

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

December 8, 2009

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, December 8, 2009, 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, Jim Whitney, Sandi Keeler, and Jim Frischenmeyer, Council Members. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Janet Amerine, City Attorney; Ernie Misak, Public Works Director; Others present at the meeting were Paul Rhodes, Times Sentinel Newspaper; Marvin Schauf and Mary Schauf, Clearwater Volunteer Fire Department; Christelle Beard, William Kenney, Bill Kenney, Rebekah Schauf and Chrystal Luckner, Citizens; Grant McCoin, Bryce Delgado, Michael Kreuzberg, Stetson Johnson, Simon Roed, Gage Dickerson, Nick Pierce, Paxton Budd, Grant Dunnegan, Sam Cargile, and Trevor Bradley, 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 November 24, 2009

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

2. Mayor's Recommendations

With Council consensus, the Mayor accepted the resignations of Jessica McNulty as EMT, Allan Keiss as EMT and Firefighter, and Travis Wise as Firefighter.

With Council consensus, the Mayor approved the recommendation from Fire Chief Marvin Schauf to remove Justin Patrick as Firefighter.

3. **Public Forum**

No one addressed the Council.

4. **Progress Addition Times Sentinel**

Paul Rhodes with the Times Sentinel addressed the Council regarding the Progress Addition. The Progress Additions highlights community information in a newspaper published every other year. Rhodes stated the prices are identical from two years ago, but now he has more capacity for color pages. The price of a space includes an additional equal size space for free. After a brief discussion, Council gave consensus to purchase a full-page color space with an additional free full-page in color in the Times Sentinel Progress Addition.

5. **Continuing Discussion on Revised Proposal for Restroom/Concession Building in City Park**

City Administrator Brown stated that at the previous council meeting, Council was given information to review for the restroom/concession building in City Park. Council Member Berntsen requested additional information regarding prefabricated buildings. Brown reviewed an email from the company that builds the prefab buildings. Quotes for the building are between \$100,000 and \$156,000. Mayor Justice reviewed the price quotes that Public Works Director Misak proposed. The estimated cost of the restroom/concession building is \$89,000 and an estimated cost of a restroom only building is \$79,000. Brown stated that at the previous council meeting, Bill Kenney, who operates his snow cone business out of the current concession building, stated he had a petition to keep the concession stand as part of the new building. The petition is an Internet social network group created to "Save the Snow Zone". Rebekah Schauf, citizen, stated that her family enjoys having the Snow Zone as a place to get snow cones in the summer as a reward for good behavior. Schauf stated the Snow Zone provides a place for teenagers to work and kids and parents to get a treat. Schauf stated it would be a shame to see the business go. Council Member Keeler stated that she has been contacted by several residents that don't want to see the snow cone business go because it doesn't have a building. Council Member York stated he was leaning towards a restroom only building because the small amount of ball games played at the city park ball fields doesn't justify having a concession stand for that short time. Council Member Whitney stated he didn't want to build a concession stand just as a place to sell snow cones and ice cream. Whitney continued that there is no guarantee that the business was going to remain open for a long period of time. Whitney also stated his concern that at this time Misak's estimates are not a definitive cost. There are always cost overruns when a building is built. Whitney stated he didn't like seeing all the money for the

park improvements spent on one building. Lastly, Whitney stated that they haven't heard from the taxpayers whether they want to spend their tax dollars on a concession stand. The petition that was submitted should be scrutinized to see if it is made up of taxpayers, not just kids. Misak stated he has received quotes from subcontractors, however they were not presented to Council in writing. Rebekah Schauf stated that she took offense that Whitney stated that they haven't heard from taxpayers. Schauf stated that she was a taxpayer and the folks that had contacted Keeler were probably taxpayers. Taxpayers take their kids to the Snow Zone. Schauf mentioned that the concession stand could also be rented out to other community groups to be used for fundraisers. Bill Kenney thanked the Council for allowing him to rent the current concession building for his snow cone business. Kenney stated that the Snow Zone has been a community service for him not a large moneymaker. He has profit shared with the Senior Government Class to assist in their Washington D.C. trip. He also has provided a \$500 scholarship to a special needs child. Kenney stated that he understands it is not the City's responsibility to provide him with a building, but he would like to keep operating the business as long as the City will allow. Council Member Frischenmeyer stated he was against leaving the concession stand out of the building plan. Frischenmeyer stated that he saw the business in the concession stand as something that draws people into the park. Council Member Berntsen stated he was opposed to building restrooms. Berntsen continued that that the restrooms would become something just used for special occasions. After the restroom is vandalized a few times, the restroom will be locked up and not used at all. Mayor Justice stated that in reviewing the park plan, he sees the bathroom as a necessity. Justice went on to state that if the concession stand were built later it would only cost more money down the road. Justice stated that the decision whether or not to build the concession stand can't be based solely on the snow cone stand. It must be based on what is best for the park as a whole. Keeler stated that if the decision to build the restroom/concession stand isn't made now, it might never get accomplished. Other things will take precedence and the building will be forgotten. Keeler stated now is the time to make something happen. Whitney stated he wants to see the old restroom building west of the ball field torn down as well as the concession building if the Council votes to build the new building.

