

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

August 26, 2008

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 26, 2008, at 6:30 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Mike Justice, Mayor, Mike York, Lyle Berntsen, David FitzGerald, Judy Armstrong, and Jim Whitney. The following staff members were present: Kent Brown, City Administrator; Jodi McBee, Acting City Clerk; and Janet Amerine, City Attorney. Others present at the meeting were Jennifer Arnold, Clearwater Chamber of Commerce; Mike Roth, USD #264; Marvin Schauf and Mary Schauf, Clearwater Fire Department; Donald Schauf, Clearwater EVS; Stanley Combs, Bill Kenney and David Coon, citizens; Aimee Grether, Ashley Fugatt, Austin McCain, Sloane Stewart, Sam Francis, and Emily Ladd, Clearwater High School Government students.

Mayor Justice called the meeting to order at 6:30 p.m. Justice 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 August 12, 2008

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

2. Mayor's Recommendations

There were no appointments or resignations.

3. Public Forum

Bill Kenney addressed the council regarding the move of the Fall Festival Street Dance from the park to the downtown area. Kenney stated the dance is a family event and he had concerns with it being close to the bar. Mayor Justice stated his appreciation for

Kenney's concern. Justice said there was much discussion over moving it to the downtown area when the decision was made. The dance used to be in the downtown area and there is a possibility the carnival might move out of the outfield area into the street where the dance is normally held. Fall Fest Committee and Council will review how everything goes this year and make any adjustments for next year. Justice again thanked Kenney for his concern.

Council Member FitzGerald requested that that Tab B regarding the Resolutions to submit a question to voters regarding sales tax be omitted from tonight's agenda. Council Member Armstrong stated she thought it should stay on agenda; the Council could always vote against it. Armstrong stated the Council had asked staff to prepare the information and the Council should at least review what staff had prepared, just deleting it off the agenda without discussion seemed rushed. Council Member Berntsen stated he didn't think it was rushed after the letter was received from the Chamber. Council Member York asked why FitzGerald wanted the item omitted. FitzGerald stated the discussion regarding the sales tax increase started out wrong. No time has been given to promote and educate the public as to why the tax increase would be beneficial to the city. FitzGerald said that lots of people in Clearwater are upset over the issue and misunderstand that the Chamber is no longer backing the sales tax issue. FitzGerald stated that he didn't think it was worth discussing at this time. Mayor Justice asked is the sales tax issue not worth discussing or is it not the time to put the question to a public vote, the discussion doesn't mean the sales tax question has to be passed at this time. FitzGerald stated that there is not ample time to discuss putting a sales tax question on the November ballot. Council Member York asked when the resolution to add the sales tax question to the ballot had to be submitted to the County Election Office. City Administrator Brown stated September 9 was the deadline. FitzGerald stated the next vote in April might be a better time to get the sales tax question put on the ballot. Mayor Justice stated the talk of the sales tax increase started in the spring during a Council workday, and he disagreed that the discussion started with the Chamber presentation at the last Council meeting. Justice said if it was Council's wishes to take the item off the agenda at this time, the discussion is still going to have to be done at another time. FitzGerald stated more research needed to be done on the cost of the projects the sales tax would benefit before a proper discussion could be started. Berntsen stated that he didn't want to rush into making a decision at the last minute and that more time was needed to inform the public. Council Member Whitney stated to throw the vote to the public without proper information regarding the issue was irresponsible on the part of the Council. Armstrong stated her opinion was to table the motion during the course of the meeting rather than deleting from the agenda because it looked more underhanded to just ignore the issue after it had been published.

MOTION: Council Member FitzGerald made a motion to delete Tab B, Resolution to Submit Question to Voters, from the agenda. The motion was seconded by Council Member Berntsen and passed 4 to 1, with Council Members York, Berntsen, FitzGerald, & Whitney in favor and Council Member Armstrong voting against the motion.

4. **2009 Budget Hearing**

At 6:50, Mayor Justice opened the hearing on the 2009 Budget. City Administrator Brown stated that the budget that has been set. The Notice of Budget Hearing published has a proposed budget of just under 3 millions dollars, of which \$599,865 will come from property taxes. The property tax rate for this year's budget will go down slightly from 43.964 mills to 43.639 mills, at this time. The budget does include start on the Business Park and the emergency generator, which are high on the Council's list of importance. Brown stated that the water and sewer funds both require rate increases, but the discussion on those would come at a later time. Council Member FitzGerald complimented Brown on the Budget Overview. FitzGerald stated the overview helped itemize each department and it was something Council should keep for a while to do a check and balance through out the year. Mayor Justice asked if anyone had any comments regarding the budget. Justice stated he would leave the hearing open until 7:45.

