

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

**CITY COUNCIL MEETING**

**MINUTES**

**February 24, 2009**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, February 24, 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; and Janet Amerine, City Attorney. Others present at the meeting were Marvin Schauf and Mary Schauf, Clearwater Fire Department; Angela Patton, Whitnie Means, Wesley Pfanenstiel, and Aimee Grether, Clearwater High School Government students.

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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 February 10, 2009**

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

**2. Mayor's Recommendations**

Mayor Justice, with Council consensus, appointed Joshua Riley as EMT with Clearwater Emergency Services.

Mayor Justice, with Council consensus, appointed Kyle Matthews, Justin Patrick, Heath Davis, and Joshua Riley as Firefighters with Clearwater Fire Department

**3. Public Forum**

No one addressed the Council.

**4. Agreement for Housing Inmates in Sumner County Adult Detention Facility**

City Administrator Brown reviewed the agreement with Sumner County Sheriff Department for housing inmates in the Sumner County Adult Detention Facility. Brown stated City Attorney Amerine had reviewed the agreement and was recommending some changes. The agreement currently refers to the City Commissioners of the City of Clearwater. Amerine suggests the change to the Governing Body of the City of Clearwater. Amerine stated that Section 10 “Medical, Psychiatric and Dental Service” is in line legally but the clause could get out of hand quickly if the prisoner had a serious illness or injury requiring expensive and extensive care. Often insurance, including VA, will not reimburse for medical care while the insured is incarcerated. Mayor Justice questioned how medical insurance could be denied if the prisoner pays the insurance premiums. Amerine stated that many insurance policies are written that the insurance is negated if the insured is incarcerated. Council Member FitzGerald asked if the City’s insurance would cover prisoner medical treatment. Brown stated he was unsure if the City’s insurance would cover medical care for inmates. Amerine stated that Sedgwick County Jail is equipped with a small hospital within the facility to save the cost of medical treatment. Sumner County would have to send the inmate outside for treatment. Brown stated that since Clearwater is in Sedgwick County, individuals sent to Sedgwick County Jail that need medical treatment within that facility are treated. Right now, medical and dental treatment is not charged to the City by Sedgwick County, but that could change in the future. Justice stated he didn’t understand why the City has to pay for medical treatment for an inmate that is uninsured when Medicaid would absorb the cost for an individual without insurance who went to a hospital off the street. Justice continued that just because someone broke the law and is arrested, the City shouldn’t have to bear the cost of their medical treatment. Brown stated he is not seeing listed within the agreement who can authorize the medical treatment from the City’s end. Council Member Whitney stated he would like to see if there is some type of insurance coverage for the City before the agreement is signed. Council directed Brown to contact the City’s insurance company to discuss with them what options there are in getting some insurance that would cover medical care for inmates housed at Sumner County. Council also directed Amerine to research what the City’s responsibility is on medical care for inmates.

City Attorney Amerine stated that there also needed to be some clarification on Section 2 of the agreement with Sumner County regarding Termination. The agreement states that the termination is upon 10 working days of notice being sent to either party. Amerine stated that notice should be mailed with “return receipt requested” to avoid confusion as to when a termination notice is mailed. Mayor Justice asked if there is a clause

that holds Sumner County responsible for injuries that happen at the Sumner County Jail. Amerine stated that Section 21 “Indemnification” held the City of Clearwater harmless for any injury or damage to an inmate while being held at the Sumner County Jail.

5. **Memo from Mark Borst Sedgwick County on Gap Study on 4<sup>th</sup> Street in Area of the Chisholm Ridge Crosswalk**

City Administrator Brown stated Mark Borst, Traffic Engineer with Sedgwick County, did a Gap Study in response to the request from Council to move the crosswalk near Chisholm Ridge on Ross to the west and also possibly place a signal at that location. The Gap Study was done to justify the need for the pedestrian light. The study shows that enough gaps exist during the study period that a pedestrian light is not being recommended by Sedgwick County. Brown stated the Gap Study was also done to include with the Transportation Enhancement Grant for a walking path from the senior apartments to Ross and on to City Park, which was going to include a pedestrian light at that crosswalk. Council Member FitzGerald stated the weather could have affected how many pedestrians were using the crosswalk on the days the study was done. Brown stated the gap study doesn't mean the City can't put in a stoplight, it only means the County won't assist. Brown went on to review what was submitted for the Transportation Enhancement Grant by the City. Brown explained that for a 10-foot pathway for 3,700 lineal feet at \$3 a square foot the cost would be \$111,000. Brown stated he also included \$14,000 for engineering and acquiring a right of way. The request for \$125,000 did not include money for the pedestrian light. Brown stated he is still waiting on a cost estimate for the signal. Mayor Justice stated that is an 80/20 grant and the City would have to come up with 20% of the cost. Justice asked Council if they would still like to have the crosswalk moved. Council gave consensus to have the crosswalk moved from the corner of Chisholm Ridge and Ross to the west on Ross across from the Chisholm Trail Sports Complex Sign. Council directed staff to work with Sedgwick County on installing the crosswalk and to keep working on the grant.

