

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

**CITY COUNCIL MEETING**

**MINUTES**

**JANUARY 10, 2012**

**(Approved 1-31-12)**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, January 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; Lyle Berntsen, Jim Whitney, Jim Frischenmeyer, Sandi Keeler and Laura Papish, Council Members. 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; Gene Garcia, Police Chief; Ernie Misak, Public Works Director; Paul Clark, Becky Schievelbien, Fall Festival Committee; Brenda Hastings, Past President Chamber of Commerce; Benjamin Saucedo, Jeremy Johnson, , Becca Emerson, Shannon Robertson, Sergio Corona, High School Government Students.

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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 December 27, 2011**

**MOTION:** Council Member Sandi Keeler made a motion to approve the minutes of the 12-27-11 City Council Meeting. The motion was seconded by Council Member Jim Frischenmeyer and passed unanimously.

**2. Consent Agenda**

City Clerk Liza Donabauer explained that she changed the agenda format to include a few standardized agenda items. She stated that Consent Agenda will now be found at the top of the agenda for each meeting. Normally, after the approval of the meeting minutes, another motion would be made for the acceptance of the consent agenda as presented. There is no discussion necessary on consent agenda items. This week, there are no items under the consent agenda.

**3. Mayor's Recommendations**

The Mayor did not have any recommendations this week.

**4. Public Forum**

No members of the public came forward.

**5. Department Head Reports**

Police Chief Gene Garcia stated that on behalf of the Police Department, he would like to thank the City Council for the employee and volunteer recognition dinner and gift cards. He stated that with Council's direction, the Department worked on creating an inventory of illegally parked cars in front of side yards. The patrol officers hand delivered the ordinances pertaining to the cars. An inventory of approximately 29 illegally parked cars was brought to zero and now is back up to ten. The Department continues to get the vehicles moved or brought in compliance.

Ernie Misak, Public Works Director, stated that well #6 should be operational by month end. The bridge south of town on 135<sup>th</sup> Street is scheduled to start by the end of the month. The bridge has been closed for over a year. The Public Works Department partially fixed the drainage and surface of South Grant. Misak commented that due to drainage issues, it is difficult to keep sand on the road. Public Works started the quarterly sewer cleaning today. Misak stated that the 1993 International dump truck took on considerable damage last week. The truck was being used to spread keel and sand. As it was dumping sand, the bed of the truck fell. There is a crack in the frame and the bottom of the bed has bulged. The truck was purchased five years ago from Chicago and had considerable salt and rust damage along the bottom of it. He obtained a preliminary estimate of \$9,000 to \$10,000 to fix the truck. Misak stated that there needs to be discussions to determine whether the City should pursue repairs or purchase a replacement dump truck. Council Member Papish asked if Misak knew what a used dump truck would cost. Misak stated that he has not priced out a replacement vehicle. Papish asked if the dump truck is used a lot. Misak stated yes. Public Works will miss the blade on the bottom of the truck which is used for snow plowing.

**6. Fall Festival Committee Request for Additional Day for Carnival**

Paul Clark, Fall Festival Committee President, stated that the Committee is looking at changing carnival companies. The proposed vendor is Lou Ellen Amusements. The carnival company suggested running the carnival for three nights: Thursday, Friday, and Saturday. Ross Ave is barricaded and closed for the carnival. The carnival company is available on the last weekend of September. The Committee is meeting on Thursday to discuss the request. The Committee seeks the City Council's feelings regarding Lou Ellen's request. Council Member Papish and Council Member Keeler stated that they do not see a

problem in extending the carnival for an additional evening. Mayor Mike York agreed. Police Chief Gene Garcia stated that he did not foresee any logistical concerns. School traffic would have to be rerouted for an additional day. City Administrator Kent Brown clarified that the street would have to be rerouted for an additional day. Garcia noted that providing ample warning to parents, buses, and emergency vehicles alleviates the inconvenience. Mayor York asked for any objections. None were received. York informed Clark that the Committee can proceed in pursuing an additional day for the carnival.