5. **Revised Proposal for City Park Ballfield Lighting Electrical Project**

City Administrator Brown reviewed the revised proposal for a 4 pole lighting system instead of 6 poles on a 225-foot ball field at City Park. The package includes 50-foot candle lights on the infield and 30-foot candle lights on the outfield and all other options included in the previous package. The power supply has been researched and should be adequate to serve the new lighting. The price Musco quoted for the 4-pole system is \$86,000. Mayor Justice stated there was a discrepancy on the two emails where there is a reference to 50/30 lights on one email and 50/50 lights on the second email. Justice said he would like clarification on which lighting system was included in the quote. Brown stated there is a possibility the estimate could go down if local contractors could do some of the work. The estimate is turnkey, which is to include demo and installation. Council Member Whitney stated that he was concerned that the estimate doesn't include getting power to each pole. Brown stated that estimate states it does include branch circuits from main panel to each pole location. Whitney requested more clarification in writing on demolition and installation of power to each pole. City Attorney Amerine stated since the money is coming from the Recreation Commission, it would be her recommendation to go to the Recreation Commission with the final bid and make sure they are happy with the proposal before moving forward. Justice directed staff to contact Musco to find out if the proposal includes removal of the current poles, installation of power to all of the poles from the main power source, and ask about for clarification of the 50/30 or 50/50 lighting. Council Member FitzGerald stated the Council should go to the Recreation Commission to make sure they are okay with a 225 field. Justice stated the Recreation Commission understood the cost of the 6-pole system at 275 feet was too expensive and they weren't opposed to the 225-foot field. Council Member Armstrong stated that when the time comes to approve the proposal, the approval should come pending approval of the price and the company from the Recreation

Commission.

6. Revised Agreement for City Park Electrical Project

City Administrator Brown stated the owner of the Sno Zone, Bill Kenney, submitted a revised proposal stating he was willing to pay half the cost of the installation of the upgraded of electrical service at the City Park Concession Stand. Kenney will make monthly payments to the city, not to exceed 12 months, for their portion of the final bill. Kenney is also requesting to run the business for the 2009 season with an option for 2010, if the building is still standing. The financial arrangements made previously will remain standing. Brown stated he also spoke to the electrical contractor about putting the service overhead instead of underground. The contractor stated the overhead service would lower the original bid about \$500 or \$600, but had not submitted that estimate in writing. As far as concessions during the baseball season, the City Council currently has a contract with the Recreation Commission stating the Recreation Commission would have the contract for concessions in the parks. City Attorney Amerine stated the contract could be amended and the City and the Recreation Commission would have to sign. Mayor Justice stated he thought Council should talk about the contract with the Recreation Commission before they discussed the agreement with Mr. Kenney. Mayor Justice stated his recommendation to the Council would be to ratify the contract with the Recreation Commission to bring the control of the concessions to the City to alleviate any argument about ownership of equipment and supplies in the concessions buildings. Council Member York agreed and stated that other local communities are in control of their concessions. Justice continued to state that the City could better control the equipment and supplies going in and out of the concession buildings by requiring the person or group running the concessions to give listings of what was theirs in the buildings. Brown stated with the amendment of the contract, the same employee, Recreation Director Beki Zook, would be the contact for the concessions. Council consensus was to have City Attorney Amerine amend the contract between the City and the Recreation Commission that the concessions contract would be approved by the City Council. Mayor Justice went on to discuss the issue of electrical improvements at the City Park Concession Building. The original bid for upgrading service was \$2895. The cost reduction to take the service overhead instead of underground would take the bid to approximately \$2400. The City and Mr. Kenney would each have a cost of \$1200. Mayor Justice stated at this time the Council is only authorizing the electrical work, not making any decisions regarding the concessions for the baseball season. After a short discussion regarding the agreement between Kenney and the City, Council decided to agreed to improve the electrical service at the City Park Concession Building.

