

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

**CITY COUNCIL MEETING**

**MINUTES**

**JULY 10, 2012**  
**(Approved 7-24-12)**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, July 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, 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: Marvin Schauf, Fire Chief; Mary Schauf, Clearwater Fire Department; Paul Clark, Becky Schievelbien, Fall Festival Committee; Paul Rhodes, Times Sentinel; Rev. Chris Griffin, Patrick Braman; citizens.

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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 June 26, 2012**

City Clerk Liza Donabauer stated that the City Attorney had found a couple of errors that would be corrected. These changes included:

Page 5, 3<sup>rd</sup> paragraph, last sentence. The sentence was changed from “Amerine stated yes and explained that the Council will need to have a consensus in approving one of the resolutions” to “Amerine stated yes and explained that the Council will need to have a consensus in tabling the matter.”

**MOTION:** Council Member Lyle Berntsen made a motion to approve the minutes of the 6-26-12 City Council Meeting with changes. The motion was seconded by Council Member David FitzGerald and passed unanimously.

**2. Consent Agenda**

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

- 1) Authorization to pay invoice from PEC (\$9,317.92) for Storm Water Drainage Improvements at Indian Lakes Addition.
- 2) Authorization to pay invoice from PEC (\$9,885.10) for Paving Improvements at Indian Lakes Addition.

- 3) Authorization to pay invoice from PEC (\$249.78) for Water Line Improvements at Indian Lakes Addition.
- 4) Authorization to pay invoice from PEC (\$249.78) for Sanitary Sewer Improvements at Indian Lakes Addition.

3. **Mayor's Recommendations**

Mayor Mike York did not have any recommendations at this time.

4. **Public Forum**

No members of the public addressed the Council.

5. **Resolution Directed to Remove or Repair Dangerous Structure at 118 S. Byers  
New Agenda**

City Administrator Brown stated Sedgwick County Code inspector Willy Lynn has conducted an inspection of 118 S. Byers as requested by the property owner at the last Council Meeting. Lynn provided a report that is dated 7-09-12. The inspector found that the carport is not presently being maintained in a safe and sanitary condition. Lynn stated that he does believe that the carport could be salvaged and included a copy of the building code stating the requirements. The roofing materials do need to be replaced. This has been communicated with Pastor Chris Griffin and the property owner. Council Member David FitzGerald asked if the property owner is willing to bring the carport up to code. Griffin stated yes. Lynn also stated that a 30-day deadline was given. Griffin stated that they have not contacted a licensed contractor yet. Council Member David FitzGerald stated that the Council allowed other property owners time to repair their property. FitzGerald would expect the Council to give homeowner Braman the same consideration.

City Administrator Kent Brown stated that Griffin contacted H.D. Mills who will donate a dumpster to get rid of a shed and other items that need to be disposed. The Fire Chief will need to inspect Braman's house to determine whether it is in safe condition for firefighting purposes. An inspection needs to be done to determine whether the house is structurally sound. Richard Hardwell is a structural engineer. Administrator Brown stated that from the exterior of the house, Lynn stated that there are cosmetic changes that need to be taken care of. Lynn would not be able to provide a recommendation regarding the residential structure.

City Attorney Janet Amerine stated that there are two resolutions in the Council's packet. The first resolution (Option A) requires that both the shed and carport be removed. The second resolution (Option B) requires the shed to be removed and leaves the home and carport to be repaired under a licensed contractor's care and according to code. Attorney Amerine stated that she is recommending option B. Attorney Amerine instructed Griffin that a 30-day deadline has been given. As long as the property owner is cooperating and working with the City, the 30-day deadline could be extended. Council Member Jim Whitney stated that he wants the property owner to inform the City Administrator who the licensed contractor is that will be doing the work on the carport

and the home. Mayor Mike York asked that the property owner keep the City Administrator informed of the progress. Griffin stated that all of the trees have been removed that are required. The demolition of the shed will be next. Griffin stated that he would like to commend H.D. Mills for donating the dumpster. The only expense at this point is the cost of Gatorade for the workers removing debris at the residence.

Council Member Sandi Keeler stated that she is happy with the progress and asked that Braman keep up on the maintenance of his property. Keeler does not want to see Braman before the Council again for the same issue.

