

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

February 10, 2009

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, February 10, 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, David FitzGerald, Sandi Keeler, and Jim Whitney, Council Members. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Janet Amerine, City Attorney; and Jodi McBee, Deputy City Clerk. Others present at the meeting were Paul Wrablica, Telecom Realty Consultants; Marvin Schauf and Mary Schauf, Clearwater Fire Department; Kevin Ryan, Citizen; Derreck Carter, Russell Johnson, Garrett Weidman, Laura Cox, Rebecca Boucher, Cole Pearson, Korey Johnson, Kyle Beavers, Sam Sipp, and Kurt Barnett, Clearwater High School Government students.

Mayor Mike 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 January 27, 2009

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

2. Mayor's Recommendations

Mayor Justice, with Council consensus, appointed Thomas C. Bodwell as MICT with Clearwater Emergency Services.

3. Public Forum

No one addressed the Council.

4. Bids on Construction Project to Redo City Hall Entrance and Windows

City Administrator Brown stated 6 bids were received to redo the City Hall entrance and windows. Brown stated that the lowest base bid comes from Caro Construction from Wichita in the amount of \$29,420. Brown stated there is some available money from 2008 in the amount of \$18,000 for the project and the balance would come out of \$42,000 from the 2009 Capital Budget in General-Administration. The bids also included 4 alternate bids to do some masonry repair on the north and eastside of City Hall, upgrade the lobby doors, and fill in the ceiling cove where the windows will be replaced. Brown stated it was staff's recommendation to wait on doing the ceiling repair and get a bid to redo the whole ceiling due to the difficulty in matching ceiling tiles. Council Members Whitney and FitzGerald stated their opinion was to do the ceiling now while the contractors were at City Hall working. Council Member Berntsen stated that matching ceiling tiles was hard to do and patching the ceiling might not look good. After a discussion regarding ceiling options, Council agreed to accept the bid from Caro Construction with alternate bids 1, 2, and 3 and get a bid for a drop ceiling and light fixtures for the entry way and Council Room. Brown then went on to review the recommendation letter from Randal Steiner, Architect. Steiner's letter recommended Caro Construction as the builder and stated the start date of the project would be slightly delayed due to the special ordering of the front door. Caro requested the completion date include the time they have to wait for the door to arrive and be installed. Caro understands City Hall needs to be secured every night and needs to have public access everyday.

MOTION: Council Member York made a motion to accept the bid and enter into contract with Caro Construction with alternate bids 1, 2, and 3 in the total amount of \$39,120.00. Council Member Keeler seconded the motion and it passed unanimously.

5. Revised Draft Lease and Site Location from Telecom Realty Consultants, LLC

City Administrator Brown stated that the revised draft lease and site location have been reviewed by Telecom Realty Consultants and City Attorney Amerine. Suggestions made by Council have been incorporated into the lease agreement. Amerine stated her only suggestion for change is in Section 15 Default and Right to Cure of the contract. Amerine stated she would like to see "mutual consent by both parties" be added. In case of default in the agreement, both parties would have to agree how to end the agreement, not just the tenant. Brown stated there is currently a verbal agreement with Telecom Realty Consultants to change that wording, and it would be changed in the final draft of the lease. Brown stated the City is making no warranties regarding the site. Brown continued that he has reviewed information regarding what the sites has been previously used for with Wrablica and engineers with Black & Veatch. Brown stated that there definitely needed to be some

engineering work done by Telecom or A T & T Mobility before the tower is built to insure the site will work. Paul Wrablica with Telecom Realty Consultants, LLC stated there would definitely be some geotechnical exploration, including a Phase 1 and possibly a Phase 2 to look at environmental conditions. Wrablica stated that everybody is well aware what the site has been previously used for and there may possibly be a salt mine below or near the property. Wrablica stated the tower will be designed so it doesn't disappear once it is built. Brown stated that he just want to make absolutely clear on behalf of the City of Clearwater that there is some work done on Telecom's side before a tower is built. Wrablica stated there will be substantial work done on Telecom's side. Amerine stated that all risk on the environmental aspect is on Telecom and the City assumes no responsibility where environmental comes into play. Wrablica stated that the environmental language has been taken out of the contract. Wrablica continued that normally that language doesn't come out of the contract, but understanding what the previous use of the property was, that was eliminated. Amerine asked Wrablica if Telecom would be contacting the railroad that they are installing a cell phone tower close to the train tracks. Wrablica stated they typically do not contact the railroad. Wrablica stated that as long as they are not in the railroad right-of-way, they have no obligation to contact them. Amerine stated she has now approved the lease to form with the one change and would recommend to Council to approve the lease.

