

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

March 10, 2009

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, March 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; Jodi McBee, Deputy City Clerk; and Janet Amerine, City Attorney. Others present at the meeting were Harlan Foraker, Certified Engineering Design; Marvin Schauf and Mary Schauf, Clearwater Fire Department; Donald Schauf, Clearwater Emergency Services; Paul Rhodes, Times-Sentinel Newspaper; Brad Mize, Mize's Thriftway; Sloane Stewart, Christine VanAllen, Michelle Pogue, Brian Barker, Nate Bailey, Jerad Schneider, Brittani May, Christian Bates, Monica Schoenecker, Shae Goodman, Leah Henry and, Chelsea Hines, 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 February 24, 2009

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

2. Mayor's Recommendations

There were no appointments or resignations.

3. Public Forum

No one addressed the Council.

4. Progress Addition Times Sentinel Newspaper Regarding the Clearwater Business Park

Paul Rhodes with the Times Sentinel Newspaper addressed the Council regarding advertising the Clearwater Business Park in the 2009 Progress Edition. Rhodes stated that in the past the Progress Edition had come out every other year. The 2008 edition was so popular that they decided to publish an edition in the off year. Rhodes stated that this edition was going to be titled "Focus on West Side Businesses". This edition would be prime to highlight the new Clearwater Business Park with an editorial type article, an illustration of the plot map, and a picture of the sales sign that just went up. Rhodes dispersed a price sheet and stated that the issue has special pricing that would give a full-page space for the cost of a half page. Council Member FitzGerald stated that he thought the full page would be a good marketing tool for the Business Park. Council Member Whitney agreed and stated the price was reasonable to reach a lot of people in west Wichita.

MOTION: Council Member FitzGerald made a motion to approve the purchase of a full page space for the cost of \$325 for the 2009 progress edition titled "Focus on West Side Business" issued by Times Sentinel Newspaper. Council Member York seconded the motion and it passed unanimously.

5. Award Contract for Construction of Water and Sewer Utilities at Clearwater Business Park

Harlan Foraker, Certified Engineering Design, stated that the bids for the water and sewer utilities at Clearwater Business Park were opened March 6, 2009. Eight bidders responded. The bids were sent as installation of the sanitary sewer utilities with water utilities installation being an alternate bid.

CONTRACTOR	SANITARY SEWER BASE BID	SANITARY SEWER PLUS WATERLINE ALT. #1 BID
Clearwater Excavating, Clearwater, KS	353,518.00	454,128.00
Dondlinger Construction, Wichita, KS	165,684.00	251,321.00
Duling Construction, Wichita, KS	129,427.00	208,796.00
UCI, Wichita, KS	141,448.00	217,976.00
McCullough Excavating, Wichita, KS	127,950.00	193,050.00
Middlecreek Mining, Peabody, KS	117,234.00	196,924.00
Mies Construction, Wichita, KS	124,245.00	187,601.00
Nowak Construction, Goddard, KS	106,172.00	168,461.00
Utilities Plus, Wichita, KS	142,997.50	217,824.70

Nowak Construction was the low bidder at \$106,172 with and the alternate bid being

\$62,289 for a total bid of \$168,461. Foraker stated that this bid came in at almost a third under what his engineer's estimate was. Foraker continued that it would be his recommendation to accept the sewer and water bids from Nowak Construction. Foraker then requested the authorization to prepare the contract, and once the City Attorney reviews the contract, authorize the mayor to sign the contract.

MOTION: Council Member York made a motion to accept the bid from Nowak Construction for sanitary sewer and water utilities in the Clearwater Business Park in the amount of \$168,461 and authorize the Mayor to sign the contract after review by the City Attorney. Council Member FitzGerald seconded the motion and it passed unanimously.

Foraker stated he wanted to thank Council for their patience in waiting on the water study. Foraker went on to explain he was waiting on some figures to make some recommendations on what improvements need to be made. Right now, the City is using 80-90% of the water the City is permitted to use. Foraker stated the City might have to look into acquiring more water rights.

Foraker also mentioned there is some money available through the Kansas Department of Transportation from the federal stimulus package. 135th Street is eligible for some of that money due to it being an arterial road. Foraker and City Administrator Brown will be working together to get an application filled out for that money.

