

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

APRIL 10, 2012

(Approved 4-24-12)

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, April 10, 2012, 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 York, Mayor; Jim Whitney, David FitzGerald, Lyle Berntsen, and Sandi Keeler, Council Members. Council Member Laura Papish was absent. The following staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; Janet Amerine, City Attorney; Marvin Schauf, Fire Chief; Ernie Misak, Public Works Director. Others present at the meeting were: Thomas Drake, Hayden Klausmeyer, Casey Lyons, Garrett Hoover, Miranda Fiores, Nate Sizemore, Chris Mulero, Kyler Hargett, Lucas Rinke, Nyle Augspurger, Tanner Gardner, Steven Roeder, Lance Florentine, William Cranford, Willy Boentara, Jordan Soliz, Doug Curley, Jonathan Mengelkoch & Daniel Layton; High School Government Students.

Mayor York called the meeting to order at 6:30 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 March 27, 2012

MOTION: Council Member David FitzGerald made a motion to approve the minutes of the 3-27-12 City Council Meeting. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

2. Consent Agenda

1. Authorization to pay invoice from PEC (\$1,999.83) for Storm Water Drainage Improvements at Indian Lakes Addition.
2. Authorization to pay invoice from PEC (\$2,112.33) for Paving Improvements at Indian Lakes Addition.
3. Authorization to pay invoice from PEC (\$1,193.37) for Water Line Improvements at Indian Lakes Addition.
4. Authorization to pay invoice from PEC (\$1,262.61) for Sanitary Sewer Improvements at Indian Lakes Addition.

MOTION: Council Member Sandi Keeler made a motion to pay the invoices on the Consent Agenda. Council Member David FitzGerald seconded the motion and passed unanimously.

3. Mayor's Recommendations

Mayor Mike York made the following recommendations:

Accept Resignation from Lonnie Stieben, Planning Commission President.

Appoint Elaine Watt as Library Board Member.

Appoint Andrew Candillo as temporary summer help in the Public Works Department.

To amend the agenda to include an executive session to discuss a personnel matter regarding non-elected personnel.

The above appointments, resignation, and amendment to the Council Agenda to include an executive session were accepted with Council consensus.

4. Public Forum

No members of the public addressed the Council.

5. Agreement Renewal of Sno Zone to use City Park Concession Stand

City Administrator Brown stated that the the requester, Bill Kenney, was unable to attend tonight's meeting. Administrator Brown discussed an email response from Mike Justice, High School Government teacher, regarding the Government class's wish to withdraw from fund raising efforts at the City Park Concession Stand. Brown stated that Kenney has provided an additional agreement. Council Member FitzGerald noted that Item No 2 in last year's agreement defined utilities to include electrical usage. Council Member FitzGerald suggested that all electrical appliances should be unplugged and cleaned out. This terminology should be included in the new agreement. Council Member Berntsen stated that if the equipment does not belong to the City, it should not be in there. Council Member FitzGerald stated that whoever runs the concession stand should pay for the utilities as outlined in the agreement. Administrator Brown stated that he would like direction from Council on how to address the payment of the electricity. Administrator Brown proposed a couple of solutions and referred to the agreement with the School and the Recreation Commission. City Attorney Janet Amerine noted that the City has to pay a minimum usage amount on each account. Council Member Whitney stated that a fair amount is assessing a flat fee for the usage of electricity. Council Member Berntsen stated that he agrees with Council Member Whitney. The Council looked at the 2011 history of the Westar bills for

602 E. Ross and 604 E. Ross. Council Member Whitney stated that the restrooms and ball fields also use electricity at 602 and 604 East Ross. Mayor Mike York stated that he agrees with determining a flat fee to be assessed above the minimum amount utilized by the City.

Council Member Jim Whitney proposed designating a time period that the concession stand would be open in the Agreement. City Attorney Janet Amerine proposed changing the agreement to reflect May 15 through September 30 as the dates the concession stand would be open. The section referring to utilities would be removed, as the flat rental fee would include utilities. City Attorney Amerine stated that the tenant would be getting trash, sewer, water, and electricity. The tenant should carry renters insurance. The City's insurance would not cover the contents of the concession stand. Council Member Jim Whitney stated that the Council could offer Kenney a price and a contract and see what happens.