MOTION: Council Member York made a motion to accept Bill Kenney's proposal and approve the City to pay ½ the overhead electrical service upgrade to the City Park Concession Stand Building. The

motion was seconded by Council Member FitzGerald and passed unanimously.

7. Request for Charter Ordinance and Other Action Items from Recent Legislation

City Attorney Amerine stated she picked a few items from new legislation that she thought needed to be discussed. Worksite vehicles have been eliminated according to state legislation. Amerine suggested Council address a State Representative to see about getting the worksite vehicles reinstated. Amerine said the letter could state that eliminating worksite vehicles is a hardship on the cities in time and money. Council directed staff to draft a letter and a resolution to request reinstatement of worksite vehicles. Amerine suggested also pressuring the League to get involved. Council Member Armstrong suggested also getting REAP involved. Amerine went on to state the next items for review were changes that would affect the police procedure manual in regards to police chases and use of tasers. A recent Kansas Supreme Court case reinterpreted police chases. Not only is the chase itself covered, but the decision to chase is also covered under the statute. Amerine continued the change of tasers comes from a federal case in Kansas that narrows the use of tasers to only be used when a suspect is resisting arrest or in cases of the justification of use of deadly force. The next issue was city funds given to a private agency in the amount of over \$350 which must be accounted for in separate accounts by the receiving agency or they are subject to Open Records laws. Amerine stated she has spoke to the Chamber Director regarding the issue. The next item Amerine reviewed was the possession of a listing of electronic files. Amerine stated she had spoke to City Clerk Wright regarding electronic files in general categories and Wright stated the city didn't have any. Amerine stated that the City would just need to write a policy stating they had no electronic files. The final item Amerine reviewed was regarding mayoral appointments. Amerine stated she would draft a Charter Ordinance, if so directed, that would repeal the revision that stated an ordinance be passed deeming a possible mayoral appointment incompetent or incapable if the council doesn't approve the appointment of that person. Council directed Amerine to draft the Charter Ordinance.

8. Agreement of Mutual Aid for Fire Protection-Fire Departments within Sedgwick County

City Administrator Brown stated Fire Chief Schauf brought the Mutual Aid for Fire Protection for cities that maintain fire departments in Sedgwick County to his attention. City Attorney Amerine reviewed the agreement and approved it as written. Fire Chief Schauf stated the agreement was put forth for the cities in Sedgwick County to aid each other in case of a big disaster. The agreement would eliminate having to request permission from Council to aid in an emergency anywhere in Sedgwick County. This is the first agreement covering every fire department in Sedgwick County. Mayor Justice stated that this would aid in insurance recovery in case of a loss of equipment or life outside our jurisdiction.

MOTION: Council Member Armstrong made a motion for the Mayor to sign the agreement to enter into Mutual Aid Fire Protection and Disaster Response By and Between Certain Fire Departments Located Within Sedgwick County, Kansas. The motion was seconded by Council Member York and passed unanimously.

9. Road Maintenance Agreement with Ninnescah Township

City Administrator Brown stated the reason the Road Maintenance Agreement with The Ninnescah Township was being brought to the Council's attention is the formula for payment is incorrect. The formula for payment includes fire and road maintenance and should only include the taxes collected for road maintenance because the fire money should be kept within the City for the Clearwater Fire Department. The difference is approximately \$600 per year. Brown stated he has already spoken to Ken Chambers, the director of the Ninnescah Township, regarding the change. Council gave consensus for staff to draft a revised agreement to exclude fire money from the formula for payment in the Road Maintenance Agreement.

10. 2009 Budget

At 7:45, Mayor Justice closed the budget hearing.

MOTION: Council Member FitzGerald made a motion to adopt the City of Clearwater 2009 Budget as written. The motion was seconded by Council Member Berntsen and passed unanimously.

11. Set Date for Fall Cleanup

Mayor Justice asked for suggestions on a date for Fall City Wide Cleanup. Council Member Whitney asked what weekend it was done last year. Council Member Berntsen stated it was the 19th and 20th of October last year. Council gave consensus to set the date of the 17th and 18th of October for the Fall City Wide Cleanup. Council Member Armstrong suggested sending out a letter informing the citizens of the dump day, and also include information regarding the brush dump, the recycling center, and possibly clear up any rumors regarding the proposed sales tax issue.

