

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

October 28, 2008

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, October 28, 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, Sandi Keeler, and Jim Whitney. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Jodi McBee, Deputy City Clerk; and Janet Amerine, City Attorney. Others present at the meeting were Mary Schauf, Clearwater Fire Department; Matt Bradley, Becky Boucher, Laura Cox, James Burnett, Kylee Hopkins, Phillip Cass, Lexie Forsythe, Tristan Smith, Kristen Arebalo, Christian Snyder, Samantha Sunderland, Brian Barker, Nate Bailey, and Ryan Stallard 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 October 14, 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

Mayor Justice, with Council consensus, appointed Jim Kendrick as Firefighter.

3. Public Forum

No one addressed the Council

4. Ordinance to Adjust Sewer Rates

City Administrator Brown reviewed examples of possible ordinances to adjust sewer rates. Brown stated a proposed sewer rate increase would include both an increase in the base and usage charges. Currently, the base rate for residential customers is \$17.50 and \$0.50 for every thousand gallons of usage. Brown stated the proposed rate increase is to \$20.00 for the base rate and an increase to either \$0.75 or \$1.00 for the usage charge. Brown continued that the proposed increases for the base rate for other entities, such as businesses, restaurants, car washes, etc, could either be a \$2.50 increase like the residential rate or the same percentage of increase as for residential, which is approximately 14%, for each category of business. For example, currently restaurants' rate is \$45.50. Their increase would either be \$48.00 with the \$2.50 increase or \$51.95 with the 14% increase. The sewer base rate for the school is being proposed as an increase from \$2.20 per person to \$2.23. Brown stated he did not include an increase for the category for subsidized high density residential complexes as they are subsidized by the government and, as the way he understands, there is no way to pass the increase on to their tenants. An annual increase of 1% for the base rate is included in the proposed ordinance. Another requested addition to the ordinance is an increase in the residential sewer connection charge from \$250 to \$300 for residents inside the city limits and from \$750 to \$800 for residents outside the city limits. Brown stated that the City needs to generate approximately \$30,000 more in revenue in the sewer fund. Brown stated that either base rate increase would generate approximately \$36,000 and the increase of the usage rate to \$1.00 per thousand gallons would generate approximately \$44,000. Council Member FitzGerald stated that subsidized high-density residential complexes were included in the water rate increase; they should be included in the sewer rate increase. Council Member Whitney agreed with FitzGerald and stated that it was only fair to raise the complexes rates since everyone else in town was getting an increase as well. City Attorney Amerine stated that the complex came to City Hall at the last sewer rate increase with a legal claim. Brown stated the current rate for the complex was \$10 per unit and the increase could reflect the \$2.50 increase the residential customers were receiving or a percentage increase like all other categories. Mayor Justice stated the percentage increase for all categories was the most reasonable to convey to the public that everyone received the same increase. Justice stated that he thought doubling the usage charge might be somewhat steep. Whitney stated that \$1.00 per thousand gallons as a usage charge was low in comparison to other towns in the area, as per the study done by city staff of 20 area cities. After a brief conversation regarding sewer charges in other towns in the area, council directed staff to draft an ordinance to increase sewer rates to include a 14.2% increase to the base charge for every category and an increase from \$0.50 to \$1.00 for the usage charge. City Clerk Wright assigned Ordinance No. 898.

MOTION: Council Member York made a motion to approve Ordinance No. 898 to Adjust Sewer Rates in the City of Clearwater with the ordinance reflecting a base rate increase to \$20 for residential with an increase by the same

percentage for all other categories, including subsidized high density residential complexes and a usage rate increase to \$1.00 per thousand gallons. Council Member FitzGerald seconded the motion and it passed on a roll call vote of 5 to 0.

5. Agreement for Use of Park Equipment

City Administrator Brown stated a business in the county, Klausmeyer Dairy Farm, requested to use some bleachers from the City. Brown stated that this agreement is for lease of the bleachers. In consideration for the lease of the City's bleachers, the Dairy agrees to pay \$25 per bleacher per month for the use of the bleachers and a delivery charge of \$25 per unit, which includes to and from the City to the location.

