

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

AUGUST 28, 2012

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 28, 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. Others present at the meeting were: Marvin Schauf, Clearwater Fire Department; Mary Schauf, Clearwater Fire Department; Donald Schauf, EVS Director; Gene Garcia, Police Chief; Ernie Misak, Public Works Director and Robert Pugh, citizen.

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 August 14, 2012

MOTION: Council Member David FitzGerald made a motion to approve the minutes of the 8-14-12 City Council Meeting. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

2. Consent Agenda

MOTION: On a motion by Council Member David FitzGerald, second by Council Member Lyle Berntsen, all voted to approve the Consent Agenda:

1. Authorization to pay invoice from Certified Engineering Design, P.A. (\$3,647.70) for engineering survey, design, and construction inspection services for Lee & Ross Avenue Curb & Gutter Improvements.
2. Authorization to sign Municipal Lease-Purchase Agreement with Ally Financial for the purchase of the 2012 Chevrolet Tahoe for the Police Department (\$26,840.50).
3. Authorization to pay \$2,000 deductible to EMC Insurance Companies upon settlement of case with Don Mertens.

3. Mayor's Recommendations

Mayor Mike York did not have any recommendations.

4. Public Forum

No members of the public addressed the Council.

5. Update on Sedgwick County Project between Ross and Diagonal Road on 4th Avenue

City Administrator Brown stated that Sedgwick County met with him and Harlan Foraker, Ernie Misak, and Liza Donabauer. Administrator Brown referred to a Summary of Findings (in the agenda packet) that discusses four alternatives of street projects and the preliminary engineer estimate of costs. Administrator Brown described each of the alternates. Brown stated that he informed the County that the City was not interested in an additional lane on 4th Street and is no longer interested in a turn lane at the 4th and Ross intersection. Following the meeting, the County responded with a letter dated 8-24-12 which states:

“The project would consist of “heavy” maintenance on 4th Avenue within the city limits, milling asphalt off the top of the road and replacing it with a new hot mix asphalt surface in order to defer total road reconstruction. City requested drainage improvements would be made to the east side drainage ditch along 4th Avenue as described in the study. The opportunity also exists to address drainage concerns recently brought to our attention at the intersection of Ross and Tracy Avenues.

As was our original intent, Sedgwick County would contract for all design, construction and construction engineering for this project. We will pay for the cost to design the entire project, and all construction within the purview of roadway maintenance. We ask that the city pay for those items directly related to drainage enhancements that would redirect storm water runoff down the east side of 4th Avenue, such as any necessary right of way, culvert structures, entrance drive reconstruction, and utility relocation costs, if any. In regards to the drainage improvement for the Ross and Tracy intersection, we simply ask for 50% participation in the construction cost alone.”

Council Member David FitzGerald stated that he thinks the project would be a waste of taxpayers' money if the drainage is not redone. Council Member Jim Whitney stated that 4th Street has deteriorated and is full of potholes. Mayor Mike York stated that there has been a considerable amount of deterioration in the last 5-7 years. Mayor Mike York stated that this could increase over the immediate future due to expansion of the business park. City Administrator Kent Brown referenced the new townhomes and the traffic related to it.

City Attorney Janet Amerine stated that this discussion came before the Planning Commission and they believe that 4th Street will be commercial.

City Administrator Kent Brown described immediate drainage issues that would be alleviated with the road maintenance project. Administrator Brown stated that Sedgwick County has provided an estimate of \$80,000 to \$100,000 as a cost to the City for the drainage and maintenance project. Administrator Brown stated that the driveways along the east side of 4th Street would be put back in the same condition. Council Member David FitzGerald asked where the City would get the money for this project. Administrator Brown stated that it would have to be bonded. Council Member David FitzGerald stated that the City has no choice but to do this project now. It could be another 15 years before the County has a road project in Clearwater.

City Attorney Janet Amerine stated that if the City chooses to go forward with this project, it would be accepting 50% of the construction costs for drainage improvements at Ross and Tracy intersection. City Administrator Kent Brown stated that he will ask for additional detail on the scope of the project.

Council Member Jim Whitney stated that he is in favor of both projects. The drainage needs to be improved. Council Member David FitzGerald asked City Administrator Kent Brown if he has seen any plans for Ross and Tracy. Council Member Lyle Berntsen stated that he is in favor of both projects, but the question is whether the City can afford more long-term debt. Council Member Jim Whitney stated that the City has to partner with Sedgwick County because the City won't be able to afford this project on its own.

Council Member David FitzGerald stated that he is in favor of moving forward with the intergovernmental agreement. The County is going to fund all engineering costs. Council Member Jim Whitney stated that the intergovernmental agreement would move the city forward. City Attorney Janet Amerine stated that the Council could ask for more information prior to signing or approving an agreement. The agreement would at least get the project started.

Mayor Mike York stated that the City would have time to investigate options in reference to this project. Council Member Jim Whitney stated that the County is asking for permission to prepare an intergovernmental agreement for signature. Then the engineering would progress. City Administrator Kent Brown stated that the City can request a not-to-exceed on the 50% portion of the Ross and Tracy intersection.

After discussion, Mayor York stated that the council consensus was for allowing Administrator Brown to pursue the agreement.

Update on 118 S. Byers

Mayor Mike York asked Pastor Chris if he has any updates on the property at 118 S. Byers. Pastor Chris stated that the house has been inspected. Pastor Chris is waiting for the inspection report. The inspection report is the most important thing right now. From there, the volunteer group can move forward. An inspection was done within the crawl space under the house. Pastor Chris stated that no indication was given that the home is unsafe to live in. Pastor Chris did not see any evidence that roots had grown into the foundation.

6. Update on Indian Lakes Project – Utilities

City Administrator Brown stated that the developer has set up a pledge amount instead of a letter of credit. No funds would be allowed out of the account without signed agreement from the City. This is a slightly different form of agreement than what the City Council has allowed before. Administrator Brown stated that City Attorney Janet Amerine and he have been wrangling with the financial institution and legal counsel on this matter. Administrator Brown asked that the Council consider approval of the MSSB Pledge Account.

MOTION: Council Member David FitzGerald made a motion to approve the MSSB Pledge Account in lieu of the letter of credit. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

City Administrator stated that the area along Ross Avenue currently is platted with four commercial lots there with a reserve. The developer will be asking the City for a replat to allow for five commercial lots in lieu of a reserve. The fifth lot does not have water or sewer to it. Sewer will have to be constructed along the north side of the lots, and water will be constructed along the south side of the lots. Brown stated that the developer requested to bore the road and connect a water line into the City's 12" supply line along Ross. The City would prefer that the developer have a water line from the south end of Chisholm Trail street. The developer has two businesses that are in serious discussion of signing an agreement, hence tonight's discussion for the utilities.

City Administrator Kent Brown stated that Ed Mikesell, Duckhorn Properties, LLC, has asked for city participation in constructing the water line in his letter to the Council:

"We have understood that there is a need for enhancement to the overall city water system that will benefit the entire city and the route could cross through Indian Lakes, therefore creating a win win for the city and the businesses we are recruiting.

Collectively we have determined that we need to ask for the city to participate in the build out of the water system, which again will benefit the community as a whole. By doing so the City will dramatically help grow the business community by helping offset entry costs. Without your assistance these cost appear to be a barrier to entry"

City Administrator Kent Brown stated that the developer's engineer has figured an initial project cost for 1,800 lineal feet of the waterline. Brown stated that the engineer estimated \$30/lineal foot. Administrator Brown stated that a recent project with Mies Construction cost \$14/lineal foot.

City Attorney Janet Amerine asked if the developer wants the City to pay for the entire project. City Administrator Kent Brown stated yes. City Attorney Janet Amerine asked if the water utility fund would pay for this project. Brown stated yes. Council Member Jim Whitney stated that this would help the City meet its goal to loop the system.

City Administrator Kent Brown stated that the fifth property would abut the residential section of Chisholm Trail. This would require screening requirements. The

proposed replat would change the road heading south toward Ross. The southbound road would become drainage. The Planning Commission will review the replat at a future meeting.

Council Member Jim Whitney stated that if the City wants businesses and growth, then the City has to provide water lines. Council Member David FitzGerald stated that if someone wants to start a business that would benefit Clearwater, then the city has to provide water. Council Member Lyle Berntsen stated that he is irritated that the developer has platted land for commercial use when they knew there was no water installed. Whitney stated that he agrees with Berntsen; however the City has to run a water line. It will benefit the City in the future. FitzGerald asked if the sewer line would be installed at the same time. Administrator Brown stated that it would be bid out. The City would have to hire an engineer to draw out the project. Administrator Brown informed the Council that they do not have to use Professional Engineering Consultants, P.A. The Council could use Harlan Foraker. Berntsen stated that he would be in favor of using Foraker because he knows what the City currently has in place.

