

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

**CITY COUNCIL MEETING**

**MINUTES**

**JULY 26, 2011**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, July 26, 2011, at 6:50 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

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

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Mayor York called the meeting to order at 6:50 p.m. York 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 July 12, 2011**

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

**2. Mayor's Recommendations**

There were no appointments or recommendations at this time.

**3. Appointment of City Clerk Liza Donabauer**

Mayor York appointed Liza Donabauer as City Clerk with Council Consensus.

**4. Public Forum**

David FitzGerald, citizen, addressed the Council about considering an alternative to raising the mill levy. FitzGerald stated that he contacted Steve at the State of Kansas in Topeka and learned 245 cities in Kansas have added a city sales tax in order to meet their budgets. David explained that he learned through his conversation with Steve that many cities have varied sales tax rates between ½ to 3 cents. Some of the voter approved sales tax rates were assigned to certain debts. He cited a few examples of how sales tax was voted on

by mailed paper ballots and have assisted other cities to anticipate being debt free. Fitzgerald thanked the Council for their time and stated that he believes there are options for the Council to consider outside of raising the mill levy.

Council Member Papish asked City Administrator Brown about how sales tax is calculated on big ticket items. There was discussion on destination sales tax and internet sales and how Clearwater could benefit from these taxes if a sales tax was approved.

**5. Department Head Reports**

Gene Garcia, Police Chief, stated that he provided Police Activity Reports to the Council in their packets. Garcia discussed how the July 23<sup>rd</sup> Hunter Education Class was very popular. There were 50 applicants so 30 were turned away. Garcia stated that they would like to find a larger facility to conduct the class. The class is offered at no charge to the participants, so it is restricted to the type of teaching and location of the teaching facility. Council Member Papish proposed using a school or the Masonic Lodge. Garcia stated that he would look into those options.

Marvin Schauf, Fire Chief, addressed the Council about having Viola added to the automatic aid agreement. In the case of a structure fire, Clearwater would respond at the same time as Sedgwick County. Schauf stated that he called the EPA about a brush pile south of Clearwater at 71<sup>st</sup> and 135<sup>th</sup>. The property owner has a history of creating brush piles over carpet scraps and burning the entire pile. Carpet puts off toxic fumes when burned. EPA would like a receipt of the disposal of carpet from the homeowner.

Donald Schauf, EVS Director stated to the Council that the 400 ambulance took six days for repair. The repair shop diagnosed the problem as an oil cooler failure. The cost was all covered under the warranty of the ambulance. There was a three hour scare while the ambulance was in the shop. The other ambulance was on its way to Wichita and the tire tread came loose. The tread got caught in between the tires. Luckily, the ambulance made it to St. Joseph's Hospital without further incident. Hospital security and volunteers got the tread off. Tru2U Automotive was able to put a new tire on the ambulance in about an hour.

**6. Ordinance Amendment Regulating Public Offenses Within the Corporate Limits of the City of Clearwater**

Gene Garcia, Police Chief, stated that he would recommend passing the Uniform Public Offense Code for the City of Clearwater. He clarified that the code classifies domestic and criminal offenses. Garcia stated that harassment does now include phone harassment and other forms of electronic devices. Janet Amerine, City Attorney, clarified that this is an annual review and approval process. This code provides enforcement of the laws in municipal court.

Council Member Laura Papish asked what the imaging system was in regard to the Police Department budget request. Police Chief, Gene Garcia, explained that all of the

police and court records have to be retained. These records generate a lot of paper. The imaging system organizes and indexes the records on the computer. The imaging system cost is related more to the software involved than just a scanner to a file operation.

**MOTION:** Council Member Lyle Berntsen made a motion to approve Ordinance 938 as presented. Council Member Laura Papish seconded the motion. On a roll call vote, the motion passed unanimously.

7. **Ordinance Regulating Traffic Within the Corporate Limits of the City of Clearwater**

Gene Garcia, Police Chief, stated that he would recommend passing the standard traffic and vehicle code which again is an annual review and approval process. Garcia stated the laws are passed by the Legislature and the State adopts the laws so local government can enforce the laws. Janet Amerine, City Attorney, clarified that this code book is adopted each year by the City.