MOTION: Council Member FitzGerald made a motion to authorize the Mayor to sign the lease agreement with AT & T Mobility for a portion of the brush dump property to install a cell phone tower with the recommended change in Section 15. Council Member Berntsen seconded the motion and it passed unanimously.

Council Member FitzGerald asked what the estimated time was on having the tower installed. Wrablica stated that there was still some paper work to be done on A T & T's side, including clearing the airspace and some environmental reports, but hoped the tower would be installed in 90 days.

6. Set Dates for Spring and Fall City Wide Cleanup

Mayor Justice stated that a date needs to be set for the spring and fall citywide cleanup weekends. After a brief discussion, Council consensus is to set spring cleanup for April 17th & 18th and fall cleanup October 16th & 17th. City Clerk Wright stated the dates needed to be verified with Waste Connections.

7. Update on State Legislature Proposed Decreases Across the State and the Effect on Clearwater's Budget

City Administrator Brown reviewed the proposed decreases of the 2009 State Budget from the State Legislature. Brown stated that the budget rescission bill for 2009 in the Kansas State House did restore 9.6 of the 10 million dollars in suggested cuts of the State highway money, which is from the gas tax. The machinery & equipment slider payment is proposed by the Senate to be delayed until May or June, and probably indefinitely if the economy is still slow. The House proposed to restore 47 of the 53 million in slider payments, which are supposed to come in February of this year. Brown stated that the State House and Senate are about 30 million dollars apart in budget cuts, but the distribution is different. The House and Senate will have to come to an agreement before a final rescission bill can be passed. Then, the 2010 budget will start to be reviewed by the State and that is when the possibility of the liquor sales tax money, the M & E slider, and highway money could be taken away from local governments.

City Administrator Brown stated there are some additional concerns for the City coming from the Legislature. One concern is that there are 5 different annexation bills in the Legislature that attacks the City's ability to annex land. The bills make it harder or impossible to annex land into the City without the owner's consent. The second concern is that the Legislature is trying to do away with cereal malt beverages being sold in grocery and convenience stores and just having single strength beer sold everywhere. Brown stated eliminating cereal malt beverages would take away the City's ability to license establishments or regulate where and when cereal malt beverages are sold. There is also a possible loss of sales tax revenue with this bill.

8. Update on Additional Charges for Housing Prisoners at Sumner County Jail

City Administrator Brown stated that because of the fee Sedgwick County is charging for housing prisoners, Clearwater has been sending prisoners to Sumner County Jail. Sumner County jail is also cheaper by the day to house prisoners than Sedgwick County. An issue that has come up is when a prisoner housed in Sumner County Jail needs medical attention, who pays for it and how is it handled. The County tries to charge the prisoner's insurance, but not all prisoners have insurance. Because Clearwater is not in Sumner County, an agreement from Sumner County with the City of Clearwater is being drawn up to identify how to pay for prisoner medical treatment and who can authorize the medical treatment to be done. Chief Demars is still waiting for the agreement from the Sumner County Sheriff.

9. Change Order Reeves Electric for Electrical to Concession Stand in City Park in the Amount of \$400.00

City Administrator Brown stated that the change order for Reeves Electric is for replacement of a light pole and some under ground conduit to the concession stand at City Park. The order is for an additional \$400.

MOTION: Council Member FitzGerald made a motion to accept the change order from Reeves Electric for electrical to the concession stand in City Park in the amount of \$400. Council Member Berntsen seconded the motion and it passed unanimously.

Council gave consensus to pay Reeves Electric \$400.

