

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

AUGUST 23, 2011

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 23, 2011, at 6:30 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Lyle Berntsen, Jim Whitney, Jim Frischenmeyer, Laura Papish and Sandi Keeler, Council Members. Mayor York was absent. The following staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; Janet Amerine, City Attorney; and Ernie Misak, Public Works Director. Others present at the meeting were: Marvin and Mary Schauf, Clearwater Fire Department; Donald Schauf, EVS Director; and Lonnie Stieben, SKT.

Council President Lyle Berntsen called the meeting to order at 6:30 p.m. He opened the Public Hearing to review the proposed 2012 budget. Berntsen 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 August 9, 2011

City Clerk Liza Donabauer noted that a change to the first sentence under Item 3. Public Forum, should reflect that Shane Baker is an employee, not a citizen.

MOTION: Council Member Laura Papish made a motion to approve the 8-9-11 City Council minutes with the noted correction. The motion was seconded by Council Member Jim Frischenmeyer and passed unanimously.

2. Mayor's Recommendations

Council President Lyle Berntsen stated the Council should accept the Mayor's recommendation regarding the resignation of Jay Clymer as Firefighter, there was Council consensus.

3. Public Forum

Lonnie Stieben, SKT, stated that at several meetings he has attended, he has heard concerns regarding the lack of housing options within the City of Clearwater. He stated that an exploratory group would like to meet to discuss development options. He gave examples of other cities that offer incentives on foreclosed properties as a way to attract

new residents to the community. He stated that if the group were to form, the City is welcome to appoint somebody to attend the ongoing discussion group. Council Member Papish asked for examples of incentives other cities are using to attract new development. Stieben stated that Wellington had a recent refund incentive that could be used toward closing costs. Maize offered a graduated tax abatement. Haysville has a neighborhood revitalization act. These examples would all be part of the starting conversations the exploratory group would have. Papish stated that she would be interested in being a part of the group.

4. Department Head Reports

Ernie Misak, Public Works Director, stated that his staff has been doing a lot of mowing. Public Works is also installing a flagpole in front of City Hall. Misak stated that they have completed the quarterly sewer cleaning, and buried metal at the business development to locate the risers in the future. Due to the recent storms, his staff has been picking up limbs and miscellaneous cleanup throughout the City. Maintenance Department has painted the crosswalks for the start of the school year. There was a sewer back up south of Lee and Tracy. Papish asked that Misak check the taillights on the sewer trailer. She was following the trailer last week and no signal lights were evident as the City truck and trailer make a turn.

Marvin Schauf, Fire Chief, stated that he attended the Sedgwick County Fire Chief's Meeting in Derby. A question was raised on whether Viola could receive automatic aid. The attorney is going to write up a draft agreement to provide automatic aid. Council Member Jim Whitney asked if Schauf has scheduled the ISO test. He stated that this could determine the rates. Schauf responded that he would schedule the test when the weather is cooler.

Donald Schauf, EMT Director, stated that he was accepted into an instructor coordinator class at Barton Community College. He will be taking online courses with only a couple of the "practical" sessions where he would be required to be in Great Bend. The course would allow him to be certified to teach EMT courses by himself. His first class is this Thursday. He announced that the ambulance would make an appearance at Family Fun Day on Friday, August 26, 2011.

5. Public Hearing for 2012 Budget

Kent Brown, City Administrator, stated that the notice of tonight's public hearing was printed in the newspaper. The proposed budget has an increase of 5 mills. Brown also stated that the budget has been a topic of discussion with Council throughout the summer and all comments and requests from department heads were taken into consideration. Council and staff were not able to fill all requests and in fact, many cuts were made. The cuts made to the budget totaled about \$128,000 of which the 5 mills would make up only 68,000 of the difference, from where the budget started. Brown stated that whatever happens with the proposed budget it cannot be above the 5 mills but the mills could be lowered. The tax increase on a \$50,000 home would be \$28.75. The increase on a \$75,000 home would be \$43.15, and the cost of a \$100,000 home would be \$57.57 a year. There

could be additional taxes from cemetery district, school district, and Sedgwick County on a citizen's property tax bill. The Council has not taken this subject lightly and has explored all other avenues before discussing an increase. If revenues decreased during 2012 or if a significant emergency happened in the City, the funds would be too tight to do anything about it. This tax increase puts a little less strain on the budget for 2012.

Lonnie Stieben asked a question about how our City compares to other communities. City Administrator Brown stated that other communities in Sedgwick County have smaller rates but do not offer fire and ambulance services. Clearwater was in the middle of the pack before this proposal. Brown stated we didn't know how this would affect Clearwater's ranking.

Council Member Sandi Keeler stated she thinks it is best to move forward with the budget as written for the year 2012. She further stated it would not have to stay this way, just get things on track for the years to come.

Council Member Jim Whitney stated that the budget has been raised 10 mills in two years. Whitney would urge the six Council Members to look at serious cuts for the 2013 budget. The Police budget is 35 percent of the general budget. The Council may have to look at cutting 24/7 Police service. Whitney further stated that he would be in favor of the five mill increase if one mill were dedicated to water. Housing developers look to build in towns where there is not a big mill increase every year.

City Attorney, Janet Amerine stated that the Council's final decision for the 2012 budget will go to Sedgwick County, which will then compute to homeowners tax rates. If cuts are made now, Council can build carry over for the next year. The money does not have to be spent but the citizens will be taxed at the approved rate.

Council Member Laura Papish stated that she would like to have enough cash on hand for emergencies. The 5 mills can buy the City some time while it looks into other options such as increasing sales tax. Papish suggested a town hall meeting for the public to attend to decide what services should be cut.

City Administrator Kent Brown stated that the 5 mills would stay in the funds supported by property taxes. The money would have to be transferred to the water fund from other funds. A 1% sales tax increase would generate approximately \$130,000 annually. Brown also stated that now is the time to start looking at services to be cut. Brown read a letter to the Council that was written to the Mayor by Robert Thornton who was concerned about the city's decision to raise taxes.

Council President Lyle Berntsen stated to the Council he would be in favor of an increase of 4 mills and then raise water rates so that the people using the water pay the increase. Council President Lyle Berntsen closed the Public Hearing at 7:22 p.m.

MOTION: Council Member Jim Whitney made a motion to approve the 2012 budget as published. Council Member Sandi Keeler seconded the motion. On a roll call vote, the motion passed unanimously.

MOTION: Council Member Lyle Berntsen made a motion to approve Ordinance 941 attesting to an increase in tax revenues for budget year 2012 as presented. Council Member Jim Whitney seconded the motion. On a roll call vote, the motion passed unanimously.

6. **Petition for Curb and Gutter on Lee Avenue**

City Administrator Kent Brown stated that he has received a petition for curb and gutter from several homeowners on Lee Ave. The benefit district starts north of the vacant lot (north of Cole's Cuts) and goes to Hellar. The other side of the benefit district is north of the triplex on North Lee to Hellar as well. The cost would be \$12,500 to remove the current curb and gutter and would be replaced with new curb and gutter. The project would cost nothing to the City of Clearwater. The Benefit District would be 100% responsible for the costs. Brown recommended that the street fund be used to pay for the materials and labor. The Benefit District would reimburse the fund. Reimbursing the project through the street fund would avoid the cost of financing the project. Brown explained that if the bids come in more than 20% of the expected cost the project could be stopped. The residents will be made fully aware of the costs before the project is initiated so there will be no surprises. Brown also stated a resolution will have to be passed at a future Council meeting.

7. **Revised Intergovernmental Agreement Between Clearwater and Sedgwick County for 4th Street Project Between Ross and Diagonal Road**

City Administrator Kent Brown stated that no decisions need to be made at this meeting. Brown read an email from Lynn Packer with Sedgwick County stating that the County is moving forward with contracts and agreements for the construction of 135th St W between Diagonal Road and Ross Ave in Clearwater, Kansas. The project is currently scheduled to be constructed in 2014. Brown stated that he has not received an updated cost estimate. Brown went over an agreement that was drawn up for the City of Clearwater and Sedgwick County. The purpose of the agreement is to provide for the construction and financing of road construction work by the County on North 4th Avenue that lies within the corporate limits of the City and is currently maintained by County as a Connecting Link. Sedgwick County agrees to contract for all design, construction, and construction engineering required to complete the Project. The County agrees to pay for all of the costs associated with the design of the Project. The City agrees to pay the County for the cost of construction of certain enhancements to the project. These enhancements include curb and gutter, storm sewer and auxiliary lanes and sidewalks. The cost of the City's share is \$1,100,000.00 to improve N. 4th Ave from Ross to the railroad tracks to a 3 lane paved street with curb/gutter and storm sewer the entire length. The City would be required to pay 90% to the County at the very beginning and the other 10% would be due upon completion of the project. Upon completion of the Project, the City shall assume all maintenance and repairs of North Fourth; however, the City could work out an agreement with the County for snow removal. Brown further stated that the City retires about \$300,000 of debt each year. By the year 2014, the debt should be about \$2.8 million. The Aquatic Center is paid for in 2013 or maybe 2014. The sewer project will be paid in another ten years.

There was discussion with the Council and City Administrator Kent Brown about the street project. A few points were made about making cuts in the budget and then taking on more debt. Council questioned if this would be a good time to take on such a large dollar project after raising the mills for the second year in a row. Brown stated that the City has a

30 to 60 day time frame to make a decision. A discussion ensued on whether Council should send the residents a survey, or have a town hall meeting, to gain public input regarding this project. Council directed Staff to email Sedgwick County to see if the 30-60 day time could be extended to ninety days. The Council would plan for a survey or town hall meeting to decide whether to do the project at this time.

