tot slides are in. He is working with D.F. Freeman for the installation of the slides. The work will require the top pool being closed for several days. If the bid comes in at or less than Vanum's previous bid, he asked Council approval to proceed. Council approved his request.

Discussion by Councilman Maniez and Attorney Reavey regarding the accident at the pool. He said he does not want to be responsible for someone's child being hurt if there is any possible way to control use of the diving board. Council discussion.

- d. City Planner, Kim Gordanier, discussed the new FlexRide program that will start off next Tuesday. New signs and benches are being ordered for the five stops. She stated she will be working on three projects in future: 1) zoning administration; 2) design guidelines; and 3) sign ordinance regulations. Discussion by Councilwoman Templin and Planner Gordanier on whether the violators have been notified. Planner Gordanier said she can send out a letter of non-compliance to the offenders.
- e. City Clerk, Lana McPherson, had no report.

8. Council & Mayor Comments

Councilwoman Templin said the young trees on Kill Creek Road are really in need of

watering. Staff discussion that the Parks Department has been watering weekly.

Councilwoman Zindler asked if the City's permits should have some type of wording that clearly explains the City is not responsible for liabilities of builders and contractors in construction.

No comments from Councilwoman Cannon.

Councilman Morse discussed the property on Penner Avenue. Discussion by Building Official Steve Chick on the installation of private wastewater systems. Further discussion by staff that there was a four-lot plat on the subject property.

Councilwoman Templin said she has had several people ask her about waiving fees for rental of the community center. Further discussion by Administrator Guilfoyle on authority to waive fees. Council discussion.

Councilman Maniez asked about the outcome on the roof collapse on Fish Development's office building. Building Official Chick has discussed the collapse with the contractors and the developer, and it was a contractor install situation.

Motion by Councilwoman Templin to adjourn at 10:15 p.m.; second by Morse.

All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk