

**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**

**CITY COUNCIL MEETING**

**MINUTES**

**June 24, 2008**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, June 24, 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, David FitzGerald, Judy Armstrong, and Jim Whitney. Council Member Berntsen 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 Peter De Graff, Kansas Representative of 81<sup>st</sup> District; Marvin Schauf and Mary Schauf, Clearwater Volunteer Fire Department; Kim Demars, Clearwater Police Chief; Mike Gannaway, citizen.

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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 June 10, 2008**

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

**2. Mayor's Recommendations**

There were no appointments or resignations.

**3. Public Forum**

No one addressed the Council.

#### **4. Review Police Procedure Manual**

Mayor Justice began review of the Police Procedure Manual at Security of Records Information and asked for questions regarding that section. With there being none, Mayor Justice moved on to the next section of Arrest Procedure. Council Member Armstrong questioned whether a suspect may be apprehended inside another dwelling other than there own in a foot chase. Police Chief Kim Demars stated that in hot pursuit, the suspect might be apprehended without a warrant as long as visual contact is made when the individual enters a residence. A warrant would have to be obtained if the officer in pursuit did not witness the suspect entering a residence. Mayor Justice then moved on to the section of Transportation and Booking of Prisoners. Justice stated that most of the procedures they are reviewing this evening are uniform from agency to agency. Chief Demars agreed that every agency around the country uses this procedure and this is the procedure used for training at the Law Enforcement Academy. Mayor Justice then moved on to the section covering Juvenile Traffic Offenders. With no question or comment on that section, Mayor Justice moved on to the sections covering Miranda Warning Procedure, Civil Matter, Dead Bodies, and Returning Suspects. City Administrator Brown asked who is the supervisor contacted in the reference of contacting a supervisor when a dead body is found. Chief Demars stated it is policy to contact him on all matters, but chain of command would be followed if he weren't available. Sergeant Gearhardt and Officer Luckner would be next contacts in a supervisory role. Council Member Armstrong questioned if domestic issues were classified under a civil matter or under a different guideline. Chief Demars stated that state statute covered domestic issues and officers are trained on those at the academy. Part of an officer's certification is keeping up on state laws.

Mayor Justice asked Chief Demars if he had anything else he wished to inform the Council. Demars stated the Intrepid was up and running again. A heater hose was replaced costing about \$400. Demars is in the process of getting bids to replace that vehicle. Chief Demars also mentioned that he spoke with the Times Sentinel and they are running an article on fireworks detailing the shortened days of July 1-2 10am-10pm and July 3-4 10am-12am for sale and discharge of fireworks in the city limits.

#### **5. Introduction of Peter (Pete) De Graaf Kansas Representative of 81<sup>st</sup> District**

City Administrator Brown introduced Representative Peter (Pete) De Graaf to the Council. Long time Representative Ted Powers passed away earlier this year and Mr. De Graaf was selected to serve out the remainder of his term. Rep. De Graaf stated he was happy to be serving the area and if the community needed anything, he would be glad to assist at the state level where he was able. Council and Rep De Graaf spent a few brief minutes reviewing the background of each other. Rep. De Graaf thanked the council for their time.

#### **5. Proposal from Landworks Studio to Redraw City Park Plan Including Various**

## **Recommendations and Completed Projects**

At the last Council meeting City Administrator Brown was directed to obtain a proposal from Landworks to redraw a plan for City Park. Brown contracted for a rendered plan view, which would take about 32 hours of CAD time, at the cost of \$1,760 as per Council direction. Brown signed an agreement and Landworks Studio is currently working on the rendered plan view. Brown stated there are three other prospective CAD sketches that could be done for a cost of \$2,200. Brown asked Council if they would like to proceed with the sketches at this time. Council Member FitzGerald stated that he thought the sketches could wait until the rendered plan view was reviewed. Council gave consensus for waiting until the rendered plan view was reviewed before deciding if the sketches were desired.

### **6. Marketing Contract with Steve Martens for Business Park**

City Administrator Brown reviewed, with the Council the Listing Agreement with Steve Martens for marketing the Business Park. Council Member York questioned the section regarding Transaction Brokerage. York was concerned with the Broker possibly representing both the buyer and the seller. City Attorney Amerine explained that the realtors have a code of ethics they must follow when it comes to being an agent of the buyer and the seller. Amerine continued that Grubb and Ellis is a reputable company and they have agents that would follow the correct guidelines. Council Member Whitney stated he thought that the agent representing the buyer and the seller might speed the process of the sale. Mayor Justice stated that the city would have the final say of the sales price. Council Member York requested that Steve Martens speak to the Council at the next meeting to review procedures and talk about possible prospective clients. Brown stated the rest of the agreement was standard throughout. The agreement is for a year. City Attorney Amerine suggested removing the clause in the Seller Obligation section that referenced attorney's fees. Amerine also suggested removing the word irrevocable from #5 of the agreement. Council Member Armstrong pointed out that Section 5 and 14 conflicted each other. Mayor Justice advised staff to have Steve Martens attend the next meeting to review the agreement and discuss Grubb and Ellis procedures.

