

CITY OF DE SOTO
CITY COUNCIL
City Hall, 32905 W. 84th Street
September 1st, 2005 7:00 P.M.

MINUTES

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

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

Citizens signed the book on page 47.

The Mayor led the Pledge of Allegiance.

PUBLIC HEARING: Show Cause Why the Structure Located at 8380 Wyandotte Street Should Not Be Condemned and Ordered Repaired or Demolished.

Mayor Anderson asked Patrick Reavey, City Attorney, to give a brief background of this property. There have been issues regarding the actual ownership of the property. The property has dilapidated further since the first notification in 2004. No property owners are present at this hearing. Mayor Anderson opened the public hearing for comments. No one appeared and Mayor Anderson closed the public hearing.

Discussion by Councilman Maniez and Mr. Reavey. Notice has been sent to the rightful owners of the property. No response has been received regarding the property. Discussion by Councilwoman Templin on the procedures to address the repairs or demolition.

Motion by Councilwoman Zindler to approve Resolution No. 726 finding the structure located at 8380 Wyandotte Street is unsafe and dangerous; second by Templin.

Roll Call:	Cannon	Yes	Morse	Yes
	Maniez	Yes	Zindler	Yes
	Templin	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 August 18th, 2005.
 - b. Approve Pay Ordinance No. 528.
 - c. Approve Interlocal Agreement with Johnson County Park and Recreation District regarding path and drainage improvement project southwest of the DeMeadows Subdivision.

Discussion by Mr. Reavey regarding a change in Item C. in the Interlocal Agreement.

Motion by Councilman Maniez to remove Item 1.c from the Consent Agenda; second by Cannon.

All Council approved by "ayes".

Motion by Councilwoman Templin to approve the Consent Agenda Items 1 a. and b.; second by Morse.

Discussion by Councilman Maniez regarding the Nextel reimbursement for Pam Titus. Mr. Johnson stated this is a reimbursement for several months of using her personal telephone for the pool.

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

Motion carried.

Mr. Reavey stated the Park District had made one change in that they wanted to make it clear they would have access to the recreation path to make improvements and do maintenance. The City will cooperate with the Park District in this project. The Park District has made the change on page 3 of the agreement.

Motion by Councilwoman Templin to approve the Interlocal Agreement with the change to paragraph 6 allowing the Park District right of access to the recreation path for maintenance and improvements; second by Zindler.

Discussion by Councilman Morse regarding the maintenance of the areas around the recreation path.

Roll Call:	Cannon	Yes	Maniez	Yes
	Morse	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."

Mr. Darrel Zimmerman, 34055 W. 86th Terrace, provided an informational comment to the Council. He read a letter to the Council. He feels citizens have been de-sensitized to the brush that is overtaking the City. He challenged the Council to take a look at the photos he provided them. Mr. Zimmerman stated when the first person emailed him with the correct answer, he would then donate \$50 to a tree and brush fund if Mr. Johnson would designate that fund. Discussion. Council thanked Mr. Zimmerman.

Mr. Johnson, City Administrator, introduced Mr. Richard Chesney, the former deputy county administrator of Johnson County. He works with cities to help find city managers and administrators. Mr. Chesney stated he has been helping cities for several years in recruitment. He stated it usually takes around 90 days to hire a new administrator. Mr. Chesney outlined the procedures he uses and said he will be meeting with Council on a regular basis to glean input from them for a candidate selection. Mr. Chesney said he has been working in Kansas for over 30 years. He is also a member of the ICMA.

Discussion with Mayor Anderson, Councilman Maniez and Councilwoman Zindler regarding the previous searches for a city administrator. Mayor Anderson stated he had talked with Mr. Chesney regarding evaluations for the current strengths and weaknesses.

Councilman Maniez asked why the League was not contacted since they provide this service and are very familiar with it. Mayor Anderson stated he hasn't heard the best things about the League's service in this area. Mr. Johnson stated the Mayor had asked him to contact Mr. Chesney because Mr. Chesney has previous experience in Johnson County and the Sunflower redevelopment discussions. Mr. Johnson stated that his responses concerning the League's executive searches haven't been that favorable, and he felt this was the better way to go instead of using the League.

Discussion by Council with Mr. Chesney on his previous searches in this area. Councilman Morse asked

what the search options are. Discussion by Mr. Johnson on other firms that do executive searches. Councilwoman Cannon asked what kind of costs are associated with Mr. Chesney's search. The cost is \$4,000 for Mr. Chesney's services. Mr. Chesney said he is not currently working on a search as he is the interim at Osage City.