12. Consent Agenda

City Administrator Brown stated that the annual membership dues to the Kansas Rural Water Association are due. The Public Works Department receives several benefits

from the KRWA. Council gave consensus to pay the annual dues to the KRWA.

13. Reports

City Administrator Brown stated the next recycling day is Saturday, September 6, which is Fall Fest. Therefore, recycling has been cancelled and will be back open the third Saturday of September, which is September 20th.

City Administrator Brown stated there has been some miscommunication with Red Williamson regarding what has been offered to him as far as compensation at the Recycling Center. Williamson has stated that he doesn't want to be paid for working at the recycling center. He is willing to haul the recycling materials to Sunflower RC & D to save the groups doing the recycling some money for \$10 per hour. Brown said he apologized to Mr. Williamson for the miscommunication. Mayor Justice asked if Williamson had his own trailer to haul. Brown stated that Williamson wants to use his own trailer. Sunflower RC & D told Brown that if the arrangement with Mr. Williamson doesn't work out, Sunflower is willing to resume hauling themselves. After a short discussion regarding the hauling costs, Council gave consensus to compensate Red Williamson \$10/hour for hauling the recycling materials to Sunflower RC & D, if he would be willing to do so.

City Administrator Brown stated that there is a Solid Waste Summit for elected officials scheduled for September 13. Brown received a letter from Tom Winter, Sedgwick County Commissioner, stating the County has passed a resolution that the County is going to requiring the franchising of trash service by 2011. The resolution also requires curbside recycling, so the City would have to change the trash contract with Waste Management. Brown stated he would attend a meeting the day before the summit for City Employees to inform the County Clearwater has already franchised 4 contracts within 8 years. The franchise has worked well in our community. The recycling program in Clearwater works well. At the last contract, curbside recycling service would have added costs to the residents.

City Administrator Brown stated there has been a request to allow mules and gators to be used on the grounds of Fall Festival during the event weekend. Council gave consensus to allow the vehicles during Fall Fest weekend, September 5-7.

City Administrator Brown stated there was a car theft and three burglaries the police department was working over the weekend. There are suspects for all three burglaries.

City Administrator Brown stated the Maintenance Department is going to be exposing the water line near Garvey Grain Elevator this week to replace the line.

City Administrator Brown stated the weight of the new backhoe is 18,600 lbs. The trailer that was looked at to haul the backhoe can withhold the weight, but Public Works is

checking on the dimensions to make sure the backhoe will fit on it. Brown will come back with a bid for the trailer at a later date.

City Administrator Brown stated the Service Center is selling a used refrigerated cooler for \$1200. Brown stated it was a price that was very reasonable and the cooler could be used at the Sports Complex concession building.

MOTION: Council Member FitzGerald made a motion to purchase a cooler from the Service Center in the amount of \$1200. The motion was seconded by Council Member Armstrong and passed unanimously.

Council Member Whitney stated the alley in the south 200 block between Gorin and Lee was causing the trash truck to swerve into a resident's yard due to overgrown trees and shrubs. Brown stated he would send letters to the homeowners to trim the branches blocking the alley.

Council Member FitzGerald asked if the City would have a drop off site for old TVs when the analog TVs become obsolete. Brown stated that would be something he would bring up at the Solid Waste Summit. At this time, there was no drop off planned.

Council Member FitzGerald asked what the policy is on the individuals taking asphalt from the pile at city dump. Brown stated the City uses the asphalt for its own purposes. Currently, there is no policy to allow residents to take or purchase the millings. Public Works Director Misak would have to determine how much the city needs before allowing the public start using it as well. Council directed staff to review and bring back a proposal on selling the millings to city residents.

Council Member Whitney stated the City needed to get started looking at raising water and sewer rates soon. Council Member Armstrong stated that the raise could be explained in the mailing regarding the City Wide Cleanup.

14. **Executive Session-Legal**

MOTION: At 8:30 p.m., Council Member York made a motion to enter into executive session for a period of 10 minutes for legal reasons. Council Member Whitney seconded the motion and it passed unanimously.

At 8:40, Council returned from executive session with no action taken.

15. **Adjournment**

MOTION: Being no further discussion to come before the Council, Council Member Armstrong 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, Jodi McBee, Deputy 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 August 26, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 9th day of September 2008.

Jodi McBee, Deputy City Clerk