

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

FEBRUARY 28, 2012

(Approved 3-13-12)

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, February 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, Lyle Berntsen, and Sandi Keeler, Laura Papish, Council Members. Council Member Jim Frischenmeyer 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: Mary Schauf, Clearwater Fire Department; Glenda Gladfelter, HS Director; Ernie Misak, Public Works Director; Gene Garcia, Police chief; Paul Rhodes, Times Sentinel; Harlan Foraker, Certified Engineering Design.

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 February 14, 2012

City Administrator Kent Brown stated that there are some spelling and numerical corrections: APEC to APAC (Page 4, Item 9 Bid Award on Paving, Water, Sewer & Drainage Projects in Indian Lakes Phase I); 330 gallons to 303 gallons (page 2, Item 5 Department Head Reports); and “purchase” to “acquire” (page 4, Item 8 Proposal to Acquire Public Relations Vehicle for D.A.R.E.).

MOTION: Council Member Laura Papish made a motion to approve the minutes of the 2-14-12 City Council Meeting as amended. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

2. Consent Agenda

No items were considered for consent agenda.

3. Mayor’s Recommendations

Mayor Mike York recommended accepting Kyle Berger’s resignation as a part-time

Clearwater Police Officer. The resignation was accepted with Council consensus.

4. Public Forum

Harlan Foraker stated that he would like to introduce Jose Soliz of PP&J who has to attend another meeting elsewhere. Foraker noted that he spoke with Soliz regarding the contract on Lee and Ross Street as requested by the City Attorney at the last Council meeting. Soliz stated that he would be willing to complete the work on Lee and Ross at the full curb height. Soliz proposed completing the combined curb and gutter at the 6" full height for \$17/square foot on Lee Avenue and in \$19/square foot on Ross Avenue. Foraker stated that Soliz provided a list of references. Foraker contacted the cities of Wichita and Bel Aire who both gave PP&J a satisfactory reference. Jose Soliz then introduced himself to Council. Soliz stated that PP&J are entering their ninth year of business. The company started small with no credit and no references. Soliz and his staff are not afraid to take on any challenges and will do a good job for the City. Soliz welcomed the Council's questions and concerns. Mayor Mike York stated that he appreciated Soliz coming to tonight's meeting to introduce himself to the Council.

4. Department Head Reports

Police Chief Gene Garcia reported to the Mayor and Council:

- Police Department received the Hummer shortly after the 2-14-12 Council Meeting.
- Garcia met with a vendor that provides safety equipment and uniforms. A potential quantity discount is available if the Police and Public Works Department purchase safety vests.

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

- Misak stated there was a water leak on North Fourth across from Casey's.
- Misak noted there was a problem with the hand held meter readers. Misak will be at a water conference at the end of March and will look for another vendor.
- Misak stated that his staff started crack sealing yesterday.
- Kansas Department Health & Environment has recommended moving a directional mixer, relocating an aerator, and providing new conduit for the aerators at the sewer ponds. Discharging began in December. Three samples were taken and they came back good.
- Misak received quotes to repair the street at the 200 block of South 4th between Kansas and Park Avenues. The repair needs to be done within a month. A contractor proposed \$4,000 to make a 4-foot repair and \$12,000 for a 300-foot repair.
- Misak stated that Rod Hobert from Rod's Welding looked at the dump truck. Hobert requested that the bed be removed so that he could make an accurate

assessment of the bed. Misak stated that the bottom of the bed looked good. Misak stated that since the bed was removed, he would like to take it to a frame shop in Wichita and get a price for a potential fix or to use it as a flatbed truck.

After some discussion, the Council directed Public Works Director Ernie Misak to take the dump truck to Wichita for an estimate and then report back at another Council meeting to decide what to do with the truck.