6. **Update from Fire Chief Marvin Schauf on Purchase and Bids for Installation of Storm Siren**

City Administrator Brown stated that bids have been received from two electrical contractors for the installation of the storm siren at the Sports Complex. The first bid is from Reeves Electric with a class 1 or 2 pole in the amount of \$6,527. The second bid is from Phillips Southern with a class 2 pole for \$5,618.53. Brown stated that he had tried to contact the original bidder, Zenor Electric Co., which Fire Chief Marvin Schauf had received a bid from to get an updated quote, but had not heard back from them. Council Member Whitney asked what the difference was in the classification of poles. Brown stated the specifications from the siren manufacturer requires a class 1 or class 2 pole, but he was unsure of what the difference was in poles. Council Member York asked if there was any way, through Sedgwick County, the City could furnish its own pole to save on costs. Brown stated he had contacted Westar Energy, but was currently unable to get any answers from them. Whitney stated he would like to know what the difference is in the class of poles. York stated he could contact someone he knows with Westar Energy and ask about getting a pole directly from them. Whitney stated he thought a decision on which company to use to install the pole should wait until staff could find out more detail regarding the poles. Brown stated that

some other purchases, including new tanks and hoses, within the fire budget are going to be put on hold to cover the cost of the installation. Council Member FitzGerald suggested ordering the siren now to save on time. Council gave consensus to have staff contact Zenor Electric to get more information on the type of pole they are using in their bid and to have York contact Westar Energy regarding purchasing a pole directly from them.

MOTION: Council Member FitzGerald made a motion to purchase a Whelen OA 44 Cell Siren in the amount of \$12,175. Council Member Berntsen seconded the motion and it passed unanimously.

7. **Request from Mizes Thriftway, located at 449 North 4th for Sunday Beer Sales**

Mayor Justice stated there is a request from Mize Thriftway to allow the Sunday sales of package carryout beer in the City of Clearwater. Justice asked City Attorney Amerine if Council approved the request for beer sales from Mize if they would have to approve other requests, or would this request be a blanket approval for other businesses in town to allow Sunday beer sales. Amerine stated that if Council approves the request, an ordinance would be drafted referencing retail liquor sales and cereal malt beverage sales allowing for Sunday sales. If the ordinance is passed, it would have to be published for 2 consecutive weeks and there is a protest period of 60 days. If no petition is filed at the Sedgwick County Election Office, the ordinance becomes valid on the 61st day. Brad Mize with Mize Thriftway addressed the Council. Mize stated that currently in Clearwater, citizens can go to a bar or restaurant in the City and purchase a beer and consume it on site on Sundays. Mize's request is for a consumer to have the option to purchase packaged beer in Clearwater on Sunday from 12-8 pm. Council Member Berntsen stated he believes it is good for business owners in Clearwater to pass a Sunday beer sales ordinance because it keeps business in Clearwater. Council gave consensus to have Amerine draft an ordinance to allow Sunday packaged liquor sales in the City of Clearwater.

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

City Administrator Brown requested to table the discussion on the Agreement for Housing Inmates in Sumner County Adult Detention Facility. Brown stated there are still some minor issues that need to be worked out. Police Chief Demars was unable to attend the meeting tonight and Clearwater Municipal Judge Becky Hurtig would like to review the agreement, as well. Brown stated that the City's insurance company is unable to provide a rider to cover insurance coverage for prisoners held at the Sumner County Detention Facility for the City. City Attorney Amerine stated that in the end the decision is a policy issue. The City can send people to Sumner County at a lower price but a higher risk if health issues arise. If prisoners are sent to Sedgwick County, the price is higher but the risk is lower since Sedgwick County doesn't charge the City for a prisoner's health care.

