

CITY OF DE SOTO  
CITY COUNCIL  
City Hall, 32905 W. 84<sup>th</sup> Street  
September 7<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	Present
	Maniez	Present	Zindler	Present
	Morse	Absent		

Citizens signed the book on page 74.

Mayor Anderson led the Pledge of Allegiance.

**PUBLIC HEARING:** Consider Property Tax Exemption for Airtex Manufacturing, Inc. Mayor Anderson introduced Gary Anderson, City Bond Counsel, and the applicant's representative, Mr. Rick Rambacher. City Attorney Reavey said this matter has been before the Council on previous occasions. Airtex is proposing an expansion of their facility here in De Soto, and requesting a 50% tax abatement. This is arrived at by a PILOT agreement, which counsel will bring back to the Council if it is recommended for Council's approval. A cost benefit analysis has been prepared by Columbia Capital Management for the Council's review.

Bond Counsel Gary Anderson stated that, in accordance with state law, the City has provided notice to the County and the school district, as well as published notice of this hearing.

Mayor Anderson opened the public hearing for comments. No one appeared to speak and Mayor Anderson closed the public hearing.

**PUBLIC HEARING:** Consider Property Tax Exemption for Fish Development, LLC. Mayor Anderson requested Attorney Reavey describe the request by the applicant. The application and cost benefit analysis have been provided to the Council. The benefits of the requested abatement do outweigh the cost. All necessary notices have been provided to the taxing jurisdictions.

Bond Counsel Anderson stated this is a series of Industrial Revenue Bonds that will be paid by the requesting business applicant.

Mayor Anderson opened the public hearing. No one spoke and Mayor Anderson closed the public hearing.

Motion by Councilman Maniez to move the Executive Session up in the Agenda to precede Item B, for the purpose of discussing attorney-client privilege and confidential information for approximately 20 minutes; second by Cannon.

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 August 17<sup>th</sup>, 2006.
  - b. Approve Pay Ordinance No. 552.
  - c. Approve Resolution No. 758 for Code Violation at 8240 Park Street.
  - d. Approve Resolution No. 759 for Code Violation at 33186 88<sup>th</sup> Terrace.
  - e. Approve Resolution No. 760 for Code Violation at 32650 Lexington Avenue.
  - f. Approve Resolution No. 761 for Exemption from Wheeled Devices Prohibition.

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

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

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.”

Melvin Fischer, 32715 W. 91<sup>st</sup> Terrace, stated he is speaking on the new proposed subdivision in Oak Country. (Discussion at this time by Mayor Anderson and Councilwoman Templin on whether they should recuse themselves from this discussion. Attorney Reavey said it wasn't necessary as this is discussion only. Council agreed). Mr. Fischer said he has some concerns about the relocation of the entrance into the subdivision and the condition of 91<sup>st</sup> Street. He said he moved here in November, 1985, and worked with Jim Carpenter considerably while Oak Country was being developed. He has assumed all along that the area would be developed and the entrance would be off of 91<sup>st</sup> Street and a 60-ft. strip of land was put there for the purpose of the entrance, although this land was never dedicated as a right-of-way. Mr. Fischer said he was surprised and disappointed to learn the entrance road has been moved; and the location is very inconvenient and there is nothing good about, nor any compelling reason why this decision was made. There is also the safety issue of making a turn in a dangerous location. Oak Country Lane is used as a parking lot in the wintertime because many people can't get up the hill in bad weather. The 91<sup>st</sup> Street entrance would not be as hazardous. Scott Drive is on the crest of a hill but the intersection has much better sight distance than Oak Country Lane and 91<sup>st</sup> Street. Mr. Fischer stated he was an engineer and he can't find any rationale why the entrance was moved. The neighbors agree.

The condition of 91<sup>st</sup> Street is a concern and everyone knows 91<sup>st</sup> Street is a bad street and badly designed. It doesn't make sense to add more traffic to it unless something is done to alleviate these conditions. No proposals have been made. This street will become extremely hazardous when used by construction vehicles. He asked the City to consider improvements before any construction begins. Trees need to be moved and stop signs need to be posted on 91<sup>st</sup> Street. Mr. Fischer requested the Council consider these requests and he thanked the Council for their time and consideration.

