



## City of Clearwater Council Meeting Notice

Tuesday, October 27, 2015 at 6:30pm

129 E Ross Clearwater, KS 67026

[www.clearwaterks.org](http://www.clearwaterks.org)

Please call the Clerk's office at 620-584-2311 or the Kansas Relay Service 800-8766-3777 at least 48 hours in advance if you require special accommodations to participate in this meeting. We make every effort to meet reasonable requests.

### AGENDA

[Please note that the meeting agenda is subject to change during the meeting.]

**1. Call meeting to order and welcome**

Burt Ussery, Mayor

**2. Invocation and flag salute**

**3. Roll Call**

Courtney Meyer, City Clerk

Burt Ussery, Mayor

Laura Papish, Councilmember President

Austin Wood, Councilmember

Paul Clark, Councilmember

Ron Marsh, Councilmember

Chris Griffin, Councilmember

**4. Action: Approve October 27, 2015 meeting agenda**

**5. Public Forum**

Pursuant to Ordinance No. 917 and Section 2.08.010 adopted by the governing body and approved by the Mayor on November 24, 2009, members of the public are allowed to address the Mayor and City Council for a period of time limited to not more than five minutes.

**6. Action: Approve Consent Agenda** Tab A

a. Minutes 10/13/15 Council Meeting

b. Resolution 13-2015

**7. Action: Adopt Ordinance 1003 – Parking in Front Yards** Tab B

Roll Call

Paul Clark, Councilmember

Laura Papish, Councilmember President

Austin Wood, Councilmember

Ron Marsh, Councilmember

Chris Griffin, Councilmember

8. **Action:** **Adopt Ordinance 1004 – Backing and Turning Left over two adjacent yellow lines** **Tab C**  
**Roll Call**  
 Paul Clark, Councilmember  
 Laura Papish, Councilmember President  
 Austin Wood, Councilmember  
 Ron Marsh, Councilmember  
 Chris Griffin, Councilmember
9. **Action:** **Award Park Glen Estates Street and Drainage Improvement Bid** **Tab D**
10. **Action:** **Authorize the Mayor to sign Contract with Bid Award Contractor**
11. **Action:** **Senior Students Request for Funds** **Tab E**
12. **Action:** **Generator Service Agreement** **Tab F**
13. **Action:** **Claims and Warrants**  
 Courtney Meyer, City Clerk
14. **City Administrator Report**  
 Justin Givens, City Administrator
15. **Council Reports**
16. **Executive Session**
17. **Adjournment**

**NOTICE: SUBJECT TO REVISIONS**

It is possible that sometime between 6:30 and 7:00 pm immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Governing Body may be present in the council chambers or lobby of City Hall. No one is excluded from these areas during those times.

**Honorable Mayor and City Council**

**From: Justin S. Givens,  
City Administrator**

**Re: Agenda Summary 10 27 2015**

- Item 6:**
- a. Review and Approve Minute of the September 22, 2015 City Council Meeting
  - b. As part of the annexation process for properties in Prairie Meadows the city is required to adopt a resolution and then send that resolution on to the Sed. Co. BoCC for approval. Once approved, the city will then adopt an Ordinance officially annexing the property into the city. The process will not delay the installation of water service for the property owner.

-----end of Consent Items

**Item 7:** Ordinance #1003 will correct the language discussed at the last council meeting making parking of any vehicle including recreational vehicles illegal in front yards unless on an approved surface.

**Item 8:** Ordinance #1004 will correct the language discussed at the last council meeting making backing across double yellow lines illegal when done from public property. It does not make the practice illegal from private property.

**Item 9:** On Thursday, October 22, 2015, bids were opened for the street work in Park Glen Estates. Cornejo and Sons were the low bid at \$267,215.45. The action for this item would be to award the bid to Cornejo & Sons

**Item 10:** The City Engineer will have a contract presented at the meeting for the street work. The action for this item would be to authorize the mayor to sign said contract.

As discussed at the last meeting, the City Engineer has included language as an addendum to the contract;

- 1) That would allow for the use of the temporary construction access thru the Sports Complex;
- 2) Require that any damage done to either the millings or grass areas be restored to pre-construction conditions.

The Contractor is aware that this is not an approved route and would have to use Park Glen St. if not allowed. Staff would recommend using the temporary access point, especially after the conditions have been added to the contract.

- Item 11:** The sponsor, on behalf of the CHS Senior Washington DC Trip students is making a request to the city for funds to help offset the cost of the trip. 21 students worked a total of 79 hours of service at the Spring and Fall City Wide Clean Up as well as other various projects on behalf of the city. Past Councils have approved \$1,500 for the group.
- Item 12:** Staff is presenting an update to the Generator Service Agreement. The agreement with Foley Equipment will expire at the end of the year. The last agreement was for a three year term and with this new agreement the actual cost for service will decrease slightly.
- Item 13:** Claims and Warrants will be presented in full at the meeting.
- Item 14:** A full City Administrators report will be presented at the meeting on Tuesday as well. Some items of note include:
- 1) Chief Interviews.** The Selection Committee will conclude preliminary interviews on Monday and will look at having the second stage of interviews either at the end of the week or early next week.
  - 2) Patrolman Interviews.** Staff has finished interviews for a new patrol officer. In depth background checks and pre-employment testing will take place next week.
  - 3) Water Leaks.** Staff discovered a second water leak at Garvey Grain, while assessing the current leak. There is also a water leak on Prospect that will be addressed on Monday unless conditions call for a more immediate repair.
  - 4) Sewer Rate Open Forum.** The forums will be held at City Hall. Unfortunately, the nights chosen are traditional nights for meetings at the Community Center. A separate email has been sent with the letter that went out to sewer patrons this week.

**City of Clearwater, Kansas**  
Sedgwick County  
City Council Meeting - **MINUTES**  
October 13, 2015  
Clearwater City Hall – Council Chambers  
129 E. Ross Avenue Clearwater, KS 67026

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**Call to Order**

Mayor Burt Ussery called the meeting to order at 6:30 p.m.

**Invocation and Flag Salute**

Mayor Ussery gave the invocation which was followed by the pledge of allegiance and flag salute.

**Roll Call**

The City Clerk called the roll to confirm the presence of a quorum. The following members were present:

Mayor Burt Ussery, Laura Papish, Ron Marsh, Paul Clark, Chris Griffin, Austin Wood were all present.

The following staff members were present:

Justin Givens, City Administrator; Courtney Meyer, City Clerk; Austin Parker, City Attorney; Jason Gearhardt, Interim Police Chief; Ernie Misak, Public Works Director; Don Schauf, EMS Director; Marvin Schauf, Fire Chief.

Others Present:

Immanuel Powell, Mary Schauf, Chad Sterrett.

**Approval of the Agenda**

Administrator Givens asked to strike item number 7 from the agenda because all quotes were not in.

Mayor Ussery called for a motion to approve the October 13<sup>th</sup> agenda.

**Motion:** *Griffin* moved, *Wood* seconded to accept the October 13, 2015 agenda as modified. Voted and passed unanimously.

**Public Forum**

None

**Consent Agenda**

Mayor Ussery asked to move item b out of the consent agenda and move it to item number 7. He then called for a motion to approve the consent agenda.

**Motion:** *Papish* moved, *Wood* seconded to approve the consent agenda as presented. Voted and passed unanimously.

**Consent for Annexation - Roubideaux**

Mayor Ussery wanted clarification on how annexations are handled in the Prairie Meadow Addition. Why are they annexed in one at a time and how are specials handled at this point before they are annexed in.

Givens stated when the property was purchased an agreement was signed by the City and the land owner to offer city water when developing. The new property owner would then pay a connection fee to hook up to the city water line. That fee helps pay to pay for the costs it took to run a water line out to Prairie Meadow Addition. It is up the land owner and/or real estate agent to inform the buyers of the costs that go along with building on the land.

