

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

MINUTES

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

Cannon	Present	Maniez	Present
Morse	Present	Templin	Present
Zindler	Present		

Citizens signed the book on page 43.

The Mayor led the Pledge of Allegiance.

Mayor Anderson stated he would like to move the Executive Session forward in the meeting due to the nature of the matters to be discussed.

Motion by Councilman Maniez to move Item 8, Executive Session, to after Item 2, Call to the Public; 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 June 16th, 2005.
- b. Approve Pay Ordinance No. 524.
- c. Consider Ordinance No. 2095 amending Standard Traffic Ordinance to restrict parking on the south side of 91st Street (portion of 91st Street in front of Starside Elementary School).
- d. Consider Resolution No. 719 establishing a hearing requiring owners of 8380 Wyandotte Street to show cause why structures should not be condemned and ordered repaired or demolished.

Councilwoman Zindler asked about the payment to Epic regarding the trees planted along Kill Creek Road. Discussion by City Administrator Johnson and Councilman Maniez regarding the one-year guarantee on tree replacement and watering the trees regularly.

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

Roll Call:	Cannon	Abstained, as she wasn't present at the last meeting		
	Morse	Yes	Maniez	Yes
	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.”

No one appeared.

Mayor Anderson introduced Kise Randall of the Sunflower Redevelopment group.

Kise Randall, Executive Director of the Sunflower Redevelopment, LLC, thanked the Council, Mayor and staff for their time and cooperation on the Sunflower transition. She also said she would have to take responsibility for the miscommunication about the timeliness of the execution of the agreement that must be executed to move forward on this project. Ms. Randall stated the Army has recently discovered there are funds available if a project is moving forward. The Army will notify the group if this property is going to be moved forward. She is requesting Council support the request to move forward.

2. A. Executive Session:

Motion by Councilman Maniez to go into Executive Session at 7:05 p.m. to discuss an attorney-client privilege matter and land acquisition; to return at 7:35 p.m.; second by Templin.

All Council approved by “ayes”.

At 7:35 p.m., Councilwoman Zindler stated Council requests a thirty (30) minute extension of time to continue discussing the two stated items.

Motion by Councilman Maniez to return from Executive Session at 8:08 p.m., with one thirty-minute extension of time, and only the two items stated were discussed and no votes were taken; second by Cannon.

All Council approved by “ayes”.

Mayor Anderson stated there was quite a bit of discussion regarding the Sunflower project. He asked Kise Randall to discuss the insurance coverage provision. She said it hasn't been a topic of conversation with the committee. Ms. Randall discussed Kansas tort claim law, and requested the Council make an offer of a premium amount and present it back to her for the committee's review. Council discussion with Ms. Randall regarding the premium amount being underwritten by the developer if the cost is over what the City can pay.

Discussion by Mr. Reavey that the separate insurance policy must have an inclusion for pollution and the City will have to go out and shop for this type of coverage. Discussion that the present contract language does not make the distinctions or clarifications discussed by Ms. Randall, and the Council and staff have understood the agreement language differently than what Ms. Randall is explaining now. Mr. Reavey stated that with everything that has been said tonight, the Council will need to have a special meeting to discuss the agreement and work out the insurance language issue. Discussion by Ms. Randall, Mr. Reavey, and Council. Ms. Randall asked if Council would consider an alternate motion and discussed the language.

Motion by Councilman Maniez to authorize the Mayor to enter into the Sunflower documents agreement, with the changes as described as to the type of pollution coverage required from the City that was discussed, and that the premium cost not exceed \$20,000 per year for the excess insurance coverage up to the \$2,000,000 liability; (Council discussion on the insurance requirement) second by Cannon.

Cannon	Yes	Maniez	Yes
Morse	Yes	Templin	Yes
Zindler	Yes		

Motion carried.

Mr. Reavey stated for the record he talked with Ms. Randall this afternoon on these changes that need to be made clear in the agreement. He asked Ms. Randall to state that those changes discussed this afternoon will be made to the document, and she agreed.

Mayor Anderson called a five-minute recess at 8:27 p.m.

Mayor Anderson reconvened the meeting at 8:32 p.m.

3. Chamber / EDC Report: Sara Ritter, Executive Director, stated the Chamber will host a ribbon cutting ceremony on July 19th for Axiom Real Estate and to also welcome American Family Insurance to the new location. The networking evening is underway for July 26th at Kill Creek Farm for area chambers. Mrs. Ritter said has also been working on a downtown revitalization meeting for sometime in August, or October, depending on the consultant's calendar.

4. Old Business:

a. Consider bids for median replacement on Commerce Drive. Mike Brungardt, City Engineer, reviewed the project plans as outlined in Exhibit A of the memo provided to Council. Discussion by Councilman Maniez and Councilwoman Templin on removing the island by McDonald's. Mr. Brungardt stated the curb around the island needed to be replaced, and the configuration of the island didn't match up with the driveways. Discussion by Councilman Maniez and Mr. Brungardt on the expense of the new medians. Discussion by Councilman Morse that the original island looks like it was put in wrong. Councilman Morse asked about the cost of brick pavers versus stamped concrete. He doesn't want grass growing up between the pavers. Mr. Brungardt stated there will be a concrete base so there shouldn't be any grass growing in the pavers.