**MOTION:** Council Member David FitzGerald made a motion to approve Resolution 19-2012 (Option B). Council Member Laura Papish seconded the motion. The motion carried unanimously.

Resolution No. 19 -2012

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT EVEN LOTS 8 TO 16 INC., BYERS AVE., TRACY/BYERS ADD. IN THE CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS COMMONLY KNOWN AND REFERRED TO AS 118 S. BYERS AV., CLEARWATER, KANSAS IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED (REPAIRED) AND THE PREMISES MADE SAFE AND SECURE.

Council Member Sandi Keeler asked again that they keep the City Administrator up to date on the action. Griffin stated that the Council is welcome to contact him at the church as Braman does not have a telephone.

**6. Review Stage and Carnival Location, Parade Route, for Fall Festival Events**

Paul Clark, Fall Festival Committee President, stated that he provided a letter to the City regarding what the Committee would need from the City for the Festival. Council Member Jim Whitney asked if the Carnival would be open on Thursday. Clark stated that the Carnival would be open Thursday night, Friday night, and all day Saturday. The Carnival would set up their rides at approximately noon on Wednesday from Fourth Street to First Street. There will be more rides this year since the Committee is using a different carnival company. Council Member David FitzGerald stated that he is concerned about the street dance at the pool parking lot and the proximity of the four-way stop. Clark stated that he did not think it would be any different from previous years since the pool parking lot was used for vendor parking. Clark stated that they changed the location because parents wanted to be able to listen to music while the kids rode the rides. City Administrator Kent Brown stated that there is a concern that the carnival does not block the entrance to the Nazarene Church or Subway parking lot. Clark stated that this concern was shared with the Carnival Company when they did their site visit.

David FitzGerald and Mayor Mike York both expressed that they think the Committee's plans to consolidate the carnival is a good idea. Clark stated that the Mexican Restaurant has expressed an interest in having a concession stand at the

carnival. The Committee took into consideration the amount of support from downtown businesses and this was figured in the Committee's consideration. Council Member Sandi Keeler stated that the event sounded like fun.

7. **Clearwater High School Booster Club Request for Sponsorship**

City Administrator Kent Brown stated that in the past the Council has not supported this type of sponsorship. Consensus was reached regarding remaining status quo in its sponsorship participation.

8. **Ordinance Adding to and Amending Ordinance No. 844 Subdivision Regulations**

City Administrator Kent Brown stated that the subdivision regulations is a 40-50 page book that provides developers rules for how to develop their undeveloped property. The Planning Commission has been working on making changes for the past 4-5 months. The Planning Commission reviewed each of the regulations and recommended approval to the City Council. Council Member David FitzGerald asked if City Attorney Janet Amerine had reviewed the changes. Attorney Amerine stated yes. Amerine stated that the biggest change was in Section 8, which came about when the City worked with the Dugan property. A center part that was platted out did not have road access. The only road going to it would have been 95<sup>th</sup>. There were no internal roads. The planner John Riggs met with the developer and explained the importance of having internal roads. The subdivision regulations did not reflect the need for internal roads with an access. The subdivision regulations will now require an access road. This would allow for fewer disruptions on the main road. Council Member Jim Whitney stated that he wonders if developers do not want to come to Clearwater because of the City's requirement for an access road. There would be an extra expense for an access road such as in the Dugan case. Administrator Brown stated that the main concern for the Planning Commission was concerning entrances on a curve. Attorney Amerine stated that the subdivision regulations are to be used as a guideline. Amerine stated that if the developer is unhappy with what the Planning Commission has decided, the developer than can appeal to the City Council.

Council Member David FitzGerald asked if John Riggs worked with the Planning Commission concerning the proposed changes. Administrator Brown stated no.

City Administrator Kent Brown walked the Council through the additions and changes to the subdivision regulations due to the discussions at the Planning Commission Meetings. Brown explained that several definitions were added.

City Administrator Kent Brown explained to the Council that they could approve the ordinance, send it back to the Planning Commission for further review, or deny the changes all together.

Council Member David FitzGerald and Council Members Sandi Keeler and Laura Papish stated that they like the changes and the words.

**MOTION:** Council Member Lyle Berntsen made a motion to approve Ordinance 951 as written. Council Member FitzGerald seconded the motion and pass unanimously.