Council asked staff to find out if the buyers of the lots in Prairie Meadow Addition are aware of the charges it takes to hook up to city water.

**Motion: *Papish*** moved, ***Wood*** seconded to approve the consent for annexation for Roubideaux. Voted and passed unanimously.

#### **Authorize the City Administrator to sign an agreement with EMPAC**

Givens stated in discussion with department heads it was identified that a gap in services existed between staff covered under the city's health insurance plan and those volunteers and part time staff that received no benefits. The overall wellness of all employees and especially the volunteers that make up our Fire and EMS service should be a priority, especially as we seek ways to promote volunteerism and service.

He explained that EMPAC is an employee assistance program that provides services designed for personal, family, substance, financial and legal issues that may arise for employees. The program will also provide training and assistance to the city in terms of human relations, supervision and wellness. The group started in 1977 and has grown significantly from the three initial companies it was created to help serve.

The total cost for the agreement based on 65 employees is \$156.00 per month or \$1,872.00 per year. The cost for the program will be split among General Government, Police, Fire, EMS as well as the Sewer and Water departments resulting in a 312.00 charge for each on a yearly basis.

Marsh asked if this would be immediate and Givens stated yes.

Mayor Ussery asked legal if it was okay to authorize the Administrator to sign a contract? Legal stated technically yes but usually the Mayor signs them.

**Motion: *Marsh*** moved, ***Clark*** seconded to authorize the Mayor to sign an agreement with EMPAC. Voted and passed unanimously

#### **Approve bids for Roofing Repairs**

Givens stated in August, the city was struck by a hailstorm and city buildings were not immune. Most city facilities suffered some damage. The metal roofed buildings did not suffer any damage more than cosmetic. However, most of the city's other buildings sustained some damage due to the hailstorm. Staff worked with EMC to assess the damage and then solicited bids from local area contractors for repairs.

He explained that Eaton Roofing was the lowest bid among the five companies that bids were received from. The bids were below EMC's estimates for the repairs. Eaton has proposed all roofing repairs to cost \$21,197.01. This does include a new roof for the concession stand at the Sports Complex (\$5,698.47). There has been some discussion of replacing this building or changing the roof to metal to be more in line with other city buildings. If an upgraded roof is eminent staff would recommend retaining these proceeds and applying them to a new roof system.

The total estimate for the repairs was \$27,157.22. The city has been reimbursed for approximately \$19,542.95. Additional funds will be provided by EMC once the repairs have been completed. There should be no out of pocket costs for the city for the roofing repairs.

**Motion:** *Marsh* moved, *Wood* seconded to approve Eaton Roofing bids for roofing repairs.  
Voted and passed unanimously

#### **Clarification of Ordinances #965 and #979**

Givens explained on January 22, 2013, the Governing Body adopted Ordinance #965 which made it unlawful to park a motor vehicle in a front yard of a residential zone, if that portion of the yard is a nonconforming parking area (in the grass). Police Staff has had several complaints recently about recreational vehicles being parked in these areas, but based upon the language in the ordinance it only applies to motor vehicles.

Staff is seeking clarification if the ordinance was intended to apply to any and all vehicles (motor, recreational, non-moving) or if this change was specifically made for motor vehicles only. A motor vehicle is defined in the section of code as: "any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off the road vehicles." Section 10.20.110 of the Clearwater Municipal Code. A similar ordinance (#983) was adopted to regulate storing of vehicles in rear yards and applies to "any vehicle" which is defined to cover recreational vehicles as well as motor vehicles. If the intent or desire of the Governing Body was to regulate all vehicles from parking in front yards staff would recommend that an ordinance modifying section 10.20.110 be crafted to include all vehicles.

Council discussed that the intent was to include all vehicles in the ordinance and not just motor vehicles. They asked staff to prepare an ordinance that would dictate the proper phrase.

The second ordinance in question was approved on February 11, 2014, the Governing Body adopted Ordinance #979 which struck backing across double yellow lines from the code. Turning across double yellow lines outside of turning into or from an intersection, alley, private road, parking lot or driveway remained illegal.

Staff sought clarification if the ordinance was intended to apply to all backing across double yellow lines or if the intent of the ordinance was to allow residents to leave private property in this manner but continue to outlaw the practice in on street parking areas, specifically the downtown area. Backing across a double yellow line can be dangerous, especially in the downtown area where more cars are parked and traveling creating higher hazards and opportunities for collisions. If the intent of the ordinance was to allow the traveling public to leave private access points in either direction but continue to forbid the practice in the downtown area staff would recommend that an ordinance be crafted that would include the language similar to the turning across double yellow lines that excludes backing from or into private roads, parking lots or driveways.

Council discussed and agreed that backing out of any public property where there is a double yellow line should be illegal. It does not apply however to private property. Council asked if staff would come back next meeting with a revised ordinance with the proper wording.

#### **Final Fire/EMS Report**

Givens stated the final fire/ EMS report has been distributed for review from WSU with training information and answers to questions that were asked. The report gives a basis to work through for 2016

to look at different aspects with the Fire and EMS department and the community for the 2017 budget that may include paid positions or paid volunteers. Givens also thought it would be a good idea to speak with local businesses about EMS volunteers being allowed to leave and respond to calls without having them use personal time or vacation leave to make runs.

Mayor Ussery stated he would like to sit down and have a strategic planning discussion and one of the topics being Fire and EMS. He suggested having Misty Bruckner with WSU come back out at that time to discuss different approaches.

Donald Schauf, EMS Director, mentioned getting the youth involved would be a good idea. Some communities are getting schools involved with EMT, Firefighter 1 and Firefighter 2 training. The city could see if the high school would be interested in getting involved with a program like that.

Papish suggested getting information together and taking it to a school board meeting.

### **Claims and Warrants**

Meyer presented the claims and warrants in the amount of \$60,427.48 and asked Council if they had any questions.

**Motion:** *Papish* moved, *Griffin* seconded to pay the claims and warrants in the amount of \$60,427.4868 Voted and passed unanimously.

### **Receive and File Financial Report**

Givens presented the financial report for September 2015. He stated all accounts are on target except for Administration. There were special assessment for the Business Park and Chisholm Ridge lots that were not budgeted for 2015 and also the interim City Administrator as well. Without those items the administration account would be on target as well.

### **City Administrators Report**

- Administration
  - Staff spoke at the carry in lunch for the Senior Center today.
  - Open enrollment is ongoing for employees eligible for health insurance. The current contract with the State of Kansas expires at the end of 2016 so staff will be soliciting bids later next year to present to the Council.
  - Staff will be meeting together to re-organize and finish the Emergency Operations Plan for presentation at the October 27<sup>th</sup> meeting.
  - Financial reports were distributed to the department heads for monitoring.
  - Staff is working with two property owners for the extension of sewer services in the 200 block of S Grant. The properties will require a grinder system and pressurized main.
  - KOMA/KORA WSU training date: WSU has suggested approximately two hours for the open records and meetings as well as general management training and has suggested that a workshop would probably work best for this type of training.

Council stated Tuesday November 1<sup>st</sup> at 6:30 pm will work for them

- Sewer rate open house: staff will be scheduling open houses to discuss the possible sewer rate increase. We are looking at a date during the last week in October and then again in November with anticipation of brining the matter to the Governing Body at the last meeting in November

Mayor Ussery would like a letter mailed out on City letterhead with information about the rate increase.

October 29<sup>th</sup> at 7:00pm was the decided date for the 1<sup>st</sup> meeting.