### **7. Authorize Bid Request for Concrete Approach to North End of Alley Behind 115 S. Lee**

City Administrator Brown requested Council to authorize him to request bids for a concrete pad in the alley behind 115 S Lee to relieve some flooding issues in that area. Water is collecting and not draining properly. David Coon has dug a small ditch across the alley and that seems to be helping, but is not a resolution. Brown stated he would get with Council Member Berntsen to see about how deep the pad needs to be. After a brief discussion, Council agreed to authorize staff to request bids for the concrete pad.

### **8. Agreement for Utilities, Easement, and Drainage for 149 N Grant (Known as Horse Barn Property)**

City Administrator Brown stated that Mike Gannaway has purchased the property at 149 N. Grant (known as the horse barn property). Brown continued to state that there are a series of steps, which need to be taken to satisfy the concerns of easements and water on the property. The corner of Hellar and Grant to the west of Grant is the location and most of the property is located in the flood plain. There is a right of way that runs thru the property for Grain Street. The right of way was never vacated because it has utility lines running through the easement. Mike Gannaway stated that he would like a water meter at the property and eventually tap into the sewer, only for use at the barn. Council Member Whitney questioned the reason for the sewer tap. Gannaway stated that the sewer would be for personal restroom use and not for washing out the barn. Gannaway is requesting that the right of way be vacated in exchange for a 20-foot easement that follows the water and sewer line. Council Member FitzGerald asked if the sewer line in the right of way was the line that caused trouble in that area. Brown stated that the line that FitzGerald spoke of was on the property but not in the right of way. Brown briefly discussed the sewer system in the area. There is a short section of sewer line on the property that currently has no easement, so an easement needs to be granted for that area. Property owner is also requesting the council support its request for a zoning change to A-L or R-L, which would allow more animals on the property. Another point needing attention is an eventual drainage easement through the property, which can be taken care of at a later date when an engineering company can survey the property. Brown discussed other drainage issues in the area that are affected by the drainage on the horse barn property. Mayor Justice stated that area does need attention and after the park drainage that should be the next area the city visits concerning drainage. Brown suggested not charging Gannaway the \$700 water tap and \$250 sewer tap in exchange for drainage easements on the property. City Attorney Amerine stated that in order to do drainage easement there has to be a legal description of the property. The Council briefly discussed the drainage, easements, and the water and sewer taps. By consensus, the Council advised Brown to obtain an agreement between the City of Clearwater and Mike Gannaway for the property at 149 N. Grain.

Council Member Whitney questioned if the old vet clinic is currently being used for some purpose. City Administrator Brown stated that the building has been rented to a person for living quarters and he is also housing a horse on the property. The Council briefly discussed the ordinance concerning animals and by consensus, directed Brown to review the ordinance and suggest changes regarding the amount and type of animals that are permitted in the City.

## **8. Water Emergency Plan**

City Administrator Brown reviewed the yearly Water Emergency Plan stating that it has been updated and Ernie Misak made a few minor changes. One change is that well #2 is back into production.

**MOTION:** Council Member York made a motion to approve the Water Emergency Plan as presented. Council Member FitzGerald seconded the motion and it passed unanimously.

City Attorney Amerine left the meeting.

**10. Second Review of 2009 Budget Funds Other Than General**

City Administrator Brown stated that the Council would review all of the funds other than general. The Employee Benefits fund is used for payroll taxes, health insurance, and the city portion of KPERs for the employees. The Special Liability fund is used for the umbrella and general liability insurance for the City. Both funds are funded by property and motor vehicle tax. The Special Highway fund is supplied by funds from state and county gas tax. The Special Highway fund is used for the bi-annual street project, to maintain and operate heavy equipment for street repair and snow removal. The street sweeper that pays off in 2008 has been paid out of this fund. The Council briefly discussed various streets in the City. The Special Parks and Recreation fund is supplied by half of the liquor tax and funds from the Department of Wildlife & Parks. The fund is used for maintenance on the fishing lakes in Chisholm Ridge and for parks and DARE. The Capital Building fund is supplied by property and motor vehicle tax and is used in part for the bi-annual street project and for the City portion of the payment on the Aquatic Center. Brown reviewed the Bond and Interest fund stating that it is funded by property tax and vehicle tax. Brown reported that there is an increase of \$64,000 in principal and interest payments for 2009 compared to 2008. This increase results in an increase of ad valorem tax needed of \$71,000. Brown stated that in 2010 the principal and interest would decrease by about \$58,000 due to the refunding bond being paid off. Brown stated that the Senior/Community Center would be added to the Bond & Interest in 2009. The Council discussed the bond and interest and the amount of debt of the City.