**MOTION:** Council Member Lyle Berntsen made a motion to approve Ordinance 939 as presented. Council Member Sandi Keeler seconded the motion. On a roll call vote, the motion passed unanimously.

8. **Ordinance Repealing Sections Pertaining to Fire Service to Fire District No. 9, Sumner County**

City Attorney, Janet Amerine, explained that former City Clerk, Cheryl Wright, recommended removing Fire District No. 9 from the former ordinance language. City Administrator, Kent Brown, explained that the City of Clearwater Fire District used to serve an area west of London Township on 119<sup>th</sup> South of County Line that is east of Drury Road. They refused the increase in levy. This Ordinance would clean up the language of the fire service area.

**MOTION:** Council Member Lyle Berntsen made a motion to accept Ordinance No. 940 as presented. Council Member Laura Parish seconded the motion. On a roll call vote, the motion passed unanimous.

9. **Continuing Discussion of Dangerous Structures and Resolution Fixing Time and Place of Hearing**

City Administrator Kent Brown stated that setting a public hearing date and time is the next step in the process of handling dangerous structures. The properties in question (201 N. Gorin, 250 N. Prospect and 112 N. Prospect) have been sent a certified letter. The property at 201 N. Gorin is a concrete garage with a collapsed roof. The property at 250 N. Prospect has a garage with a hole in it and a storage shed that needs to be removed. The property at 112 N. Prospect has windows that are broken out and has problems with vandalism. All three properties have been deemed fire hazards by the Fire Chief of

Clearwater and by Sedgwick County Department of Code Enforcement. The property owner at 201 N. Gorin is currently unemployed and this would create a financial burden to her. City Administrator Kent Brown has visited with her and she is willing to have something done through Community Service where she would incur no costs. The property owner at 112 N. Prospect was very agreeable to secure the property but so far nothing has moved in that direction. Brown has not spoken with the property owner at 250 N. Prospect. The Resolution shows the residents that this is serious and allows the City to take action. If there are costs, the City will be reimbursed at some point.

City Attorney, Janet Amerine, explained that at the meeting on September 13<sup>th</sup>, the Mayor would open the hearing and the three residents would have an opportunity to speak on their behalf. The hearing would be based on evidence provided by the Fire Chief and the Sedgwick County Department of Code Enforcement. The resident could ask for more time to resolve the issue but Amerine would not recommend giving the home owner more than 30 days.

**MOTION:** Council Member Lyle Berntsen made a motion to approve Resolution No. 5-2011 as presented. Council Member Sandi Keeler seconded the motion. The motion passed 3-0.

**10. Bank Authorization for City Clerk Liza Donabauer**

City Clerk, Liza Donabauer stated that she has a bank authorization form from Emprise Bank that is related to all cash management services. City Clerk Donabauer is seeking a signature for the form.

**MOTION:** Council Member Laura Papish made a motion to authorize signatures on a bank authorization form. Council Member Lyle Berntsen seconded the motion. The motion passed 3-0.

City Clerk Donabauer added that Emprise Bank has also forwarded an authorization form to establish signatures cards.

**MOTION:** Council Member Sandi Keeler made a motion to authorize signatures on the signature cards. Council Member Laura Papish seconded the motion. The motion passed 3-0.

**11. Review of 2012 Budget in Preparation of Publication**

Janet Amerine, City Attorney, stated that removing dangerous structures is very important to cities. Residents see the city telling them what to do as an invasion of their rights. Residents need to realize that the city loses valuation on city properties that are not well maintained and then have to charge more mills to get the same dollars for a good valuation. The process is tied together with state funding.

City Administrator Kent Brown stated that staff was directed to present the 2012 budget with two options: no increase and a 5 mill increase. It was hard to cut Department Head requests from the budget without impacting services. This year started with a thin budget. It was difficult to make \$120,000 cuts in the budget to get it back to even. The first option, with no budget increase, cuts a lot of things but still is able to provide minimal services. The option with the 5 mills increase has the homeowner with a \$100,000 mortgage paying \$11.50 per mill or \$57.50 a year. That is approximately \$4.79 a month increase in the homeowner's mortgage. The homeowner with a \$50,000 mortgage would pay \$5.75 per mill or \$28.75 for 5 mills. This equates to a \$2.45 a month increase in the homeowner's mortgage. The cash balance going into 2012 in the general fund is \$82,000. This year's audit report shows it takes about \$3,500 a day to operate the city from the general fund. If the city would receive no additional outside monies the city could operate for 23 days into 2011. The revised portion of the 2011 budget going into 2012 indicates that the city could operate for 14 days in 2012. The water and sewer funds are low. Changes will need to be made in the budget so that there will not be a raise in water and sewer rates, and in taxes within the same year.

City Administrator Brown asked the Council which budget should be printed in the newspaper. The budget may go down but cannot increase once it is published in the newspaper. Mayor York stated he is not in favor of raising taxes but feels the radio issue upgrade for the fire and ambulance is something that needs to be done.

There was some discussion on a proposed budget cut in the Police Department. The proposed cut would reduce court to once a month. It would make for a long night on that date and follow-up to cases would be monthly instead of twice a month. The costs associated with the judge and prosecutor would be less if court met once a month. Police Chief also suggested doing the work of Court Services in-house instead of outsourcing it. If Court Clerk took on that responsibility, then the city would collect the probation and diversion fees. City Administrator Brown stated that this possibility should be looked into for future reference.

**MOTION:** Council Member Lyle Berntsen made a motion to publish the budget with a 5 mill increase. Council Member Laura Papish seconded the motion and it passed unanimously.

## **12. Staff Reports**

City Attorney Janet Amerine reported that the Mertens case has filed an extension. August 19<sup>th</sup> is the date of the appeal for when Merten would file his brief. The City would then have 30 days to respond and then Mertens has 30 days to answer the City's brief. This case is still a long way from being done.

City Administrator Kent Brown stated that the Public Works Department has been working to clean the drainage ditch around the sewer ponds. It is a 50 foot ditch and is typically too wet to maintain the bottom of the ditch. Now it is not wet so it is a good time for maintenance. Public Works also did some work on some cracks in the streets and did some work on Fourth Street. Administrator Brown let the Council know that there will be an Economic Development Committee meeting on Thursday. The Committee Members are

Mike Justice, Mike Roth, Lonnie Stieben and Kent Brown.

**13. Council Reports**

Council Member Sandi Keeler asked a question about a few items on the Accounts Payable listing. City Administrator Brown stated that he would look into them and email the Council with clarifications.

Council Member Laura Papish asked if the Planning Commission still had an opening. She stated she had a name of someone that is interested. City Administrator Brown stated that he had talked with Shawna Perry and she will need to be appointed by the Mayor. Papish also asked about having the walking line on the one-way street painted. Papish stated there has been a lot of talk in the papers about KPERS. Papish asked if KPERS was mandatory or if a 401K could be used instead. City Administrator said the city employees are already using KPERS as part of their retirement plan. Papish asked about the web site monthly charge on the Accounts Payable. She said that it seemed high. Council Member Papish asked if the Planning Commission could look at ways to provide incentives to builders.

**MOTION:** At 8:50 p.m. Council Member Lyle Berntsen moved to enter into executive session for 15 minutes to discuss a personnel matter. Council Member Laura Papish seconded the motion and it passed unanimously. At 9:05 p.m. the Council returned to regular session with no action taken.

Mayor Mike York stated that he would like to appoint the position of Billing Clerk to Sharon Tuxhorn at \$8.50/hour.

**14. Adjournment**

**MOTION:** Being no further discussion to come before the Council, Council Member Lyle Berntsen moved for adjournment. The motion was seconded by Council Member Sandi Keeler and passes 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 July 26, 2011 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 9th day of August 2011.

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Carol Reitberger, Deputy City Clerk