- Public Works
  - The bid opening for street work for the Park Glen Estates is October 22<sup>nd</sup> at 2:00 in City Hall. Once the roads are completed construction of homes may begin.
  - Staff is looking at options for road work on Nancy. Alligator cracking is becoming an issue and the road may require to be rebuilt at the base.
  - Work on the lagoon project is proceeding. The field that contractors will be using to dispose of sludge has been harvested so sludge removal can begin. Staff has been discharging and draining lagoon basins to reduce the excess amount of liquids that will need to be pumped.
  - Staff will be working on Charles Engineering water line in the next two weeks.
- Parks and Recreation
  - Sign up for basketball closes tomorrow.
  - There is a Recreation Board meeting tomorrow at 6:30pm. The board is still working towards an improvement list to be presented to the governing body for future park improvements.
- Library
  - Staff moved pre-school story time to Wednesday, which helped increase the number of participants.
  - Approximately 80 new books in all genres are available for check out. These books were acquired thru a grant.
  - Staff will be working on grant applications with our new grant software this week.
  - Staff will also be meeting with representatives from the Workforce Alliance in the coming weeks with the thought of hosting a point of access for job seekers. Similar programs have been developed in libraries in Goddard, Haysville and Andover.
- Community Center
  - Staff will be attending a Hoarding training this week.
  - Open enrollment for Medicare starts on Friday. Staff has been trained and is a reference spot for those seeking guidance for plan options.
- Police
  - Staff has continued to work traffic accidents over the past several weeks. There have been 5 accidents during the past two weeks.
  - Patrol Officer Interviews will take place October 20<sup>th</sup> and 21<sup>st</sup>. Four applicants will be initially interviewed. One is a certified law enforcement officer already. The other applicants would be required to attend the academy. The most likely next class would be in February 2016.
  - Interviews for the Chief position are ongoing. Two interviews took place last week with two more rounds upcoming. It is anticipated that a selection will be brought to the Governing Body at the first meeting in November.
- City Wide Clean Up will be Friday, October 16<sup>th</sup> from 8-4 and Saturday, October 17<sup>th</sup> from 8 to noon.
  - Senior and Junior community service hours will be logged by helping with the clean up as well as white washing the poles at the sports complex
- Fire
  - Engine 71 has a fuel leak somewhere on the engine. It will be up at Inland Truck getting fixed.

Tender 71 will be first truck out on house fire in the in the City.

### **Council Reports**

Wood had nothing to report.

Papish mentioned a citizen has requested a handicap ramp be put up at the Chisholm Ridge ponds. Staff mentioned this was a topic of discussion right after the budget discussion and staff was looking into grants to help with the cost of putting one in.

Papish also asked if the city was continuing to maintain the Garvey water line.

Misak stated that the city is but there is another leak out there now.

Clark had nothing to report.

Marsh had nothing to report.

Ussery asked if the City had a policy on fire hydrants being painted.

Griffin noticed that the Fall Festival meeting was not in the old business and wanted to know when the meeting between Fall Festival committee, Recreation Commission and council was going to take place.

Given stated he still needs to schedule that meeting.

Ussery wanted to see if it would be advisable to have legal counsel look at the carnival agreement to make sure the City and Fall Festival committee are covered appropriately.

Griffin also asked if the construction workers working on Park Glen Estates are using the Sports Complex entrance instead of Park Glen to move the equipment.

Misak stated yes they were.

Ussery mentioned that in previous meeting council explicitly said not to go through the Sports Complex. If it needs to be changed for heavy equipment then it needs to come back to council for approval.

Ussery mentioned he attended the Monday night fall fest committee meeting and he see an opportunity for the City to be a little more involved.

He also attended the WAMPO meeting last month and the ozone air quality for the Wichita and surrounding areas air quality will be determined in one year. If any area is to fall below standard in air quality that area will be deemed poor for a minimum of four years

### **Executive Session**

Givens requested an executive session to non-elected personnel.

**MOTION: Griffin** moved, **Papish** seconded to recess into executive session pursuant to non-elected personnel to discuss specific personnel matters to include the City Administrator and the City Clerk. The City Council will reconvene the open meeting in the City Council Chambers at 8:37pm. Voted and passed unanimously

Mayor Ussery called the meeting back to order at 8:37 and stated no binding action was taken in executive session.

**MOTION: Papish** moved, **Clark seconded** to recess into executive session pursuant to non-elected personnel to discuss specific personnel matters to include the City Administrator and the City Clerk. The City Council will reconvene the open meeting in the City Council Chambers at 8:47pm. Voted and passed unanimously

Mayor Ussery called the meeting back to order at 8:47 and stated no binding action was taken in executive session.

**Adjournment**

With no further discussion Ussery called for a motion to adjourn.

**MOTION:** *Clark* moved, *Marsh* seconded to adjourn the meeting. Voted and passed unanimously

The meeting adjourned at 8:50 p.m.

**CERTIFICATE**

State of Kansas        }  
County of Sedgwick   }  
City of Clearwater    }

I, Courtney Meyer, City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the October 13, 2015 City Council meeting.

Given under my hand and official seal of the City of Clearwater, Kansas, this 27<sup>th</sup> day of October, 2015.

\_\_\_\_\_  
Courtney Meyer, City Clerk

THE CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 13-2015

A RESOLUTION FINDING IT ADVISABLE, DESIRABLE, BENEFICIAL AND IN THE INTERESTS OF THE PUBLIC TO ISLAND ANNEX CERTAIN LAND AND REQUESTING THE BOARD OF SEDGWICK COUNTY COMMISSIONERS TO FIND AND DETERMINE THAT THIS ANNEXATION WILL NOT HINDER OR PREVENT THE PROPER GROWTH AND DEVELOPMENT OF THE AREA OR THAT OF ANY OTHER INCORPORATED CITY LOCATED WITHIN SEDGWICK COUNTY, KANSAS PURSUANT TO K.S.A. 12-520c.

WHEREAS, during October 2015, a written Consent to and Petition for Annexation was filed with the City Clerk of the City of Clearwater, Kansas, a copy of which is attached hereto; and

WHEREAS, the land described in said written Consent to and Petition for Annexation is legally described as Lot 18, Block 2 of the Prairie Meadow Estates Addition to Sedgwick County, Kansas, with a commonly known address of 14111 West Prairie Grass Circle, Clearwater, Kansas 67026-8585, and is located between 79<sup>th</sup> Street South on the north, 135<sup>th</sup> Street West on the east, 87<sup>th</sup> Street South on the south and 151<sup>st</sup> Street West on the west; and

WHEREAS, said tract does not currently adjoin the boundaries of the City of Clearwater, Kansas but is proximate to and within the natural growth area of the City of Clearwater, Kansas and may be served with potable water from an existing adjacent City of Clearwater, Kansas water main; and

WHEREAS, K.S.A. 12-520c (c) requires that the Board of County Commissioners of Sedgwick County, Kansas, by a 2/3 vote of the members thereof, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Sedgwick County, Kansas before the City of Clearwater, Kansas may annex such land.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS:

Section 1. Findings

The Governing Body of the City of Clearwater, Kansas finds it advisable, desirable, beneficial and in the interests of the public to annex into the corporate boundaries of the City of Clearwater, Kansas the following real property, to-wit:

Lot 18, Block 2 of the Prairie Meadow Estates Addition to Sedgwick County, Kansas, with a commonly known address of 14111 West Prairie Grass Circle, Clearwater, Kansas 67026-8585.

Section 2. Request

The City of Clearwater, Kansas hereby respectfully requests that the Board of County Commissioners of Sedgwick County, Kansas, by a 2/3 vote of the members thereof, find and determine that the annexation of said tract will not hinder or prevent the proper growth and development of the area or any other incorporated city located within Sedgwick County, as required under K.S.A. 12-520c (a)(3).

Section 3. Filing

The City Clerk of the City of Clearwater, Kansas, is hereby authorized to file a certified copy of this Resolution with the Board of County Commissioners of Sedgwick County, Kansas.

Adopted by the City Council this 27<sup>th</sup> day of October, 2015.

Approved by the Mayor this \_\_\_\_ day of October, 2015.