5. Opportunity to Advertise in Times Sentinel 2012 Progress Edition

Paul Rhodes, Owner/Publisher of Times Sentinel, stated every other year, a progress edition is done. The progress edition is an opportunity for the City to share stories about each of its entities. Two years ago, the City did a two-page spread. There is a new librarian, the senior citizen center is making progress, a new housing development is proposed, and the schools are committing to a section within the special edition. The newspaper takes care of writing the article and providing the artwork. Goddard is doing a two-page spread. Argonia, Cheney and Garden Plain will also be in the progress edition. Viola is interested in doing a page. Previously, Clearwater did a full page of space and the Times Sentinel matches the size. Council Member Whitney and Council Member Berntsen stated that they are in favor of producing a two-page article, which would be \$655. The second week of April is the proposed distribution date. Rhodes stated that he would like to hear the Council's questions and article ideas at the first meeting in March. With Council consensus, Rhodes was directed to do a two-page spread for Clearwater in the progress edition.

6. Proposal for the Security System at the Historical Museum

Glenda Gladfelter, Historical Society Director, stated that the previous security system is not working. The Historical Society has come to the City to ask if there are any insurance stipulations on fire and theft monitoring. City Administrator Kent Brown suggested that the Historical Society Board talk to Southern Kansas Telephone regarding the system. Gladfelter asked SKT to prepare a quote for security monitoring. SKT can re-use all of the present equipment except for the DVR and monitor. If the City could take care of the monthly monitoring costs, the Historical Society would purchase the DVR and monitor for approximately \$500. Mayor Mike York asked what was included in the \$29.95 monthly fee. An SKT employee is going to waive his time to do the installation. He quoted it would take approximately four hours to redo the wiring and install the equipment. Council Member Papish stated that she is in favor of the City sponsoring the monthly fee. It is a 36-month agreement with three free months. City Attorney Janet Amerine stated that the City should review the agreement prior to making a decision. Amerine recommended that Council direct staff to obtain the agreement and present to Council at the next Meeting. With Council consensus, staff was directed to acquire the agreement from SKT for monitoring services.

7. **Cereal Malt Beverage License for Cancun Mexican Grill for Consumption on the Premises**

City Clerk Liza Donabauer stated that the owner of Cancun Mexican Grill applied for a Cereal Malt Beverage license on 2-15-12. The application was forwarded to the Police Chief, Fire Chief, and the Health Department, Restaurant Division. Staff has attempted to contact the owner to invite him to tonight's Council meeting; however, he has not been available by cell or at the restaurant. The Police Chief performed a background check. The Health Department stated that they have not conducted their inspection yet as they have not been contacted by the owner.

City Administrator Kent Brown stated that the Cancun Mexican Grill can open without a liquor license. However, the Council could approve the application pending passing the health department's inspection.

MOTION: Council Member Jim Whitney made a motion to approve the Cereal Malt Beverage License for Cancun Mexican Grill to allow alcohol to be consumed on the premises. Council Member Sandi Keeler seconded the motion. The Motion carried unanimously.

8. **Bid Award on Curb & Gutter Project for Ross & Lee Avenues**

City Engineer Harlan Foraker, Certified Engineering Design, introduced himself again. He stated that Mr. Solez of PP&J stated that he is willing to complete the full curb height for \$17/foot on Lee Avenue. This would increase his bid amount by \$1,794. The total bid and contract amount would be \$32,779. City Attorney Amerine stated that the Council would be making a motion to accept the bid from PP&J.

MOTION: Council Member Lyle Berntsen made a motion to authorize awarding the bid to PP&J for the street improvements on Ross Avenue and Lee Avenue. Council Member Laura Papish seconded the motion. The motion carried unanimously.

Harlan indicated that a contract agreement would be ready for the next Council meeting.

9. **Petition from Countryside Acres, LLC, to Vacate a Portion of North Grain Avenue to Hellar Avenue.**

City Administrator Kent Brown stated that this has been discussed several times in his Staff Report over the past three years. There is a section north of the City shop that is platted as a street and is in the flood plain. There are two property owners adjacent to the street. One of the property owners has returned a petition. The other property owner had his surveyor look at the petition but has not yet returned the petition to the City.

MOTION: Council Member Lyle Berntsen made a motion to accept the petition from Countryside Acres, LLC, to vacate a portion of North Grain Avenue to Hellar Avenue. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

Public Works Director Ernie Misak asked if the City would be getting easements for this area. City Administrator Kent Brown stated yes.

10. Ordinance Providing for an Administrative Fee for Outside Collection of Bad Debts

City Attorney Janet Amerine stated she was contacted by City staff that had concerns regarding fees charged in accordance with uncollected debts through utility bills and court costs. The question was whether the City is allowed to charge an additional fee on top of what the Setoff Program charges for collecting bad debts. City Attorney Amerine stated that her research indicated that there is a statute allowing the City to charge an administrative fee for court costs. There is not a similar statute for the utility side. Staff sends three letters to the citizens. Staff will add on a \$25 fee before the debt is sent to Setoff to cover the staff time and postage. Setoff takes 18% for their collection services. Amerine stated that she amended the Ordinance.

MOTION: Council Member Sandi Keeler made a motion to approve Ordinance 948 as written. Council Member Lyle Berntsen seconded the motion.

ROLL CALL VOTE: Berntsen yea, Papish yea, Keeler yea, Whitney yea, Four Yea. Motion carried.

11. Temporary Notes Financing for Indian Lakes Addition

City Administrator Brown stated this item would be tabled to the next Council Meeting to give the Bond Attorney time to gather information regarding the financing of the temporary notes.

12. Consideration of Nuisance at Residences on N. 4th Avenue

City Administrator Brown stated that Council Member Jim Whitney received complaints regarding 200 N. 4th and 210 N. 4th Avenue. Administrator Brown stated that the back yards of the residents contain appliances, hot tubs, vehicles, pipes, tires, and lawn mowers. The complainant is attempting to sell their home and has concerns about the appearance of the accumulated items. It was noted that the accumulation at 210 N. 4th began in October, 2011. Council Member Whitney noted that the City never defined how many vehicles are allowed on a property. Police Chief Garcia noted that accumulated debris

attracts varmints. Council Member Whitney suggested that something should be written in the next City newsletter stating that the City Council is noticing more accumulation and debris. Removal will be enforced. Chief Garcia suggested that staff initiate a campaign to educate residents about excessive non-operable vehicles and items in residential yards. Council Members Whitney and Papish noted that educating the public is key to the success of this project. This is an overall City education process. They referred to zoning requirements. Council Member Whitney asked Staff to discuss this topic within the next City newsletter. City Attorney Amerine suggested that in the newsletter, staff should include phone numbers to charitable organizations that can pick up vehicles and junk.

13. Dress Code Policy

City Administrator Kent Brown distributed the second draft of the employee dress code policy as directed by Council at the 2-14-12 Meeting. City Attorney Amerine suggested that to fit in with the format of the current policy manual, she would suggest placing the purpose, definitions, and guidelines at the beginning of the policy. Council Member Laura Papish stated that she did not have any problems with the policy. Council Member Sandi Keeler noted that the word “shorts” should be removed from every location in the drafted policy. Council Member Jim Whitney noted that he is in favor of the policy. It is a lot clearer now and should be easier for Department Heads to enforce. Council Member Lyle Berntsen stated that he thinks it looks good as well.

MOTION: Council Member Jim Whitney made a motion to add the language to the existing policy. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

14. Committee Reports

The 12-06-11 and 2-07-12 Planning Commission Meeting Minutes were distributed in the Council Packets for Council review. The next scheduled Planning Commission Meeting will take place on 3-06-12 and is open to the public to attend.

15. Claims & Warrants

City Clerk Liza Donabauer presented the claims and warrants as of 2-28-12 for \$149,857.60. Council Member Jim Whitney asked about the professional fees at Indian Lakes. City Administrator Kent Brown noted that an inspector has been there every time Brown has visited the construction site.