MOTION: Council Member FitzGerald made a motion to authorize the mayor to sign the Agreement for Use of Park Equipment with Klausmeyer Dairy Farm Tours, LLC. Council Member Berntsen seconded the motion and it passed unanimously.

6. Review Water & Sewer Plans for Business Park

City Administrator Brown distributed to the Council the water and sewer plans for Clearwater Business Park. Brown explained the packet includes a page that is the typical detail for the streets. Streets will be 41 feet from back of curb to back of curb. Brown also reviewed where the proposed water and sewer lines are to be placed. Brown stated there is a delay in getting the sewer profile due to a survey not being complete on the ground between the Business Park and Chisholm Ridge. Brown went on to review the rest of the pages in the packet, which included the profile for the water line. Brown stated an easement will need to be obtained from a property owner adjacent to the Business Park for the sewer line. Council Member FitzGerald questioned the size of the water lines. Brown stated it was to be an 8-inch water line. Brown stated the packets are just for review, since the profile for the sewer line is not currently complete.

7. Proposal to Replace Public Works Pickup

City Administrator Brown stated that Public Works Director Misak's pickup truck was involved in an accident and needs to be replaced. The other driver's insurance company totaled the vehicle. A check was received for the pickup for \$13,950. Misak has been looking for a replacement truck and found 2 options, a 2008 Nissan Titan 2x4 with 18,000 miles for \$13,200 and a 2006 Dodge Dakota 4x4 with 66,000 miles for \$11,500. Mayor Justice asked why Misak was looking at midsize pickups instead of full size. Brown stated price was why he was looking at smaller trucks. Council Member Whitney stated the trucks

being proposed were not the quality of vehicle that the City had before and he believed the City shouldn't settle for a lesser vehicle. Brown stated it was difficult to find the year of truck the City had previously with the low miles that truck had. Council Member York suggested buying the pickup back from the insurance company and have the truck fixed. Brown stated the check has been received from the insurance agency and the truck was towed away. After a brief discussion regarding insurance coverage, Council directed staff to keep looking for a more comparable vehicle to the 2003 Dodge Ram that was wrecked.

8. Reeves Electric Bid for Clearwater City Park Electrical Power Boxes

City Administrator Brown stated the Reeves Electric bid for Clearwater City Park electrical power boxes is an addition to the ball field lighting discussion from the previous meeting. The boxes on the north side of the park could be removed if the ballpark lighting gets approved. This bid would be to install those boxes in the ground to keep a power supply at the north end of the park. Council Member Whitney stated that the boxes might be in the way of the new construction of the ball field lighting. Mayor Justice stated that his opinion is to wait to make a decision on the power boxes until the Recreation Commission approved the ball field lighting proposal. Council agreed to wait until the after the meeting with the Recreation Commission to make a decision regarding the power boxes.

City Administrator Brown stated at the previous meeting, Council had set a tentative date for joint meeting of the City Council and the Recreation Commission for November 6th. The Recreation Commission Chairman is not available to meet on that day. November 10th was suggested as an alternative. Council suggested trying to meet on November 5th.

9. Cellular Network Partnership Request to Sublease on Tower Site #407

City Administrator Brown stated that Cellular Network Partnership is requesting to co-locate on the tower near the sewer ponds. Brown is requesting Council authorize the Mayor to sign the agreement with Cellular Network Partnership to allow Alltel on their tower. The agreement would generate \$2,400 annually to the City.

MOTION: Council Member FitzGerald made a motion to authorize the Mayor to sign the agreement with Cellular Network Partnership request to Sublease on Tower Site #407. Council Member Berntsen seconded the motion and it passed unanimously.

10. Proposal from Randal Steiner for Architect Services for Exterior Remodel and Lobby Remodel of City Hall

City Administrator Brown stated he received a proposal from Randal Steiner for

architect services for exterior and lobby remodel of City Hall. There are some moisture and temperature control issues with the large windows in the front of City Hall. The architect will draw up plans to redo the façade of the building and update the windows to remedy the issues. The contract is for \$4,100.