6. **Request From Fire Chief Marvin Schauf to Purchase Storm Siren and Identify Location**

City Administrator Brown stated that Fire Chief Marvin Schauf has the purchase of a storm siren near the High School/Sports Complex included in his approved budget for 2009. The amount requested was a quote from a vendor in the amount of \$12,175, which did not include installation. Now in getting new quotes from vendors, Schauf is looking at a cost of approximately \$18,000. Schauf stated two different types of sirens are quoted. One is a Phillips Southern rotating siren, like the one near the Elementary West, which is a one directional siren. The second siren a Whelen siren, which is multidirectional and has no moving parts. Brown stated that the decisions that need to be made are how to pay for the

unbudgeted portion of installing the siren, if more quotes need to be obtained for installation of the pole and siren and which siren should be purchased. Mayor Justice asked Chief Schauf which siren he preferred. Schauf stated he preferred the Whelen siren because it didn't have any moving parts. Council Member FitzGerald stated that a final price needed to be reached and the budget needed to be reviewed to identify where the extra money would come from to pay for the cost difference. The location to place the siren is being identified near the small shelter house at the second entrance to the Sports Complex. There is electricity to that building and a line of conduit could be run from the building to the pole. That location would cover Chisholm Ridge, Park Glen, the High School, and the Sports Complex. Justice asked how soon the siren would be delivered after it is ordered. Schauf stated he would have to contact the vendor to find out an estimated shipping time. Council gave consensus to select the Whelen siren and to request some quotes for installation of the siren by the next meeting. Council directed staff to review the budget for where the additional funds could be found to pay for the installation of the siren.

**7. Request from Public Works Director Ernie Misak to Purchase Used Sewer Jetter at a cost of \$10,000**

City Administrator Brown stated the used sewer jetter is being borrowed from the City of El Dorado. Public Works Director Misak is recommending the City of Clearwater purchase the jetter from El Dorado. The jetter would be used to flush out sewer lines in coordination with the sewer rodder that the City already owns, which is used to pull out blockages. Council Member Whitney stated he was concerned with the liability of blockages getting blown into people's houses. The potential for damages is greater with the sewer jetter than the rodder. Mayor Justice asked if the plan was to use the jetter on a regular basis. Brown stated that Public Works plans to use the jetter in the City's usual trouble spots, as well as trying to clear blockages before calling a sewer maintenance company. Brown stated that Public Works would notify residents when doing work in their area. Owning the jetter would allow Public Works to do sewer maintenance more often than when contracted with an outside company. Brown continued that there still might be times when an outside contractor needs to be called if larger equipment is needed. Whitney stated he didn't have a problem purchasing the jetter as long it was going to be used and not set aside. Mayor Justice stated he would like to see a schedule of usage of the machine. Council Member Berntsen stated that as long as training and caution is used, the jetter would be a good tool to add to the Public Works Department.

**MOTION:** Council Member FitzGerald made a motion to approve the purchase of a used sewer jetter from the City of El Dorado in the amount of \$10,000. Council Member Keeler seconded the motion and it passed unanimously.

City Administrator Brown stated that Public Works Director Misak is requesting that Public Work keep the used fire tanker that was removed from service when the new pumper/tender truck was purchased for the Fire Department. Public Works could use the tanker to haul water for flushing sewer lines, cleaning the swimming pool and culverts, and watering trees and ball fields. Mayor Justice stated that he was for keeping the truck as long as it is used and not just taking up space. Council Member Whitney stated that the emergency equipment needs to be removed from the truck if Public Works is going to use it. Fire Chief Schauf stated he would remove the emergency equipment. Council gave consensus for Public Works to keep the old fire tanker for maintenance purposes.