10. Chisholm Ridge Crosswalk Recommendation from Sedgwick County

City Administrator Brown stated that he had spoken to the Sedgwick County Road Department regarding the crosswalk on Ross near Chisholm Ridge. The current crosswalk has been an issue because traffic doesn't stop for pedestrians waiting to cross the street to and from school. The County is recommending the crosswalk be moved to the west so if a stoplight is installed it would only have to be two directional instead of three directional. There are 2 options for location of the crosswalk. One is across from the Chisholm Trail Sports Complex sign and the other is about 50 feet further west where the side walk around the pond bends. The preference with both the Police Department and Public Works is the location across from the sign. Either possible location would need culverts installed and the County would be willing to install those. The County is not willing to pay for a signal. Council Member Whitney suggested the City look into a solar powered signal. Brown stated the County had suggested some contacts to get prices on signals. Council directed staff to work with the County on getting the crosswalk near Chisholm Ridge on Ross moved to the west across the street from the Chisholm Trail Sports Complex sign.

11. Request from Elementary East to Block Off Ross in Front of the School on April 28th from 5:00 pm to 8:00 pm for a Kindergarten Event

City Administrator Brown stated that there is a request from the Clearwater School's Physical Therapist to block off Ross in front of Elementary East and the City Park parking lot for a "Family Fun and Fitness Night/Ready Set Go Event". Council consensus is to have the street and parking lot blocked off for the event and for Police Chief Demars to coordinate with the School about where exactly they would like the blockades.

12. Park Advisory Board Recommendation on Park Plan

City Administrator Brown stated the Park Advisory Board met and discussed the

priority order for items in the park. The Board suggested the bathrooms needed to be installed next. They agreed the best location for the bathrooms is the current location of the concession stand. The concession stand is a stick built building and they would like to see a new concession stand/bathroom building built to replace the current building as a cinder block structure to match the swimming pool building. Mayor Justice stated since all the utilities are already at that location, the current concessions stand building would be a logical spot for a new concession stand/restroom facility. Council Member Whitney stated he was in favor of the sight only for the purpose of saving money on utilities, but he is concerned with running into a transite water main that runs near the building. Council Member FitzGerald stated he liked that location because of the visibility factor. FitzGerald stated he could see the visibility cutting back the amount of vandalism. FitzGerald asked if the building would have concessions in the middle with a restroom on each side. Whitney stated he had seen a concession/restroom building with the restrooms at one end with a breezeway separating it from the concession building. Then the building is broken up and there is a view to the other side of the building. The restrooms would also be under a roof out of the elements. Whitney continued to suggest the building have all stainless steel fixtures and concrete floors to make it as indestructible and easy to clean as possible. Council directed staff to start looking into a new restroom/concession building.

Mayor Justice stated it would be a good idea to set a priority list for the park, so once one project was completed, the next project was in line. Council Member FitzGerald stated that he would like to see the windmill installed. It is only deteriorating as it is waiting to be installed. Council Member Whitney stated that is a low cost project that could be done easily. Mayor Justice stated that public fundraisers are a good idea to assist in the cost of the landscaping around the windmill. FitzGerald stated that as soon as the restroom building is mapped out the Council should start looking at placing the windmill. City Administrator Brown stated he could see getting the walking path installed to bring people to the park. Then signs could be placed along the walking path to bring people's attention to where things might be placed. FitzGerald asked what the City's policy was on placing plaques on items that are donated. City Attorney Amerine stated the City had a policy on naming things and placing plaques to recognize donations. Amerine stated the policy needs to be reviewed.

13. Council Reports

Council Member FitzGerald stated the drainage ditch that runs into City Park from the north across Hellar, Wood, and Elaine needs new blockades installed. FitzGerald suggested replacing the chains with a single post in the middle of the canal at each end. A post could keep cars from being driven down the canal, but would allow walkers access when water isn't flowing through as walk way to the park. Mayor Justice asked if Public Works ever needs access to the canal for maintenance. Council Member Whitney stated that

a sleeve could be installed in the ground where the pipe could be screwed or bolted in and removed for vehicular access. Council gave consensus to have Kent work with Public Works to look into installing pipe as a blockade in the canal north of the Park.

Council Member FitzGerald asked if the City could provide a public class for CPR/First Aid. City Administrator Brown stated he would speak with EVS Director Donald Schauf about what the options are for having a class in Clearwater.

Council Member FitzGerald asked if the Police Department planned on having a hunters' safety class this year. Council Member Berntsen stated he had spoke to Chief Demars, and last year's class was cancelled due to a scheduling conflict with the instructor. Brown stated they needed to find an instructor that was willing to teach the class.