Motion by Councilwoman Zindler to authorize the Mayor to accept the bid for the Commerce Drive Median Island Replacement project from D. F. Freeman Contractors in the amount of \$11,550.00; second by Cannon.

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

Motion carried.

b. Consider Agreement with Kill Creek Investors detailing schedule for public improvements and the issuance of building permits. Mr. Johnson stated Council had asked staff to explore the project for incorporating the City's improvements along with the benefit district proposed. He provided a review of the proposed Agreement in his memo to Council dated July 1, 2005. Patrick Reavey, City Attorney, talked with Chase Simmons, attorney for the developer, and provided Council with a copy of the revised language for the proposed Agreement. Mr. Reavey stated there must be a public hearing on the benefit district, and the Council will determine whether or not the benefit district will be approved. If the benefit district proposed is not approved, then the developer must complete the improvements within nine (9) months of the financing for the improvements.

Councilman Maniez asked if the \$672,395.40, which is the estimated value of the public improvements required by the developer, includes the costs of traffic signals. Mr.

Brungardt stated an agreement for the signals has already been entered into. Councilman Maniez asked if the signals could be put into the benefit district now as the traffic has already increased on 83rd Street. Mr. Reavey stated the traffic signals should be a separate benefit district. Discussion by staff and Council.

Mr. Brungardt made a correction on page 2, paragraph 3, of the Agreement, stating it should make reference to the "preliminary development plan" and not the "Final Plat" language. Discussion by Councilwomen Zindler and Cannon with Mr. Reavey regarding the offsite improvements. Mr. Brungardt stated the \$672,395.40 contains all the offsite improvement costs. Councilman Maniez asked about the sidewalk being considered an offsite improvement, and Mr. Brungardt stated it is an offsite improvement as it is not an interior development sidewalk. Discussion by Mr. Reavey and Mr. Brungardt that this is taking advantage of the mobilization of the roadway improvements. Discussion by Councilwoman Cannon on the amount that will be remaining for street improvements. A discussion ensued with staff and Council regarding the proposed benefit district amount.

Councilman Maniez stated it has not been the City's policy in the past to form a benefit district for a developer. He stated the only reason he is even considering this is because it is more cost beneficial to the City for the expansion of the improvements. Council discussion. Councilwoman Zindler stated the City has raised the bar and developers are paying their way now and the City is gaining more benefit than it has in the past.

Motion by Councilman Morse to authorize the Mayor to execute the Agreement with Kill Creek Investors with wording changes as noted above by Mr. Brungardt; second by Maniez.

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

Motion carried.

5. New Business:

- a. Consider Ordinance describing amendments to the City of De Soto Procedures Manual Articles 1 through 8. City Attorney Reavey stated he has been working with Planning Coordinator Gordanier in updating the City's Procedures Manual. Discussion by Councilwoman Zindler on why Commissioner Kroeger voted "no" on the revisions. Mr. Brungardt stated no reason was given by Commissioner Kroeger. Councilwoman Zindler stated not all of the Commissioners were present at the meeting to vote. She has a concern there was not a majority of the vote being in favor of the amendments. Councilwoman Zindler asked Attorney Reavey for clarification on language regarding a protest petition. She asked that clarification be included in this language. Councilman Maniez stated there should be a majority vote of the entire Commission and he agrees it should be sent back to the Planning Commission. He also expressed concerns regarding the Code of Ethics being removed. Discussion by Attorney Reavey that clarifications had to be made and inconsistencies corrected. The Commission adopted the City's Code of Ethics so all documents would be consistent.

Motion by Councilwoman Zindler to return Agenda Item 5 .a. back to the PC for the following reasons: due to the number of absentee Commissioners, Council would like a majority vote approval, and to also consider adding language to page 31, the first paragraph, last sentence, to clarify by simple majority; second by Templin.

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

Motion carried.

- b. Consider Bids for Waterline Relocation on Lexington Avenue. City Engineer Brungardt

outlined the relocation details as described in his memo to Council dated June 30, 2005. KDOT is requesting the City relocate a waterline just south of 95th Street and Lexington. He discussed the bids that were received to do this project. Discussion by Councilman Maniez on what the cost of the materials will be for the City. It was discussed by staff that the City has most of the materials on hand already.

Motion by Councilman Maniez to accept the bid from Walt Johnston for the Lexington Avenue waterline relocation in the amount of \$10,942.45; second by Cannon.

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

Motion carried.

- c. Consider recommendation for Park and Recreation Master Plan. Mr. Johnson stated there were three submittals. The committee interviewed two firms and recommend entering into an agreement with Bucher, Willis & Ratliff as they stood out in terms of the qualifications and approach. Councilman Morse agreed that the entire committee felt Bucher, Willis & Ratliff had a more direct connection with the community involvement in park projects. Discussion by Council and Mr. Johnson regarding surrounding parks and fee structures.