## **7. Clearwater Chamber's Request for Directional Sign at K42**

Brenda Hastings, Chamber President, distributed copies of the Highway Sign Lease Agreement that was submitted by Elmer Hatfield. Hatfield is requesting an increase in his annual lease. Hatfield is requesting \$300 for one year. Hastings stated that due to the Chamber's financial restraints, they are only willing to pursue the agreement for one more year and then the Chamber will need to defer to the City for help. The Agreement would be good through October. There is a tree growing in front of the sign and Hatfield is unwilling to trim or remove the tree. The size and the sign are grandfathered under State regulations. To move the sign would negate the grandfather status. The sign would have to meet current State regulations. The sign needs maintenance. The Chamber questions whether the current location is appropriate. Council Member Papish asked if a bigger County sign (green sign) is possible. City Administrator Brown commented that when 135<sup>th</sup> street was redone, the signs were replaced with larger green signs.

Conversation continued regarding whether the sign is used as a landmark. Hastings stated that Terry Shinkle from Webb-Shinkle Mortuary uses the blue sign as a landmark. Others commented how the Service Center, schools, City and the Chamber use the sign as a landmark as well. Council Member Whitney asked who owns the sign. Brown stated that the Chamber purchased the sign and the City is notified regarding regulations. Council Member Papish stated that the sign benefits the City. City Administrator Brown discussed options for sign placement. The sign is used as a landmark and has reflective qualities that the two smaller green signs do not. Council Member Papish stated that this could be a combination of the City, school district, and Chamber since this sign benefits the entire community. Mayor York stated that the signs are helpful to all visitors coming to events in the City.

Chamber President, Brenda Hastings proposed renewing the contract and forming a committee of the service center, mortuary, school district, City, businesses, and Chamber. Council Member Whitney stated that someone should check with KDOT about signage that meets their guidelines. Council Member Whitney stated that he would propose renewing the contract for \$300 and taking the time to perform a study. Council Member Papish suggested that this be brought up at the January 30<sup>th</sup> Town Hall Meeting. Public Works Director Ernie Misak stated that he would look at the condition of the sign when he puts the State registration sticker on it. Misak stated that he would be willing to contact someone at KDOT regarding sign regulations.

Hastings further stated that the TownHall Meeting is on Monday, January 30<sup>th</sup> at the United Methodist Church in the large area at 7:30 p.m. The meeting is advertised in the Chamber email newsletter.

**8. Regional Economic Area Partnership (REAP) Annual Report**

City Administrator Kent Brown stated that the Council received the annual report. The invoice is not in tonight's packet. The agenda item was tabled for discussion until the 1-17-12 City Council Meeting.

**9. Designate Times Sentinel as Official Newspaper for Legal Publication**

City Administrator Kent Brown stated that this is an annual act of business. The Times Sentinel is a weekly newspaper. Brown recommended to Council that the City continue to use the Times Sentinel Newspaper. With Council consensus, the Times will be the official newspaper for the City in 2012.

**10. Designate Emprise Bank as Official Depository for the City of Clearwater**

The agreement was originally with First State Bank. However, with the change of companies, the City would like to keep the Official Depository as Emprise Bank. In the fall of 2012, staff would seek RFP's for the official depository. With Council consensus, Emprise Bank is the official bank for the City for 2012.

**11. Committee Reports**

City Clerk Liza Donabauer stated this standing agenda item would be something new for the Council. The intent of the agenda item is to review meeting minutes from other committee meetings. No discussion is necessary. However, the agenda item is an attempt to inform Council of committee activities and improve communication within the community. Communication was one of the five goals presented at the 11-29-11 Town Hall Meeting. The agenda item would also list upcoming/scheduled committee meetings.

**12. Old Business**

City Clerk Donabauer presented a spread sheet that outlines past topics and concerns raised by staff and Council. The chart provides a status of the old business. Council Members can review these items and bring up any questions or concerns if desired.

Mayor Mike York asked if Sedgwick County Code of Enforcement Inspector Willie Lynn has inspected the garage located east of Walt's. City Administrator Brown stated yes and explained that the trusses are very well rotted. There are holes on both sides. Inspector Lynn's estimation is to discuss with the owner what it would cost to make the repairs to the roof. The entire roof would need to be dismantled. City Administrator Brown stated that he

has not received an official letter of findings from Lynn.

Council Member Jim Whitney stated that the resident at 210 S. Gorin has not made any progress to the house in several months. Council Member Whitney asked to City Administrator Kent Brown to send a letter to the resident that outlines the City's expectations. Whitney stated that City Council has forced other residents to comply and this resident needs to provide the City with a timeline of improvements and completion. Council Member Frischenmeyer stated that no progress has been made. Administrator Brown stated that he will send another letter to the homeowner.

Brown stated that the property at 130 N. Tracy has graffiti on its garage door, and its yard contains appliances and bikes. Administrator Brown has taken pictures of the property and would like Council direction on how to proceed. He asked Council what their expectations are in regard to what the resident need to get done to be in compliance with the City. Brown added that the vehicle partially blocking the alley should be moved. Recently, the Police Department is trying to get homeowners to move illegally parked vehicles. The City has been questioned about its policy on boats and trailers. Council Member Frischenmeyer asked if the ordinance requires that a vehicle must be operable. Police Chief Garcia stated no. City Attorney Amerine stated that the intent of the ordinance would be if there is a section of the vehicle that is disassembled and inoperable. City Attorney Amerine stated that the vehicle at 142 N. Tracy is out of compliance with the Ordinance. Mayor Mike York asked if the vehicle is tagged. Brown stated that the vehicle is parked against the garage. Papish stated that if the neighbor has a complaint, then the Council should get involved. Mayor York asked if Administrator Brown could provide pictures of the vehicle for the next meeting.

### **13. Staff Reports**

City Clerk Liza Donabauer asked that the Council bring their Council Ordinance Books to City Hall. Staff will update their books with the newly codified ordinances.

City Attorney Amerine stated that she was contacted by Ken Chambers from the Cemetery Board. Chambers pointed out to the City Attorney that there is only five years left in the present cemetery. The Cemetery Board cannot wait until all of the plots are full. It will take a while for the Board to pay for the property and a while for the sexton to get the ground and grass and fencing ready to use. It takes a while to prepare the property. The board is getting serious about different properties. Chambers discussed several properties with Attorney Amerine and how to approach potential land owners. The Board would like to keep the cemetery land all in the same part of Clearwater. Attorney Amerine gave Chambers some ideas on how to approach it from a legal standpoint. The Cemetery Board may have to go eminent domain which is not preferred. The Board will have a meeting while Amerine is out of town and then will meet with Amerine later to potentially make some offers to buy some properties. There is a cost constraint if the Board were to buy additional property north of the cemetery including fencing and flood plain issues. Mayor Mike York stated that he spoke with Ken Chambers who asked if the City could assist the Cemetery Board in the financing. He asked if the City could spread the financing out over a

five-year program. City Attorney Amerine stated yes. The financing could be set up like a lease payment. If the cemetery properties were separated by distance, there would be cost in transporting equipment. City Administrator Brown indicated on a map that the cemetery is running against a flood plain. Attorney Amerine recommended that the Cemetery Board look at options, make offers, and at last resort eminent domain. Mayor York asked how large a parcel of land the Cemetery Board is looking to buy. Attorney Amerine stated the land would be between 20-30 acres. The Board wants to buy enough so that the Board would not have to do this again anytime soon.

City Attorney Amerine stated that while she is out of town City Clerk Donabauer has a key to Amerine's office and access to her computer and her home. She stated that she can be reached by email and video chat.

City Administrator Kent Brown stated that the refinancing issue has come up again with another proposal that could include the sewer bond which has another 10 years. There is a statute that says you can only refinance on sewer bonds for \$500,000. It was done in the 60's when the revolving loan fund for wastewater was originally set up. It was suggested by the bond council that the City could charter out of it to allow for more than the \$500,000 to be refinanced. If the amount the City wants to borrow is more than \$500,000 for the sewer bond then it has to go to a public vote. City Administrator Brown asked the Council whether a bond attorney should draw up an example of this document for the next meeting. This is the foundation and background. City Attorney Amerine stated that she could draft the charter ordinance. Council Member Jim Whitney stated that if the City could save two or three percent of interest, it would be worth looking at a proposal. Council Member Sandi Keeler stated that she agreed. Mayor Mike York stated that he would be in favor of looking at a proposal as well. City Administrator Brown clarified that this permanent financing would not be applied toward the Indian Lakes addition since that is considered construction financing.