Mayor and Council discussion on the previous search.

Motion by Councilman Morse to hire Mr. Chesney to do the search for a city administrator; second by Templin.

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

Motion carried.

3. Chamber / EDC Report: Sara Ritter, Executive Director, was not present this evening. She provided an email report to the Council members.
4. Old Business: NONE
5. New Business:
 - a. Consider Resolution amending Resolution 709 related to construction of a new wastewater treatment facility. Mr. Johnson provided background information to the Council regarding the amendment and the total estimated cost of the G. O. Bonds in the amount not to exceed \$9,000,000. This bond issue puts the City in a new category of bond compliance and continuing disclosure of financial status. Mr. Johnson will provide Council with some recommendations at the next meeting on the compliance requirements. Discussion by Councilman Maniez on the debt outstanding and the statutory limits. Discussion by Mrs. Riley, Bond Counsel, regarding the outstanding debt and the rating assigned to the City.

Discussion by Mr. Johnson regarding the Standard & Poor rating and his discussions with bond counsel. Councilman Maniez asked if the City can go beyond the 20-year rating, and Mrs. Riley said the maximum term varies depending on the type of bond it is. She discussed the length of various projects and the bond maturity schedules. Further discussion with Councilman Maniez and Mr. Tom Kaleko of Springsted regarding the cost of a bond over 20 years. Discussion by Mr. Johnson on the base financial model that was used to calculate the formula for the projected revenues. Mr. Kaleko stated a 25-year bond on a large wastewater plant project is not unusual. There is an optional call in the bond. He said the long term interest rates are currently favorable.

Motion by Councilwoman Zindler to approve Resolution No. 727 which amends Res. 709 related to construction of a new wastewater treatment facility; second by Cannon.

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

Motion carried.

- b. Consider Resolution authorizing a public sale of approximately \$9,000,000 of General Obligation Bonds, Series 2005, of the City of De Soto, Kansas.

Motion by Councilman Maniez to approve Resolution No. 728 authorizing the public sale of approximately \$9,000,000 for G.O. Bonds for the wastewater treatment facility; second by Cannon.

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

Motion carried.

- c. Consider Coffee Click’s request for use of sidewalk. Mr. Brungardt, City Engineer, reviewed the letter submitted by the applicant regarding the use of the sidewalk for De Soto Days weekend. The applicant is requesting permission to put out some tables and chairs for the weekend. The second request is for an outside permanent seating deck. The sidewalk adjacent to the door of this business is sloped toward the street and is not level. The current regulations would not allow this outside seating. Mr. Brungardt does feel this request has merit and would be beneficial to the downtown area. He stated other cities allow this with a special use permit. Mr. Brungardt said a text amendment would be required for outside seating in the downtown area.

Councilwoman Zindler asked why the outdoor seating should be restricted to the downtown C-1 district. Mr. Brungardt stated there is no front setback requirement in the downtown area. There is no opportunity for outside seating in this area. Discussion by Councilman Maniez regarding requirements for the outdoor seating. Mr. Brungardt stated a text amendment would include any restrictions and many aspects that would need to be worked through. Councilman Maniez stated there should be something to require the owner to remove any structure if the City had to do a sidewalk repair or access the utilities. Discussion by Mayor Anderson on the two requests. Discussion by Councilwoman Templin on continuing the outside seating until a text amendment is discussed and finally determined. Mayor Anderson said the Planning Commission needs input and direction from the Council on what should be included in the text amendment.

Discussion by Councilman Maniez that other businesses may want to discuss this outdoor seating as it would relate to their business, especially if they are next door to this area. Discussion by Councilwoman Templin that the outdoor seating is a good idea to promote downtown businesses. Council discussion.

Motion by Councilwoman Templin to allow Coffee Click to use the public sidewalk to place tables and chairs in front of 33065 W. 83rd Street from Sept 2, until December 31st, 2005; second by Maniez.

Councilman Morse stated that when the Planning Commission reviews this, they need to look at all businesses in the downtown area. Discussion by Councilwoman Zindler.

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

Motion carried.

- d. Consider supplemental Agreement with HNTB regarding engineering fees for 2005 CDBG project. Mr. Brungardt requested the Council authorize the supplemental agreement for the Lexington Avenue Sidewalk Project reducing the engineering services contract by \$14,220.00.