\_\_\_\_\_  
MAYOR, BURT USSERY

SEAL

ATTEST:

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**CERTIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SEDGWICK )

On this \_\_\_\_ day of \_\_\_\_\_, 2015, I, Courtney Meyer, City Clerk of the City of Clearwater, Kansas, hereby certify that the foregoing is a true and correct copy of City of Clearwater, Kansas Resolution No. \_\_\_\_\_, as adopted by the Clearwater City Council on the 27th day of October, 2015 and approved by Mayor Burt Ussery on the \_\_\_\_ day of October, 2015.

SEAL

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**City of Clearwater  
City Council Meeting  
October 27, 2015**

**TO:** Mayor and City Council  
**SUBJECT:** Consider an Ordinance Modifying Section 10.20.110 Parking in Front Yards of the Clearwater Municipal Code.  
**INITIATED BY:** Interim Chief of Police  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

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**Background:** At the October 13, 2015 meeting, staff requested clarification of Ordinance #965 and Section 10.20.110 of the Clearwater Municipal Code. The intent of the ordinance was not clear to staff and several complaints had been made about recreational vehicles being parked in front yards on grass. During the discussion with the Governing Body it was determined that the intent of the ordinance was to restrict parking of any vehicle in a front or side yard to hard surfaced areas only and that parking on grass for any vehicle was not allowed. Staff was directed to craft an ordinance that reflected the desire of the Governing Body.

**Analysis:** City Attorney, Austin Parker has crafted the proposed ordinance that reflects the desired changes in the code. C.A. Parker amended the by striking motor from the section so that it covers all vehicles and includes recreational vehicles in the definitions of the section.

**Financial:** There is a small publication fee for publishing the ordinance.

**Legal Considerations:** Review and Comment as Necessary

**Recommendations/Actions:** It is recommended the City Council:

Adopt the Ordinance as presented via a roll call vote.

**Attachments:** Ordinance # 1003 (1-page)

(Summary First Published in the Times-Sentinel  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.)

THE CITY OF CLEARWATER, KANSAS

ORDINANCE NO. 1003

AN ORDINANCE EXPANDING THE DEFINITION OF VEHICLES AND THE PROHIBITION OF PARKING OF VEHICLES IN FRONT YARDS WITHIN THE CITY OF CLEARWATER BY AMENDING SECTIONS 10.20.005 AND 10.20.110 OF THE CLEARWATER, KANSAS MUNICIPAL CODE AND REPEALING ALL CONFLICTING ORDINANCES OR PARTS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS:

Section 1. Amending Section 10.20.005 of the Clearwater, Kansas Municipal Code.

Section 10.20.005 of the Clearwater, Kansas Municipal Code is hereby amended to read as follows:

"10.20.005 - Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

A. "Damaged or disabled vehicle" means any motor vehicle which is partially dismantled or wrecked and which cannot safely or legally be operated. It also means old, unused, stripped, junked and any other vehicles, machinery, implements, and/or equipment of any kind which is no longer safely usable for the purposes for which it was manufactured.

B. "House trailer" means a manufactured/mobile home as defined in Section 17.06.010 of the Municipal Code.

C. "Motor vehicle" means any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles,

trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off the road vehicles.

D. "Recreational vehicle" means camper, motor home, travel trailer, camping trailer, truck camper, converted bus, fifth wheeler, and any other motor vehicle so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons and customarily or ordinarily used for vacation or recreational purposes. It also includes a unit that may be mounted on or drawn by another vehicle, which is primarily designed for temporary living or recreational use, such as boats and boat trailers.

E. "Utility trailer" means a vehicle without motive power designed for carrying property on its own structure and to be drawn by a vehicle with motive power.

F. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public roadway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

G. "Commercial vehicle" used for a commercial purpose primarily, and having a gross weight of 16,000 pounds or more, and having a commercial vehicle tag."

Section 2. Amending Section 10.20.110 of the Clearwater, Kansas Municipal Code.

Section 10.20.110 of the Clearwater, Kansas Municipal Code is hereby amended to read as follows:

"10.20.110 – Parking in front yards.

A. It is unlawful in all residential zones in the city of Clearwater, Kansas, to park a vehicle upon the portion of premises commonly referred to as the front yard. This section shall not apply to any parking area, driveway, or loading area which is graded and paved with an all weather dustless material, such as asphalt, concrete, asphaltic concrete or other equivalent material, if such parking area, driveway or loading area complies with applicable zoning regulations. Further this section shall not apply to parking in front yards in commercial or industrial zones.

B. Whenever any vehicle without driver is found illegally standing or stopped in violation of this section, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a traffic citation.

C. If a violator of this section does not appear in response to a traffic citation affixed to such motor vehicle within a period of five days, the clerk of the court shall send to the owner of the motor vehicle to which the traffic citation was affixed, a letter informing the owner of the violation and warning that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued.

D. Penalty. Any person, firm or corporation violating any of the provisions of this section upon conviction, shall be punished as provided in Section 10.20.160 of this code.”

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 4. Repeal

All ordinances or parts of ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

Section 5. Effective Date.

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

Adopted by the City Council this 27th day of October, 2015.

Approved by the Mayor this \_\_\_\_ day of October, 2015.

\_\_\_\_\_  
MAYOR, BURT USSERY

SEAL

ATTEST:

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**City of Clearwater  
City Council Meeting  
October 27, 2015**

**TO:** Mayor and City Council  
**SUBJECT:** Consider an Ordinance Modifying Section 10.08.080 Backing  
Across Double Yellow Lines of the Clearwater Municipal Code.  
**INITIATED BY:** Interim Chief of Police  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

---

**Background:** At the October 13, 2015 meeting, staff requested clarification of Ordinance #979 and Section 10.08.080 of the Clearwater Municipal Code. The intent of the ordinance was not clear to staff and several instances of Officers stopping vehicles for backing across double yellow lines had occurred. Through the discussion with the Governing Body it was determined that the intent of the ordinance was to allow the practice for vehicles entering and exiting private property but for the practice to remain illegal while in public parking areas such as downtown. Staff was directed to craft an ordinance that reflected the desire of the Governing Body.

**Analysis:** City Attorney, Austin Parker has crafted the proposed ordinance that reflects the desired changes in the code. C.A. Parker amended the language as follows:

“10.08.080 – Backing across two adjacent yellow lines marked on a roadway – Prohibited.

It shall be unlawful for the driver of any vehicle to back across two adjacent yellow lines marked on a roadway unless such backing is into or from a private road, parking lot or driveway.”

**Financial:** There is a small publication fee for publishing the ordinance.

**Legal Considerations:** Review and Comment as Necessary

**Recommendations/Actions:** It is recommended the City Council:

Adopt the Ordinance as presented via a roll call vote.

**Attachments:** Ordinance # 1004 (1-page)

(Summary First Published in the Times-Sentinel  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.)

THE CITY OF CLEARWATER, KANSAS

ORDINANCE NO. 1004

AN ORDINANCE PROHIBITING THE BACKING OR  
TURNING OF ANY VEHICLE ACROSS TWO ADJACENT  
YELLOW LINES OF A PUBLIC ROADWAY BY ADDING  
SECTION 10.08.080 TO THE CLEARWATER, KANSAS  
MUNICIPAL CODE AND REPEALING ALL CONFLICTING  
ORDINANCES OR PARTS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF  
CLEARWATER, KANSAS:

Section 1. Adding Section 10.08.080 to the Clearwater, Kansas Municipal  
Code.

Section 10.08.080 is hereby added to the Clearwater, Kansas Municipal Code to  
read as follows:

“10.08.080 – Backing across two adjacent yellow lines marked on a roadway –  
Prohibited.

It shall be unlawful for the driver of any vehicle to back across two adjacent  
yellow lines marked on a roadway unless such backing is into or from a private road,  
parking lot or driveway.”