**8. Contract with Caro Construction to Redo Entrance and Windows to City Hall**

City Administrator Brown stated the contract with Caro Construction to redo the entrance and windows in City Hall has been reviewed by City Attorney Amerine. Amerine stated that the only item she was concerned about was in Article 15.2.2. There is a reference to including attorney's fees in a situation arising from hazardous material, such as asbestos, in the building. Amerine stated she was always leery of attorney's fees being included in a contract because they can add up quickly. Council Member Whitney stated there should be a sample taken from the ceiling to insure there is no asbestos. The sample could be taken before the decision is made to redo the ceiling. Council Member Berntsen stated he is concerned with the dangers of having multiple dropped ceilings. Berntsen suggested removing the old drop ceiling before installing the new one. Council Member FitzGerald stated he remembered the original ceiling being sculpted metal. FitzGerald stated that ceiling is a high dollar item and could be sold or recycled. Amerine also pointed out in Article 17 there is a one-year correction of work warranty.

**MOTION:** Council Member York made a motion to authorize the Mayor to sign the contract with Caro Construction for the remodel of the front entrance and windows of City Hall in the amount \$39,120. Council Member FitzGerald seconded the motion and it passed unanimously.

**9. 2010 Census Program to Review Census Tracts and Block Groups to Make Sure They Conform to New Census Bureau Guidelines**

City Administrator Brown stated that the 2010 Census Program has asked the City to review census tracts and block groups to make sure they conform to new census guidelines. Brown stated that all of Ninescah Township used to be one census tract, but with the growth in the area, the one census tract has been split up. Clearwater is now included in a tract from 119<sup>th</sup> St. W. to 151<sup>st</sup> St. W. that runs the length of Ninescah Township. Then there are two block groups within the census tract that are split by Ross Avenue, one on to

the north and one to the south. Brown stated the census will start in April 2010.

**10. Consent Agenda**

Council gave consensus to pay Sunflower RC&D \$200 for 2009 Sponsorship Dues, Kansas Fence \$16,882 for materials and labor to relocated and install chain link fence at Field #2 at the Chisholm Trail Sports Complex, and Kansas Fence \$5,025 for material and labor to repair fence at Field #3 at the Chisholm Trail Sports Complex. Both Kansas Fence invoices are to be split in thirds to be paid by the City, The Clearwater Recreation Commission, and USD #264.

Council agreed to hold the final bill from Musco Sports Lighting until the Recreation Commission had a chance to inspect the lights installed at the City Park Ball Field.

**11. Reports**

City Administrator Brown stated the Police Department is checking trailers parked on the street. Tickets have been issued.

City Administrator Brown stated there was a small grass fire in town over the weekend caused by kids shooting off Roman Candle fireworks. The individuals were caught and there was minimal damage.

City Administrator Brown stated the issues with the generator at well #7 are working out. A pipe and a regulator were changed out. The soft starts were adjusted and now things seem to be running smoothly with the generator. Brown stated that with a few more adjustments there probably would be no need to replace that generator and the City could move forward into researching a generator for an emergency shelter at the Methodist Church. Brown stated he hasn't heard anything from the Methodist Church regarding their conversation with Westar Energy about what the needs of the building are for a generator. Brown stated he is still researching a Memorandum of Understanding between a church and a city.

City Administrator Brown stated there is a City resident that had a water leak and is asking for their water and sewer bills to be adjusted. The leak is on the resident side of the meter. Brown stated there has never been an instance where the City refunded or adjusted a water bill because of a leak on the resident's side of the meter. Because the leak occurred during one of the months that the average water usage is figured for sewer, the resident is asking for their next sewer rate to be adjusted to exclude the leak. Mayor Justice stated that he could see using a different month to figure average water usage for residents who have a leak in January, February, or March. Justice stated he didn't see making any adjustments in

