

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

**CITY COUNCIL MEETING**

**MINUTES**

**January 13, 2009**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, January 13, 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. 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 Jennifer Arnold, Brenda Hastings, Clearwater Chamber of Commerce; Rae Gibbs, Eric Walter, Clearwater Chamber of Commerce and First State Bank & Trust; Laura Papish, Clearwater Chamber of Commerce and Clearwater Family Practice; Marvin Schauf, Mary Schauf, Clearwater Fire Department; Aimee Gather, Sarah Langston, Ashley Fugate, Jacob Headgepath, James Burnett, 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 December 23, 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**

With Council consensus, Mayor Justice accepted the resignation with regrets of Mark Bailey as Firefighter.

Mayor Justice, with Council consensus, appointed Bill Kenney as Firefighter.

Mayor Justice, with Council consensus, promoted Clint Luckner to Police

Sergeant/Investigator.

3. **Public Forum**

No one addressed the Council.

4. **Clearwater Chamber of Commerce Joint Meeting with City Council**

Eric Walter, Vice President of the Clearwater Area Chamber of Commerce, thanked the Council and introduced other members of the Chamber present at the meeting. Laura Papish interjected she is disappointed in the format which the Chamber is approaching the Council and that the Chamber members were under the impression the meeting would be in a round table format. With the Council Members sitting at the front of the meeting and the Chamber Board standing at the podium, the tone of the meeting changes. Brown stated that future meetings could be set up more informally. Walters continued to review what the Chamber was involved within the City of Clearwater. The Chili Feed, The Ducky Dash, Haunted Downtown, and Christmas in Clearwater are a few of the functions the Chamber has organized to create some community involvement and raise funds for projects and scholarships. Walters continued that The Chamber is often a first point of contact for individuals and businesses interested in visiting or relocating to the Clearwater area. Jennifer Arnold, Chamber Executive Director, is the only staff member and wears many hats to keep the Chamber functioning.

Walters stated that currently the Chamber is funded solely by membership dues, fundraisers, and donations. Walters went on to explain that the Chamber has come into a budget deficit. In order for the Chamber to run at the level it has, the Chamber is requesting a donation from the City of \$10,000.00 on an annual basis. Walters explained the majority of the budget deficit has come from increasing the hours of Chamber Director Arnold. The Board and its members made the decision to increase the Directors hours to keep the Chamber actively involved in community events and public contact in a professional manner. Papish explained the Chamber received a donation for the first year of funding Arnold's hours increase from 20 to 32. Papish stated that to decrease Arnold's hours now would put a damper on the efforts of the Chamber to become more involved in helping the City develop and grow. Papish continued that as the City looks to draw more businesses to town with the new business park, the Chamber could work in cooperation with the City on economic development. Walters stated that they looked into increasing dues but most members of the Chamber were not for an increase. Walters continued if dues were raised there were concerns that members would drop their membership and the Chamber would lose more money as an end result of an increase. Council Member FitzGerald asked if the money raised for the new "Welcome to Clearwater" sign on 103<sup>rd</sup> Street had been spent. Arnold explained that money donated for the sign has been set-aside in a savings account

separate from operating expenses. FitzGerald asked if the school was able to donate to the Chamber. Arnold stated the school had been asked and they cannot donate. Walters stated that although the school wasn't able to make monetary donations, they often donate school space for functions.

Mayor Justice stated that there is no argument against the benefit of the Chamber and the work that the Chamber does. Justice stated currently the problem is that the budget has already been set for the year and there is no specific line item for the Chamber. Money is budgeted for economic development and public relations, but Council would have to make the decision to redirect \$10,000 to donate to the Chamber. Council Member FitzGerald stated that requests for funding in the past have not come with a plan. Justice stated that the request now is the closest to a plan there has ever been. Papish stated that what the request comes down to is assisting in the Director salary and payroll taxes, so money is freed up to assist in the other functions of the Chamber. Papish also stated that if the City does decide to donate the money to the Chamber, they are willing to provide accountability to the City in whatever form City Council requests, such as monthly financial statements, Chamber reports, or a Chamber Board seat. Mayor Justice stated that if the Council does decide to donate the funds, that the money would not be committed as an annual budget item until Council sets the budget for 2010. FitzGerald stated that he thought that \$10,000 was too much to give to the Chamber at this time because of the costs of the business park that the City would incur this year.

**MOTION:** Council Member FitzGerald made a motion to approve donating \$7,000 to the Clearwater Area Chamber of Commerce from the Economic Development budget.

Council Member Whitney stated that \$7,000 wouldn't carry the Chamber for the year. Arnold stated their year is from October 1<sup>st</sup> to September 30<sup>th</sup>. FitzGerald stated that maybe some fundraisers could assist in making up the difference. Arnold stated that fundraisers were better supporting a specific cause or project and didn't do well just as a general fundraiser to run the Chamber. Whitney stated he would like to see the \$10,000 donated as a one-time donation and then schedule a work session to get some plans together to add the donation as part of the budget. City Administrator Brown stated that there needs to be a written formal agreement between the City and the Chamber if the money is donated. Brown also mentioned that any organization that receives money from the City could be open to the Public Records and Open Meetings laws. City Attorney Amerine stated she would review the acts and inform the Chamber of their responsibilities if they received the donation. Council Member York asked what money within Economic Development was already committed to be spent this year. Brown stated that currently there is no specific amount set to spend, but the money to be spent on the business park will be coming from the \$25,000 budgeted as Economic Development. Council Member Berntsen asked what

Economic Development money had been spent on in years past. Brown stated that in the past few years, money has been set-aside in Economic Development to try and get a business park in place. Council Member Whitney asked City Clerk Wright if the numbers provided in the Council packets reflected money paid toward Chamber. Wright stated that the expenses shown were not only money specifically given to the Chamber, but were on going expenses paid by the City toward Chamber projects, such as electricity to the “Welcome” sign and the electronic sign.

**MOTION:** Council Member Whitney seconded the motion to approve donating \$7,000 to the Clearwater Area Chamber of Commerce from the Economic Development budget with the addition of a meeting with Chamber to discuss future plans and it passed unanimously.

Mayor Justice stated that \$7,000 is short of the \$10,000 that the Chamber was requesting. There is a possibility that at the end of the year if there are funds left, another donation could be made. Brown stated that the details of how the money will be allocated to the Chamber and how the Chamber will report to Council will be dealt with in an agreement to be worked out by the City and the Chamber. Council directed Brown to work out an agreement with the Chamber and have City Attorney Amerine review. After a brief discussion regarding meeting times, Council and Chamber agreed to schedule their round table joint meeting for April 14 at 6:30 p.m. with the Council regular meeting pushed back to 7:30 p.m.

5. **Designate Times Sentinel as Official Newspaper for Legal Publications**

Mayor Justice stated that designating the official paper for legal publication for the City is a requirement each year.

**MOTION:** Council Member FitzGerald made a motion to use the Times Sentinel for legal publication for the City of Clearwater. Council Member Berntsen seconded the motion and it passed unanimously.

6. **Bids for Banking Services**

City Administrator Brown stated that two years ago bids were taken for banking services for the City and services went to Home Bank & Trust. At that time Council decided to rotate banking services every two years as long as the bids were within 0.2% on interest rates. Brown stated bids have been received from each bank. Home Bank and Trust’s bid is much more limited at this time than First State Bank & Trust’s. After review each proposal, staff recommends to approve the proposal from First State Bank & Trust. Council Member FitzGerald recommended changing the rotation period to 3 years instead of 2 years.

7. **Designate First State Bank & Trust as Official Depository for the City of Clearwater**

**MOTION:** Council Member FitzGerald made a motion to designate First State Bank & Trust as the official depository of the City of Clearwater for a three-year term. Council Member York seconded the motion and it passed unanimously.

8. **Proposed Draft Lease and Site Location from Telecom Realty Consultants, LLC**

Mayor Justice stated there is a request from Telecom Realty Consultants, LLC to place a cell phone tower at the brush dump. Justice stated that there have been previous discussions regarding a tower on the brush dump property and Council had not seemed very receptive. Justice asked if this is something Council would like to pursue. Council Members Berntsen and Whitney commented that the site is not good structurally, but they would be willing to review the information as presented. City Administrator Brown reviewed the proposed location as the northwest corner of the brush dump. Brown continued that several attempts have been made to bring cell towers to the Clearwater area with only the one at the sewer ponds installed by Cellular Network Partnership coming to fruition. Council Member FitzGerald asked what the revenue was off of the current tower. Brown stated it generated \$6,000 per year. Brown stated Verizon Wireless has been approved to build a 200-foot tower on private property west of the Clearwater Cemetery. Verizon has been contacted recently and state they will start construction in April. Now, AT&T Wireless/Cingular has requested to place a 300-foot tower at the brush dump. Brown stated the City has asked the companies to co-locate, but the have stated that is not possible. Brown stated that with the tower possibly being installed on City property, there is no zoning hearing requirement. City code exempts City owned property from zoning hearings for cell towers. FitzGerald asked if the City could still burn at the brush dump if the cell tower is built. Brown stated that the City would write into any contract that the tower being built on the brush dump would not affect the way the brush dump operates. Brown stated the cell tower companies claim the towers are built to collapse upon themselves, but engineering wise that cannot be guaranteed. With the brush dump being such a small property, the tower could fall onto neighboring property, which includes the railroad. Mayor Justice stated that the dump piles should be moved to the south if the tower is built. Council Member Whitney stated there is no need to separate the grass, leaf and tree piles any longer. Compost is no longer something people are wanting. Whitney continued to state that the whole brush dump needs to be cleaned up before anything else happens. Justice commented that Telecom Realty states they need improvements done for an access road. Justice stated he wants to make sure that the Telecom understands any improvements will be at their cost and nothing will be paid by the City. Brown stated that can be written into the contract. City Attorney Amerine stated that although there are no requirements to contact neighboring property owners, she recommended contacting neighbors, including the railroad. Council Member York asked if