MOTION: Council Member Keeler made a motion to build the concession stand/restroom building at City Park for an estimated cost of \$89,000. Council Member Frischenmeyer seconded the motion and passed 4-1 with Council Member Berntsen voting no.

6. Hazard Mitigation Grant Program Approval with Conditions for Tornado Safe Room

City Administrator Brown stated the City of Clearwater has been approved with conditions by the Hazard Mitigation Grant Program to build a tornado safe room. This is a storm shelter that would be built on the east side of the EVS building. The City has 21 months to build the shelter. The facility is \$108,000, with the City's 25% matching portion of \$27,000. Brown stated Dale Zogleman, contractor of the shelter, has contacted him to begin the design plans to submit to FEMA. Council gave consensus for Brown to move forward with Dale Zogleman for plans for the tornado shelter. Brown stated he also needs direction on how to fund the \$27,000 needed for the City's portion of the building costs. Brown stated that there is \$25,000 in the 2009 budget for the generator that could be used or the money could come out of the 2010 and 2011 budgets. After a brief discussion, Council agreed to stay on task with the budgeted money for the generator, and use \$27,000 from the next two years to pay the 25% matching portion of the grant to build the emergency storm shelter.

7. Update on Larsen & Associates Request for Access for Soil Borings 319 W. Ross

City Administrator Brown stated he has additional information regarding the request for access for soil boring at 319 W. Ross. Brown stated that the KDHE is doing a Risk Based Corrective Action (RBCA) in order to close the sight. An RBCA did not exist when the clean up investigation was initiated. The monitoring wells were put into place when the tanks were removed when Sedgwick County evacuated the site. Now in order to close the facility, they can't rely on just the monitoring wells. Soil borings must be done to get soil samples to see if contamination has decreased over time. The borings are not because of a complaint or because of the grant application for the shelter. Larsen & Associates needs access on behalf of KDHE to complete the on going study.

MOTION: Council Member Keeler made a motion to authorize the Mayor to sign the access agreement with Larsen & Associates, Inc. Council Member Whitney seconded the motion and passed unanimously.

8. Quotes to Purchase a Valve Exerciser

Public Works Director Misak stated the reason he is requesting to purchase a valve exerciser is to assist in exercising all the valves in the water lines and wells. The valves must be exercised regularly to keep them loose so they may be opened and closed properly. Misak stated that for many years some valves were not exercised and they have become difficult to shut off. Misak stated that he was approved for \$6,000 in the 2009 budget to purchase a valve exerciser. Misak reviewed the options for the valve exerciser. Misak stated that a hand held electric exerciser would work best, but then they would require a portable generator. Misak stated that he has found a hand held exerciser and a portable

generator with a welder for under the \$6,000 budgeted amount. Council gave consensus for Misak to purchase the valve exerciser and a portable generator/welder, as long as he stays within the \$6,000 budget.

9. Review 2009 Proposed Budget Amendment

City Clerk Wright reviewed the suggested year-end budget adjustments. Wright stated the adjustments are an even revenue and expenditure offset; they are merely a cleanup of unknown revenues and expenditures that happen throughout the year. Council agreed to set the Budget Hearing for the next Council Meeting on December 22.

MOTION: Council Member Berntsen made a motion to set the Budget Hearing for December 22, 2009 at 6:30 p.m. Council Member Keeler seconded the motion and it passed unanimously.