Section 2. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the  
application thereof to any person or circumstances shall be held invalid, such invalidity  
shall not affect the other provisions of this Ordinance which can be given effect without  
the invalid provision or application, and to this end the provisions of this Ordinance are  
declared to be severable.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

Section 4. Effective Date.

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

Adopted by the City Council this 27th day of October, 2015.

Approved by the Mayor this \_\_\_\_ day of October, 2015.

\_\_\_\_\_  
MAYOR, BURT USSERY

SEAL

ATTEST:

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**City of Clearwater  
City Council Meeting  
October 27, 2015**

**TO:** Mayor and City Council  
**SUBJECT:** Consider Bids for the Construction of Streets and Drainage Improvements in Park Glen Estates Phase I and Discussion of Alternate Construction Route  
**INITIATED BY:** City Administrator  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

---

**Background:** Bids for Park Glen Phase 1 Street Construction were opened on October 22, 2015. Bids were solicited from various contractors in the area. The plans call for the installation of approximately 600 feet of roads for the new development. The plans and specifications were crafted by City Engineer Harlan Foreacre.

Additionally, it has been requested by contractors that they be allowed to use temporary construction access via the Chisolm Trail Sports Park. The use of this area eliminates everyday construction traffic as well as heavy equipment loads from traveling along Park Glen Street. It should be noted that this access point will only be for construction traffic during the installation of infrastructure. This is not a permanent access point or travel way. Additionally, language was placed as an addendum in the contract to notify contractors that any damage or degradation of the millings or rutting of grasses areas would be required to be repaired as part of the site restoration if this temporary access point is used.

**Analysis:** Cornejo and Sons were the low bid of \$267,215.45 for the project. A bid tabulation sheet has been presented to the Governing Body. More information on a possible start date and working days will be available at the meeting Tuesday.

**Financial:** The \$267,215.45 is funded through the temporary notes that the city issued earlier this year for Park Glen Estate improvements. Once completed those notes will be rolled into permanent financing and the property owners will re pay the bonds thru special assessments.

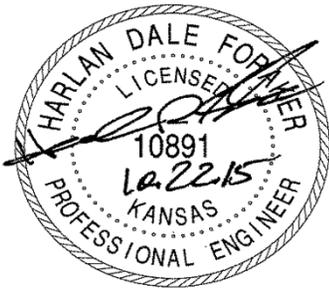
**Legal Considerations:** Review and Comment as Necessary

**Recommendations/Actions:** It is recommended the City Council:

- 1) Authorize the Award for Street Improvements to Cornejo and Sons in the amount of \$267,215.45

**Attachments:** Bid Tabulation Sheet (1-page)

TABULATION OF BIDS FOR:									
Street Improvements for Park Glen Estates Bid Date: October 22, 2015, 2:00 p.m.				APAC Shears Wichita, KS		Cornejo & Sons Wichita, KS		Kansas Paving Wichita, KS	
Item No.	Description	Quantity	Unit	Unit Cost	Extension	Unit Cost	Extension	Unit Cost	Extension
	<b>Street Items</b>								
1	Common Excavation	10,794	C.Y.	\$3.10	\$ 33,461.40	\$3.10	\$ 33,461.40	\$2.98	\$ 32,166.12
2	Compacted Fill (95% ASTM D-698)	2,633	C.Y.	\$0.50	\$ 1,316.50	\$0.50	\$ 1,316.50	\$1.00	\$ 2,633.00
3	Compacted Fill (Type B, MR-90)	6,218	C.Y.	\$0.60	\$ 3,730.80	\$0.60	\$ 3,730.80	\$0.25	\$ 1,554.50
4	6" Reinforced Crushed Rock Base	3,761	C.Y.	\$11.00	\$ 41,371.00	\$11.00	\$ 41,371.00	\$8.00	\$ 30,088.00
5	6" Combination Curb & Gutter	1,129	L.F.	\$12.00	\$ 13,548.00	\$17.00	\$ 19,193.00	\$13.00	\$ 14,677.00
6	3" Roll Type Comb. Curb & Gutter	504	L.F.	\$12.00	\$ 6,048.00	\$16.00	\$ 8,064.00	\$16.00	\$ 8,064.00
7	6" Monolithic Curb & Gutter	167	L.F.	\$5.00	\$ 835.00	\$6.00	\$ 1,002.00	\$2.00	\$ 334.00
8	6" Reinforced Conc. Valley Gutter (Class I)(AE)(WWF 6x12 w4xw4)	286	S.Y.	\$55.00	\$ 15,730.00	\$48.00	\$ 13,728.00	\$40.00	\$ 11,440.00
9	Sediment Barrier, Silt Fence	2,261	L.F.	\$1.00	\$ 2,261.00	\$0.95	\$ 2,147.95	\$1.00	\$ 2,261.00
10	Fertilizing, Seeding and Mulching (Premium Fescue Blend)	2.75	AC	\$1,252.00	\$ 3,443.00	\$1,252.00	\$ 3,443.00	\$1,000.00	\$ 2,750.00
11	Erosion Control Blanket (Pond)	7,610	S.Y.	\$0.90	\$ 6,849.00	\$0.88	\$ 6,696.80	\$1.20	\$ 9,132.00
12	Back of Curb Protection (Curlex)	1,540	S.Y.	\$0.90	\$ 1,386.00	\$0.90	\$ 1,386.00	\$1.00	\$ 1,540.00
13	Street Signage	1	L.S.	\$1,190.00	\$ 1,190.00	\$1,190.00	\$ 1,190.00	\$1,190.00	\$ 1,190.00
14	Contractor Construction Staking	1	L.S.	\$2,735.00	\$ 2,735.00	\$2,735.00	\$ 2,735.00	\$2,735.00	\$ 2,735.00
15	Site Clearing and Restoration (Spec. Pg. SP-1)	1	L.S.	\$40,000.00	\$ 40,000.00	\$22,500.00	\$ 22,500.00	\$44,500.00	\$ 44,500.00
16	Concrete Weir Structure	1	L.S.	\$17,750.00	\$ 17,750.00	\$17,750.00	\$ 17,750.00	\$25,000.00	\$ 25,000.00
17	Heavy Stone Rip-Rap (24" depth)	47	S.Y.	\$75.00	\$ 3,525.00	\$75.00	\$ 3,525.00	\$85.00	\$ 3,995.00
18	6" (D50) Rip-Rap (18" depth)	45	S.Y.	\$50.00	\$ 2,250.00	\$50.00	\$ 2,250.00	\$65.00	\$ 2,925.00
19	7" A.C. Pavement ((5" Base)(BM-4)w/(2" Surface)(BM-2 w/10%RAP))	2,818	S.Y.	\$25.00	\$ 70,450.00	\$29.00	\$ 81,722.00	\$28.00	\$ 78,904.00
	<b>STREET IMPROVEMENTS TOTAL</b>				<b>\$267,879.70</b>		<b>\$267,212.45</b>		<b>\$275,888.62</b>



**City of Clearwater  
City Council Meeting  
October 27, 2015**

**TO:** Mayor and City Council  
**SUBJECT:** Consider a Request from Clearwater High School DC Trip  
Students and Sponsor  
**INITIATED BY:** City Administrator  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

---

**Background:** For the last several years students from Clearwater High School have assisted in both the spring and fall community wide clean up. Students this year not only assisted with unloading but also with painting at the Chisholm Trail Sports Complex. Trip sponsors organize the student volunteers and track hours spent in community service. Those credited hours are then used to portion out funds to help offset the cost of the annual Senior Trip to Washington D.C.

**Analysis:** Past Councils have approved up to \$1,500 in monies to help offset the cost of the trip and as a donation for assistance during the community clean ups. In 2015, 21 students participated in city related projects with a total of 79 hours being credited to them.

**Financial:** Funds for the request would come from discretionary outlay in the General Fund.

**Legal Considerations:** Review and Comment as Necessary

**Recommendations/Actions:** It is recommended the City Council:

**Attachments:** Letter of Request (1-page)



# Clearwater High School

UNIFIED SCHOOL DISTRICT NO. 264



1201 E. Ross Clearwater, KS 67026-0248 (620) 584-2361 Fax No. (620) 584-2083

**JENNIFER ANKERHOLZ**  
Student Support Coordinator

**BOB MELLEN**  
Principal/Athletic Director

**RANDY VOGEL**  
Assistant Principal

**RICH SERVIS**  
Counselor

October 19, 2015

Clearwater City Council:

For the past 17 years several seniors of Clearwater High School have travelled to Washington DC. Many seniors have provided support to the city maintenance crew with the city wide clean-ups. The City of Clearwater has rewarded the efforts of the group with a donation. The DC trip is scheduled for next month and I humbly ask for you to consider continuing to support the group again this year. Thank you for your past assistance and any consideration this year.

Chuck Reitberger  
US History Teacher  
DC Trip Sponsor  
Clearwater High School  
620 584-2361

**City of Clearwater  
City Council Meeting  
October 27, 2015**

**TO:** Mayor and City Council  
**SUBJECT:** Consider an Agreement with Foley Equipment for the Servicing of City Owned Generators  
**INITIATED BY:** Public Works Director  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

---

**Background:** Routine maintenance and inspection is critical to prolonging the life and operation of emergency generator equipment that serves the city. In 2012, the city entered into an agreement with Foley for the servicing and inspection of generators at the city water wells (3) as well as the Wastewater Facility and Fire/EMS facility. That contract term was for three years.

**Analysis:** Staff has been pleased with the service from Foley but in an effort to maximize public dollars bids were solicited from several companies since the service contract was expiring. Foley's total price reduced slightly from \$1,194.00 during the last contract cycle to \$1,185.00 for this three year contract. Central Power Systems provided a bid price of \$1,050, which is lower but CPS does not provide or perform laboratory analysis of oil and water in the units. Foley provides this service and it is beneficial in indicating wear or potential problems with the units.

**Financial:** The charges for the inspections and services are charged to each department respectively in the Contract Labor line item.

**Legal Considerations:** Review and Comment as Necessary

**Recommendations/Actions:** It is recommended the City Council:

Authorize the Mayor to sign an agreement with Foley Equipment for Municipal Generators.

**Attachments:** Foley Agreements (6-pages)



# FOLEY EQUIPMENT CO.

## Foley Maintenance Plan

### Electric Power Generation

(Even Pay Per Service)

Agreement #

15E0403-07109

Customer:	City Of Clearwater	Manufacturer:	Olympian
Contact Person:	Ernie Misak	Model:	D50-6S
Telephone:	316-706-2072	Serial Number:	GLD00511
Address:	400 West Ross, Clearwater, Ks 67026	Hour Meter:	142
E-Mail:	eemisak@hotmail.com	Unit ID Number:	EMS/FIRE

This Agreement between Foley Equipment Company ("Foley") and ("Customer") shall be in effect from May 1, 2015 and shall terminate 36 months thereafter or upon Equipment reaching 892 hours of operation or 3 services, whichever comes first.

#### SERVICES:

Foley shall provide parts and labor to perform the applicable Foley Maintenance Plan (FMP) as defined in the Planned Maintenance Inspection Report. Customer agrees to allow Foley proper access to perform the services during normal business hours, unless otherwise agreed to in writing by Foley and contained within this agreement. If Customer requests work to be done on an overtime basis, Customer shall pay the differential between Foley's overtime and regular time charges. Customer will be furnished a copy of the Planned Maintenance Inspection Report detailing all items inspected, serviced, or replaced.

#### SERVICE INTERVALS:

These services will be performed annually. The first service will be performed December 1, 2015. Foley will schedule services based off date & usage, we will contact Customer prior to dispatch to verify usage. Customer may contact Foley and schedule next service due should service interval occur sooner than expected. Foley is not responsible for any parts or labor for services at intervals less than annually. The KW is 50 and the voltage is 240 & the Amps are 0 on this unit.

#### PAYMENT:

These services shall be provided for a Pay Per Service price of \$399.00 plus any applicable tax. Payment is due upon receipt of Foley's invoice. This pricing is based upon acceptance of Foley's standard terms and conditions.

#### EXCLUSIONS:

This agreement does not obligate Foley for any repair or cost of repairs as a direct, in direct consequential result of this inspection. Travel time and mileage costs in excess of 3 round trips from a Foley Service location will be at an additional charge at Foley's current published rate. Parts and/or labor other than those specifically required to perform the services as defined in the Planned Maintenance Inspection Report will be an additional charge. Further, Foley will not be responsible for repairs or cost of repairs (labor, parts, travel time, or mileage) caused by fire, vandalism, theft, freezing, explosion, alterations, accidents, misuse of the equipment or abuse, negligence, riots, acts of God, failure to perform the manufacturer's recommended maintenance as set forth by the lube and maintenance guide or elsewhere, tire failure, or to auxiliary equipment attachments.

#### ADDITIONAL SERVICES:

If any additional services or repairs are recommended by Foley, Customer will be notified prior to the services being performed. Any services or repairs requested by Customer will be provided at Foley's then current rates for parts, labor and travel expenses. In addition to the services to be provided hereunder, Customer shall be entitled to any benefits and protections of warranties provided by Cat on the Equipment.

#### TERMINATION:

Customer may terminate this agreement at any time during its term with no termination fees by providing written notification to Foley. Such termination will not apply to services provided by Foley before notice was received by Foley. Frequent deviation from service interval schedule may result in termination of agreement at the sole discretion of Foley.

Any malfunction of the service meter shall be reported to Foley within thirty (30) days of said malfunction else this Agreement shall be deemed null and void at the option of Foley.

#### ADDITIONAL INCLUSIONS/EXCLUSIONS/COMMENTS:

This proposal is to have Foley Equipment Company (FEC) perform 3 annual maintenance inspections on the above generator set which will include changing engine oil, oil and fuel filters, scheduled oil and coolant sampling, a complete inspection of generator including lubricating bearings, replacing ATS battery, measuring/recording rpm, voltage, frequency, amperage under load, transfer load, psi, temperature and pertinent inspection of engine electrical, lubricating, cooling, and fuel systems. Air filter will be changed first and third annual. All per the 60 point check sheet for preventive maintenance for Caterpillar/Olympian stand by generator sets.

The Equipment is to be used by Customer exclusively and not subleased, loaned, or otherwise used by persons or entities other than Customer. Customer shall not alter the Equipment or affix any accessory thereto if such alteration or addition would impair the originally intended function or use or reduce the value of the Equipment. Foley shall be entitled to terminate this Agreement if the foregoing provisions are violated.

Foley is a vendor/independent contractor. Nothing herein shall create a partnership, joint venture or employment relationship between the parties. Customer may assign this Agreement, but only with the written consent of Foley. Any attempt to do so without such written consent shall be void and of no effect. Foley may assign this Agreement; but no such assignment shall relieve Foley from any liability hereunder. This Agreement may be amended at any time by an agreement in writing executed with the same formality as this Agreement. This Agreement may not be modified orally.

The parties to this Agreement shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assignees. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

If any provision of this Agreement is or becomes invalid, illegal, or unenforceable in any respect, and if the rights and obligations of the parties to this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and not be affected by the illegal, invalid, or unenforceable provision or by its severance here from; and (d) in lieu of such illegal, invalid, or unenforceable provision there shall be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as is possible. This Agreement shall be construed in accordance with and governed by the internal laws of the State of Kansas, without regard to the principles of conflicts of law.

