

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

March 13, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, March 13, 2007, at 6:30 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: J. L. Walker, Mayor, Mike Justice, Mike York, Lyle Berntsen, and David FitzGerald. Casey Carlson was absent. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; and Janet Amerine, City Attorney. Others present at the meeting were Jay Shackelford, Roger Pearson, John Mishler, Bob Cumming, Sandi Keeler, and Robert Sharp, citizens; Chris Parker, Ashley Spangler, Trevor Smothers, Jake Wright, Nate Snyder, Jason White, Toni Sanford, Jessie Pearson, and Tony Skladzien, Clearwater High School students.

Mayor Walker called the meeting to order at 6:30 p.m. Walker gave the invocation, which was followed by the Pledge of Allegiance. The Clerk called the roll to confirm the presence of a quorum.

1. Approval of the Minutes of the Regular Meeting of February 27, 2007

MOTION: Council Member FitzGerald made a motion to approve the minutes of the meeting. The motion was seconded by Council Member York and passed unanimously.

2. Mayor's Recommendations

There were no appointments or resignations.

3. Public Forum

No one addressed the Council.

4. Request to Close 100 Block of Ross Avenue – Proposed Benefit Show for Patriot Guard

Roger Pearson requested to have the 100 Block of East Ross blocked off on Sunday May 20th from 1:00 p.m. to 7:00 p.m. for a bike and car show. There will be a \$5.00 entry fee for the vehicles and the proceeds will be given to the Patriot Guard to purchase flags and fuel. Pearson continued to state that the C-Bar would have a beer garden in the back of the property and there would be a smoker for food in front of C-Bar with places for people to sit and eat. T.L. Pearson would provide trash service for the event and there would be volunteers helping. Pearson requested that the City provide barricades to block off the street. Pearson stated he would like to have a "Burn Out" and he explained that is a motorcycle going real fast for a little way and then stopping suddenly. Jay Shackelford stated bikers are always looking for a place to ride and this would be a good event for Clearwater. If the show works well it might become a yearly event. Mayor Walker questioned if all beer and alcohol would be confined to the back of C-Bar in the beer garden? Pearson replied that all beer would be confined to the back. Council Member York questioned how large a crowd would they anticipate? Pearson stated that is hard to tell, but hopes for around 150 to 200. Pearson stated he would like for the Police Department to judge the motorcycles and hand out the trophies. Walker questioned Pearson if he has talked to Police Chief Demars? Pearson stated that he wanted to start with the Council and then will talk to the Chief. By consensus, the Council approved the benefit show for the Patriot Guard and to block off the 100 block of East Ross.

5. Bids for Electric Standby Generator

City Administrator Brown stated that bids for a generator was sent to 9 companies, including 1 in Clearwater. The only bid received is from Foley Equipment in the amount of \$22,097.15. The electric generator is a G80F3 Caterpillar Olympian rated at 80 Kw, 277/480 volts, 3 phase, 4 wire, 120 amps, 60Hz at 1800 rpm. The generator will come equipped with all of the standard features along with the following optional equipment:

- | | |
|------------------------------|-------------------------|
| Weather protective enclosure | 3-amp battery charger |
| Voltage adjust potentiometer | Local alarm horn |
| Engine block heater | Electronic governor |
| Additional manuals | Freight to the job site |
| Start-up inspection | Testing and training |

Brown continued to state that the proposal also includes a 100 amp Caterpillar automatic transfer switch rated at 277/480 volts, 3 phase, 3 pole, 4 wire in a Nema 1 cabinet. The proposal also includes the installation of the generator set and the automatic transfer switch. Brown stated that a generator in the amount of \$20,000 was budgeted in 2006 and the funds were encumbered in 2006 to be used in 2007. Brown stated that Public Works Director Ernie Misak has reviewed the bid and recommends to the Council to purchase the generator from Foley Equipment. Brown stated that the generator is similar to the generator at the sewer ponds. Brown further stated that the power to the wells is provided by Sedgwick

County REA and there is more power interruption at the well than inside the City.

MOTION: Council Member FitzGerald made a motion to accept the bid of \$22,097.15 from Foley Equipment for the electric generator G80F3 Caterpillar Olympian rated at 80Kw, 277/480 volts, 3 phase, 4 wire, 120 amps, 60Hz at 1800 rpm. Council Member Berntsen seconded the motion and it passed unanimously.

6. **Engagement Letter George, Bowerman & Noel, P.A. for 2006 Audit**

Mayor Walker stated that the City received an engagement letter from Gary George, George, Bowerman & Noel, P.A. Gary George has performed the yearly audit for the City for several years. Council Member FitzGerald questioned if the fee stayed the same or went up? City Administrator Brown stated that the fee increased for 2006. Walker questioned City Clerk Wright if she is pleased with the audit firm as her staff works with them the most? Wright stated that she is pleased with their work and recommends retaining them for another year.

MOTION: Council Member York made a motion to accept the proposal for the 2006 audit from George, Bowerman & Noel, P.A. in the amount not to exceed \$9,200 and to authorize Mayor Walker to sign the engagement letter. Council Member FitzGerald seconded the motion and it passed unanimously.

7. **Ordinance – Amending City Code Prohibiting the Carrying or Possessing of Unconcealed Weapons by Persons Other than Authorized Law Enforcement Personnel within the Corporate Limits of the City of Clearwater**

City Attorney Amerine stated that this is the first of three ordinances that are being presented. Sergeant Gearhardt and Police Chief Demars requested her to make changes to the current ordinance so they can do their job a little better. The code mentions automatic weapons, but did not mention semi-automatic weapons. Amerine stated that the change has nothing to do with the new Concealed Carry Law. This is dealing with unconcealed weapons. City Clerk Wright assigned Ordinance 872.

MOTION: Council Member FitzGerald made a motion to approve Ordinance 872 amending the City of Clearwater Code at 11.06.010 and Ordinance 721 Section 18 prohibiting the carrying or possessing of unconcealed weapons by persons other than authorized law enforcement personnel within the corporate limits of the City of Clearwater, Sedgwick County, Kansas. Council Member Berntsen and it passed on a roll call vote of 3 - 0

8. **Ordinance Repealing a Portion of Municipal Code – Prohibiting Public Drunkenness within the Corporate Limits of the City of Clearwater**

City Attorney Amerine stated that the Clearwater Police Department charged a person for public drunkenness, the charge was challenged and the Judge upheld the challenge. Amerine was asked by the police department to repeal the current ordinance, as it is unconstitutional, because a normal person cannot describe what a drunken person looks like. A person could appear to be drunk and be low on insulin. Amerine stated that she has checked and is unable to find another way to rewrite the ordinance so it would pass constitutional muster, so she is repealing the current ordinance. Amerine and the Council briefly discussed a City of Wichita law passed for Drunkenness on a Bicycle and chose to only repeal the current ordinance. City Clerk Wright assigned Ordinance No. 873.

MOTION: Council Member York made a motion to approve Ordinance No. 873 repealing 11.04.010 and Ordinance 721 Section 8 of the Clearwater Municipal Code prohibiting public drunkenness within the corporate limits of the City of Clearwater, Sedgwick County, Kansas. Council Member Berntsen seconded the motion and it passed on a roll call vote of 3 – 0.

9. **Ordinance Adding to the Municipal Code – Prohibiting Littering within the Corporate Limits of the City of Clearwater and Setting Forth Penalties for Violation Thereof**

City Attorney Amerine stated that the League of Kansas Municipalities removed the provision dealing with littering, because there is a conflict between two state statutes dealing with the penalty provision. Amerine stated that she spoke with the attorneys at the League and they suggested passing an ordinance dealing with littering. Amerine stated that Section 1 of the proposed Ordinance deals with recklessly depositing any object or substance; Section 2 deals with littering from a motor vehicle; and Section 3 is the penalty provision. Council Member FitzGerald stated that he has a problem with Section 1 and littering in alleys. After a brief discussion, the Council agreed to leave the portion about alleys in the Ordinance. City Clerk Wright assigned Ordinance 874.

MOTION: Council Member FitzGerald made a motion to approve Ordinance 874 adding to the Municipal Code at 6.25 prohibiting littering within the corporate limits of the City of Clearwater, Sedgwick County, Kansas, and setting forth penalties for violation thereof. Council Member York seconded the motion and it passed unanimously on a roll call vote of 3 – 0.

10. **Franchise Agreement – Telephone**

Mayor Walker questioned if City Attorney Amerine had reviewed the revised

Franchise Agreement with Southern Kansas Telephone Co.? Amerine stated that she has reviewed the agreement and approves it as to form and the changes requested by the Council last meeting have been made. Amerine stated that the Ordinance has to be published twice in the Times Sentinel and the publishing fee would be paid by SKT.

