

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

**CITY COUNCIL MEETING**

**MINUTES**

**November 10, 2009**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, November 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, Jim Whitney, Sandi Keeler, and Jim Frischenmeyer, Council Members. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Janet Amerine, City Attorney; Ernie Misak, Public Works Director; Kim Demars and Gene Garcia, Clearwater Police Department. Others present at the meeting were Mary Schauf, Clearwater Volunteer Fire Department; Donald Schauf, Clearwater EMS; Paul Rhodes, Times Sentinel Newspaper; Robert Stewart, Citizen; Shelby Benson, Dillon Ward, Jessica Williams, Zach Williams, Chris Turner, Ashley Lauer, Trevor Bradley, Tracy Rausch, Jordyn Baker, Hannah Vaughn, Hope Dale, and Brittany Brobst, Clearwater High School Government Students.

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Mayor 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 October 27, 2009**

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

**2. Mayor's Recommendations**

Mayor Justice, with Council consensus, appointed Julie Jacobs to the Library Board and Matt Rupe as Firefighter.

With Council consensus, Mayor Justice accepted with regrets the resignation of Jared

Schneider as Firefighter.

**3. Public Forum**

Robert Stewart addressed the Council stating his displeasure with the letter he received regarding cleaning up brush and leaves in his yard. Stewart stated he did not appreciate being told how to keep his yard. Mayor Justice stated a blanket letter was sent to all residents in the City to inform them to keep brush piles cleaned up. The letter was not intended to call out specific homes. It was just a friendly reminder to residents.

**4. Ordinance Defining what Constitutes a Nuisance within the Limits of the City**

City Attorney Amerine reviewed her findings regarding amending the ordinance defining what constitutes a nuisance. At the previous meeting, Council discussed the on going problems of brush piles. Amerine stated she found that brush must be handled as a nuisance with a public hearing. Therefore, Amerine stated she is proposing an amendment to the nuisance ordinance that specifically states brush as a nuisance. City Clerk Wright assigned ordinance number 916.

**MOTION:** Council Member York made a motion to adopt Ordinance Number 916 Defining what Constitutes a Nuisance within the Limits of the City. The motion was seconded by Council Member Whitney and passed on a roll call vote of 5-0.

**5. Quote From Paving Maintenance Supply, Inc. for a Crack Sealing Melter**

City Administrator Brown stated that Council requested at the previous meeting that Staff look into what the costs for small crack repair are as opposed to purchasing the crack sealing melter. Brown stated APAC charges \$0.75 to \$1.00 per lineal foot for narrow crack repair. Brown stated he also contacted several surrounding cities to find out how many cities own their own melter and how many contract out narrow crack repair. Brown stated that five out of eight cities he contacted own their own melter. The other three towns contract out the narrow crack repair, with two of those stating they were in the market to purchase their own sealer. Mayor Justice stated that it was his opinion that the cost of contracting out the narrow crack repair was too high. Justice continued that either purchasing the melter or continuing to rent are better options.

**MOTION:** Council Member Frischenmeyer made a motion to purchase a crack sealing melter from PMSI in the amount of \$3,995. Council Member Keeler

seconded the motion.

Council Member York asked whether there was going to be continuous time allotted to do narrow crack repair. City Administrator Brown stated that it should be easier to schedule time to do the narrow crack repair with the purchase of the melter. Narrow crack repair is easier to do in the winter when the Public Works Department isn't as busy. The rental melter is harder to rent in the winter months because other towns are using it also. Owning the melter will allow the Public Works Department to schedule the narrow crack sealing when they have time rather than when the equipment becomes available. Mayor Justice stated he would like to see a regular schedule of usage of the crack sealing melter.

**MOTION:** The motion passed unanimously.

6. **Agreement between Sedgwick County and City of Clearwater for Clearwater Senior Center – Senior Center Level 1 Funding**

City Clerk Wright reviewed the contract between the Sedgwick County Department on Aging and the City of Clearwater for Senior Level 1 funding at the Clearwater Senior Center. Wright noted the requirements in the contract that must be upheld by the Clearwater Senior Center and the budget for the \$18,000 in funding for 2010. City Attorney Amerine stated she has reviewed the contract and approves it to form.

**MOTION:** Council Member Keeler made a motion to authorize the signature and the approval of the agreement between Sedgwick County and the City of Clearwater for Clearwater Senior Center – Senior Center Level 1 Funding of \$18,000. The motion was seconded by Council Member York and passed unanimously.

7. **Request to Purchase Furniture for City Hall Lobby**

City Clerk Wright stated that staff would like to purchase a two-chair/table piece of furniture for the City Hall Lobby. There is room in the City Hall remodel project budget to purchase the furniture.

**MOTION:** Council Member Frischenmeyer made a motion to purchase furniture for the City Hall Lobby in the amount of \$598.00. The motion was seconded by Council Member Berntsen and passed unanimously.

8. **Quote from Artisan Surface Systems to Restore Terrazzo Flooring in the Lobby of City**

## **Hall**

City Clerk Wright stated the terrazzo flooring in the lobby of City Hall needs to be cleaned. Wright stated she researched companies that clean terrazzo flooring and found Artisan Surface Systems in Wichita. The quote for cleaning the floor is \$1,790.20. Wright stated she understands the quote is high. Wright went on to explain that terrazzo is expensive flooring and has been neglected over the years. With this cleaning, the floor won't be perfectly clean, but will shine again. Then, with the proper upkeep going forward, the floor will stay in better condition. Wright stated that there is room in the 2009 budget to have the floors cleaned. Wright stated the other options would be to leave the floor the way it is or to cover it up with different flooring.

**MOTION:** Council Member Keeler made a motion to approve Artisan Surface Systems to restore the terrazzo floor in the lobby of City Hall in the amount of \$1,790.20. The motion was seconded by Council Member Frischenmeyer and passed unanimously.

## **9. Council Review of 2009 Staff To Do Requests**

Council reviewed the 2009 staff to do requests. City Clerk Wright stated that the items on the to do list have been notated as complete, on going, or in process. Wright stated that many of the items listed as on going are items that may never be completed. These are items that are continuously an issue and are always something city staff works on to improve, such as alleys and gravel streets. Council Member Whitney asked for an update on the generator and storm shelter. Brown stated that the grant application is "in process". Brown was notified that the grant application might take months to be reviewed. Once the grant is approved, then the process of planning the shelter can move forward. Brown stated that there is \$25,000 in the 2009 budget for the purchase of the generator. If the City has to come up with the 20% of the shelter cost in 2009, then that money will have to be used toward the shelter and not the generator. The money to purchase the generator would have to come out of the 2010 budget for capital outlay. If the grant for the shelter is approved in 2010, then the 2009 budgeted money for the generator can be used toward the generator. Council agreed they would have to wait until closer to the end of the year before deciding whether to move forward in purchasing the generator. Mayor Justice asked about the repair of the tennis court fence. Brown stated the fencing company was waiting for the ground to dry so they wouldn't cause ruts in the ground. Whitney asked if there was an update from the gentleman that was researching the city's water rights. Brown stated he is still waiting for his report. Whitney asked if any steps have been made in getting some mulch under the playground equipment at City Park. Whitney stated that he had read in the newspaper that Derby received stimulus money for mulch in their parks. Brown stated he hasn't had success

in applying for stimulus money for parks, but would look into applying again. Council Member Berntsen asked if the Police Department is going to try to offer another hunter's safety course. Police Chief Demars stated that they need to find someone who would be willing to teach the class.

City Administrator Brown stated the steel for the new Verizon cell phone tower was delivered today. The crane is being delivered Friday to erect the tower. The antennas should be installed next week. In about 2 to 3 weeks, the tower should be operational.