Motion by Councilwoman Templin to authorize staff to negotiate an agreement for the Park and Recreation Master Plan with Bucher, Willis & Ratliff in the amount of \$21,951; second by Cannon.

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

Motion carried.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, reminded Council that the Budget Workshops start next Wednesday at 5:30 p.m. and following Wednesdays through the month of July.
- b. City Attorney, Patrick Reavey, stated Time Warner has agreed to all the City's requested changes to the cable franchise contract. Mr. Johnson is working with Time Warner in providing a build-out service to residents south of K-10. He stated the extension area south of K-10 exceeds the threshold of Time Warner's cost factors for providing service. He is still working with them on some type of financing arrangement and joint marketing approach for the service in the extended areas. Discussion by Councilman Maniez with Mr. Johnson on the previous contract negotiations. Councilwoman Templin asked if they are going to extend the digital telephone service. Discussion by Mr. Reavey and Mr. Johnson regarding the legal parameters of telephone service and cable service.

Mr. Reavey provided Council with a copy of a letter sent to Mr. Randall Davis regarding the pole sign that is unlawful. Mr. Davis would like to talk to Council at the July 21st meeting. Councilman Maniez stated Mr. Davis is in violation of the sign ordinance and we are allowing this to continue; why talk about it? Mr. Reavey stated Mr. Davis should be at the next Council meeting. Councilman Maniez stated this property owner hasn't complied in the past on sign ordinance violations. Councilwoman Zindler said we should proceed with correcting the violation now and Mr. Davis can still approach the Council. Mr. Reavey will follow up with Mr. Davis as to Council's request.

- c. City Engineer, Mike Brungardt, provided Council with a preliminary layout on the DeMeadows drainage and recreation path for their review and discussion at the next

Council meeting. Mr. Brungardt explained the Kill Creek Park recreation trail connection and the crossing along Lexington Avenue. He also discussed the changes to the channel that will be made with the improvements.

- d. City Clerk, Lana McPherson, stated Mr. Mike Emberton of Beer Thirty, has requested Council approval on a one-year anniversary celebration on July 30th. Council was provided a letter from Mr. Emberton outlining the request. Councilwoman Templin asked if the Fire Department is consulted on maximum occupancy should all attendees decide to go inside the building. Discussion. Council approved the request.

A "thank you" postcard from the De Soto Senior High Carnegie Hall singers was read to the Council. They enjoyed their experience in New York City.

7. Council & Mayor Comments:

Councilwoman Cannon asked when Commerce Drive is going to be finished. Mr. Johnson stated the median reconfiguration and the mill and overlay will be done in the next few weeks, so the project will be wrapped up by the end of August.

Councilman Morse stated that since the 4th of July is now over, he would like Council to think about opening up the sale of fireworks and the shooting of fireworks in the City. He said, obviously, the ordinance isn't working because everyone is shooting fireworks and the Sheriff's Department has no way of enforcing the law. Councilman Morse feels the non-profit groups in the City should be making a profit here and bringing the sales tax and that business back to De Soto. He said he personally does not buy fireworks, but he would like Council to think about this change. Councilwoman Templin agreed and said there is no way to enforce the ordinance. Councilman Morse would like this topic to be an agenda item for the next meeting.

Mayor Anderson said he would like to appoint Kay Speed to the vacancy on the Park Board. He said she was on the pool committee and several members of the Park Board have talked with her. Mrs. Speed agreed she would accept the position.

Motion by Councilwoman Templin to accept the Mayor's appointment of Kay Speed to the Park Board; second by Maniez.

All Council approved by "ayes".

Mayor Anderson provided Council with an employee performance evaluation for Council to review. Council will return the forms to Mr. Johnson next week with their comments.

Mayor Anderson stated he has received a thank you letter and photos from the Boy Scout Troop that Council helped financially to attend camp.

Councilman Maniez stated the line of sight problem at 83rd & Corliss on the east side of 83rd Street has not been taken care of. The brush at the top of the crest needs to be removed.

Councilwoman Zindler stated the gas station eyesore at 83rd & Kill Creek has weeds waist high. Discussion that this is a continued eyesore for the gateway to the City.

Councilwoman Zindler asked Mr. Johnson about the dust on 95th Street. She said she knows the County maintains that road, but it is so dusty you cannot see if there is another vehicle on the road. Mr. Johnson stated he has contacted the County and hasn't received a response from them. He will call again.

Councilman Maniez asked about the "Welcome to De Soto" monument signs that were sketched. He said he thought the cost estimate was high. Staff discussion on getting a

better cost estimate. Mr. Brungardt will put together a bid spec for the next meeting.

Councilwoman Templin asked about the progress of the boat ramp and river access. Mayor Anderson said Councilwoman Cannon has met with several people regarding this. Mr. Brungardt said we cannot do any construction until after August.

Councilwoman Templin asked about the small playset that was removed from the park and asked Mr. Johnson when that equipment will be replaced. Mr. Johnson is working with Jay Garvin on a replacement playset.

Motion by Councilman Maniez to adjourn at 10:00 p.m.; second by Templin.

All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk