

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

July 14, 2009

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, July 14, 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; and Janet Amerine, City Attorney. Others present at the meeting were Don Berntsen, Venture 4, LLC; Beki Zook, Clearwater Recreation Commission; Paul Rhodes, Times Sentinel Newspaper; Gene Garcia, Clearwater Police Department; Bill Kenney and Donald Schauf, Clearwater Emergency Services; Mary Schauf, Clearwater Volunteer Fire Department.

Council President 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 June 23, 2009

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

2. Approval of the Minutes of the Special Meeting of July 7, 2009

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

3. Mayor's Recommendations

There were no appointments or resignations.

4. **Public Forum**

Council Member Berntsen excused himself from meeting due to conflict of interest with the City and Venture 4, LLC.

Don Berntsen, Venture 4, LLC, addressed the Council to request a reduction in his utility bill. Berntsen stated he owns an office building with several separate offices at Lee and Ross. The utility bill is currently approximately \$200 per month when the building only uses approximately 2,000 gallons of water per month. Berntsen stated he had contacted the schools, nursing home, retirement home, and manufacturers and no one else is paying the rate he pays. Berntsen requested that the Council considered lowering the rate charged for a multi-office building of \$20 per toilet. After a brief discussion, Council agreed to review the different rate categories of the water ordinance at the next meeting.

Council Member Berntsen rejoined the meeting.

Beki Zook, Clearwater Recreation Commission Director, addressed the Council to give a recreation report. Zook stated this was the first year the Recreation Department took over the baseball/softball program. Zook stated that approximately 250 kids participated in the program and it went very well. Mayor Justice commended Zook on how well the baseball/softball program was ran this year. Zook stated that the Recreation Commission would also like to request the City's permission to improve the basketball courts. They have a person who has volunteered to sandblast the courts. Then the lines will be repainted and sealed and new basketball goals will be installed. Council gave consensus for the Recreation Commission to improve the basketball court.

5. **Ordinance Authorizing the Operation of Micro Utility Trucks, Work-Site Utility Vehicles and Golf Carts on the Streets within the Corporate Limits of the City**

City Attorney Amerine stated it was requested at the last Council meeting to add Micro Utility Trucks to the ordinance allowing special purpose vehicles on the streets within the corporate city limits. Amerine stated she met with Acting Chief Garcia and City Administrator Brown to review the ordinance. The Police Department has the means necessary to inspect and license the vehicles. When passed, the ordinance will not be enacted for thirty days to allow people to get their special purpose vehicles to the Police Department to be licensed. Acting Chief Garcia asked whether all categories of special purpose vehicles are going to be required to have turn signals and slow moving vehicle signs. Amerine explained that the state statute requires micro utility trucks to have turn signals but not golf carts. The Council could in its ordinance include turn signals on vehicles even though the state statute did not require turn signals on all types of special purpose vehicles. After a brief discussion, Council agreed to require the slow moving vehicle sign on

all special purpose vehicles but only require turn signals on the vehicles required by state statute to have them. Chief Garcia stated he is currently researching what the expense is going to be for stickers to place on the vehicles for licensing. Garcia stated that he was concerned that the \$10 fee wouldn't cover the expense of the stickers. Council agreed to table the ordinance until the next meeting so Garcia can get a price for the licensing stickers.

6. Ordinance Prohibiting Swimming and Wading in Posted Public Areas

City Attorney Amerine stated the Police Department requested an ordinance prohibiting swimming and wading in posted public areas. The ordinance would make it a fineable offense to swim or wade in posted areas. Council Member Frischenmeyer stated he was concerned that people wouldn't be able to wade in the drainage ditch if the ordinance was passed. Amerine stated the drainage ditch doesn't have a posted sign that states no wading or swimming. City Clerk Wright assigned ordinance number 906.

MOTION: Council Member Frischenmeyer made a motion to accept Ordinance 906 Prohibiting Swimming and Wading in Posted Public Areas Within the City. Council Member Berntsen seconded the motion and it passed on a roll call vote of 5-0.

7. Review Plans for Restrooms/Concession Stand at City Park

City Administrator Brown reviewed the plans for restrooms/concession stand at City Park. Two different options were submitted by Randal Steiner, Architect. One option is just with the restrooms and the other option is the restrooms and concession stand. Council Member York stated that he was concerned that the window in the concession stand for the possible a/c unit was too small. Brown also reviewed monies available to build the restroom/concession building. The total balance of money available is approximately \$130,000. Brown explained there are other items that may need to come from those funds, including the budget that will be discussed later in the meeting. Brown stated that the whole amount probably shouldn't be spent on the project, but a large portion of that money is available. Council gave consensus to have the architect complete the drawings and send them to contractors for bids.

Mayor Justice excused himself from his council seat due to a conflict of interest with the fireworks ordinance.