Council Member Whitney stated the street light at First and Nancy is flashing on and off. Whitney asked staff to contact Westar Energy.

Council Member Whitney asked if the lighting project in City Park is complete. City Administrator Brown stated the lighting is operational. Whitney stated he would like the Recreation Commission and the Ball Association to be contacted to inform them that the lights running and in working order.

Council Member Whitney stated now is the perfect time to get the brush dump cleaned up. The property has a lot of old fencing and miscellaneous items that could be thrown away the weekend of the City Wide Cleanup.

Council Member Whitney stated he plans to replace the water line at the Sports Complex on Thursday. Whitney stated he will run the sprinkler systems on the ball fields to see if there are any repairs that need to be made.

Council Member Whitney stated at the corner of First and Southeast Drive there is a Ford Falcon parked that is blocking the view of traffic.

Council Member Whitney stated he noticed there are more and more semis and trailers parked in town. Mayor Justice asked if the Planning Commission ever came up with a recommendation for regulating semis and trailers. Brown stated they have not discussed that issue at length yet.

Council Member Whitney stated he had received some comments that the City is taking on a new employee with the donation to the Clearwater Area Chamber of Commerce. City Administrator Brown stated the donation is not adding an employee to the City. The Chamber Director is still employed by the Chamber. City Clerk Wright stated the donation

money is coming out of Economic Development not Payroll.

Council Member Whitney stated his concern with the generator at well #7 not working properly. Whitney continued that if the generator is not working, Foley Equipment needs to look at the problem because the generator is new enough it should still be under warranty. City Administrator Brown stated the problem is with the soft starts and it is being reviewed.

Council Member Keeler asked if Sedgwick County has given an estimate of when they will have the railing at Diagonal and Tracy fixed. City Administrator Brown stated he has not been given a time frame.

Council Member York asked if there has been information received about the grant for the schoolhouse behind the Historical Museum. Council Member FitzGerald stated he spoke to Judy Cumming, Historical Museum Director, and they haven't heard anything yet. FitzGerald also stated the tarps have not been placed over the roof yet. Mayor Justice stated he would recommend contacting SKT or Mike Machart about getting a bucket truck to place the tarps.

Council Member York stated the trailer frame that the Flyers Club wants is still at the brush dump. After a brief conversation, Council agreed to let the Flyers Club know that the frame needs to be removed from the brush dump by April 17th or it will be thrown away or recycled.

Mayor Justice stated that light on the basketball court is malfunctioning and a member of the Recreation Commission Board contacted him about getting it fixed.

14. Executive Session-Personnel

MOTION: At 8:26 p.m., Council Member FitzGerald made a motion for the Council and Mayor to enter into executive session for personnel reasons for a period of 10 minutes. Council Member Whitney seconded the motion and it passed unanimously.

At 8:36 p.m., the Council returned to regular session with no action taken.

15. Staff Reports

City Administrator Brown stated the Police Department caught two juvenile males vandalizing the gazebo at City Park. Mayor Justice asked if the parents were going to be billed for the repairs. Brown stated the case was going to be taken to Sedgwick County

Juvenile Court but would probably be thrown out. Brown stated the City did plan on billing the parents for the repairs.

City Administrator Brown stated some radio work is being done on the police cars.

City Administrator Brown stated the fence is going to be installed at field #2 at the Sports Complex in the next couple weeks.

City Administrator Brown stated bids for water and sewer at Clearwater Industrial Park are going out. Bids are to be opened Friday, February 27.

Mayor Justice asked that Public Works look at the alley between First and Second Street at Southeast Drive. There are some large ruts that need to be fixed.

City Administrator Brown stated Transportation Enhancement Grant applications are to be submitted by February 18. Brown stated he would like to apply to have a walking path installed from the Senior Housing on Janet, south to Chisholm Ridge, and on to Ross, then west to the City Park. Mayor Justice suggested including the crosswalk signal near Chisholm Ridge on Ross as part of the grant, as well. Brown stated it is a 20% City match grant. Council gave consensus to have Brown submit an application for a Transportation Enhancement Grant.

16. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Berntsen 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, 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 February 10, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 24th day of February 2009.

Jodi McBee, Deputy City Clerk