

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

**CITY COUNCIL MEETING**

**MINUTES**

**October 27, 2009**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, October 27, 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; and Ernie Misak, Public Works Director. Others present at the meeting were Steve Martens, Grubb & Ellis/Martens Commercial Group; Donald Schauf, Clearwater EMS Director; Mary Schauf, Clearwater Volunteer Fire Department; Jennifer Arnold, Clearwater Area Chamber of Commerce; JoAnne Dyar, Casey's General Stores; Jared Stubby, Chrissy Stubby, Gene Dunbar, Bob Johnson, Lonnie Stieben, Citizens; Emily Woodson, Allie Reitberger, Alex Baughman, Karsen Wohler, Ryan Yost, 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 13, 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. Mayor's Recommendations**

There were no appointments or resignations.

**3. Public Forum**

No one addressed the Council.

**4. Ordinance to Change Zoning of the Property at 152 N. Fourth Avenue from Residential**

## **(R-1) to Commercial (C-2)**

City Administrator Brown stated that an ordinance is being proposed to change the zoning of the property at 152 N. Fourth Avenue from single family residential (R-1) to general commercial (C-2). The Planning Commission held a public hearing to review the zoning change. City Clerk Wright stated that several people spoke in favor of the zoning change and several people spoke about concerns regarding screening, drainage, and safety. The Planning Commission voted 5-0 to recommend to the Council passing the zoning change. JoAnne Dyar with Casey's General Stores addressed the Council. Dyar stated she is available to answer any questions regarding what Casey's intentions are at the N. Fourth property. Dyar reviewed the building concept and the proposed hours of operation of 6:00a.m. to 11:00p.m. daily. Council Member Whitney asked what the time frame is for the convenience store to be built. Dyar stated that once they obtain the building permits, they hope to have construction complete in 3 to 4 months, barring any weather issues. Mayor Justice asked if there would be any issues with the location of the store and gas pumps with the possible widening of Fourth Avenue in the future. Brown stated that staff has already requested that the store be moved back an additional 10 feet from the 25 foot setback to allow for that possibility. Brown stated that Casey's has addressed the issue of screening with a 6-foot privacy fence planned for the north end of the property. Brown stated that the staff has asked Casey's to install larger drainage culverts than the 15 inch pipe they proposed under their 2 entrance/exit drives. Brown stated the final concern regarding safety would remain to be seen. The City may have to designate a crosswalk at the corner of 4<sup>th</sup> and Ross. Jared and Chrissy Stubby, the property owners, stated they purchased the property approximately 4 years ago in hopes of renovating. Time and money got away from them and Casey's approached them to sell the property. They hope to stay in the area if the zoning and sale are finalized. Council Member York asked if there would be plenty of room for traffic to get in and out of the parking lot so there is not a lot of traffic congestion. Dyar stated the template Casey's uses for safe traffic flow has 60 feet in between the pumps and the building and 30 feet between each pump. Wright assigned ordinance number 915.

**MOTION:** Council Member Frischenmeyer made a motion to adopt Ordinance Number 915 to Change Zoning of the Property at 152 N. Fourth Avenue From Single-Family Residential (R-1) to General Commercial (C-2). The motion was seconded by Council Member Berntsen and passed on a roll call vote of 5-0.

## **5. Executive Session-Real Estate**

**MOTION:** At 6:45, Council Member York made a motion to enter into Executive Session for Real Estate for a period of 10 minutes. The motion was seconded by Council Member Keeler and passed unanimously. City Administrator Brown, City Attorney Amerine, and Steve Martens were invited into executive session.

**MOTION:** At 6:55, Council Member Whitney made a motion to enter into Executive Session for Real Estate for a period of 10 minutes. The motion was seconded by Council Member Berntsen and passed unanimously. City Administrator Brown, City Attorney Amerine, and Steve Martens were invited into executive session.

At 7:05, Council returned to regular session with no action taken.

6. **Addendum to Exclusive Right to Sell Agreement**

**MOTION:** Council Member Frischenmeyer made a motion to adopt the addendum to exclusive right to sell agreement extending the term to July 31, 2010. The motion was seconded by Council Member Berntsen and passed unanimously.