**10. City Employees and Volunteer Christmas Dinner**

Officer Gene Garcia, Clearwater Police Department and Chairperson of the Christmas Dinner Planning Committee, stated that the City Employee and Volunteer Christmas Dinner will be Monday, December 7<sup>th</sup> in the Clearwater High School Commons. Dinner is at 6:30, followed by entertainment from the Clearwater High School Jazz Band. Council, Staff, and Volunteers and their families are invited to the event. After a brief conversation, Council agreed to purchase Mize gift certificates for the paid city employees for Christmas.

**11. Consent Agenda**

Council gave consensus to pay APAC Kansas, Inc.; Shears Division \$163,366.60 for the 2009 street project.

**12. Executive Session - Personnel**

**MOTION:** At 7:40, Council Member York made a motion to enter into Executive Session for Personnel for 25 minutes. The motion was seconded by Council Member Keeler and passed unanimously. Mayor, Council, City Administrator Brown, Chief Demars, and Officer Garcia entered into Executive Session.

At 8:05, Council returned to regular session with no action taken.

With Council consensus, Mayor Justice appointed Scott Goforth as Police Officer and Kyle Berger as Reserve Police Officer with the Clearwater Police Department.

Mayor Justice, with Council consensus, removed the title of Interim Police Chief from Gene Garcia. Council thanked Garcia for his efforts during Chief Demars' medical leave.

### 13. Review of Personnel Rules & Regulations Sections I thru IV

City Administrator Brown stated that the City's Personnel Rules and Regulations Policy needs to be updated. Brown stated the first 4 articles will be reviewed at tonight's meeting. Brown explained that this is merely a review and the policy as a whole will be approved after a full review. Brown reviewed the sections one by one. Article 1 establishes the general function of the personnel policy, Article 2 is position classifications, Article 3 is recruitment and promotions, and Article 4 is regarding compensation. Council discussed the following changes:

- Article 3, Section 1 pertains to medical exam requirements. Council discussed the possibility of requiring employees to get a medical exam before employment in order to obtain a base line health evaluation. City Attorney Amerine stated it was her recommendation to require a base line physical to prevent any workman's compensation filings on pre-existing conditions.
- Article 3, Section 4 addresses the nepotism policy. Council agreed that the nepotism policy should address full time employees and define what an immediate family member is. Council decided to strike Subsections A., B., and C. except for the last line of A., which defines immediate family. Any reference to relatives should be changed to immediate family. The last sentence in Section 4 which states, "This policy is only applicable to full time employees" will become part of the second paragraph and the word policy will be changed to section.
- Article 3, Section 6 regarding medical evaluations initially states that the City would incur the cost of any "medical interviews or physicals". Council Member Keeler stated she had a problem with that item because it could be costly to the City if there was a high rate of turnover at one time. Council Member Whitney suggested a reimbursement of half the medical evaluation cost after the probationary period. Council recommended creating two sections regarding medical evaluations. The first would discuss pre-employment physicals and drug screens. All full and part time final employment prospects would be required to have a base line physical and drug screen before employment begins. The applicant would incur that cost. Then after the training period, the City would reimburse the employee half of the cost of the physical and drug screen. The second section would address medical evaluations for employees due to workman's compensation issues or employee's ability to do their job. The employee would pay for these types of medical evaluations, with no reimbursement from the City.
- Article 3, Section 7 regarding Probation states all employees will have a 90 day probationary training period. Council agreed that the 90 days may be too short for some employees and suggested making 90 days the minimum for probation. At the

90 days an evaluation should occur and the probation will be lifted or extended to obtain the necessary training. City Attorney Amerine suggested changing the word probation to training period.