9. **Review Architect Response to Council Request to Replace Ceiling and Lights in Council Room**

City Clerk Wright stated a drawing was received from Randal Steiner, Architect, regarding the request to replace the ceiling and lights in the Council Room. The Architect has some questions that need to be answered before a price quote can be submitted. Wright stated that the entryway, the Council Room and the room behind the Council Room is the area that is to be included for replacement of the ceiling. The Architect wants to know if the divider in the Council Room needs to be removed. City Administrator Brown stated that the divider is used once or twice a year. Council Member FitzGerald stated that he thought the divider should stay because it is an expensive item to replace. Council Member Berntsen stated that if the divider is left then just the north side of the Council Room ceiling could be replaced to save on cost. Council gave consensus to have staff request a bid from the Contractor for just the north side of the Council Room and get the south side of the Council Room and the room south of the Council Room as an alternate bid. Wright stated that she also spoke to the Architect about possibly saving the existing tin ceiling above the false ceiling. The Architect stated that the cost of saving the tin is much higher than what the tin is probably worth. Wright stated that Caro Construction, who is the Contractor for the City Hall remodel, said that the order for the door could take 8 weeks. The remodel of City Hall won't start until May or June 2009.

10. **Sedgwick County Association of Cities Requests for 3 Additional Appointments to WAMPO Project Advisory Committee**

City Administrator Brown stated that the Sedgwick County Association of Cities is requesting 3 additional appointments to WAMPO Project Advisory Committee. Brown stated there wasn't a need to submit 3 names, but it would be appropriate to submit a name so Clearwater would have a voice on the committee. Brown stated that the name submitted could come from Council, Planning Commission or Staff. Council Member Whitney suggested Lonnie Steiben, member of the Planning Commission, as a possibility. Council directed staff to visit with Steiben to see if he is interested in sitting on the WAMPO Project Advisory Committee. Council agreed to have Brown as an alternate.

11. **Agreement Between Sedgwick County and City of Clearwater for County Project R-299 135th St. W. (4th Avenue within Clearwater City Limits) between Diagonal Road and 103rd St. S. (Ross Avenue within Clearwater City Limits)**

Mayor Justice stated the agreement between Sedgwick County and City of Clearwater for County Project R-299 to improve 135th St. W. between Diagonal Road and 103rd St S. is necessary for the City and County to improve the road in conjunction with each other. The County's plan is simply to repave the road, and the City's plan has the road widen to add a turning lane and do some storm sewer work. This agreement would allow the County to pay costs that would be for the repaving and the City to bear the cost of the widening. The agreement estimates the City's cost to be \$1,100,000. The sample agreement included a section that stated that the City would become responsible for upkeep of the road after its completion. Brown stated he struck that section out because Sedgwick County should still be responsible for the maintenance of the road once the project is complete. City Attorney Amerine stated that if this becomes an issue later then it would be reviewed at that time. The City doesn't want to give up the County maintaining the road at the beginning of negotiation. Council Member Whitney stated his concern with being tied to the project once the agreement is signed. Whitney asked if the City signed the agreement, and down the road decided the project wasn't feasible, would the City be able to decline their portion of the project. Brown stated that he understood the contract as just an outline of the proportion of the costs for both the City and Sedgwick County. Brown stated he believes there are two times that the City could stop or delay the project. One time would be at the design stage and the other is at estimation of costs in moving utilities and acquiring right of ways. Brown stated the agreement could wait until a better indication was received from the County on when those times would be known. Council Member FitzGerald stated he didn't want to stop the project before it got started by not signing an agreement with Sedgwick County. FitzGerald stated his concern is with the possible growth with the Clearwater Business Park and the growth in housing on the east side of town that 4th Street needs improvement to handle increased traffic flow. Whitney again stated his concern with signing an agreement and being on the hook for the project if it isn't something the City can afford to do in the future. Council Member York asked what the steps were to acquire a right of way. City Attorney Amerine stated that many times people are willing to sign over a right of way if City Officials speak with them and it improves their property. Mayor Justice stated that he thought many homeowners on the east side of 4th Street would welcome a widened street because it would eliminate the steep ditch they have to maintain. Whitney stated that if Amerine could see a way out of the agreement, he would be willing to authorize the Mayor to sign the agreement. Amerine stated that nowhere within the agreement is there specific reference for a way for either the City or Sedgwick County to back out of the agreement. Council directed staff to contact Sedgwick County to see if some language can be added as a way for the City to back out of the agreement.

12. Ordinance Amending and Establishing the Rates and Monthly Service Charges for Connection to the City's Sanitary Sewer System

Mayor Justice stated the ordinance amending and establishing the rates and monthly

service charges for connection to the City's sanitary sewer system was drafted after a discussion from the previous Council Meeting. City Attorney Amerine explained the ordinance allows the City to use an alternate month in figuring annual sewer rates if an individual experiences a water leak in January, February or March. The ordinance also allows for the use of an alternate month if there is a situation where water meter readings are estimated in the month of January, February or March and there is damage to the customer's sewer rate due to the estimation.

MOTION: Council Member FitzGerald made a motion to adopt Ordinance No. 901 Amending and Establishing the Rates and Monthly Service Charges for Connection to the City's Sanitary Sewer System. Council Member Keeler seconded the motion and it passed on a roll call vote 5 to 0.

13. Consent Agenda

Council gave consensus to pay CDW-G Sales quotation for Police Department to purchase a Toughbook to be installed in Ford Crown Victoria at the cost of \$3,447.45 and 2009 Basic Lifeguard Training for 5 lifeguards and Linda Stearns transportation for a total of \$1,295.00.

14. Reports

City Clerk Wright stated that she and Deputy City Clerk McBee would be attending the CCMFOA Spring Conference March 11-13.

City Attorney Amerine requested Council authorization to attend a seminar on Municipal Liability for Police Incidents in Kansas City on April 3. Council gave consensus to allow Amerine to attend the seminar.

City Administrator Brown stated that a resolution needs to be adopted to allow the City to apply for the stimulus money through the Kansas Department of Transportation (KDOT).

MOTION: Council Member FitzGerald made a motion to adopt Resolution 4-2009 to allow the City to apply for the economic stimulus money through KDOT and authorize the Mayor to sign after review. Council Member Whitney seconded the motion and it passed unanimously.

City Administrator Brown stated that Public Works Director Misak is back to work

after medical leave.

City Administrator Brown stated he is still working on the details of placing a generator at the Methodist Church for an emergency shelter. Brown stated he has initiated contact with Westar Energy and has contacted several churches to find examples of an agreement between a church and government entity. City Attorney Amerine stated she would like to see the agreement between the Red Cross and the Methodist Church for the church being a Red Cross Shelter. Council Member FitzGerald stated he would try to get a copy of that agreement to her.

City Administrator Brown stated a zoning affidavit was brought into City Hall for the City Clerk to sign for some individuals that are interested in opening a liquor store in the old vet clinic building on north 4th Street. The individuals are the owners of the liquor store in Cheney.

Council Member Keeler asked if Waste Connections had approved the citywide cleanup dates. City Clerk Wright stated that she spoke with Herschel at Waste Connections and April 17 and 18 are the days for the spring citywide cleanup and October 16 and 17 for the fall cleanup.

Council Member Whitney stated a home on south Lee has some work being done on it and the neighbors are complaining about the status of the home.

Council Member Whitney stated a street light at 2nd and Nancy is flashing on and off.

Council Member Whitney stated that the sprinklers on the fields at the Sports Complex are now functional. A motor had to be replaced at field #3. The whole Sports Complex is on well water now.

Council Member FitzGerald requested a discussion on the skateboard park be put on the agenda for the next Council Meeting. FitzGerald stated he would like to have Council discuss extending the cement pad and purchasing a couple pieces of equipment.

Council Member FitzGerald stated the Public Works Department did a good job installing the pipe at the ends of the drainage ditch leading into City Park. FitzGerald requested the wire on the north end of the park be removed as well.

Council Member FitzGerald stated the Lions Club has taken over the maintenance of the landscaping around the "Welcome to Clearwater" sign on north 4th. FitzGerald stated that he had spoken to a Contractor about installing a drip system at the sign. City

Administrator Brown told FitzGerald to speak to Public Works Director Misak before any items were purchased.

Council Member Berntsen stated his appreciation for some of the Clearwater Volunteer Firemen that responded to the wreck on south Tracy. The Sheriff's Officer at the scene told them to leave and they stayed to ensure the battery was disconnected from the vehicle.

Mayor Justice stated that staff members of the City, Recreation Commission, and USD #264 had a meeting today to work out arrangements on grounds up keep at the Sports Complex. Justice stated that he hoped the meeting would solve some of the problems from last year. Justice stated some hydrants need to be installed near the infields so the fields can be watered so the keel can be broken up. Council Member Whitney stated he would look into seeing if hydrants could be installed.

15. 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 March 10, 2009 City Council meeting.

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

Jodi McBee, Deputy City Clerk