the tower would require guide wires. Brown stated he could not see anywhere in the proposal stating it required guide wires. Justice stated Amerine had made several suggested changes to the contract. Justice stated another addition to the contract should state the City be in no way at fault or responsible for clean up in case the tower does fall. Whitney stated that he appreciated Amerine's comment on striking the sentence in the proposal making any warranties about the land and environment. Amerine stated that all other changes were purely recommendations but the land and environment warranty had to be stricken. York asked if what the City receives for the current cell phone tower is in line with what other cities receive for towers. Brown stated it is in line, however lease terms vary with how many customers are served by the tower. Towers near busy interstates or more populated areas can generate higher lease payments. Brown suggested adding co-location verbage to the agreement. After more discussion regarding lease terms, Council consensus was to request \$7,200 per year for a lease payment.

9. **Petitions for Water and Sewer Improvements in the Clearwater Business Park, an Addition to the City of Clearwater**

City Administrator Brown stated that City is petitioning itself in order to construct water and sewer improvements in the first step to levy special assessments on the properties within the Clearwater Business Park. Two petitions, one for water and one for sewer, have been submitted. The cost of the water improvements is proposed at \$170,000. The estimated cost for the sewer improvements is at \$408,000. Brown reviewed the itemize list of each improvement project. Brown stated that staff is recommending Council authorize the Mayor to sign the petitions. The next step will be a resolution. After the resolution is adopted, then the projects can be let for bids.

**MOTION:** Council Member Berntsen made a motion authorize the Mayor to sign the petition for proposed water improvements in the Clearwater Business Park. Council Member FitzGerald seconded the motion and it passed unanimously.

**MOTION:** Council Member York made a motion authorize the Mayor to sign the petition for proposed sewer improvements in the Clearwater Business Park. Council Member Keeler seconded the motion and it passed unanimously.

10. **Request to Develop Interlocal Agreement for Widening of 4<sup>th</sup> Avenue (135<sup>th</sup> St.W.) from Diagonal Road to Ross Avenue**

City Administrator Brown stated he and Harlan Foraker, with Certified Engineering Design, had met with Sedgwick County officials a year ago regarding widening 4<sup>th</sup> Avenue from Diagonal to Ross to include a turning lane. Brown continued that many road projects

have been pushed back due to budget cuts. Brown reviewed the Capital Improvement Program projects budget for Sedgwick County from Kellogg to Diagonal Road on 135<sup>th</sup> St W. Council Member FitzGerald asked what type of construction those figures included. Brown stated the County claims they don't have enough right of way to widen the road. Likely the improvements would just be rebuilding the road as it stands now. Brown stated that construction of improvements to 4<sup>th</sup> Avenue between Diagonal and Ross is scheduled to be in 2013. The improvements are stated to be a "3 lane urban standard with storm sewers". Funding sources for the project, according to Sedgwick County, are \$1,100,000 from the City and \$700,000 (over 3 years) from the County. Brown stated the reason for the cost split is that the money for the extra lane and curb and gutter would come from the City and the cost for improving the existing road would come from the County. Brown continued that there needs to be an agreement between the City of Clearwater and Sedgwick County for the street project so the County is tied to the project. Foraker has asked for an agreement at previous meetings, and there has not been one prepared yet. Brown stated the next issue is either pushing forward the project into 2011 or waiting until the County is ready to do the project in 2013. Mayor Justice stated he thought the City's focus should be getting the business park up and running. Money spent on the roads could wait until the county was ready to do it. The pool would be paid in full by that time and the mills used for pool payments would be freed up and could be spent on widening 4<sup>th</sup> Avenue. After a brief discussion, Council directed staff to pursue an interlocal agreement with Sedgwick County for widening 4<sup>th</sup> Avenue between Diagonal Road and Ross Avenue in 2013.