10. Review of Personnel Rules & Regulations Sections VII thru VIII

City Administrator Brown began the review of Section VII regarding Separation and Section VIII regarding Sexual Harassment and Safety. Council and staff suggested the following changes:

- Article VII, Section 2 is titled Removal for Cause. City Attorney Amerine suggested changing the section title to Involuntary Termination. After briefly discussing litigation issues in the section, Amerine stated that the paragraph in the section may be omitted and may simply state that “Any employee may be terminated with or without cause.” Council agreed they preferred the one sentence to the paragraph.
- Article VII, Section 3 pertains to a right to hearing for terminated employees. Amerine suggested omitting the phrase “removed for cause” and replacing it with “terminated”. Amerine also suggested adding whom the terminated employees are entitled to be heard by, namely the Governing Body.
- Article VII, Section 5 discusses reinstatement. Council discussed removing the word “terminated” and replacing it with “separated employment”.
- Article VIII, Section 1 pertains to Sexual Harassment. Brown reviewed the current policy and alternates 1 and 2. After a brief discussion, Council agreed they preferred alternate 1.
- Article VIII, Section 2 is in regards to work place safety. Council agreed to add a statement that each department will establish its own safety policy to be approved by the Governing Body.

- Article VIII, Section 3 pertains to workplace violence. Council agreed to add a statement for Police Officers to check the Police Manual.
- Article VIII Section 4 discusses a substance abuse policy. After a brief discussion, Council agreed to add subsections on random drug testing and drug testing after accidents.

11. Consent Agenda

Council gave consensus to pay League of Kansas Municipalities yearly membership dues and Research Subscription for F/Y 2010 of \$1,058.16 and employee bonuses.

12. Reports

City Clerk Wright stated she has contacted the company that is restoring the City Hall lobby flooring because the east half of the lobby is still not shining like the company promised. They are now going to come back and wax the floor. There will be no additional cost.

City Clerk Wright stated the rate at which the City reimburses mileage has gone up. Wright states city policy states that she gets the rate from the State of Kansas Municipal Accounts and Reports. The rate will go up from \$0.505 to \$0.55.

City Administrator Brown stated that at the last Planning Commission Meeting, there was a variance request brought before the Commission. The request was for a deck on the back of a house in Chisholm Ridge. The house is already four feet into the 25-foot setback, due to an administrative oversight. The request is to build a deck four feet into the 20-foot utility easement. The Planning Commission denied the variance request. Brown stated the owners have the right to appeal the denial in district court. Brown stated he has spoken with the engineer for Chisholm Ridge and they have discussed two options. Either the homeowner can request that 5 feet of the easement be vacated or contact all the utility companies and request that they be allowed to build in the easement. Council agreed that the engineer for Chisholm Ridge could move forward at his own risk. Council Member Whitney stated that the homeowner and the builder knew the size of the house and the lot going into construction. Council Member Berntsen stated he understood that people build things in easements all the time without permission. But those people have to understand that the utility companies have the right to tear them down if they need access. After a lengthy discussion, Council stated they support the Planning Commissions decision not to allow the deck to be built into the utility easement. Brown stated that it might be a future consideration to change the backyard setbacks to 20 feet to match the typical utility easement.

Council Member York stated that 140 S. Lee has some debris in the yard that needs to be cleaned up.

Council Member Whitney asked if APAC has a plan for the drainage problem at First and Ross. City Administrator Brown stated that APAC came back with a plan to tear out the curb from Ross to the alley on First Street, rebuild the curb, and then build a valley gutter across the street. Brown stated he has asked APAC for the elevations, but they were unable to provide them. Brown stated the project is too complex without documentation to justify the work. Mayor Justice suggesting hiring someone to shoot the elevation. Brown stated that a valley gutter is the best solution.

Council Member Frischenmeyer stated he would like to see the rear yard setback reviewed. Frischenmeyer stated that his opinion was it was best to match the rear yard setbacks with the utility easement. This might eliminate confusion in the future.

13. Executive Session - Personnel

MOTION: At 9:55, Council Member York made a motion to enter into Executive Session for Personnel for 5 minutes. The motion was seconded by Council Member Berntsen and passed unanimously.

At 10:00, Council returned to regular session with no action taken.

14. 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 December 8, 2009 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 22nd day of December, 2009.

Jodi McBee, Deputy City Clerk