MOTION: Council Member FitzGerald made motion to accept the agreement and request a contract with Randal Steiner for exterior and lobby remodel of City Hall. Council Member Keeler seconded the motion and it passed unanimously.

11. Red Flag Rule Identity Theft Protection Policy

City Attorney Amerine reviewed the Red Flag Rule Identity Theft Protection Policy to comply with a new Federal Trade Commission regulation. The policy is to protect the City and citizens against identity theft when new customers sign up for utilities. The requirements of the regulation are to obtain name, address, date of birth, social security number and photo identification. After reviewing current procedures, the new procedure will be to require a copy of a photo ID, which has a date of birth, when customers come in to sign up for water service. The following business day, the phone number provided by the applicant will be called to verify the number is working and the person answering the phone signed up for water service. The City Clerk will be the administrator of the policy. The policy will be reviewed annually and a report will be made to the Council on any red flags from the previous year.

MOTION: Council Member York made motion to adopt the Red Flag Rule Identity Theft Protection Policy for the City of Clearwater. Council Member Berntsen seconded the motion and it passed unanimously.

12. Passenger Rail Service Resolution of Kansas in the 10-Year State Wide Comprehensive Transportation Program

City Administrator Brown stated as part of the State of Kansas's 10 year Comprehensive Transportation Program there is an effort underway to promote rail service to and from Wichita. The Northern Flyer Alliance is asking for support to try to get some action in favor of local train service. If Council supports the issue, a resolution would be passed stating Clearwater would like to see rail service included in the overall comprehensive transportation plan. City Clerk Wright assigned Resolution No. 7-2008.

MOTION: Council Member FitzGerald made motion to adopt Resolution No. 7-2008 endorsing Passenger Rail Service in the Kansas 10-Year State Wide

Comprehensive Transportation Program. Council Member Berntsen seconded the motion and it passed unanimously.

13. City Attorney Response to Council Member Nuisance Issue

City Attorney Amerine stated at the previous Council Meeting, Council Member FitzGerald requested she review the Nuisance Ordinance. Police Chief Demars joined the meeting to discuss some changes he would like to see to the Nuisance Ordinance to make it more enforceable by the Police Department. The current code reads, "A police officer on routine inspection or upon receipt of a complaint may investigate a suspected inoperable motor vehicle or motor vehicle accessories and record the make, model, style and identification numbers and its situation." Demars stated he suggests removing "routine inspection" and adding written to the complaint. This way there is a paper trail documenting the complaint. Amerine stated she changed Police Officer to Public Officer in the ordinance to include the Council Compliance Officer to do inspections after a complaint. Council Member FitzGerald stated he didn't like adding written to the ordinance. Demars stated that in the case of nuisance vehicles, the vehicle owner will be charged with a misdemeanor. When the case is taken to municipal court, the City Prosecutor will have no evidence of the complaint and the case will be dropped. City Clerk Wright stated staff could create a nuisance complaint form to make the process easier. Wright assigned Ordinance No. 899.

MOTION: Council Member FitzGerald made a motion to adopt Ordinance No. 899 for Complaints and Inspection of Nuisance Vehicles amending the ordinance to include the written complaint and changing the date from 2007 to 2008. Council Member Berntsen seconded the motion and it passed on a roll call vote 5 to 0.

Mayor Justice requested an update on the check writing fraud case. Demars stated the case was dropped against the check writing fraud suspects that were caught in the City of Clearwater almost a year ago. Fraudulent checks were written to Stars & Stripes, Mize and several other local businesses. The Clearwater Police Department caught the suspects with all the evidence in their vehicle and got evidence on video and pictures. Since there were businesses affected in Sedgwick County as well, Sedgwick County Sheriff's Department took over the lead investigation. When Sedgwick County Sheriff's Department presented the case to the Sedgwick County District Attorney's office, the Prosecuting Attorney dropped the case for reason given of lack of evidence. Demars stated that the only thing they could do now is write a letter to the Kansas Attorney General's Office. Mayor Justice requested the name of the prosecuting attorney with Sedgwick County and stated he would be happy to draft a letter to the Attorney General's office. Justice stated he was frustrated that the Police Department spends time on a case and has evidence on a case and the District Attorney's office blows off the case from the small cities in Sedgwick County. Justice

continued he was tired of the small city residents of Sedgwick County being treated like second-class citizens if they didn't live in Wichita. Council Member Whitney stated not only is the City out man-hours but the local businesses are out dollars because they didn't receive restitution.

Police Chief Demars stated that he would like to inform Council that there is a scam where letters with checks on local business are sent to residents. The letter states in order to become a Mystery Shopper for the company the check is written on, the recipient of the letter must deposit the check and return a portion of the amount for taxes and training fees. The recipient then writes a check to the business based on the check deposit and the money is lost because the check received is fraudulent. Demars plans to put a notice in the paper to inform the public of this scam.

13. City Identification Badges

Deputy Clerk McBee reviewed the City Identification Badges with the Council. On the front will be the employee name and title with a picture. Each department is identified by a color code. On the back will be the City of Clearwater seal, issue date and Mayor Signature. City Clerk Wright stated the idea is that these will be the official badge of the City and, if the Council so requires, will be worn by city employees. Council Member York stated that the badge doesn't need to be worn if the employee is digging a ditch or fixing a sewer line, but the id badge should be somewhere accessible. After a brief discussion, Council consensus was for all city employees to be issued a city badge, to wear them unless the employee was doing something where it was not practical for the badge to be worn, and for the badge to be turned in to the City when the employee resigns. Mayor Justice suggested adding the badges in the disaster plan and the employee manual.

14. Reports

City Clerk Wright stated that Carol Reitberger and herself would not be at work Friday because the girls' volleyball team made it to State. Wright's granddaughter and Reitberger's daughter are members of the team and they would be attending the tournament in Salina.

City Attorney Amerine stated she would like to do some legal training with the newest members of City Council. Amerine stated she would make arrangements with Council Members Keeler and Whitney to do an overview of the legal responsibilities of Council Members.

City Administrator Brown stated about 2,000 fish were buried after the sewer ponds

were treated. The fish were removed from the ponds to try and reduce the BOD levels.

City Administrator Brown stated that Public Works is currently working to replace a section of water line at Garvey Grain.

City Administrator Brown stated that there is another inquiry from a cell phone company to add a tower on City property at the brush dump.

Council Member Whitney requested staff prepare a review of the past years Council meetings to gather information on what Council needs to finish up before year end.

Council Member Whitney asked for an update on the schoolhouse behind the Historical Society. City Administrator Brown stated the Historical Society is applying for a grant to fix up the schoolhouse. Judy Cumming with the Historical Society is working with an attorney to get funds to have the building repaired and improved.

Council Member FitzGerald stated that some of the alleys in town are in bad shape. Council Member Whitney stated they had fixed some but there were several more that need some attention.

Council Member FitzGerald asked if a decision was made about whether the public could buy the millings from the City that are stored at the brush dump. City Administrator Brown stated that Public Works Director Misak would prefer the millings not be sold so the City would have enough to use for itself. After a brief discussion, Council consensus was to not sell the millings to the public.

Council Member Whitney stated there is lumber and other miscellaneous items at the brush dump that need to be burned or dumped at the next cleanup day.

City Clerk Wright stated the new owner of the former Kabredlo's building at 501 E Ross said he hoped to have the new Subway opened in that building in 45 days. He plans to hire local employees to run the store. He also plans to serve breakfast in addition to the regular Subway menu.

Mayor Justice stated he would like to pass along a "Thank You" to the Public Works Department on their hard work on last week's city cleanup weekend.

15. 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, 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 October 28, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 11th day of November 2008.

Jodi McBee, Deputy City Clerk