Any and all actions in law, equity, or otherwise arising under this Agreement, or in any manner from the transactions contemplated herein, shall be brought either in the U.S. District Court for the District of KS, sitting in Wichita, KS, or the 18th Judicial District, District Court, Sedgwick County, KS, and in no other court or jurisdiction. Each party hereto hereby consents to the jurisdiction of said courts. This contract shall be deemed to have been made in Wichita, KS. No provision of this Agreement shall be interpreted for or against any party hereto on the basis that such party was the draftsman of such provision; and no presumption or burden of proof shall arise disfavoring or favoring any party by virtue of the authorship of any of the provisions of this Agreement.

**FOLEY DOES NOT AUTHORIZE ANY PERSON TO CREATE FOR IT ANY OBLIGATION OR LIABILITY IN CONNECTION WITH THE EQUIPMENT, PARTS, OR SERVICES OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN. FOLEY FURTHERMORE DISCLAIMS, AND CUSTOMER EXPRESSLY DISCLAIMS, ANY RELIANCE ON STATEMENTS MADE BY FOLEY OR ITS AGENTS. EXCEPT FOR ANY EXPRESS WARRANTIES EXTENDED IN WRITING BY CATERPILLAR, INC., THE EQUIPMENT, ALL PARTS, AND ALL SERVICES PROVIDED HEREUNDER ARE SOLD, LEASED, OR PROVIDED "AS IS" AND WITH ALL FAULTS. FOLEY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE EQUIPMENT, PARTS, OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF MERCHANTABILITY OR WARRANTY THAT THE EQUIPMENT IS IN COMPLIANCE WITH ANY APPLICABLE GOVERNMENTAL REGULATIONS, SPECIFICATIONS, OR REQUIREMENTS. PERFORMANCE OF THE REPAIRS OR ADJUSTMENTS IS THE EXCLUSIVE REMEDY UNDER ANY WARRANTY EXTENDED BY FOLEY.**

**CUSTOMER HEREBY WAIVES, AND FOLEY SHALL NOT BE LIABLE FOR, ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) IT MIGHT HAVE AGAINST FOLEY FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGE), OR EXPENSE CAUSED BY THE EQUIPMENT, PARTS, OR SERVICES. WITHOUT LIMITING THE FOREGOING, LOSS OF EQUIPMENT USE, INCONVENIENCE, STORAGE, LOSS OF TIME OR PAYMENT, DELAY PENALTIES, AND SUBSTITUTE RENTAL SHALL REMAIN THE SOLE RESPONSIBILITY OF CUSTOMER, AND FOLEY SHALL HAVE NO LIABILITY THEREFORE.**

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

<b>Customer</b>	Signed	Date
	Printed Name	Title
<b>Foley Equipment</b>	Signed	Date
	Printed Name    MARC HALL	Title            ISR





# FOLEY EQUIPMENT CO.

## Foley Maintenance Plan

### Electric Power Generation

(Even Pay Per Service)

Agreement #

15E0403-07108

Customer:	City Of Clearwater	Manufacturer:	Olympian
Contact Person:	Ernie Misak	Model:	D30P3
Telephone:	316-706-2072	Serial Number:	NFP02033
Address:	400 West Ross, Clearwater, Ks 67026	Hour Meter:	345
E-Mail:	eemisak@hotmail.com	Unit ID Number:	Waste Water

This Agreement between Foley Equipment Company ("Foley") and ("Customer") shall be in effect from May 1, 2015 and shall terminate 36 months thereafter or upon Equipment reaching 1,595 hours of operation or 3 services, whichever comes first.

#### SERVICES:

Foley shall provide parts and labor to perform the applicable Foley Maintenance Plan (FMP) as defined in the Planned Maintenance Inspection Report. Customer agrees to allow Foley proper access to perform the services during normal business hours, unless otherwise agreed to in writing by Foley and contained within this agreement. If Customer requests work to be done on an overtime basis, Customer shall pay the differential between Foley's overtime and regular time charges. Customer will be furnished a copy of the Planned Maintenance Inspection Report detailing all items inspected, serviced, or replaced.

#### SERVICE INTERVALS:

These services will be performed annually. The first service will be performed December 1, 2015. Foley will schedule services based off date & usage, we will contact Customer prior to dispatch to verify usage. Customer may contact Foley and schedule next service due should service interval occur sooner than expected. Foley is not responsible for any parts or labor for services at intervals less than annually. The KW is 30 and the voltage is 480 & the Amps are 0 on this unit.

#### PAYMENT:

These services shall be provided for a Pay Per Service price of \$393.00 plus any applicable tax. Payment is due upon receipt of Foley's invoice. This pricing is based upon acceptance of Foley's standard terms and conditions.

#### EXCLUSIONS:

This agreement does not obligate Foley for any repair or cost of repairs as a direct, in direct consequential result of this inspection. Travel time and mileage costs in excess of 3 round trips from a Foley Service location will be at an additional charge at Foley's current published rate. Parts and/or labor other than those specifically required to perform the services as defined in the Planned Maintenance Inspection Report will be an additional charge. Further, Foley will not be responsible for repairs or cost of repairs (labor, parts, travel time, or mileage) caused by fire, vandalism, theft, freezing, explosion, alterations, accidents, misuse of the equipment or abuse, negligence, riots, acts of God, failure to perform the manufacturer's recommended maintenance as set forth by the lube and maintenance guide or elsewhere, tire failure, or to auxiliary equipment attachments.

#### ADDITIONAL SERVICES:

If any additional services or repairs are recommended by Foley, Customer will be notified prior to the services being performed. Any services or repairs requested by Customer will be provided at Foley's then current rates for parts, labor and travel expenses. In addition to the services to be provided hereunder, Customer shall be entitled to any benefits and protections of warranties provided by Cat on the Equipment.

#### TERMINATION:

Customer may terminate this agreement at any time during its term with no termination fees by providing written notification to Foley. Such termination will not apply to services provided by Foley before notice was received by Foley. Frequent deviation from service interval schedule may result in termination of agreement at the sole discretion of Foley.

Any malfunction of the service meter shall be reported to Foley within thirty (30) days of said malfunction else this Agreement shall be deemed null and void at the option of Foley.

#### ADDITIONAL INCLUSIONS/EXCLUSIONS/COMMENTS:

This proposal is to have Foley Equipment Company (FEC) perform 3 annual maintenance inspections on the above generator set which will include changing engine oil, oil and fuel filters, scheduled oil and coolant sampling, a complete inspection of generator including lubricating bearings, replacing ATS battery, measuring/recording rpm, voltage, frequency, amperage under load, transfer load, psi, temperature and pertinent inspection of engine electrical, lubricating, cooling, and fuel systems. Air filter will be changed first and third annual. All per the 60 point check sheet for preventive maintenance for Caterpillar/Olympian stand by generator sets.

The Equipment is to be used by Customer exclusively and not subleased, loaned, or otherwise used by persons or entities other than Customer. Customer shall not alter the Equipment or affix any accessory thereto if such alteration or addition would impair the originally intended function or use or reduce the value of the Equipment. Foley shall be entitled to terminate this Agreement if the foregoing provisions are violated.

Foley is a vendor/independent contractor. Nothing herein shall create a partnership, joint venture or employment relationship between the parties. Customer may assign this Agreement, but only with the written consent of Foley. Any attempt to do so without such written consent shall be void and of no effect. Foley may assign this Agreement; but no such assignment shall relieve Foley from any liability hereunder. This Agreement may be amended at any time by an agreement in writing executed with the same formality as this Agreement. This Agreement may not be modified orally.

The parties to this Agreement shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assignees. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

If any provision of this Agreement is or becomes invalid, illegal, or unenforceable in any respect, and if the rights and obligations of the parties to this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and not be affected by the illegal, invalid, or unenforceable provision or by its severance here from; and (d) in lieu of such illegal, invalid, or unenforceable provision there shall be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as is possible. This Agreement shall be construed in accordance with and governed by the internal laws of the State of Kansas, without regard to the principles of conflicts of law.