Council Member Armstrong stated that she hates to increase property tax and wondered what a percent sales tax for the City would accomplish. City Administrator Brown reported that staff had checked with the State of Kansas and in 2007 a 1% City retail sales tax would have generated \$152,000. The question would have to go before the voters and the last date to submit a question for the ballot is September 9th. The Council discussed at length a City sales tax with no consensus among the Council. The Council discussed various cuts to the budget and Mayor Justice suggested removing the additional person for park grounds keeping and maintenance. Brown stated that he would provide various options for cuts to the budget at the next meeting. Brown stated that the Water and Sewer funds are

user-based funds. The objective for the Water fund is to maintain the capacity of the transmission and distribution system by continuing a program of replacing water meters, continue cathodic protection for the interior of the water tower, obtain a mechanical valve exerciser, continue to work with the Fire Department on flushing hydrants, and replace 4 fire hydrants. Brown reviewed briefly the sewer fund.

## **11. Reports**

City Administrator Brown reported that the lease on the City Admin. vehicle is up for renewal on July 11th. Brown provided a bid tabulation for a couple of vehicles from Lubbers Ford and a couple vehicles from Scholfield Honda. After a brief discussion, the Council requested Brown to drive the Honda and report back at the next meeting on his choice of vehicle.

City Administrator Brown reported that the annual Consumer Confidence Report (CCR) on water would be mailed at the end of the month.

City Administrator Brown reported that maintenance has done some wide crack repair on the streets.

City Administrator Brown reported that there has been some significant graffiti in the shelter house at City Park. Brown requested to remove the metal siding on the southeast corner of the shelter. This would give the officer a better view of the shelter. By consensus, the Council approved to remove the metal siding.

City Administrator Brown stated that weed letters were mailed to the owners of the duplexes on Wood.

Council Member FitzGerald reported that Kenny Hughes reported to him that he is getting a lot of positive response from residents about having the city brush dump.

Council Member FitzGerald reported that the pool would be drained on Labor Day and the Chamber of Commerce would be having a fund raiser where people can buy a duck for \$5.00 for duck races.

Council Member Whitney stated that he received a complaint on the Falke property in the 100 block of south Second concerning weeds and limbs on the property. There have been reports of various animals in the limb piles. City Administrator Brown stated that he sent a weed letter and the lot was mowed. Whitney stated that the neighbor across the street mowed the lot. The limbs on the property have to be removed. Mayor Justice stated that the letter sent to the property owner that this would be the last weed letter than additional steps would be taken.

Council Member Whitney stated that he has received several complaints concerning that the property at 1200 Ridgeview Court has not been mowed all season.

Council Member Whitney stated that he received calls from three different areas where the maintenance guys dug out the fire hydrant and put the dirt in yards. Whitney suggested that maintenance put the extra dirt in the back of their pickups.

Council Member Whitney stated that he is continuing to get calls on the semi parked on Rolling Hills Court. On weekends the owner of the semi sleeps in the vehicle and uses a generator all night. She had provided the weight of the vehicle and it is under the 12,000-pound weight limit. Whitney stated that he thinks that the ordinance should again be reviewed.

Council Member Armstrong stated that there is a problem at the Senior Center concerning the meals. Carl Shaffer implemented a program to eliminate Styrofoam containers for the meals and use dishes that have to be washed. Now the people eating the meals are complaining that it takes too many dishes because all of the food has to be separated. After a brief discussion, Mayor Justice stated that he wants Styrofoam eliminated and that he would talk to the Red Cross concerning the dishes.

**12. Executive Session**

**MOTION:** At 10:00 p.m. Council Member Armstrong made a motion to enter into executive session for personnel purpose for five minutes. Council Member FitzGerald seconded the motion and it passed unanimously.

At 10:05 p.m. the Council returned to regular session with no action taken.

**13. Adjournment**

**MOTION:** Being no further discussion to come before the Council, Council Member FitzGerald moved for adjournment. The motion was seconded by Council Member York 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 June 24, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 8th day of July 2008.

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Cheryl S. Wright, City Clerk