Council Member Lyle Berntsen stated that he would be in favor of counteroffering the developer with funding a percentage of the project. Whitney cautioned that construction costs have increased considerably over the past two months. Administrator Brown stated that the developer benefited considerably with the sewer lines. A lot of sewer and structures were already in place. However, the water line would benefit the city. The developer has stated that the waterline could break the deal with the businesses. Administrator Brown stated that current retail businesses could benefit from new business. Whitney stated that if the City doesn't help businesses, new business won't come. Whitney stated that the Council has been criticized for not helping businesses.

City Attorney Janet Amerine stated that she thinks the developer is looking for a commitment. City Administrator Kent Brown asked what the City wants to commit to this project. Two estimates were provided from PEC for the waterline project. The immediate project is estimated at \$100,590 and the future project would be estimated at \$67,270. Attorney Amerine suggested that the motion contain a not-to-exceed amount. Council Member Lyle Berntsen stated that he does not feel comfortable paying for the 100% of the project costs. Berntsen would suggest counteroffering. Attorney Amerine cautioned that there might be a time constraint with the two businesses. Negotiation could cause problems.

Council Member David FitzGerald suggested offering a 75% counteroffer as a starting point. Council Member Lyle Berntsen stated that he does not like jumping at the first offer. This is taxpayers' dollars that we are all talking about. City Administrator Kent Brown forewarned that the business interested in the southeast corner will not accept specials according to the developer.

After discussion, Mayor York stated that the Council consensus was to counter with the city responsible for 75% of the water line construction cost.

7. RFP for Street Project 2012

City Administrator Kent Brown stated that the City has approximately \$110,000

available funding for a bi-annual street project. Administrator Brown outlined three street projects which would include a 2" overlay and slurry seal. Administrator Brown stated that the Council could determine the areas necessary for maintenance. He noted that surface sealant does not fill cracks. Administrator Brown described previous years' projects. Brown asked for staff direction so that he can send the project out for bid. The project would be ready for the upcoming fall season. Council Member Jim Whitney stated that Option C for \$98,899 seems to be the only feasible option given the available funds. The Council decided to start with the streets listed in Option C and determine if the actual costs come in less than the estimate allowing them to make a decision to pursue other street projects at a later date. Council Member David FitzGerald asked if the bids could include wide-crack repair. Administrator Brown stated that this is possible; however, the project could be more than what is initially estimated. City Maintenance could do the wide crack repair. Council Member Lyle Berntsen stated that the City should do the wide crack repair since the City has the equipment. Council consensus was to pursue bids for Option C.

8. **Designate Voting & Non-Voting Delegate to the League of Kansas Municipalities Conference**

City Administrator Brown stated that the League of Kansas Municipalities Conference is in Topeka this year from October 6-8th. The Mayor and Council are invited to attend. The City must assign one voting and one alternate delegate. Council agreed to assign Administrator Brown as voting delegate and City Clerk Donabauer as alternate.

9. **Department Head Reports**

Donald Schauf, EMS Director, stated that a Sedgwick County fire truck hit one of their ambulances. A hole was punctured through side door. Schauf received an estimate for the repair from Osage Ambulance. The estimate is for \$2,826.00. The ambulance has to get to Linn, Missouri. The salesman from Wichita is willing to drive the ambulance to the dealer. The salesman would provide a cost of the rental car to drive back. Council Member Jim Whitney recommended calling Sedgwick County and telling them that the ambulance is being sent in for immediate repair since it is a mainline ambulance. Otherwise, the 400 could be delayed for repair. 401 is running all of the calls. Schauf estimates it would take one week to complete the repairs.

Donald Schauf, EMS Director stated that he signed the agreement for the EMS Charts. Schauf stated that he is building the back end of the software for writing reports.

Police Chief, Gene Garcia stated that a lot of training and community service projects have been completed. The skate park ramp needs to be painted. Paul Clark, Fall Festival President, has done a great job of keeping his department up-to-date of all festival events. Chief Garcia stated that he has not heard from the charity concert committee. Chief Garcia stated that notices have been sent to residents regarding storage of vehicles on dustless surfaces. There has been compliance from several citizens. Council Member David FitzGerald asked Chief Garcia if he would inform the minors to refrain from cleaning

their paintbrushes on the curb. FitzGerald recommended using sandpaper to clean the paint off the curbs. Council Member Jim Whitney asked for an update on the D.A.R.E. Hummer. Chief Garcia stated that Steve Stonehocker has donated a lot of his labor. Stonehocker was able to obtain donated paint. The goal is to have it ready for the Fall Festival Parade.