7. **Quote from Paving Maintenance Supply, Inc. for a Crack Sealing Melter and Concrete Push Saw**

Public Works Director Misak stated the Public Works Department is interested in purchasing a crack sealing melter and concrete push saw. The melter is used, but in working order. Misak stated the cost of the melter is \$3,995. The melter that the Public Works Department rents to do wide and narrow crack street repair is \$1,400 per week. Misak stated the pros to owning the melter rather than renting is that the Public Works Department would be able to do wide and narrow crack repair on their own schedule, rather than waiting for the rental unit to become available. Owning the melter would also allow staff to do crack repairs a few days at a time rather than blocking off a whole week of repair when the unit is rented. Misak stated the cons of owning the melter is that then the City is responsible for repairs. The melter has new hoses and most of the parts to the melter are serviceable. Misak stated the tank is irreplaceable and he is unaware of what the life span of the tank is. Council Member Whitney stated his concern with owning the melter is that owning the equipment may make it easier to push the crack sealing back in order to do other projects. Renting the equipment forces the Public Works Department to do the repairs during a fixed amount of time. City Administrator Brown stated that if the City wants to purchase this type of equipment this is the best deal available for this year and quality of machine. Mayor Justice

stated that it is his opinion that if the City is going to keep doing the wide and narrow crack repair itself instead of contracting out the work, purchasing the melter is the best option. Council Member Frischenmeyer stated that it is his opinion that it would be better to rent the melter, then the City wouldn't be responsible for repairs and there would be a scheduled time to do the wide and narrow crack repair. Whitney asked what the price would be to contract out the wide and narrow crack repair throughout the entire town. Misak stated he did not have that information at this time. After a lengthy discussion regarding time and cost of wide and narrow crack repair, Council directed staff to get an estimate of what it would cost to have narrow crack repair done on all city streets. Misak stated he would come back to the next council meeting with the quote and Council could decide then if the melter would be purchased to then maintain street cracks.

Public Works Director Misak stated that Public Works needs a new concrete push saw to repair potholes and repair water lines. The cost to purchase the saw is \$1,295.00. Misak stated the money to pay for the saw would come out of the money budgeted for street projects. Council gave consensus to purchase the concrete saw from PMSI for \$1,295.00.

#### **8. Restroom/Concession Stand Proposal by Staff**

Public Works Director Misak stated that Council had directed him to get a price estimate on a restroom/concession stand building in City Park after the quotes from several general contractors came in too high. Misak stated he has to have a general contractor to sign off on the project since it is a commercial building. Misak stated he has found a contractor to sign off on the project for \$2,000. Misak explained that he increased the building size from 24 ft. 8 in. to 26 ft. 8 in. from the architect's drawing to add an additional toilet in the women's restroom, add a urinal in the family restroom and create a better use of space in the concession area. Misak went on to review the alterations he made from the original architect's plans. Misak's cost estimate comes to \$87,723.03 for either plan. Misak stated that Sedgwick County Code Enforcement requires stamped architectural plans to be used on commercial buildings. Council can either use the plans purchased from Randal Steiner that the City has already paid \$6,000 or Misak stated that if Council uses his alternate plan he has found an architect to draw up the plans for \$1,500.00. City Administrator Brown stated there is approximately \$114,000 in park funds available to build the restroom/concession building. Brown stated the first decision to be made is whether to build this building at all. Then the next decision is whether to use the original plan from Randal Steiner or use Misak's alternate plan. Council Member York stated that he thought the restrooms are needed at City Park. Council Member Whitney agreed that restrooms are needed but not the concession area. Council Member Frischenmeyer stated that the concession building has been a gathering place since the snow cone/ice cream business has been renting the building. Frischenmeyer stated the concession area could be a

useful place for other fundraisers for other community groups. Whitney stated it wasn't the City's responsibility to provide a building for those kinds of needs. After a discussion regarding basic needs of the park, Council directed Misak to come back with a three-bathroom design, without a concession stand and only one toilet in the women's restroom, and cost estimate.

**9. Request to Purchase Radio for Ambulance 400**

EMS Director Donald Schauf stated the radio in the main ambulance (400), which is the advance life support unit, is malfunctioning. The radio is used to communicate with Sedgwick County Emergency Dispatch. Schauf stated that the radio he is proposing to purchase would meet the needs of the switch to digital radios and frequency change Sedgwick County is requiring in years to come. The cost of the radio is \$4,942.00. Schauf stated that the radio works well enough to be used through the end of the year. City Administrator Brown stated that there is only approximately \$2,000 left in the Ambulance fund in the 2009 budget. The balance of the cost could be taken out of the 2010 Ambulance budget, but something else would have to be taken out of the Ambulance budget to offset the money spent on the radio. Schauf stated he could take about \$1,500 from Ambulance Donations to help pay for the radio. Council agreed to purchase the radio towards the end of the year to split the purchase in the 2009 and 2010 budgets.