**ROLL CALL VOTE:** Berntsen yea, Papish yea, Keeler yea, Whitney yea, FitzGerald yea. Five Yeas. Motion carried.

City Attorney Janet Amerine explained that due to recent legislative changes, the City only needs to publish a summary version of the adopted ordinance, prepared by the City Attorney. The City is required to publish the full and complete version of the ordinance on the City website for a week and provide copies to the public if requested.

**9. First Review of 2013 Budget**

City Administrator Kent Brown introduced the topic by reviewing the process that staff and Council has done up to this point. Administrator Brown stated that if all of the requests by Department Heads were approved, the City would have to request \$775,245 in tax dollars. If the Council does not want to raise taxes, then the Council would have to cut \$89,870 from the proposed budget. Administrator Brown made recommendations of cuts that equate to \$144,990. Administrator Brown also provided some conservative revenue modifications, which add an additional \$35,000 to the budget.

Administrator Brown explained that the Council would not be able to make cuts in the Employee Benefits Fund. In addition, although the City refinanced a portion of its bonds, a temporary note for the Business Park will come due in mid-2013. Therefore, no cuts are recommended for the Bond & Interest Fund.

Council Member Laura Papish asked if it would be necessary for the City to add an ADA Chair as a second entry point. Administrator Brown stated that the best information is the City is okay with the current access to the pool. Council Member Jim Whitney stated that he is in favor of eliminating the ADA chair and work toward developing an ADA plan. Administrator Brown stated that he found a company in Missouri that has assisted other Kansas cities in performing an evaluation and developing an ADA plan. City Attorney Janet Amerine stated that the Department of Justice is most concerned about seeing a plan and making sure that the City is making efforts to meeting objectives in the plan. With consensus, the Council determined to set aside funding for the ADA plan. Council Member Lyle Berntsen stated that he would propose contacting John Staton to perform an inspection of the City's ADA requirements. City Attorney Janet Amerine stated it would take someone who can read and understand the ADA regulations and assist the City in preparing a plan.

City Administrator Kent Brown asked if the Council is in favor of making additional cuts in an effort to cut taxes. Council Member Jim Whitney stated that he is in favor of keeping the mill levy the same. The Council would be at risk to raise taxes in the future to compensate for cutting a few mills this year. Council Member Lyle Berntsen and Mayor Mike York agreed with Council Member Jim Whitney. Council Members Whitney and Berntsen stated that it does not mean that the City has to spend every dollar of its budget.

The consensus was to reduce the ADA Chair budget by \$1,500 and put the remaining portion of the budget into the ADA improvements within the general fund, which is to be earmarked for an ADA survey and plan.

City Administrator Kent Brown asked the Council what they have decided on the pickup truck and tractor, which was split in Special Highway, Water and Sewer funds. Brown also asked the Council if they are willing to do another 400 lineal feet of sewer relining. Brown noted that the City has over 60,000 lineal feet of sewer lines. Council Member Whitney is not in favor of making cuts to water and sewer. Council Member Laura Papish stated that she agrees. Administrator Brown stated that the Council has been on a pattern of raising its reserve approximately \$10,000 each year. Brown stated that the City has approximately \$80,000 in reserve in the Sewer Fund.

City Administrator Brown proposed a rate analysis study, which would inform the City on what its water and sewer rates should be. The study would likely indicate that the City should raise its rates to meet ongoing requirements to maintain the system's infrastructure.

Council Member Jim Whitney asked if the Police Department determined if it could operate with one fewer vehicles. City Administrator Kent Brown stated that he has not heard the Police Chief's final opinion. Administrator Brown stated that the nice thing about leasing a police vehicle is that the residual is \$1. A normal lease would have a much higher residual.

Council Member Jim Whitney stated that the public works department does not need a pick-up for every employee. Council Member Jim Whitney stated that if the Council concedes to give the police pick-up to the Public Works Department, it would eliminate \$8,000 out of the Special Highway, Water, and Sewer funds. The Public Works Department would not receive the police department's pickup until next year. Council Member Whitney stated that he would want a Request for Proposal (RFP) from three or four vendors for a new tractor. Council Member Whitney is not in favor of buying a tractor on the internet. Administrator Brown stated that the RFP would allow for a trade-in allowance. Council Members Lyle Berntsen and Laura Papish stated that they are in favor of the Parks Fund to pay for a replacement tractor since the tractor is used on City property. Council Member Jim Whitney stated that the City could not keep depleting its water and sewer funds. Council Member Laura Papish stated that she believes that the City needs to ask the Recreation Commission to support and fund some of the parks. City Administrator Brown and Council Member Laura Papish noted that they would like to ask the Recreation Director for a breakdown of what the regional game fees and parking fees are paying for.