water billing for a resident who had a leak on their side of the meter. Council gave consensus to have staff adjust that individuals average usage when figuring sewer rates, but not to adjust the resident's water bill. Brown stated this also brings another topic of sewer rate adjustments. Many water meters in town in December were not read due to icy weather. The meter readings were estimated too low in December, therefore making the January readings higher than usual. This affects the average water usage that is figured in March for the sewer rates. January, February, and March water use is averaged to create the sewer rate for the year. Since January's water meter readings were high, that could cause the water use average to increase therefore increasing some resident's sewer rates. Brown stated that he and City Clerk Wright had discussed also including December 2008 water readings in the 2009 average water usage to may be offset the high reading in January. City Clerk Wright stated the Council would have to do something with the ordinance since it reads the usage is figured in January, February, and March. Brown stated that this would be a one-time adjustment, not an on going change since the three months currently used are the best months to figure the rates. Justice asked if the ordinance would be changed for this circumstance and then have to be changed back to its original form. City Attorney Amerine stated that she would suggest adding a clause to the ordinance stating that in months when the average water usage is figured for sewer rates and there is a circumstance when the water has to be estimated, another month can be used to offset the difference. Justice suggested only including residents that are affected by the estimation, not all residents. Council directed Amerine to draft a clause to the sewer rate ordinance to allow another month to be used in average water usage when figuring sewer rates if there is a month were water rates are estimated too high or low.

City Administrator Brown stated a sign is being erected by George Lay Signs to advertise the Clearwater Business Park. Brown stated that the realtor says he has received several inquiries for information regarding the property. Mayor Justice stated he would like to see the City talk to the owners of Duraform and Kabredlo's about acquiring the small strip of land between their business that would be prime for either another entrance into the business park or another business with 4<sup>th</sup> Avenue frontage. Council gave consensus to speak to Duraform's and Kabredlo's regarding the piece of land.

City Administrator Brown stated the portable fence is here and starting to be installed at Field #2 at the Sports Complex.

City Administrator Brown stated that there are a couple vehicles in town that need the compliance officer to inspect.

City Administrator Brown stated Fire Chief Marvin Schauf received the Mutual Aid Agreement with Sedgwick County. The Council approved a Mutual Aid Agreement for all

cities in Sedgwick County to aid each other in fire emergencies back in August 2008. Brown stated there are a few changes between the one that was previously approved and the one received recently. The most noticeable change is the addition of the Regional Fire Chiefs Association as the administrator of the agreement. Schauf is a member of that group and would be the representative from our area.

**MOTION:** Council Member FitzGerald made a motion to authorize the Mayor to sign the amended Mutual Aid Agreement with Sedgwick County. Council Member Berntsen seconded the motion and it passed unanimously.

Mayor Justice thanked the Police Department for their efforts in watching and ticketing the trailers parked on streets in town.

Mayor Justice stated there is a streetlight on Ross near Triple B Construction that is not working.

Council Member Keeler stated she was glad to see the guardrail at Wood and Diagonal fixed.

Council Member Whitney stated that the work on the water lines and sprinklers at the Sport Complex on Field #1 and #2 has been completed and everything is functional. Field #3 has a pump that needs replaced. Then the sprinklers will be inspected on Field #3. Whitney stated it might be a good idea to contract with a sprinkler company to have the system inspected annually.

Council Member Whitney stated he wanted to apologize for the confusion on the trailer parking issue. Whitney stated he misunderstood the ordinance that a trailer couldn't be parked on the street for long periods of time without being attached to a vehicle. Council Member York stated he understood the ordinance to read that a trailer could only be parked on a City street for 72 hours attached to a vehicle without being moved. Trailers not attached to a vehicle could not be parked on City streets. City Attorney Amerine stated that the way the ordinance is written makes it difficult to enforce. Amerine stated that about the only way to enforce the ordinance is to chalk the tire of the trailer in question.

Council Member FitzGerald stated he has been looking at skate parks. FitzGerald stated he has gone to Haysville and Mulvane and reviewed setups. FitzGerald continued that if the City wants kids to use the skate park there needs to be more to it than what is there currently. A larger concrete pad needs to be poured and more equipment installed. FitzGerald stated the City could start looking into building up the skate park with part of the money from the Recreation Commission.

Mayor Justice stated that a meeting is being held Monday, March 9 between members of the administration and maintenance staff of the City, Recreation Commission and USD 264 regarding maintenance of the ball fields.

Mayor Justice passed along a “thank you” from Chuck Schrader, the Clearwater High School Girls Softball Coach. Justice stated that Schrader was appreciative of all the work the City was doing to maintain and improve the fields.

**12. Adjournment**

**MOTION:** Being no further discussion to come before the Council, Council Member FitzGerald 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 February 24, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 10<sup>th</sup> day of March 2009.

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Jodi McBee, Deputy City Clerk