MOTION: Council Member FitzGerald made a motion to approve the Franchise Fee Agreement with Southern Kansas Telephone Company. Council Member Berntsen seconded the motion and it passed unanimously with a roll call vote of 3 – 0.

11. Ambulance Purchase and Lease/Purchase Agreement

City Administrator Brown stated that bids were received from three different financial providers for a lease/purchase of an ambulance. Staff told the financial providers about how much the City could spend on a per year basis and requested bids. Baystone Financial presented bids for 5, 6, and seven years, Home Bank and Trust provided a bid for 5 years, and First State Bank provided a bid for 6 years with all of the interest rates being very close to the same. City Clerk Wright stated that she reviewed the revenue received since the vote to charge \$2.00 to every water user in the City and found in three months the City received \$5,924.36 or an average of \$23, 697.44 per year. Wright then reviewed the bid from Baystone Financial for 5 years and the bid from Home Bank & Trust for 5 years showing the difference. Wright stated that Home Bank & Trust is charging a one time documentation fee of \$300.00 that is not being charged by Baystone Financial, otherwise the bids would be very close. Wright explained that with the first payment due 6 months after the purchase of the ambulance the City would be able to handle the yearly payment of \$23,944.06 for 5 years. Wright stated that at the last meeting the Council stated they would prefer to use a local bank if they are competitive with an outside financial institution. Based on that comment Wright stated that she is recommending that the Council accept the bid from Home Bank & Trust with a semi-annual payment of \$11,972.03 and Wright stated she would try to get them to waive the \$300.00. Wright stated that Home Bank is requiring the Council to pass a resolution in support of the lease/purchase. City Attorney Amerine stated she had not had the opportunity to review the resolution and requested the Council to wait until next meeting to take action on the same.

MOTION: Council Member FitzGerald made a motion to accept the bid from Home Bank & Trust for a lease/purchase agreement to purchase an ambulance. The terms of the bid is 10 consecutive payments in the amount of \$11,972.03 to be paid semi-annually beginning six months after purchase of the ambulance. Council Member Berntsen seconded the motion and it passed unanimously.

At 7:40 p.m. Mayor Walker requested a ten-minute break

At 7:50 p.m. the Council returned to regular session

12. Senior Community Center and Director Update

City Administrator Brown stated that Betty Peitz and some of the other senior citizens provided staff with ways to organize a couple of things at the Senior Center. Brown stated that the suggestions provided by Peitz were not received in time to put in the Council packets so Brown is requesting that the Council take the papers home for consideration and they would be on the next agenda. Brown stated that there have been several conversations on how to set up the structure for the new Senior Center. Brown stated that the Library Board and the Historical Society are set up by city code where the Mayor appoints the members of the boards. Peitz used the example from the Haysville Senior Center to come up with suggestions for an Advisory Board. The plan is to have members from all areas of the community, not just seniors, to be on the Advisory Board and they are the formal appointed members. The Senior/Community Director would act as the liaison back to the Council. The other suggestion by Peitz is to have a Planning Committee or Events Planning Committee that would be made up of senior citizens. This committee would be a resource for the Director to provide direction on events and prepare for various events at the building. Mayor Walker stated that it is set up a lot like the Library with the Library Board and the volunteers at the Library. Brown stated that it would be very important to define the roles of the Boards and the Director and what type of questions should be directed to each group. Council Member FitzGerald stated that he does not see why two boards are necessary. It has been his experience the more people involved the harder it is to get something accomplished. Mayor Walker stated that the Council would review the structure at the next meeting. Brown stated that the cutoff for the first review for applications for Senior/Community Director was tonight and there were 3 applications received. The Council will review them later tonight.

City Administrator Brown stated that the new Senior/Community Center is rushing towards completion. The final lift of asphalt will be put on this week. The cabinets and the countertops in the kitchen are completed, the tile is finished, and most of the bathroom fixtures are installed. The carpet has been laid and they are working on the island in the middle of the kitchen. There are a lot of odds and ends to finish up, including the lighting, and some work on the doors. Betty Peitz questioned when the seniors could paint the floor of the craft room? Mayor Walker stated that everything would need to be completed and the City would have a walk through to make sure everything is completed to the satisfaction of the City and that everything is taken care of by Accel.

13. Review Aquatic Center Rates

City Administrator Brown requested that the subject of the Aquatic Center rates be tabled until Council Member Carlson is in attendance.