**11. Approve Official Job Description of Police Records Clerk/Municipal Court Clerk**

City Administrator Brown stated Council has never approved a job description for the Police Records Clerk/Municipal Court Clerk. Brown reviewed the description.

**MOTION:** Council Member Berntsen made a motion to accept the job description for the Police Records Clerk/Municipal Court Clerk. Council Member York seconded the motion and it passed unanimously.

**12. Resolution to Designate Salaries for 2009**

**MOTION:** Council Member FitzGerald made a motion to adopt resolution 01-2009 to designate employee salaries for 2009. Council Member Whitney seconded the motion and it passed unanimously.

**13. Consent Agenda**

Council gave consensus to pay REAP Membership Assessment in the amount of \$352.00 and Water Resources Committee Assessment in the amount of \$400.00.

#### **14. Reports**

City Administrator Brown stated Public Works has finished the connection for the force main at Park Glen. The pumps at the wet well have decreased the time they are running and Public Works Director Misak is looking at installing a larger horsepower pump.

City Administrator Brown stated that the fire hydrants at Kansas and First and Gorin and Hellar are being replaced.

City Administrator Brown stated that the bases for the lights at the City Park ball field have been poured and are curing before the poles are installed. Trenching for the conduit will start this week.

City Administrator Brown stated the holiday lights are still up because the SKT bucket truck used to get them down is out of service. When the truck is available again, the lights will come down.

City Administrator Brown stated that there has been a request for alcoholic beverages to be allowed at the Senior Center. Currently, it is City policy that alcohol is prohibited on City owned property. Council agreed that it is too difficult to regulate the use of alcohol; therefore the policy is to stay as is.

Council Member FitzGerald asked for an update on the crosswalk near Chisholm Ridge on Ross. City Administrator Brown stated has not received any information back from Sedgwick County for a plan for a crosswalk.

Council Member FitzGerald stated the guardrail at Wood and Tracy is damaged and needs to be repaired.

Council Member FitzGerald stated the streetlights at K-42 and 135<sup>th</sup> St. are still malfunctioning. City Clerk Wright stated the lights were reported to Westar, but staff would report them again.

Council Member Whitney stated the old Animal Control pickup is sitting in the EVS building parking lot. Whitney requested it be taken to auction.

Council Member Whitney requested the brush dump be cleaned up.

Council Member Whitney asked if the water study has been completed. City Administrator Brown stated he has received the preliminary results and should have the final results next week.

Council Member Whitney asked if the fence bids for the Sports Complex have been received. City Administrator Brown stated he received a verbal bid, but was waiting on a written bid from Kansas Fence.

Council Member Whitney stated he received another complaint on the condition of the dirt streets in the City. Whitney suggested having the Township come in with their large grader and assist in maintaining the streets. City Administrator Brown stated the he and Public Works Director Misak have discussed the problem and will work on a solution to maintain the dirt roads in the city limits. Brown stated there are some drainage problems in the alley between Grain and Grant south of Wood that need to be addressed, as well.

Council Member Whitney stated he would like to see the City pursue getting an emergency generator for the Methodist Church as an emergency shelter. City Administrator Brown stated the first thing that needs to be done is identify what needs to be powered. After that then bids can be requested. Whitney stated he has spoken to Public Works Director Misak and it was their opinion that a generator could set north of the pump house at the park. Then the generator could run the emergency shelter and the well. Brown stated that staff will begin researching the generator.

Council Member Whitney stated he was informed that Sedgwick County received a grant from either Homeland Security or FEMA to place emergency generators at all the County fire stations. Whitney requested staff to look into getting one placed at the EVS building.

Council Member Keeler stated individuals requesting Sunday liquor sales have approached her. Keeler informed Council she anticipated local businesses to approach the City soon regarding the matter.

Council Member York asked if anyone has responded to the reward offer regarding the damaged windmill street signs. City Administrator Brown stated there has been no response.

Mayor Justice stated the rail along the ditch at 4<sup>th</sup> and Kansas needs to be maintained.

Mayor Justice stated the keel on the ball fields at the Sports Complex needs some

moisture added to it to help break it up.

**15. Executive Session-Personnel**

**MOTION:** At 9:04 p.m., Council Member FitzGerald made a motion for the Council, Mayor, City Administrator, and City Attorney to enter into executive session for personnel reasons for a period of 5 minutes. Council Member Whitney seconded the motion and it passed unanimously.

At 9:09 p.m., the Council returned to regular session with no action taken.

**16. 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 January

13, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 27<sup>th</sup> day of January, 2009.

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Jodi McBee, Deputy City Clerk