Marvin Schauf, Fire Chief, Vispar did an air check on the air bottles. One of them failed. Kevin Call came last Thursday and certified the generator for the air pass. Schauf stated that he is concerned about daytime help. Chadd Posch is a public works maintenance worker and Ernie Misak will not allow Posch to respond in the daytime. Fire Chief Marvin Schauf is asking the Council to authorize Posch to assist on fire calls in daytime. Posch is certified and has experience with another fire department. Council Member Jim Whitney stated that he does not see any problem with this. Mayor Mike York asked for Council consensus. City Administrator Kent Brown stated that he would like more parameters. Council Member David FitzGerald stated that the Council has to be prepared that citizens may complain that a paid City employee is performing volunteer fire duties. Council Member Jim Whitney stated that his response is that the City is using its employees to the best of their abilities. Whitney stated that in a small town like Clearwater, employees that have knowledge, skills, and abilities need to be utilized. Administrator Brown stated that there needs to be coordination and recognition from all parties regarding when the employee should respond.

10. Committee Reports

The Park Commission meeting minutes were distributed in the Council Packets. The following committees are scheduled to meet and are open to the public to attend:

Planning Commission: Meeting scheduled for 9-04-12

Park Commission: Meeting scheduled for 9-17-12

11. Claims & Warrants

City Clerk Liza Donabauer presented the claims and warrants as of 8-24-12 for \$24,059.44. Since Friday, additional claims were received from Mize's, Bank of America, State Health Plan Provider, and Spinnaker for the amount of \$22,563.02. Donabauer asked that the Council consider all claims for payment

MOTION: After discussion, Council Member David FitzGerald moved to authorize payment of the claims and warrants for \$24,059.44 and to include payment of the late claims for \$22,563.02. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

12. Old Business

Council Member David FitzGerald asked Public Works Director Ernie Misak

about the ditch between Hellar and Wood. Misak stated that the ditch was cleaned out. The homeowner does not want the tree removed. The tree is owned by a private citizen. Misak also stated that the concrete drainage is not the City's property.

Council Member David FitzGerald commended Public Works Ernie Misak for removing the signage along the entrances into Clearwater.

13. Staff Reports

City Clerk Liza Donabauer stated that the monthly employee safety luncheon is on 8-29-12 and the group plans to discuss on-the-job accident investigation.

Attorney Amerine stated that she had nothing to report.

City Administrator Kent Brown stated that the "I Survived the First Week of School" event was moved to Elementary West last Friday and according to Recreation Director Zook about 250 attended. KDHE gave a negative response regarding the use of effluent water on athletic fields. Administrator Kent Brown will forward that information to the Council. KDHE is in favor of putting it on farm fields. Emprise Bank is okay with the City repairing the section of wall in front of their property. Administrator Brown contacted PP&J who will come back and make the repair. City staff will forward the bill to the bank. There was a sewer issue on Kimberly Court over the weekend.

14. Council Reports

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

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

Council Member Jim Whitney stated that he got the water sample back for the effluent water for the farm fields. The report indicates that the water has high salt content. Whitney will forward the report to staff. Due to the high salt content, the irrigated water would work for grass, soy, but not corn. Public Works Director Ernie Misak asked if the high salt content would affect grass. Whitney stated that the high salt content would be fine for bermuda. He noted that the salt content level was 333.

Council Member David FitzGerald stated that the police department gives a lot of tickets on 4th Street. FitzGerald stated that citizens have complained that the signage for the school sign is too small and is partially blocked by No Parking signs. FitzGerald asked if a larger school zone sign is possible. Police Chief Gene Garcia stated that the sign is a standardized official sign. Speed zones are strictly enforced within school zones.

Council Member David FitzGerald stated that there are dead trees in an easement on Wood Avenue. Another dead tree is in an easement on north Prospect. FitzGerald asked if staff should send letters to homeowners. City Attorney Janet Amerine stated that there is not an ordinance pertaining to this topic. Amerine asked if the tree is in danger of falling. FitzGerald stated yes. Amerine stated that removing a dead tree for aesthetic reasons is in a gray area. Amerine stated that she could look into the tree ordinance. FitzGerald stated that this could be discussed at the park & tree board meeting.

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

MOTION: At 8:51 p.m., Council Member David FitzGerald made a motion to enter into executive session for personnel matters of non-elected personnel for 15 minutes. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

At 9:04 p.m., Council returned to regular session with no action taken.

MOTION: Council Member David FitzGerald made a motion to grant a raise to Cole Hollis for .50/hour because of passing the state water and wastewater certification. Council Member Lyle Berntsen seconded the motion. Motion carried.

16. 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.

The Meeting adjourned at 9:05 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 August 28, 2012 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 11th day of September, 2012.

Liza Donabauer, City Clerk