MOTION: After discussion, Council Member Jim Whitney moved to authorize the claims and warrants for \$149,857.60. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

17. Old Business

Council Member Sandi Keeler stated that she drove by the garage beside Walt's and asked if the occupant is still attempting to roof the accessory building. City Attorney Janet Amerine suggested that the Sedgwick County Inspector conduct another site visit and talk with the occupant.

City Attorney Janet Amerine reported that the court date for the Merten's case is April 18, 2012. She plans to attend and invited Council to attend as well.

Council Member Jim Whitney asked if Wiegand is interested in representing the City. Mayor Mike York summarized the meeting with Wiegand. The representative stated that he would return phone calls from those inquiring on the property. The representative reiterated that industrial parks are long-term projects. City Administrator Kent Brown stated that Council would have to look at the agreement. The representative is concerned about accounting for an incentive or commission for the sale process of an industrial park property. Mayor Mike York stated that the representative described the railroad as an asset to a potential business owner. Council Member Laura Papish suggested that the Times Sentinel Progress Edition should focus on the Industrial Park.

18. Staff Reports

City Administrator Kent Brown distributed examples of the decal for the City car. Mayor Mike York noted that he likes the window decal better as it is more subtle. Brown stated that the window decal would be \$60. The door decal would be \$75. Council Members Berntsen and Whitney stated that they were in favor of the window decal. Brown stated that it would be on the rear driver and rear passenger windows. City Attorney Janet Amerine stated that this would meet statute requirements.

City Administrator Kent Brown stated that his son's last jazz concert at Clearwater High School is on the same date as the Council's 3-13-12 Meeting. Brown would like the Council's permission to attend the concert. The Council's consensus was to let Brown miss the 3-13-12 Council Meeting.

City Administrator Kent Brown distributed handouts from the Kansas Rural Water Association regarding cross connection and backflow prevention. He suggested that this should be distributed with the City newsletter. The information is copyrighted and would cost approximately \$80 total for distribution.

19. Council Reports

Council Members Lyle Berntsen and Sandi Keeler had nothing to report.

Council Member Laura Papish stated that she was called by a citizen who complained the dump hours are not friendly or conducive for second shift workers. Brown noted that citizens are invited to contact City Hall and request that staff meet them to unlock the gate during the off-hours.

Council Member Jim Whitney stated that he was contacted by Indian Lakes Leasing. The representative asked if the City had approved the sign. Indian Lakes Leasing is willing to build and pay for a new sign. They would include a Senior Center and Community Center directional sign. Council Member Lyle Berntsen and Council Member Laura Papish stated that they have no problems with the sign especially if they are paying for it.

Mayor Mike York stated that he received a letter from Council Member Jim Frischenmeyer, which announces his resignation. City Attorney Janet Amerine stated that the Mayor would appoint a new council member which would be approved with Council consensus. Amerine further stated that there is no set method to obtain a replacement. The new person has to live within the City limits.

19. Executive Session - Personnel Matters of Non-Elected Personnel

MOTION: At 9:03 p.m., Council Member Lyle Berntsen made a motion to enter into executive session for 10 minutes to discuss personnel matters of non-elected personnel and invite Police Chief Gene Garcia. The motion was seconded by Council Member Jim Whitney and passed unanimously.

At 9:09 p.m., Council returned to regular session with no action taken.

20. Executive Session - Consultation with an Attorney on Matters That Would Be Deemed Privileged in Attorney-Client Relationship

MOTION: At 9:10 p.m., Council Member Lyle Berntsen made a motion to enter into executive session for consultation with an attorney on matters that would be deemed privileged in attorney-client relationship for 30 minutes. The motion was seconded by Council Member Sandi Keeler and passed unanimously.

At 9:40 p.m., Council returned to regular session with no action taken.

21. 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 passed unanimously.

The Meeting adjourned at 9:41 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 February 28, 2012 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 13th day of March, 2012.

Liza Donabauer, City Clerk