The Council gave consensus for staff to prepare the budget publication for the newspaper.

#### **10. Proposal on Computer Software and Hardware for City Hall and Council Chambers**

Kent Brown, City Administrator, stated that he received quotes from Southern Kansas Telephone for new computers for the Council Chamber and the City Administrator's office. The computers would be purchased with 2012 budgeted dollars. Brown stated that he is also seeking a quote on a wireless security system. Council Member Sandi Keeler stated that Administrator Brown has received a good quote on the

new laptops. Brown explained that it would be approximately \$2,000 total for two laptops, software, and technical support to set up the computers. The cost to set up the secure wireless connection would be an additional cost.

**MOTION:** Council Member Sandi Keeler made a motion to authorize purchasing the two laptops, and the wireless security. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

Council Member Sandi Keeler stated that she has a good computer monitor that she could donate to the City Police Department if they are interested.

## 11. **Committee Reports**

The 6-05-12 and 7-03-12 Planning Commission Meeting minutes were distributed in the Council Packets for Council review. The 8-07-12 Planning Commission Meeting was canceled. The Park Commission is scheduled to meet on 7-16-12.

## 12. **Claims & Warrants**

City Clerk Liza Donabauer presented the claims and warrants as of 7-06-12 for \$44,209.44. Since that date, staff has received additional invoices, which can be seen in the memo dated 7-10-12. Staff would request that the Council also authorize payment of the additional claims for \$28,751.30.

**MOTION:** After discussion, Council Member David FitzGerald moved to authorize payment of the claims and warrants for \$44,209.44 in addition to the claims for \$28,751.30. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

## 13. **Old Business**

Council Member Sandi Keeler asked where the No Dumping Sign is located at 137 N. Lee. City Administrator Kent Brown stated that it was located in the middle of the lot. Keeler noted that the property is filled up again with salvage materials.

Council Member David FitzGerald stated that he would like to see the weeds at the intersection of Tracy/Wood to stay on the Old Business list. The weeds are tall again around the stop sign and windmill. FitzGerald would like to make sure that this keeps mowed or sprayed. Council Member Lyle Berntsen stated that part of the problem is that nobody lives near that intersection. City Administrator Kent Brown noted that the area is in the railroad right-of-way.

City Administrator Kent Brown noted that Mark Cox will mow the drainage pond. Council Member Jim Whitney asked who owns the property next to the senior apartments where the garden was planted last year. Council Member Jim Whitney noted that the property needs to be taken care of. City Administrator Kent Brown stated that he thinks that Cox no longer owns that property; it was traded to Ed Mikesell. Administrator Brown stated that he would find this out tomorrow.

City Administrator Kent Brown stated that Cole's Cuts has its hearing on 7-24-12. Council Member Sandi Keeler noted that the bottom row of siding is falling down now.

Council Member David FitzGerald stated that the southwest corner of Ross & Tracy needs work. City Administrator Kent Brown stated that the County would buy the material for the sidewalk to prevent it from falling down and would be working on a long-term plan.

Council Member Jim Whitney asked why the County did not repair the potholes when they sealed the road. Whitney also noted that the surface treatment did not seal any of the cracks. City Administrator Kent Brown stated that the County may be back tomorrow afternoon to do all of the parking spaces.

Council Member Laura Papish asked about the mulch for the City playground. Administrator Kent Brown stated that the borders have not been delivered yet.

Council Member Laura Papish asked about the wall along the bank property. City Administrator Kent Brown stated that Emprise Bank would contact their property caretaker to determine whether the wall would be replaced. The neighboring properties are not in favor of funding a repair.

Council Member Jim Whitney asked about the house along Gorin. A majority of the siding has been completed. Council Member Sandi Keeler stated that she has seen progress being made.

Council Member Laura Papish asked if the Department Head Reports agenda item could be moved before the Old Business and Claims. City Administrator Kent Brown stated yes.

#### **14. Department Head Reports**

Fire Chief Marvin Shauf stated that several grass fires occurred due to the fireworks.