Amerine asked the Council if they would like a cap on the limit of funds to be refinanced. She stated that another option would be to review each case on an individual basis. The City can make the law by creating a charter ordinance. City Administrator Brown stated that the City could get a better rate with or without the sewer debt but it could potentially get more buyers. Amerine stated that she would recommend having no cap so that the charter would not have to be redone. City Administrator Brown further stated that the charter ordinance would have to be published in the newspaper twice. Then there is a 60 day protest period. Mayor Mike York stated that he could not see how anyone would protest bundling the City's indebtedness together to get a cheaper rate which ultimately would save the City money. Council Member Jim Whitney stated that he is in favor of a charter ordinance with no limit. Council Member Berntsen and Council Member Jim Frischenmeyer stated that he agreed. Council gave consensus to proceed with drafting a charter ordinance.

City Administrator Kent Brown stated that the City should receive bids on the Lee and Ross curbs by the next Council meeting. A question has come up regarding whether the curb should be a stand up curb or a flat curb. With a stand up curb, the yards are easier to backfill and the elevation is higher on portions of Lee Street. The Council conceded that a

stand up curb would be preferred.

#### **14. Council Reports**

Council member Berntsen stated that he had nothing to report.

Council Member Laura Papish asked whether there is any consideration in getting rid of the barrels along downtown. Most of the barrels are falling apart. Clearwater Chamber approached businesses to individually buy the barrels and each business should be responsible for the upkeep.

Council Member Papish asked if the City had gotten the new car and if it had a City emblem on it. City Administrator Brown stated that it is a leased vehicle. City Attorney Amerine stated that statute 8-305 states that a municipality owned or leased car must be marked. Attorney Amerine stated that if the City is required to have a symbol on it, then it should have a symbol on it. Police Chief Garcia stated that several communities get by with a personalized front tag. City Attorney Amerine stated that she did not want the City to be out of compliance. After some discussion it was suggested that City Administrator talk to a graphic's company to have create a small decal for the window and possibly a tag for the front of the car.

Council Member Laura Papish referred to the claims listing and asked questions about a cash bond payment and Hubor Licensing. Police Chief Garcia was able to respond to both inquiries. He explained the refunding process of a cash bond. Hubor Licensing is an annual payment for the Police Interpol.

City Attorney Amerine stated that the governing body must authorize payments before checks are sent out. She referred the Council to K.S.A. 12-105b. She explained that normally there is a standing agenda item for Claims and Warrants. This gives Council 10-20 minutes per meeting to review claims. City Attorney Amerine was told by Sandy Jacquist, League Attorney, that for the governing body, the mayor has the appointments, and the Council has the City's purse strings. The City Clerk will have the invoices available for viewing at each meeting. The council can then make a motion to make changes or approve the accounts payable as presented. City Administrator Kent Brown stated that accounts payable are currently paid on the 15<sup>th</sup> and the last working day of the month. This will change so that the Council can look at the reports before the checks are written. All Council members will receive the information in their packets so they can have their questions ready for the following Council meeting.

Council Member Sandi Keeler had nothing to report.

Council Member Jim Whitney stated that the Ninnescah Township won't approve the agreement until the ISO test is done. Council Member Whitney has reminded Marvin Schauf, Fire Chief, several times of the need for ISO testing. Whitney asked that Schauf contact Talvis Leake from Fire Prevention to schedule the ISO. Leake will get the certification done.

Council Member Jim Frischenmeyer informed the Council that his oldest sister passed away. Her body will be buried in Clearwater.

Mayor Mike York stated he had nothing to report.

**15. Executive Session - Personnel**

**MOTION:** Council Member Lyle Berntsen made a motion to enter into executive session for personnel for more than one hour. Jim Whitney seconded the motion.

The Council returned from executive session with no action taken. Council Member Whitney asked that the Council work toward a goal of setting salary caps. Council Member Papish asked that the Council also create certification requirements for positions to meet job requirements and/or create salary incentives.

**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 Laura Papish and passed unanimously.

**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 January 10, 2012 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 31st day of January, 2012.

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Liza Donabauer, City Clerk