8. Blanket Bond/Employee Theft Insurance Policy

City Clerk Liza Donabauer stated that Staff received a proposal from Renn & Company, our insurance agent, for a blanket bond. The title on the application states "Government Crime Policy". In other words, it protects the City if an employee acts dishonestly or steals money or City property. The blanket bond does not cover those employees that are required to be individually bonded by State Statute and City Ordinance. According to State Statute and our City Ordinance, we are required to individually bond the City Clerk, City Treasurer, and Library Treasurer. However, there are several part-time and full time employees that handle cash and City property.

Clerk Donabauer stated that Renn & Company was not able to provide a cost for their proposed blanket bond without a completed application. Linda Ricketts, Renn & Company, stated that the cost of the blanket coverage is dependent on the number of employees are covered, and the amount of coverage selected for each employee. The most popular coverage levels are between \$10,000 to \$25,000. There is a potential of savings to the City because up to seven employees have been individually bonded. This blanket policy would provide additional coverage to the City for those employees that are not required to be individually bonded.

Donabauer stated that staff is seeking Council's direction on whether to consider this type of coverage and move forward with the completion of the application process. Council Member Sandi Keeler stated that she is in favor of authorizing staff to complete the blanket bond application process as long as it does not commit the City to obtaining the policy. Council Member Laura Papish stated that she agreed.

9. Review of Dress Code Policy

Liza Donabauer, City Clerk, referred to a copy of the City's Dress Code Policy within the Council's agenda packet. She stated that since the 8-09-11 City Council Meeting, she contacted the City's Risk Control Specialist at IMA regarding their recommendations on a dress code policy and the Public Works employees request to wear shorts as part of their uniform. Donabauer stated that she also contacted other cities to get obtain feedback on whether they have formal or informal dress code policies and whether they allow their Public Works employees to wear shorts. She stated that she wrote a memo of her findings for Council's review. She stated that Renee Rhodes, IMA Risk Control Specialist, stated that determining whether an employee could safely wear shorts depends on the specific task the employee is performing. Each task is a "case-by-case". Meter readers might be one that could get away with shorts but you do have to remember that they have exposures that cannot always be controlled when they are on other's property (animals, poison ivy, etc.). Rhodes emailed a checklist for City

Council's use in reviewing the dress code policy and making determinations on whether wearing shorts is in the best interest of the City and employee. She stated that she would be in favor of a policy/uniform that is the safest for employees.

City Administrator Kent Brown stated that Belle Plaine supplies uniforms for staff, which do include shorts during the summer months. Lansing allows employees to wear shorts from Memorial Day to Labor Day. Cheney does not formally discuss shorts within its dress code; however, Public Works employees can wear shorts in summer months. Goddard does not have a dress code policy and does allow shorts. The shorts are ordered through their uniform vendor. Mulvane has an informal policy that affects their utility meter readers only. The meter readers are allowed to wear shorts while reading meters from the 25th to the 15th. They are required to wear their steel-toed shoes. As of yet, they have not had any issues regarding this policy. They wear jeans on the days they perform duties for Public Works. Park City allows only the Water Facility employees to wear shorts. They do not wear shorts during activities that could be considered at-risk (i.e. mowing, weed eating). Administrator Brown stated that Haysville does have a formal written policy regarding dress code. They do not allow their employees to wear shorts due to safety concerns. Neodesha has a formal written dress code policy that does not allow shorts. Derby provides uniforms to its staff. The uniform does not include shorts. Safety is a concern.

Council Member Jim Whitney stated that it is his opinion that the least amount of exposure is the best policy. He is not in favor of allowing the Public Works Employees to wear shorts. He would like Administration to draft a formal checklist and dress code policy that addresses personnel protection and safety (i.e. reflective vests, hearing protection, etc.) Whitney stated that he is concerned about the liability to the City. The City's dress code policy does not say a lot in regard to safety. He stated that he wants to see the City's employees protected. He also wants the City's employees to be identified as a City employee while they are out in public.

Council Member Lyle Berntsen stated that he would agree with Whitney. He has worked outside for the majority of his career. He understands that employees would rather wear shorts; however, due to risk of exposure, it is difficult to justify wearing shorts.

Ernie Misak, Public Works Director, stated that he does not think that wearing shorts is an issue. This is an issue that can be effectively managed. Jeans can be left at the shop for employees to change into if their job duties were to require it. He stated that one of his employees walks four miles on his route to read meters. By the time the employee has completed his route, he is soaked with sweat. He often allows his employees to go home to change into dry clothing. He stated that it is his opinion that it is old fashioned to not allow employees to wear shorts.