- Article 3, Section 8 reviews Appointments. Council discussed changing the time for appointments from May to January. City Attorney Amerine stated she would research if the City could change the date of appointments.
- Article 4, Section 3 pertains to pay increases. City Attorney Amerine recommended changing the word merit to salary in subsection C. Amerine stated then that would give the Governing Body the authority to approve all salary increases.
- Article 4, Section 8, Subsection A regarding overtime pay reveals how overtime work will be paid. City Clerk Wright stated the word “worked” has been added to this subsection. Council recommended adding a sentence to explain that hours worked does not include vacation and sick time.

#### **14. Reports**

City Clerk Wright stated she has talked to Judy Cummings, Historical Museum Director, regarding the schoolhouse behind the museum. Cummings has spoken to Greg Kite, the attorney assisting with the grant to improve the schoolhouse. Kite says that he can meet the June 30, 2010 deadline the Council set to make some progress on the schoolhouse. Kite says the grant money will be in place and the building will be set on a foundation before the deadline. The grant requires the building be restored to the condition it was in 1875. It cannot have electricity, heat, or air conditioning. Council stated they would like reminders sent to the Historical Museum in January and March of the June 30<sup>th</sup> deadline they have put in place. Council also directed staff to send a letter highlighting the discussion Wright had with Cummings and to affirm the deadline of June 30<sup>th</sup>.

City Attorney Amerine reviewed her report from City Attorney Conference. Amerine highlighted topics such as e-discovery, social networking, community development districts, and new financing options.

City Administrator Brown stated that Thursday, November 12, an area Chiefs of Police meeting is being held at the Clearwater Community Center. Kansas Attorney General Steve Six will be attending the meeting to speak to the group. Mayor Justice stated that Officer Gene Garcia arranged the meeting and he should be recognized for obtaining a speaker like Mr. Six.

City Administrator Brown stated he would be meeting with the Municipal Court Judge and City Prosecutor regarding some outstanding warrants and fines.

City Administrator Brown stated the area along north Fourth has been flagged to determine the location the new sidewalk.

City Administrator Brown stated the winterization of the pool had to be postponed until a water sample could be taken from well #2.

City Administrator Brown stated the fire hydrant was replaced at Ross and Prospect.

City Administrator Brown stated that the tree farm is going to be eliminated. It is proposed to move some of the trees to the skate park, sports complex, and tennis courts. There is an offer from someone who owns a tree spade to move the trees for \$50 per tree. Council Member Frischenmeyer stated he has spoken to David FitzGerald. FitzGerald has some donation money to assist in moving the trees. Council agreed to assist in the cost of moving the trees.

Council Member Keeler stated she has received comments from concerned citizens regarding joggers in the early morning and in the late afternoon. Keeler asked City Attorney Amerine if there was something in any city ordinance that could assist in handling this issue. Amerine stated she would review the standard traffic ordinance to see if it addresses requiring pedestrians to wear reflective gear.

Council Member Whitney stated he received a complaint from a resident regarding the amount of cars and car parts at 239 S. Third.

Council Member Frischenmeyer stated he spoke to the resident at Tracy and Park. The resident agreed to have her yard cleaned up by December 15<sup>th</sup>.

Council Member York stated he would speak to the residents of 151 S. Gorin regarding the debris in their yard.

Mayor Justice asked staff to have glass installed above the door to the Council Chambers.

Mayor Justice proposed charging residents for Public Works to use the City's street sweeper to vacuum up leaves in the gutters when the residents choose to rake their leaves into the street. Justice stated that is something maybe the Council could discuss at future meetings.

## **15. Executive Session - Personnel**

**MOTION:** At 10:20, Council Member Berntsen made a motion to enter into Executive Session for Personnel for 5 minutes. The motion was seconded by Council Member York and passed unanimously. Mayor, Council, and City Administrator Brown entered into Executive Session.

At 10:25, Council returned to regular session with no action taken.

**16. 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 November 10, 2009 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 24<sup>th</sup> day of November, 2009.

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Jodi McBee, Deputy City Clerk