Staff direction was received to alter the agreement to include winterizing, utilities, date specifics, a removal of equipment clause, etc. The amended Agreement will be presented at the next Council Meeting. City Attorney Amerine stated that she would amend the agreement, and forward to Brown. Administrator Brown would then forward amended agreement for Kenney's review.

6. Discussion of Dangerous Structure at 118 S. Byers and Resolution Fixing Time and Place of Hearing

City Administrator Kent Brown stated that this item is tabled because City Administrator Brown did not receive a letter from Willy Lynn, Sedgwick County Code Enforcement.

7. Application from Wholesale Fireworks to Sell Fireworks at 800 E. Ross

City Clerk Liza Donabauer stated that this is an annual request from Wholesale Fireworks to sell fireworks at 800 E. Ross. Donabauer stated she did receive the \$5,000.00 application fee and a certificate of insurance along with the application. Council gave consensus to approve the application for firework sales from Wholesale Fireworks pending the Fire Chief's inspection.

8. Resolution Setting a Public Hearing on a Proposal to Vacate the Road Right-Of-Way for the 100 Block of North Grain Avenue Excluding Utility Easements

City Administrator Kent Brown stated that this is the resolution regarding the two petitions from two separate property owners regarding the property north of the City Shop property. This resolution fixes a time and place for a public hearing. The hearing will be at the City Council Meeting on 5-08-12. A proposed action would be presented at that same Meeting.

MOTION: Council Member Lyle Berntsen made a motion to adopt Resolution 10-2012 as presented. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

Resolution No. 10-2012

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF HE CITY OF CLEARWATER, KANSAS, ON A PROPOSAL TO VACATE THE STREET RIGHT OF WAY FOR THE 100 BLOCK OF NORTH GRAIN AVENUE EXCLUDING UTILITY EASEMENTS.

9. Request for City Brush Dump Employees

City Administrator Kent Brown stated that there are two part-time dump employees: Kenny Hughes and Johnny Mishler. They have both been employed over six years in this current position and their hourly wage is barely over minimum wage. The City has not given them increases in a long time. Brown recommended a 50-cent increase.

MOTION: Council Member David FitzGerald made a motion to authorize a 50-cent increase per hour to the two-part time Dump employees. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously (Whitney stepped out of the room).

10. Copier/Office Equipment Lease

City Administrator Kent Brown stated that he has received three quotes from copier leasing companies to renew the City's new copier lease. The City Hall and Police Department use two copiers and create 10,000 copies. Brown presented a comparison chart of proposed copier leases from Image Quest, DocuForce, and Digital Office Systems (DOS):

Leasing Agent	Equipment	Monthly Cost	Copy- B&W/Color
Image Quest	Xerox	\$514.00	10,000/300
DocuForce	Canon	\$431.70	9,500/0
DOS	Konica Minolta	\$436.31	9,500/300

Administrator Brown stated that staff recommends Digital Office Systems

MOTION: Council Member David FitzGerald made a motion to authorize entering into a contract with Digital Office Systems for the term of the lease. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

11. Committee Reports

No meeting minutes were distributed in the Council Packets. The 4-03-12 Planning Commission Meeting was cancelled. The following committees are scheduled to meet and are open to the public to attend:

Planning Commission: Meeting scheduled for 4-17-12 for a Public Hearing

Park Advisory Board: Meeting scheduled for 4-16-12

City Administrator Kent Brown announced an Economic Development Meeting on 4-19-2012. The Town Hall Meeting will also convene on Monday 4-30-12 at the South Central Kansas Education Service Center, 13939 Diagonal Road at 7:00 p.m.

12. Claims & Warrants

City Clerk Liza Donabauer presented the claims and warrants as of 4-10-12 for \$56,159.95. She noted that one claim from Westar and two claims from Emprise Visa were received after last week's deadline. The total of the three invoices are \$155.97. Donabauer asked that the Council consider paying the three invoices in addition to the claims listing within the packet.