8. Review Fireworks Ordinance Concerning Shooting Public Areas

City Administrator Brown stated that the review of the fireworks ordinance concerning shooting fireworks was requested by the Police Department. Officer Gearhardt received a phone call from an individual who lived outside Clearwater city limits wanting a place to shoot fireworks, possibly the park. Gearhardt read through the city code and couldn't find anything prohibiting shooting off fireworks in public areas. The Police Department has always discouraged people from shooting fireworks in the parks, but there is no ordinance that enforces such a thing. Council Member Whitney asked if they are wanting to mainly prohibit people from shooting off fireworks in the large parks, not all public property. Brown stated that it would be difficult to enforce all public property. City Attorney Amerine stated that a sign could be posted that stated fireworks could not be discharged at the parks and then an ordinance could be drafted prohibiting fireworks in posted areas. Brown stated that some communities set up areas where the public may shoot fireworks. Acting Police Chief Garcia stated that there currently isn't a problem with people shooting off fireworks in the parks. Council Member Whitney stated it was his opinion to leave the ordinance alone in the respect of fireworks in public places. Council agreed to leave the ordinance as is in regards to where shooting fireworks off is allowed within city limits. Council Member Frischenmeyer stated he would be open to allowing fireworks to be shot off on the 5th of July. Whitney stated that allowing fireworks to be shot for too many days takes away from what the actual holiday is about. Mike Justice commented from the audience that his opinion as a representative of a fireworks stand is that if the 5th falls on a Saturday, Sunday or Monday, those would be days most folks would have off of work and would want to be shooting fireworks. Justice suggested allowing fireworks to be shot on the 5th only if that day fell on Saturday, Sunday, or Monday. Justice went on to comment that several other communities only allow non-profit groups to operate fireworks stands. Justice requested that Council ask the City Attorney to review those other communities ordinances to see if it is possible to only allow non-profit or civic groups to run fireworks stands. Justice stated he doesn't see the other fireworks stand leaving town if the ordinance was changed. They would find a non-profit group to operate the stand for a percentage of the profit. After a lengthy discussion regarding operation of fireworks stands, Council directed Amerine to review other community ordinances regarding only nonprofit groups operating fireworks stands and the possible addition of the July 5th as a date to allow the sale and discharge of fireworks if it falls on a Saturday, Sunday, or Monday.

Mayor Justice returned to his Council seat.

9. Review Inventory of City Streets in Preparation of 2009 Street Project

City Administrator Brown reviewed the inventory of city streets in preparation of the

2009 street project. Brown stated in the past the City has milled the streets and then done an overlay. Public Works Director Misak is not recommending that the City mill the streets because then the streets aren't left with enough base. Brown reviewed costs of previous years street projects. Brown stated bids would be sent out to 3-4 contractors. Brown reviewed several streets as a possibility to be included in the project. Brown stated that the City currently has approximately \$210,000 for street projects. Brown stated there has been previous mention of fixing the drainage at First and Ross. Brown stated that has also been requests to extend the sidewalk another block on north Fourth. Both those projects could come out of the street project money. Council went on to discuss reasons for repairing streets, conditions of previously repaired streets, and different options of repairing trouble spots in town. Council concluded to include \$10,000 for extending the sidewalk on north Fourth, \$10,000 for wide crack repair and \$10,000 for small crack repair, then send out bids. Council agreed that the budget for the street project after the sidewalk and crack repair would be \$130,000-\$140,000.

10. Second Review of 2010 Budget

City Administrator Brown reviewed the 2010 budget. Brown stated that the city valuation came in less than what it was in the 2009 budget year. If the City wants to stay level, the City will collect about \$15,000 less in property taxes. Brown stated there is approximately \$150,000 in cuts that need to be made. Brown reviewed options of decreasing the shortfall throughout all the funds that are affected by the monies from property taxes. Brown stated that an option would be to rearrange some ways budget items are paid out of the general fund and take them from the water and sewer funds. Brown stated that he wasn't highly recommending that option, as the water and sewer funds are both in a rebuilding phase with the recent rate increases. Council discussed cuts and made suggestions. EMS Director Schauf stated that he would like to increase the budget for EMS training to get additional volunteers. He suggested having the individuals interested in training sign contracts to agree pay half of their training and be reimbursed for the other half after they have served for the volunteer service for an allotted amount of time. Council directed staff to assist Schauf in drafting a contract.

MOTION: Council Member York made a motion to approve a maximum of \$1,800 toward the training of individuals to join Clearwater EMS. Council Member Keeler seconded the motion and it passed unanimously.

11. Consent Agenda

Council gave consensus to pay Certified Engineering Design for engineering study and report on the City water distribution system in the amount of \$14,686.78 and Clearwater

Fall Festival for a bronze level sponsorship of \$150.

12. Reports

City Administrator Brown stated the follow up test on water well #2 is on Monday. The KDHE wants a test to confirm previous test results on nitrates for well #2.

City Administrator Brown stated Public Works has been spraying weeds and doing some crack repair in the streets.

City Administrator Brown stated the AT&T cell tower at the brush dump should begin construction soon. Brown stated Verizon says they are waiting for FAA clearance before they begin construction. Verizon had to make a second application because the tower had to be moved over 20 feet due to a gas easement.

Council Member Frischenmeyer asked what the Public Works Department dress code is. Mayor Justice stated it is supposed to be a shirt with the City of Clearwater printed on it or a city badge and jeans. Council agreed that the Public Works Director needs to be instructing the department to follow the dress requirements.

Council Member Whitney asked if the individual doing the water right study has returned with any information. City Administrator Brown stated he has given information to them and hasn't heard anything back yet.

Council Member Keeler asked if someone could be contacted to mow an area next to 200 N. Byers that causes drainage issues.

Mayor Justice stated that new equipment at the skate park has been installed.

Mayor Justice stated he spoke to the Architect regarding the City Hall remodel and the issue with the different color doorframe and window frames. Justice stated the Architect explained the reason for the white window frames is because the window frames on the east side of the building are white. The Architect suggested waiting until the project was complete and if the white frames still look out of place with the dark door frame then the window frames can be wrapped or painted to match. Brown stated the staff had authorized some changes in ceiling tiles and framing that totaled about \$500.

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 Keeler 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 July 14, 2009 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 28th day of July, 2009.

Jodi McBee, Deputy City Clerk