3. Chamber / EDC Report: Sara Ritter, Executive Director, received an email from Marty Shukart and he has scheduled October 17<sup>th</sup> at 5:00 p.m. to meet with the Council and

other boards until 6:30 p.m. He will also have an open forum discussion from 6:30 to 7:00 p.m. to gain citizen input. Mr. Shukart will bring back another report.

4. Old Business: NONE

(Council amended the Agenda to move Executive Session to this time)

\*\*\* Executive Session:

Motion by Councilman Maniez to go into Executive Session at 7:22 for attorney-client privilege and confidential company information for 20 minutes to return at 7:42 p.m.; and request Pat and Mike to attend; second by Cannon.

All Council approved by "ayes".

At 7:42 p.m., Councilwoman Templin requested an additional five minutes for Executive Session on the two items stated.

Motion by Councilman Maniez to return from Executive Session at 7:47 p.m., with one five-minute extension of time, and only the two items stated were discussed and no votes were taken; second by Templin.

All Council approved by "ayes".

5. New Business:

yy. Consider Resolution No. 762 Approving Tax Abatement for Airtex Manufacturing, Inc. Attorney Reavey stated the resolution does provide for a ten-year abatement at a 50% level. If Council desires to make any changes, please direct staff to make those changes. Bond Counsel Anderson stated this resolution would approve the tax abatement at the requested level. If it is favorably considered, a PILOT agreement will be prepared for Council's consideration at the next meeting. Attorney Reavey stated the applicant has requested at staff level that an abatement adjustment be made. A revised cost benefit analysis has been provided to Council. Discussion by Councilman Maniez on whether or not the PILOT agreement was included in the Resolution in the past. Attorney Reavey stated no. No further discussion.

Motion by Councilman Maniez to approve Resolution No. 762 with respect to a Tax Abatement granted to Airtex and the percentage of payments to be made as of September 7<sup>th</sup>, with an adjustment in percentage in lieu of in year 1 is 0 % and in year 2 is 14%; second by Cannon. Bond Counsel Anderson clarified the adjustments.

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

Motion carried.

zz. Consider Resolution No. 763 Authorizing issuance of Industrial Revenue Bonds and Tax Abatement for Fish Development LLC. Attorney Reavey stated Bond Counsel Anderson has prepared a resolution that authorizes the issuance of IRB's as well as a tax abatement. Mr. Shannon Nelson of Fish Development is present. Bond Counsel Anderson provided Council with information on the Industrial Revenue Bonds. The title to the property is actually deeded to the City, who then leases the property to the lease company who makes the bond payments. There is no effect to the City's credit rating

or liability. There is strict oversight on these Industrial Revenue Bonds. Typically, the bond owner is the applicant or the applicant's lender. It is anticipated there will be multiple buildings constructed over a period of time.

Discussion with Councilwoman Zindler and Attorney Anderson stating these IRB's will not affect the City's credit limit. Councilman Maniez asked how the bonds will be paid in case of a foreclosure. Attorney Anderson stated basically the same as any other construction development loan. Discussion by Councilwoman Cannon and Bond Counsel regarding the incentive solely for sales tax exemption for the applicant. Discussion on the IRB's for the multiple buildings proposed and the possible ownership of those buildings.

Motion by Councilwoman Zindler to adopt Resolution No. 763 authorizing issuance of Industrial Revenue Bonds and Tax Abatement for Fish Development LLC and a 50% tax abatement; second by Templin.

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

Motion carried.

- a. Consider Designating Alternate Date for Observance of Veterans Day. Administrator Guilfoyle requested Council's consideration to designate the holiday on Friday as the holiday occurs on a Saturday. Administrator Guilfoyle also requested Council consider a change to the Personnel Policy regarding holidays that fall on weekends.

Motion by Councilwoman Templin to designate Friday as the holiday observation, and to direct staff to amend the Personnel Policy to stipulate that a holiday will be observed on the preceding Friday if it occurs on a Saturday and to observe a Sunday holiday on the proceeding Monday; second by Cannon.