**10. Drainage Concerns on Salt Creek Ct. in Chisholm Ridge**

City Administrator Brown reviewed the drainage concerns on Salt Creek Ct. in Chisholm Ridge. Brown stated that in reviewing the plat map with the City Engineer, Harlan Foraker, they discovered that the utilities easements are referred to utility and drainage easements on the map. That designation gives the City the ability to do surface work to rectify any drainage issues in the easement. Brown stated that he and Public Works Director Misak have met with the property owners at 208 N. Salt Creek Ct., where the drainage inlet is located. The owners have agreed to adjust the landscaping rock around the grate that is causing part of the drainage problem. Brown stated that the property owners say that the cover over the inlet has been broken since they moved in, so the City will need to replace the cover. Brown stated that the fence at 208 N. Salt Creek Ct. doesn't need to be moved at this time as staff decided it was high enough to not cause any drainage issues. Brown stated that the property owner at 214 N. Salt Creek Ct. has raised their fence to allow water to flow under it and should no longer cause drainage problems. Brown stated another issue that needs to be resolved is finding a way to get the southeast pond to drain quicker. Brown stated there is a flat spot that keeps the water from draining out of the pond. Brown stated the City is also going to have to look at fixing the drainage issue at Red River Dr. to keep the silt from draining into the street.

**11. Brush Piles on Residential Property**

City Administrator Brown stated that at a previous meeting Council had requested that staff contact the property owner at 150 N. Tracy to clean up a brush pile. Brown stated he spoke with the property owner and he is not willing to clean up the brush pile. Brown went on to explain that he has since found several brush piles on other properties in town that are not as visible as the one on N. Tracy. Brown stated that there are a couple different ordinances that could be used that require property owners to keep their property clean of “rubbish” or “offensive or disagreeable things”. Council Member Whitney suggested drafting a notice to all city residents informing them that brush piles are considered a nuisance and must be cleaned up. City Attorney Amerine suggested amending the nuisance ordinance to specifically include brush piles so there is no discrepancy as to whether they are violation of the nuisance ordinance. Council directed staff to send a letter to city residents to inform them to clean-up brush piles. Amerine stated she would research whether brush piles could be treated as weeds, where a letter would serve as notice, or if brush piles have to be treated as a nuisance, where a hearing has to be held for the property owner to be heard.

**12. Council Review of 2009 Staff To Do Requests**

Council tabled the review of 2009 Staff To Do Requests until the next meeting.

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

Council tabled the review of Personnel Rules & Regulations Sections I thru IV until the next meeting.

**14. Consent Agenda**

Council gave consensus to pay Caro Construction invoice application 3 in the amount of \$2,190.15 and invoice application 4 in the amount of \$4,934.00 for remodel of the City Hall entrance. Council gave consensus to pay Kansas Fence Co., Inc. invoice for \$1,480.00 for 2-rail iron fence at City Park around the windmill.

City Clerk Wright stated there is a request from AYSO soccer for a corporate sponsorship for teams and families to travel to West Palm Beach, Florida for national games. Council agreed not to donate to the AYSO soccer group.

**15. Reports**

City Clerk Wright stated she had a company come to look at cleaning the floor in the front entryway of City Hall. Wright should have a quote for the next meeting.

City Administrator Brown stated that the Transportation Enhancement Funds will have more money available. Brown stated the City could apply for another grant for the downtown block enhancements. Council directed staff to pursue the grant.

Council Member Whitney stated that the street needs to be fixed where the water line was repaired in the 100 block of north Prospect. The hole has sunk and needs to be filled with some gravel.

Council Member Whitney stated he has received several negative comments from citizens regarding the schoolhouse behind the Historical Society. Whitney stated he believed that the Historical Society should be given a deadline to improve the schoolhouse or remove it from city property. Whitney stated he was disappointed that so many people had shown up to make sure the school didn't leave the area and now it sits deteriorating. Council directed staff to notify the Historical Society that they have until June 30, 2010 to make some progress on the schoolhouse or have it removed.

Council Member Whitney stated that he would like the City to give a donation to the High School Government Class for their volunteerism during fall cleanup.

**MOTION:** Council Member Whitney made a motion to donate \$1,500 to the Clearwater High School Government class for their efforts during the 2009 Fall Cleanup. The motion was seconded by Council Member York and passed unanimously.

Council Member York stated that at 140 S. Lee there is a pile of debris behind the house that needs to be cleaned up. York stated there is a brush pile at 151 S. Gorin that needs to be cleaned up, as well.

Council Member Berntsen stated that the Fall Festival Committee should be notified that vendors and others are not to be driving across the outfield of the City Park ball field. Berntsen stated the traffic created ruts in the field. Brown stated next year the City would try to blockade that area to keep vehicles out. Council went on to discuss the positive feedback from having moved the carnival out of the ball field and on to the street. Mayor Justice stated he would like the Council to send a thank you letter to the committee for their efforts.

Mayor Justice suggested talking to the High School Industrial Arts Class about building stronger windmill bases for the windmills at the intersections throughout town.

Justice stated the frames may not get as damaged if they are built with stronger material.

**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 October 27, 2009 City Council meeting.

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

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Jodi McBee, Deputy City Clerk