Council Member Jim Frischenmeyer stated that he agrees with Whitney in that he would like to see the dress code policy changed to reflect the a specific policy.

City Attorney Janet Amerine stated that the City wants a policy that eliminates discretion. Otherwise, it creates problems for the governing body. She stated that it is her assumption that Whitney sees too much discretion in the current policy.

MOTION: Council Member Jim Frischenmeyer made a motion to direct staff to draft a City dress code policy that specially addresses uniform and safety

procedures. Council Member Jim Whitney seconded the motion stating that he would like the policy to include a personal protection policy acknowledgement form that would be signed by staff. Council Member Laura Papish stated that she would also like the dress code policy to address specific dress when an employee is representing the City at outside meetings. The motion passed unanimously.

10. Discussion of Pool Schedule

City Administrator Kent Brown received an email from a School Board Member who is also on the Recreation Board, that asked a few questions about the closing of the Aquatic Center the week before school started. The college-bound lifeguards start leaving for school the first part of August. During the week that school begins, fall sports practice start, and the Pool Manager is also a teacher and must report to other responsibilities during the week. That leaves some young guards working at the pool if there is enough left to staff during weekdays during the week. Labor costs were also a factor in closing the pool prior to school starting because the revenue generated would not cover those costs. The school uses the pool for a few days after school starts for PE classes. The school pays the lifeguards but is not charged to use the pool. Wichita and Derby pools close in early August because of cost and manpower. City Staff will have attendance figures ready for the September 27th City Council meeting. Council will re-evaluate the pool schedule for next year based on the figures of this year's attendance records and the starting of school in 2012.

11. City Attorney's Report

City Attorney, Janet Amerine, presented her report from the Annual Meeting of City Attorneys. She summarized the high points including cell tower siting, employee termination and police officer discipline, termination issues, ethics Kansas Tort claims update, Legislative update and other issues and concerns that were raised at the meeting. She thanked the City Council for the opportunity to attend the annual meeting.

12. Staff Reports

City Clerk Liza Donabauer stated that the City received a Community Event Application Form from the Clearwater Ministerial Alliance to reserve the City Park and Gazebo on Sunday, September 11th, for a Community Worship of Remembrance & Honor service. They would like to provide a community worship service to honor local heroes and the Clearwater area Police, Fire, and 1st Responders. They would like to invite the Mayor to speak at the service. They are also interested in planting a tree within the park in honor of the local Police, Fire, and 1st Responders. They would like the City's participation and guidance regarding the type of tree and location for it to be planted. The worship service is supported and hosted by six community churches. The service will begin at 2:00 p.m. City Administrator Kent Brown invited the Council to contact staff regarding their input on the location and type of tree that will be donated.

Clerk Donabauer stated she spoke with Herschel West, Waste Connections, who

stated that with the City's assistance, they are able to provide customers with an additional recycle cart. The additional cart would be an additional monthly charge of \$3.75. The cart would be weighed and the points would be credited to the customer's Recycle Bank account. If there are residents that are interested in this additional recycle service, they are to contact the City. The additional cart would be delivered on the next recycle pick-up date.

13. Agreement- USDA Commodities

Clerk Donabauer stated that staff received a new Agreement to Receive and Distribute USDA Commodities to the Needy Persons for Home Consumption. The contract was an annual renewal process; however, this new contract would extend the service for three years. Staff forwarded a copy of the Agreement to the City Attorney for her review. City Attorney Janet Amerine stated that she reviewed the Agreement and recommends that City Council authorize the City Clerk to sign the agreement on behalf of the City.

MOTION: Council Member Laura Papish made a motion authorizing the City Clerk to sign the Agreement to Receive and Distribute USDA Commodities to the Needy Persons for Home Consumption. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

Kent Brown, City Administrator, announced that the City is borrowing a speed limit trailer from Haysville.

Janet Amerine, City Attorney, stated that she received an update on the Merten case. Bob Kaplan has requested another extension. This will likely be the last extension.

14. Council Reports

Council Member Sandi Keeler reported that the Public Works employees did a great job cleaning up after the recent storms.

Council Member Laura Papish asked a few questions regarding the accounts payable listing. Papish also asked about health insurance for the library because the Library board is having a difficult time trying to hire someone without offering benefits.

Council Member Jim Whitney stated that there is a lot over on S. Byers that needs to be mowed and junk needs to be removed. Park Glen HOA needs to contact the owner of the two empty lots and have it mowed. The property owner of the old Duckwalls' also needs to be taken care of. A gentleman is interested in purchasing commercial property in Industrial Park if we can provide the dirt. The gentleman also contacted City Administrator Brown.

15. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Sandi Keeler moved for adjournment. The motion was seconded by Council Member Jim Whitney and passed unanimously.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I, Carol Reitberger, 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 August 23, 2011 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 13th day of September, 2011.

Carol Reitberger, Deputy City Clerk