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

Motion carried.

- b. Consider Employee Request for Transfer of Vacation Leave Time. Administrator Guilfoyle stated the Personnel Policies provides, in times of hardship or crisis, the Council may approve transfer of accrued vacation leave time upon a request by the employee who will receive the transfer. Administrator Guilfoyle explained the situation per his memo to Council and the request made by the two employees involved.

Motion by Councilman Maniez to approve the requested recommendation of transfer of leave time as stated in the memo; second by Cannon.

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

Motion carried.

- c. Discuss Primrose Drive Construction Options. Administrator Guilfoyle said he has talked with JoAnn Thompson regarding the extension of Primrose Drive. Mrs. Thompson provided information regarding the stumbling blocks for her. Point 1: She

indicated that when the City constructed 87<sup>th</sup> Street, she was shown there would be two curb cuts and one would accommodate her Phase 2 development; that was not done. Subsequently, it was determined the reason this wasn't done was because Mrs. Thompson did not proceed with the plat approval process for Cherokee Woods; thus, there was no need for the curb cut. And, given the absence of an approved plat and detailed engineering specs for her subdivision, no one knew how to engineer the elevations necessary for the curb cut.

The second point of consideration was the benefit district issue. Mrs. Thompson wanted to expand the number of lots that would be included in the benefit district and, at this point, she said she would agree to the benefit district if she could include all of her interior streets, and Primrose, in a benefit district that would include all the lots in Phase 2, for a total of 39 lots. She doesn't want to include any lots from Past 1 in the benefit district. However, Mrs. Thompson said she may or may not be interested in doing a benefit district to pay for Primrose, depending on the cost analysis.

The third point is excise tax. Mrs. Thompson said she understands she would have to pay excise tax on land area earmarked for the drainage easement and the detention basis. It was discussed by City staff that the City could take title to these areas conditioned on an agreement that someone, other than the City, be responsible for maintenance of the land.

Administrator Guilfoyle said staff is recommending sitting down with Mrs. Thompson's representative, her son Bill Thompson, and consider these points to reach an agreement.

Councilwoman Templin asked what a reasonable time limit would be. Engineer Brungardt said there should be a time line on submitting a revised preliminary plat. The second deadline should be to proceed with the final platting and the excise tax. The issue of final platting is the payment of the excise tax. The final plat being recorded is important because it would dedicate the right-of-way for the completion of Primrose. Once the final plat is filed, the City could agree to a benefit district for the construction of the road. Discussion by Engineer Brungardt on the initiation and implementation of a benefit district. This could all be put in place to move forward by next Spring. Discussion by Council and staff on time lines. Attorney Reavey asked if there is any way to speed up construction of the roadway. Discussion by Engineer Brungardt and staff regarding road construction and the maintenance of the drainage areas.

Mayor Anderson called a five-minute recess at 8:25 p.m.

Mayor Anderson reconvened the Council at 8:30 p.m.

- d. Discuss and administer Visual Preference Survey. Planner Buttrum provided Council with a power point presentation for their consideration of revitalization preferences, and requested Council check their preferences on the survey form. Planner Buttrum will provide Council with a report at the next meeting.
- e. Approval for Sidewalk/Entrance Reconstruction Project for Community Center. Administrator Guilfoyle provided Council with a memo and bids for this project. The project was put together by Steve Chick and Jay Garvin and has been quite well thought through and provides increased safety access to the building and ADA accessibility.

Motion by Councilwoman Templin to authorize the City Administrator to proceed with the project; second by Cannon.

Discussion by Councilman Maniez on accepting the bid from Towner, Inc. Steve Chick, Building Official, said this company is a local contractor and he is comfortable with their work.

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

Motion carried.

- f. Consider bids for replacement of the guardrail on the 83<sup>rd</sup> bridge over the US Army Railroad. Engineer Brungardt provided a memo to Council. He said the north rail is in need of repair. Engineer Brungardt has consulted with Ron Creason and several contractors regarding the project. Two bids were received and they differ considerably. He explained the differences in the two bids and the structural analysis necessary. Staff is recommending Bucher, Willis & Ratliff do a structural analysis on this bridge. The project costs are estimated at \$26,580, which could be taken from the Capital Projects Fund. Engineer Brungardt discussed the ramifications of taking from this fund.