Motion by Councilman Morse to accept the supplemental Agreement with HNTB; second by Templin.

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

Motion carried.

- e. Consider revisions to scope and fee for water master plan study. Discussion by Mr. Brungardt that this is to get the water master plan study back on focus and resume the study. Staff has been working on the scope and fee since some of the projection elements have changed this past year. There has been a focus for growth in the western part of the City. Mr. Brungardt reviewed the contents of the proposed scope and fee as provided in his memo to Council dated August 25, 2005. The increased scope will increase the cost of the study by \$14,877 and the study will be funded by the water system development fees.

Discussion by Councilman Maniez regarding the technology charge and what it is. Discussion by Jeff Klein of Burns and McDonald. Discussion by Councilwoman Zindler regarding discussions with Rural Water No. 6 in these discussions and project scope. Further discussion by Councilwoman Zindler that citizens on the east side of the City enjoy cheaper water rates than the City's rates. Discussion by Mr. Klein and Mr. Brungardt regarding past meeting discussions on the water expansion and cooperative effort with other entities.

Motion by Councilman Maniez to authorize the additional \$14,877 for the increased scope of the Water Facilities Plan; second by Templin.

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

Motion carried.

- f. Consider authorizing traffic study for Lexington Avenue and Commerce Drive. Mr. Brungardt provided Council with a copy of the letter from Huhtamaki regarding a request for a traffic study. Mr. Brungardt stated a traffic study was done in the fall of 2002; and since that time, nine of fourteen developments have come to fruition and traffic has increased. Mr. Brungardt has talked with Bucher, Willis & Ratliff regarding updating the traffic study. KDOT has certain criteria that must be met before they will install a traffic signal. The City does have authority to place a signal at 91st Street if the traffic study necessitates. He does recommend Council direct staff to proceed with a scope and fee negotiations with Bucher, Willis & Ratliff for the traffic study. Discussion by Councilman Maniez and Mr. Brungardt on the impact of the signals in each intersection. Discussion by Councilwoman Templin on when a traffic study is warranted. Council discussion on traffic at intersections at peak periods during the day.

Motion by Councilman Maniez to authorize staff to negotiate not to exceed \$4,000 with Bucher Willis & Ratliff for the Lexington Avenue traffic study; second by Zindler.

Discussion by Councilwoman Templin on traffic study determination triggers for future studies. Councilman Maniez asked if a comparison could be done between the 2002 study and the present study.

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

Motion carried.

Mayor Anderson called a five-minute recess at 8:20 p.m. Mayor Anderson reconvened the Council at 8:25 p.m.

6. Advisory Reports:

- a. City Administrator, Greg Johnson, said he has a written request from Relay for Life to use the Community Center as a rainout location for 2006 and that the fees be waived if the Relay has to use the facility. Council approved the request.
- b. City Attorney, Patrick Reavey, stated he has received a revised franchise agreement from Time-Warner. There are still some issues with one of them being expansion of the services. The area south of K-10 includes 80 homes pursuant to Time Warner. They need 65 of those 80 homes to sign up for a bundle package of benefits. There would be a \$30 surcharge on top of the regular charges. Mr. Reavey said the franchise fees are not negotiable according to Time Warner. Council discussion. Mr. Reavey will be meeting with representatives of Time Warner next week and will provide Council with an update.

Mr. Reavey has been working with Mr. Hall on his accessory structure.

Mr. Reavey has a meeting scheduled next week with Huhtamaki to discuss the rail uses to their businesses.

- c. City Engineer, Mike Brungardt, said there are two projects bidding next week. He has had several telephone calls from contractors regarding fuel costs and supplies due to the hurricane. The contractors are a bit nervous concerning the abnormal market conditions at this time. The ability to obtain asphalt could be a big concern. An addendum will be issued tomorrow on the bid package on the recreation path bids due to market conditions. The City always has the right to reject all bids and re-bid at a later date. The current market is very unstable at this time due to the hurricane.
- d. City Clerk, Lana McPherson, asked Council to designate the voting delegates for the League meeting. Discussion by Council and Councilwoman Zindler and Lana will be the City's voting delegates. Council gave approval for Lana to honor the \$1,000 scholarship she was granted to attend the National Brownfields 2005 Training in November.