14. Property at Fourth Avenue and Janet Avenue

City Administrator Brown stated that there is a vacant property at the northwest corner of Fourth Ave. and Janet Ave. The owner of the property came to the Planning Commission to request a change of zoning on that property from R-1 (single family dwelling) to C-1 (Commercial) and the request was approved. The property owner is looking to put a car wash in that location and wants to put an entrance off of Fourth and an exit off of Janet. Brown suggested to the property owner could there be an entrance and exit off Janet and he was really not interested. The proposed entrance into the car wash is directly across from the entrance of Janet Ave. heading east. Council Member FitzGerald questioned if there is enough room to enter and exit on Janet? Brown stated it would be a very tight fit the way he has the property set up right now. After a lengthy review of the plans the Council did not see that traffic from a car wash would cause any unnecessary traffic problem on Fourth Ave.

15. Consent Agenda

By consensus, the Council approved payment request #5 to Accel Construction L.L.C. in the amount of \$61,451.89 for construction of the Senior Community Center.

16. Reports

City Attorney Amerine stated that she received a report from Sumner County regarding the proposed legislation on increasing the driving age. Amerine stated it looks like this will be the year that it will pass. Amerine stated that she thinks it will affect the local level more than anywhere. Mayor Walker stated that he attended a conference on the driving age. Walker stated that car accidents are the number 1 killer of teenagers. Walker stated that Kansas is one of five states that let 14 year-old kids drive a car. Briefly, the Council discussed raising the legal age for kids to drive.

City Administrator Brown reported that the well house next to the water tower and Aquatic Center has been removed. The pad for the new building would be poured this week and they should start construction on the block building next week.

City Administrator Brown reported that Public Works would be moving some water meter on North Fourth Ave. in preparation to pour more sidewalks.

City Administrator Brown stated that over the last week Public Works has been using the street sweeper.

City Administrator Brown reported that Beki Zook, Recreation Director, has ordered

mulch for City Park to spread under the playground equipment. Council Member FitzGerald questioned what kind of mulch is being purchased? Brown stated that he was not sure of the kind. FitzGerald stated that the school has gone to sand and due to state regulations the Methodist Church is going to sand, because the cost of mulch has increased terribly.

Council Member Berntsen questioned if City Administrator had talked to the tennis court contractor? Brown stated that he spoke with him, but there still is not a determination on the tennis court. Council Member FitzGerald questioned what is going to be done with the pile of dirt that has been at the tennis court since construction? Brown stated that it is good dirt and Public Works is saving it to be used at a later date, possibly on the new football fields.

Council Member FitzGerald reported that there is a trailer on the street on North First between Wood and Hellar that has been there for more than 5 days.

Council Member FitzGerald reported a yard at 150 N. Gorin has a refrigerator, toolboxes, and a little bit of everything in the yard. City Administrator Brown stated that staff has also received a complaint on the property.

At 8:30 p.m. Council Member Justice arrived at the meeting.

Council Member FitzGerald mentioned that the trees that are overhanging the street need to be cut, as they are low enough that they hit vehicles. City Administrator Brown stated that the standard is 8 ft. above the street. Brown stated that since the City does not have a bucket truck it could be difficult for personnel to trim the trees.

Council Member FitzGerald questioned if City Administrator Brown has had the opportunity to check on how the City is going to handle licensing of dogs? FitzGerald stated there are way too many dogs running loose in the City. Brown stated that March is the month to start sending out letters to remind them that dogs are not to run loose and to tell them they would start being ticketed.

17. Executive Session - Personnel

MOTION: At 8:40 p.m. Council Member York made a motion to enter into executive session for a period of 30 minutes for personnel reasons. Council Member Berntsen seconded the motion and it passed unanimously.

At 9:10 p.m. the Council returned to regular session.

City Administrator Brown stated that the Sedgwick County had approached him and they would like for Clearwater to host a Household Waste Remote Collection Event. Brown

suggests coordinating it with the spring cleanup. Sedgwick County would provide trained labor for sorting and processing the waste, transportation and safety equipment, and miscellaneous equipment, and advertising. The City would be responsible to provide labor to help unload, provide traffic control, 20 cu yd trash containers, a site to hold the event, and a forklift. After a brief discussion, the Council requested staff to check with Waste Management to have the spring cleanup the first weekend in May.

18. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member York moved for adjournment. The motion was seconded by Council Member Berntsen and passed unanimously.

CERTIFICATE

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

I, Cheryl S. Wright, 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 March 13, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 27th day of March 2007.

Cheryl S. Wright, City Clerk