Discussion by Councilman Maniez and Engineer Brungardt regarding the lifespan of the bridge, since it was constructed in the 1940's. Council discussion on the bridge rating and whether or not the bridge should have a posted weight limit. A structural analysis needs to be done first.

Motion by Councilwoman Zindler to authorize the expenditure of \$26,580 from the Capital Projects fund for this project, and accept the proposal from Bryan-Ohlmeier Construction for the replacement of the bridge rails in the amount of \$13,180; and authorize the structural analysis from Bucher, Willis and Ratliff in the amount of \$1,000; second by Templin.

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

Motion carried.

- g. Consider Ordinance Approving Revisions to Excise Tax Regulations. Attorney Reavey asked that Council table this item to the next meeting for further review.

Motion by Councilwoman Cannon to table Item 5. g until the next meeting; second by Templin.

All Council approved by "ayes".

6. Executive Session was moved forward and held after Item 4. Old Business.

7. Advisory Reports:

- a. City Administrator, Pat Guilfoyle, provided Council with a memo regarding the need to re-roof the fire station and the City Hall building. The bid for the fire station came in at \$14,643. The City Hall roof is saturated. Staff is recommending modifying the bid specs to investigate the repairs that are necessary. Councilman Maniez asked if it would be better to go with a metal roof over the City Hall portion of the building. City Building Official Steve Chick said the new membrane roofs have a 15-year warranty now; and, a metal roof would be very difficult considering all the HVAC units on the top of the building.

Councilman Maniez asked where the funding comes from. Administrator Guilfoyle said the \$43,000 would have to come from the Capital Projects Fund, the balance would come from insurance proceeds.

Discussion with Building Official Chick regarding the roofing layers.

Councilman Maniez asked about using CDBG funding for building improvements. The 2007 CDBG funding has been set; however, it could be requested in 2008.

Motion by Councilman Maniez to authorize the City Administrator to proceed with the reroofing of the Fire Station and City Hall, not to exceed \$74,643; second by Cannon.

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

Motion carried.

Administrator Guilfoyle said the projection system is ready. He has two proposals for consideration, and he explained the proposals to the Council. Discussion by Council.

The rental housing survey will be mailed this month to the community.

Administrator Guilfoyle provided Council with a report from Clarence Brunk regarding the water department update.

- b. City Attorney, Patrick Reavey, said the woman who addressed the Council regarding the baseball association providing an interpreter for her son to play in the summer ball tournament, has filed a complaint with the Kansas Human Rights Commission. Attorney Reavey will prepare a response to the Complaint.
- c. City Engineer, Mike Brungardt, said Walter Gardenhire will be doing a ranking of each intersection in the City. He will be making his comments in a report to the Council in the near future.

Engineer Brungardt said approval has been received from KDOT on the stoplights. Bids will be forthcoming.

The wastewater plant is about 60% complete. There have been minimal complaints, and the process has been going smoothly. Mayor Anderson asked about 82<sup>nd</sup> Street and the reseeding. Engineer Brungardt said he has been in contact with property owners regarding the reseeding plan.

- d. City Planner, Kim Buttrum, had no report.
- e. City Clerk, Lana McPherson, reminded Council of the forthcoming League of Kansas Municipalities conference in October. She also reminded them of Chamber Day at the Kansas Speedway.

8. Council & Mayor Comments:

Councilwoman Cannon thanked the staff for the chip seal that has been done.

Mayor Anderson provided Council with a letter from Mrs. Dorothy Nalley regarding the discussion on Miller Park, and the \$5.00 gate fee to the pool.

Councilman Maniez had no report.

Councilwoman Zindler asked what notification could be provided to Council regarding new plats coming up for approval. She showed an example of a notification letter from another community. Discussion by Staff and Council.

Councilwoman Templin had no report.

Motion by Councilwoman Templin to adjourn at 9:25 p.m.; second by Cannon.

All Council approved by "ayes".

Respectfully submitted:

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Lana R. McPherson, CMC  
City Clerk