MOTION: After discussion, Council Member Lyle Berntsen moved to authorize payment of the claims and warrants for \$56,159.95 and the three additional invoices for \$155.97. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

13. Old Business

City Attorney Janet Amerine stated that she has an update on the Sedgwick County rules regarding the qualifications on the person monitoring the fires at the City Dump. Amerine could not find anything under EPA rules. Sedgwick County requires that a competent person of legal age monitor the burning activities at the dump. Volunteers and City employees are eligible.

Council Member Jim Whitney asked Public Works Director Ernie Misak about the stickers at the batting cages. Misak stated that the inside of the cages have been cleaned out by a skidster. Whitney stated that he would order the chemical and spray the areas inside and outside of the batting cages.

City Administrator Kent Brown stated that he received a quote on playground mulch from Champlin Tire Recycling Company. A 20x30 area, 4" deep, would cost approximately \$2,000. The City would be using the same company as the school. Brown stated that the principal from Elementary West stated that they have to supplement with bags from Lowe's. The principal also pays students with candy to collect stray mulch chips. Brown stated that there is only \$3,000 in the Parks budget. Brown recommended trying the material in one of

the smaller playground areas to see how the Council likes the product. The Council gave consensus to purchase rubber mulch for one of the small playground areas. Staff to select the color.

Mayor York stated that he spoke with Roger Pearson at Holland Paving. Unfortunately, he did not have an answer regarding the railroad crossing at 4th Street. FitzGerald and Whitney stated that Commissioner Norton should be contacted to get the County's attention on this matter.

City Administrator Kent Brown stated that he did send a letter to Merten's regarding weeds in Chisholm Ridge Development. The next step is to pay someone to remove/control the weeds and charge it to the property owner's taxes. Council Member Jim Whitney noted that there is a lot of debris at the site with concrete, pipe, etc. City Attorney Janet Amerine recommended that the City track its time if any work is done. Public Works Director Ernie Misak asked if the Council wants his staff to mow the property. Council Member Jim Whitney stated that the City is in danger of having to do it all of the time. Brown stated that the center island at the entrance of Chisholm Ridge should be taken care of. Misak stated that they will spray the island at Chisholm Ridge.

City Administrator Kent Brown stated that there are additional salvage items at 137 N. Lee. Mayor Mike York stated that he drove by the property yesterday and noted that there were small piles of items collecting by the fence. Council Member Jim Whitney noted that there were items in the alley again. York stated that the property owner needs to understand that he cannot operate a junk collection business within City limits. York stated that perhaps the property owner should build a garage to serve as storage for these items. Misak stated that he spoke with the property owner about posting a sign that states "No Dumping." The owner states that he does not know who is dumping garbage at his property because it is being done after-hours. Misak and York both stated that they would talk with the owner again and recommend to him about posting a sign.

14. Department Head Reports

Police Chief Gene Garcia reported to the Mayor and Council:

- Presented a report regarding crimes in Clearwater. The report lists property, person, and traffic crimes, miscellaneous offenses, narcotics/alcohol violations, worthless checks, and accidents.
- Garcia described that he contacted two properties north of Casey's regarding their properties. Garcia stated that he has visited with the City Prosecutor regarding City Ordinances regarding property issues. He stated that the Prosecutor would share ordinances from other communities to help firm up ordinances within Clearwater.
- Garcia noted that 4-27-12 will be Family Fun Night and Prom is on 4-28-12. On 5-02-12, there will be D.A.R.E. Graduation. The school board had their monthly meeting on 4-9-2012. The school district would like to move forward with a School Resource Officer (S.R.O.) Program. Garcia stated that he would move forward with a job description, contract, and finance obligations.

Public Works Director Ernie Misak reported to the Mayor and Council:

- Misak received a faxed estimate from KW Trucking in St. Paul, Kansas about the red dump truck. The estimate recommends that they replace the frame to make it a dump truck again. It is also recommended to get rid of the scissor hoist that is on it. It is also proposed to modify the dump bed to accommodate the lift. The estimate is for \$7,500. The dump truck has 60,000 miles on it. The estimate noted that the rest of the frame is in great shape. With Council consensus, Misak was authorized to repair the truck.
- The sewer line on 4th Street (between Park and Kansas) was scheduled to have the point repair today. After they cleaned the pipe, they found more problems. There are multiple holes in four other areas. Misak stated that he would prefer to replace the entire line from manhole to manhole. The entire line could be fixed for approximately \$16,000. The company is approximately 60 days out from being able to make the repair unless Misak claims this to be an emergency fix. Council consensus provided Misak the authorization to move forward on this.
- Misak stated that the new pump will cost \$6,517 for the back-up of the large pump at the wet well at the sewer ponds. Misak is seeking authorization to purchase the pump. This would give the City one good stand by. Council consensus was given.
- Well #3 has been claimed inactive. It does not need to be tested for nitrates as long as it is inactive.
- The Annual sewer line cleaning is next week. Notices will be sent out next week.
- Rural Water came out last week to test the level of sludge at the sewer ponds. The report will be available in the near future.
- Cole Hollis passed his water test at the conference. He is a certified water operator. Hollis will take the test for wastewater in May in Emporia.

Marvin Schauf, Fire Chief, reported to the Mayor and Council:

- Schauf reported that his Fire Department assisted the County on a house fire.
- Schauf stated that he is waiting on the County to do the ISO testing. The County would like to schedule several cities together.

15. Executive Session – Personnel Matters of Non-elected Personnel

MOTION: At 8:30 p.m., Council Member David FitzGerald made a motion to enter into executive session for personnel matters of non-elected personnel for 20 minutes and invited Public Works Director Ernie Misak and Police Chief Gene Garcia. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

At 8:50 p.m., Council returned to regular session with no action taken.

MOTION: At 8:50 p.m., Council Member Lyle Berntsen made a motion to enter into executive session for personnel matters of non-elected personnel for 10 minutes and invited Public Works Director Ernie Misak and Police Chief Gene Garcia. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

At 9:00 p.m., Council returned to regular session with no action taken.

MOTION: Council Member Jim Whitney made a motion to suspend Shane Baker indefinitely without pay effective immediately. Council Member Lyle Berntsen seconded the motion. The motion passed unanimously. The use of vacation leave is allowed.

16. **Staff Reports**

City Clerk Liza Donabauer reported to the Council:

- Donabauer stated that she spoke with Commissioner Tim Norton and he plans to attend the town hall meeting on April 30th at the South Central Education Center.
- Donabauer also reported that several residents have sent in or brought in pictures that can be used on the new City Website. The new website company has been in contact with the City Staff and Donald Schauf, Ambulance Director, regarding his portion of the website. Donabauer is seeking feedback from the Council on the proposed website.
- The Auditor will be here the week of April 16th.

City Attorney Janet Amerine reported to the Council:

- Amerine stated that she would be attending the LKM City Attorney Meeting in Newton in June.
- Amerine also stated that she will be attending the Merten's Case on Tuesday April 17th.

City Administrator Kent Brown reported to the Council:

- Brown stated that there is a pre-construction meeting with PP&J on the curb and gutter project at Lee and Ross Avenue.
- Economic Development, will meet on Thursday night, April 12th.
- Spring Clean-Up is on Friday, April 20th and Saturday April 21st.
- Follow-up on several weed letters continues.
- The dirt work will start at Indian Lakes on Monday April 16th. The owners have already leased one of the eight buildings.

17. Council Reports

Council Member Lyle Berntsen stated that he had nothing to report.

Council Member Sandi Keeler stated that she had nothing to report.

Council Member Jim Whitney asked about sending a weed letter to the vacant property south of Elementary East. There is a bunch of brush and weeds. DuraForm’s property also needs to be mowed. Whitney stated that he tested the backflow valve at the Senior Center. The test was completed.

Council Member David FitzGerald asked if the police staff could report on weeds and grass that is higher than 8” and report the grass to the compliance officer. Police Chief Garcia stated that if he sees anything out of the ordinary, he confers with Brown.

18. 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 David FitzGerald and passed unanimously.

The Meeting adjourned at 9:28 p.m.

CERTIFICATE

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

I, Liza Donabauer, 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 April 10, 2012 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 24th day of April 2012.

Liza Donabauer, City Clerk