Council Member Sandi Keeler asked City Administrator Kent Brown if his courtesy reminders regarding fireworks cleanup letters made any difference. Administrator Brown stated that he received one negative feedback and another citizen noted that the letter could have been rephrased. Otherwise, all property owners did clean up the streets from fireworks debris in front of their property within a day of receiving the notice.

#### **15. Staff Reports**

City Clerk Liza Donabauer stated that she and Carol would be attending the Region V Clerks Meeting in Cheney on 7-13-12. Donabauer stated that she received many compliments regarding the fireworks show on 7-04-12. Donabauer also stated that several citizens also asked who sponsored the fireworks show. Donabauer noted that perhaps the City should toot its own horn a little louder next year. Donabauer stated that Don Merten contacted staff to let them know that he just received the nuisance letter regarding his properties at Chisholm Ridge. It was mailed to an old address.

Attorney Amerine attended the City Attorney's meeting and report would be completed shortly.

City Administrator Kent Brown stated that the pool manager went to Sterling to pick up a Tiger Shark for the pool. The pool manager also got one repaired. The scoreboard on field 3 broke down during the tournament on Saturday. Sewer relining on North 4<sup>th</sup> will take place next Tuesday. It will be a 7-8 hour process. Four houses will be affected with no sewer service. City Administrator Kent Brown stated that Waste Connections would have a proposal for a recycling container at the Recycling Center. Waste Connections would be willing to give a presentation at the next Council Meeting.

A request has been made to use City Park for a car wash as a cheerleader fundraiser. Council Member David FitzGerald asked where they would get the water. FitzGerald stated that he would not like the cars on the grass. Council Member Lyle Berntsen stated that it would be simpler to hold the event elsewhere. Council Members Keeler and Whitney stated that they have no problem with them using the park; however, they cannot use the City's water and cannot go onto the grass. The consensus was to allow the group use of the City park parking lot.

## **16. Council Reports**

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

Council Member Laura Papish stated that she has nothing to report.

Council Member David FitzGerald noted that the City has sprayed between the blacktop and the curb in the street in previous years. FitzGerald asked if the City would do that this year. City Administrator Kent Brown stated that once a summer, the City does perform this function. The old and faded signs were removed throughout town except for one at the west end of town. City Administrator Kent Brown stated that he would get it rectified.

Council Member Jim Whitney asked if the City needs to send a note to the County regarding the potholes on 100 and 200 block of Tracy. Council Member Laura Papish asked if it is the City's obligation to fix the potholes if it fixes the street. Council Member Jim Whitney stated that he replaced the valve at the Sports Complex. Whitney will send a bill to the City for the part only. Whitney also noted that 3' of water was lost out of the big well.

Mayor Mike York stated that someone called to compliment the City for painting the railing into the Park Glen development. Brown noted that the homeowner's association bought the paint and city employees painted the railing.

## **17. Executive Session – Personnel Matters of Non-Elected Personnel**

**MOTION:** At 9:09 p.m., Council Member David FitzGerald made a motion to enter into executive session for personnel matters of non-elected personnel for 10 minutes. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

At 9:19 p.m., Council returned to regular session with no action taken.

**MOTION:** Council Member Sandi Keeler made a motion to give a pay increase for the City Clerk. Council Member Laura Papish seconded the motion. The motion carried unanimously.

**18. Electric- Jacobs Property at Business Park**

City Administrator Kent Brown stated that Westar Energy would extend power into the Business Park. However, the cost for extending power beyond the first 100 feet is the financial responsibility of the property owner. The Kansas Corporation Commission granted this ruling. City Attorney Janet Amerine stated that this ruling effectively stopped development out where she lives. Brown stated that the primary question for the City Council is to determine whether it wants single phase or 3-phase power. He questioned whether it is proper to require the property owner to pay for the cost of the electric if the power will serve the rest of the development. He asked the Council what tactic should be taken on behalf of the City. After discussion, it was determined that Brown will get options and present to the Council. Mayor York stated that this could become an issue. It is a long way from Fourth Street. City Attorney Janet Amerine stated that this could be an unanticipated cost to the development.

**19. 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 Lyle Berntsen and passed unanimously.

The Meeting adjourned at 9:17 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 July 10, 2012 City Council meeting.

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

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Liza Donabauer, City Clerk