Any and all actions in law, equity, or otherwise arising under this Agreement, or in any manner from the transactions contemplated herein, shall be brought either in the U.S. District Court for the District of KS, sitting in Wichita, KS, or the 18th Judicial District, District Court, Sedgwick County, KS, and in no other court or jurisdiction. Each party hereto hereby consents to the jurisdiction of said courts. This contract shall be deemed to have been made in Wichita, KS. No provision of this Agreement shall be interpreted for or against any party hereto on the basis that such party was the draftsman of such provision; and no presumption or burden of proof shall arise disfavoring or favoring any party by virtue of the authorship of any of the provisions of this Agreement.

**FOLEY DOES NOT AUTHORIZE ANY PERSON TO CREATE FOR IT ANY OBLIGATION OR LIABILITY IN CONNECTION WITH THE EQUIPMENT, PARTS, OR SERVICES OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN. FOLEY FURTHERMORE DISCLAIMS, AND CUSTOMER EXPRESSLY DISCLAIMS, ANY RELIANCE ON STATEMENTS MADE BY FOLEY OR ITS AGENTS. EXCEPT FOR ANY EXPRESS WARRANTIES EXTENDED IN WRITING BY CATERPILLAR, INC., THE EQUIPMENT, ALL PARTS, AND ALL SERVICES PROVIDED HEREUNDER ARE SOLD, LEASED, OR PROVIDED "AS IS" AND WITH ALL FAULTS. FOLEY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE EQUIPMENT, PARTS, OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF MERCHANTABILITY OR WARRANTY THAT THE EQUIPMENT IS IN COMPLIANCE WITH ANY APPLICABLE GOVERNMENTAL REGULATIONS, SPECIFICATIONS, OR REQUIREMENTS. PERFORMANCE OF THE REPAIRS OR ADJUSTMENTS IS THE EXCLUSIVE REMEDY UNDER ANY WARRANTY EXTENDED BY FOLEY.**

**CUSTOMER HEREBY WAIVES, AND FOLEY SHALL NOT BE LIABLE FOR, ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) IT MIGHT HAVE AGAINST FOLEY FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGE), OR EXPENSE CAUSED BY THE EQUIPMENT, PARTS, OR SERVICES. WITHOUT LIMITING THE FOREGOING, LOSS OF EQUIPMENT USE, INCONVENIENCE, STORAGE, LOSS OF TIME OR PAYMENT, DELAY PENALTIES, AND SUBSTITUTE RENTAL SHALL REMAIN THE SOLE RESPONSIBILITY OF CUSTOMER, AND FOLEY SHALL HAVE NO LIABILITY THEREFORE.**

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

<b>Customer</b>	Signed	Date
	Printed Name	Title
<b>Foley Equipment</b>	Signed	Date
	Printed Name    MARC HALL	Title            ISR





# FOLEY EQUIPMENT CO.

## Foley Maintenance Plan

### Electric Power Generation

(Even Pay Per Service)

Agreement #

15E0403-07110

<b>Customer:</b>	City Of Clearwater	<b>Manufacturer:</b>	Olympian
<b>Contact Person:</b>	Ernie Misak	<b>Model:</b>	G80F3
<b>Telephone:</b>	316-706-2072	<b>Serial Number:</b>	NGD00747
<b>Address:</b>	400 West Ross, Clearwater, Ks 67026	<b>Hour Meter:</b>	271
<b>E-Mail:</b>	eemisak@hotmail.com	<b>Unit ID Number:</b>	Well 7

This Agreement between Foley Equipment Company ("Foley") and ("Customer") shall be in effect from May 1, 2015 and shall terminate 36 months thereafter or upon Equipment reaching 1,021 hours of operation or 3 services, whichever comes first.

#### SERVICES:

Foley shall provide parts and labor to perform the applicable Foley Maintenance Plan (FMP) as defined in the Planned Maintenance Inspection Report. Customer agrees to allow Foley proper access to perform the services during normal business hours, unless otherwise agreed to in writing by Foley and contained within this agreement. If Customer requests work to be done on an overtime basis, Customer shall pay the differential between Foley's overtime and regular time charges. Customer will be furnished a copy of the Planned Maintenance Inspection Report detailing all items inspected, serviced, or replaced.

#### SERVICE INTERVALS:

These services will be performed annually. The first service will be performed December 1, 2015. Foley will schedule services based off date & usage, we will contact Customer prior to dispatch to verify usage. Customer may contact Foley and schedule next service due should service interval occur sooner than expected. Foley is not responsible for any parts or labor for services at intervals less than annually. The KW is 80 and the voltage is 480 & the Amps are 0 on this unit.

#### PAYMENT:

These services shall be provided for a Pay Per Service price of \$393.00 plus any applicable tax. Payment is due upon receipt of Foley's invoice. This pricing is based upon acceptance of Foley's standard terms and conditions.

#### EXCLUSIONS:

This agreement does not obligate Foley for any repair or cost of repairs as a direct, in direct consequential result of this inspection. Travel time and mileage costs in excess of 3 round trips from a Foley Service location will be at an additional charge at Foley's current published rate. Parts and/or labor other than those specifically required to perform the services as defined in the Planned Maintenance Inspection Report will be an additional charge. Further, Foley will not be responsible for repairs or cost of repairs (labor, parts, travel time, or mileage) caused by fire, vandalism, theft, freezing, explosion, alterations, accidents, misuse of the equipment or abuse, negligence, riots, acts of God, failure to perform the manufacturer's recommended maintenance as set forth by the lube and maintenance guide or elsewhere, tire failure, or to auxiliary equipment attachments.

#### ADDITIONAL SERVICES:

If any additional services or repairs are recommended by Foley, Customer will be notified prior to the services being performed. Any services or repairs requested by Customer will be provided at Foley's then current rates for parts, labor and travel expenses. In addition to the services to be provided hereunder, Customer shall be entitled to any benefits and protections of warranties provided by Cat on the Equipment.

#### TERMINATION:

Customer may terminate this agreement at any time during its term with no termination fees by providing written notification to Foley. Such termination will not apply to services provided by Foley before notice was received by Foley. Frequent deviation from service interval schedule may result in termination of agreement at the sole discretion of Foley.

Any malfunction of the service meter shall be reported to Foley within thirty (30) days of said malfunction else this Agreement shall be deemed null and void at the option of Foley.

#### ADDITIONAL INCLUSIONS/EXCLUSIONS/COMMENTS:

This proposal is to have Foley Equipment Company (FEC) perform 3 annual maintenance inspections on the above generator set which will include changing engine oil, oil, air and fuel filters, scheduled oil and coolant sampling, a complete inspection of generator including lubricating bearings, replacing ATS battery, measuring/recording rpm, voltage, frequency, amperage under load, transfer load, psi, temperature and pertinent inspection of engine electrical, lubricating, cooling, and fuel systems. All per the 60 point check sheet for preventive maintenance for Caterpillar/Olympian stand by generator sets.

The Equipment is to be used by Customer exclusively and not subleased, loaned, or otherwise used by persons or entities other than Customer. Customer shall not alter the Equipment or affix any accessory thereto if such alteration or addition would impair the originally intended function or use or reduce the value of the Equipment. Foley shall be entitled to terminate this Agreement if the foregoing provisions are violated.

Foley is a vendor/independent contractor. Nothing herein shall create a partnership, joint venture or employment relationship between the parties. Customer may assign this Agreement, but only with the written consent of Foley. Any attempt to do so without such written consent shall be void and of no effect. Foley may assign this Agreement; but no such assignment shall relieve Foley from any liability hereunder. This Agreement may be amended at any time by an agreement in writing executed with the same formality as this Agreement. This Agreement may not be modified orally.

The parties to this Agreement shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assignees. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

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**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

<b>Customer</b>	Signed	Date
	Printed Name	Title
<b>Foley Equipment</b>	Signed	Date
	Printed Name    MARC HALL	Title            ISR