7 Council & Mayor Comments:

Councilwoman Templin asked about the new City signs that are being developed. Mr. Johnson said he is meeting with Mr. Pickert tomorrow and will discuss the progress being made on the design.

Councilwoman Cannon asked about the oiling of 95th Street and it being a bit slick. Mr. Johnson stated the crews had problems with the sander and that caused a problem. Councilwoman Cannon said there had been some complaints about oil on vehicles. Discussion on using calcium chloride instead of oil. Mr. Brungardt stated that the calcium chloride is now cheaper than the oil for dust control.

Councilwoman Zindler asked Mr. Johnson about a budget amount that could be used to clean up scrub brush and tree trimming. Mr. Johnson stated tree trimming has been done throughout the City. Discussion by Mayor Anderson and Mr. Johnson on the inventory of the trees in the City. Mr. Johnson stated additional funding would be needed to expand current tree removal services contracted by the City.

Councilwoman Zindler asked the Mayor if he has talked with Norm Bowers, County Engineer, regarding the 95th Street maintenance. Council discussion on this matter. Councilman Maniez, Councilman Morse and Mr. Johnson will talk with Mr. Bowers.

Councilman Morse stated much of the brush in the City is privately owned. Citizens need to clean up their own property and be responsible for their property. Councilman Maniez stated this is a code enforcement matter. Discussion by Mayor Anderson that several years ago there was a complaint of selective enforcement. Council discussion on enforcement.

Mr. Zimmerman stated he would like the Council to do the brush clean up as a learning cooperative to bring about a positive change. Discussion by Councilwoman Templin that this community is very unique and the City is still somewhat rural.

Councilman Morse said that Penner Avenue and Lexington Avenue have grassy areas and they aren't going to work. People drive all over the edges and in winter it will become worse. The edges of the roads should be rock. Mayor Anderson said shoulder maintenance is always going to be a problem. Councilman Morse said the shoulders need to be smoothed out and reseeded if they are going to be fixed this year. Councilman Maniez agreed there are areas that need to be looked out.

Councilman Maniez asked if there has been any more discussion on eminent domain and the taking of private property for public use. Mr. Reavey stated he has heard there are some people trying to press the County on this issue. Mr. Reavey stated the state legislature will start again in January and he has heard this will be a topic of discussion. Councilman Maniez stated he feels it is a very important issue, especially for small towns. He wants the City to stay on top of this, and he wants to know if the City can pass an ordinance setting out the parameters for eminent domain. Discussion by Mr. Reavey on the state statute for cities in utilizing eminent domain. Discussion by Mayor Anderson on the new legislation passed by the federal court and coming down through the state to the cities.

Councilman Maniez stated this will become an issue in the future as the City continues to grow. He feels the citizens need to let the Council know their feelings on taking private property through eminent domain.

Councilman Maniez asked if the City is going to have a joint workshop with the Economic Development Council. Mayor Anderson stated he has talked with Sara Ritter and Greg Johnson on getting a list of items together that need to be discussed by the Council. Councilman Maniez stated there needs to be a policy and everyone needs to know what the City's policy is. Council discussed meeting on this.

Mayor Anderson read a letter to Council from Chairman Annabeth Surbaugh of the Johnson County Commissioners regarding a ¼ cent sales tax. Mayor Anderson stated his opinion to the Council, and he does not feel the City should return any money back to the County. Mr. Reavey discussed the state statute that defines the economic development funds. The original intent of the statute is not what it was originally set out. Mayor Anderson stated this is for the state government to fight out as it is up to them to support the schools. Discussion by Councilman Morse and Mr. Johnson regarding the City's percentage.

8. Executive Session: Mr. Reavey stated there are two personnel items for a total of 30 minutes.

Motion by Councilwoman Templin to go into Executive Session at 9:15 p.m. to discuss two personnel items, and to return at 9:45 p.m.; second by Morse

All Council approved by "ayes".

Motion by Councilwoman Templin to return from Executive Session at 9:40 p.m., five minutes early, and only the two items mentioned were discussed and no votes were taken; second by Morse.

All Council approved by "ayes"

Motion by Councilwoman Templin to offer an employment agreement for an interim city administrator position to Mike Webb, and to direct staff to come back with an employment agreement; second by Cannon.

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

Motion carried.

Motion by Councilwoman Templin to adjourn at 9:43 p.m.; second by Cannon.

All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk