

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

NOVEMBER 27, 2012

(Approved 12-11-12)

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, November 27, 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, 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: Jeff Fawcett, Waste Connections; Wade Smith, citizen; Baylee Fowler, Amanda Seiter; Clearwater High School Government students.

Mayor York called the meeting to order at 6:30 p.m. York gave the invocation, which was followed by the Pledge of Allegiance. The Clerk called the roll to confirm the presence of a quorum.

1. Approval of the Minutes of the Regular Meeting of November 13, 2012

MOTION: Council Member David FitzGerald made a motion to approve the minutes of the 11-13-12 City Council Meeting. The motion was seconded by Council Member Laura Papish and passed unanimously.

2. Consent Agenda

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

1. Authorization to pay Westar (Charge Order #104337, \$10,763.64) for City's portion of cost of the three-phase underground primary line extension into the Clearwater Industrial Park.

3. Mayor's Recommendations

There were no recommendations presented.

4. **Public Forum**

Jeff Fawcett, Waste Connections, introduced himself and stated that he brought a copy of the "First Amendment to Service Agreement for Residential Services" as a follow-up of Herschel West's presentation on 11-13-12. Council Member Laura Papish stated that she had a citizen ask her about Waste Connection's new automated service. The citizen's concern was about the service charge. Since Waste Connections will now only have to come to Clearwater once a week, the citizen felt that the service charge should decrease. The new automated service will save manpower and gasoline for Waste Connections. Fawcett explained that fuel costs have increased \$0.75/gallon this year and Waste Connections will have to replace the trash carts so that they are suitable for the new service. Council Member Lyle Berntsen stated that he has not heard any citizen complaints. Council Member Jim Whitney asked what would happen if a citizen is unable to get their trash cart to the curb. Fawcett stated that Waste Connections is willing to help or work with the citizens that are elderly or disabled and cannot get their recycle to the curb. Council Member David FitzGerald asked how Waste Connections will accommodate those that live on streets where lots of cars are parked (i.e. during a funeral). Fawcett stated that the driver would have to come back later in the day to service the trash.

Council Member David FitzGerald stated that the City could grade the alleys and get them filled in where the trash trucks have done damage to the alleyways. This may pave the way for those customers that may have to make the change.

Jeff Fawcett stated that Waste Connections would make accommodations in order to make this as seamless as possible during the first transitional month.

Mayor Mike York asked Fawcett about the service pickup time from 6:00 a.m. to 5:00 p.m. Fawcett stated that he is not aware of the route. York stated he does not wheel his cart out until 6:30 a.m. Fawcett stated that the route could change temporarily if the main driver is on vacation. He stated that Waste Connections could develop a map which would divide the route into quadrants. Fawcett stated that Waste Connections requests citizens to bring their trash cart out to the curb the night before pick-up. This would prevent the carts from being missed on service day. Fawcett will talk to the route supervisor about their policy if there is a lot of congestion on a street. Council Member David FitzGerald asked about the procedure on the lid. Fawcett stated that Waste Connections would ask citizens not to bungee strap their lids because the goal of going automated is not to get the driver out of the vehicle.

City Administrator Kent Brown reminded the Council that they approved the Mayor's signature on the amended agreement with Waste Connections for automated trash service at their 11-13-12 Meeting.

5. **Notice of Public Hearing for 2012 Budget Amendment**

City Administrator Brown stated that the proposed budget amendment is in the packet. It is an annual cleanup procedure. The amended budget does not require additional tax money and will not change taxes. He identified two funds that will require transfers due

to exceeding their budgeted expenditures: Library to Library Employee Benefits Fund and the General Fund to the Employee Benefits Fund.

With Council authorization, the Notice of Public Hearing will be sent to The Times Sentinel for publication in the 11-29-12 newspaper. The Public Hearing would be held on 12-11-12 at the City Council Meeting.

MOTION: Council Member David FitzGerald made a motion to set the public hearing to hear the 2012 Budget Amendment for 12-11-12. Council Member Sandi Keeler seconded the motion. The motion carried unanimously.

6. **Engineering Contract for Water/Sewer Plans for Commercial Properties at Indian Lakes 2nd Addition**

City Administrator Kent Brown stated that petitions for the water and sewer plans for the Commercial Properties at Indian Lakes 2nd Addition were received by the Council at their 11-13-12 Meeting. The contract is to extend the water and sewer lines to the commercial lots along Ross Avenue. The plat was approved at that same meeting. This is a typical engineering contract. The most important aspect is found on page 7, Payment Provision. The fee for the sanitary sewer is \$8,600 and the water line fee is \$10,300. The fees are still due if the project is not constructed for any reason. The contract administration fee is \$2,800. Inspection fees are \$9,000 each for the sanitary sewer and the water line. They are looking for three weeks of construction for each. City Attorney Janet Amerine was able to review the document and she approved as to form.

Council Member Jim Whitney inquired about the high design fees of \$18,900 and inspections fees of \$18,000. City Administrator Kent Brown stated that the estimated construction costs for water was \$106,717.50 and \$80,100 for the sewer. The engineering fees were included in the estimated costs. Amerine stated that in previous contracts, the City Council has not seen the fees broken out as they are in PEC's contract. It typically has been presented in a lump sum. City Administrator Brown stated that Harlan Foraker typically charges an hourly rate. PEC is proposing a "not to exceed" amount. Council Member Jim Whitney asked if PEC is Mikesell's engineer. Brown stated yes. However, PEC is working with the City on this project. Typically engineering costs are 6-10% of the total project cost and inspection fees are another 8-10% of the total project cost. Administrator Kent Brown stated that Council could provide direction that the City does not want PEC on the site 44 hours a week (as proposed in agreement). Council Member Jim Whitney stated that if something goes awry, then PEC could blame it on the City for not wanting them onsite for full-time inspection services. Mayor Mike York stated that over the long haul, the inspection fees are worth it. Council Member Laura Papish stated that the City's only option is to get a bid from someone else.

MOTION: Council Member Laura Papish made a motion to authorize the Mayor's signatures on the contract for engineering services between the City and PEC. Council Member David FitzGerald seconded the motion. The motion

carried unanimously.

7. **Follow-Up of Intergovernmental Agreement with Sedgwick County -4th Avenue Street Project**

City Administrator Kent Brown provided referred to Alternate 2 which was provided to the County and City regarding the mill and overlay project on Ross Avenue. At the 11-13-12 Council Meeting, the Council had expressed concerns regarding what the potential maximum costs could be. The agreement total is \$250,000: \$200,000 for the Ross Avenue project and \$50,000 for the Tracy and Ross intersection project. The Council had also expressed concern in regard to the valley gutter at Tracy and Ross. City Administrator Brown stated that the point person on this project said that there will be a lot of latitude on this project. The County knows that the City wants the best solution and wants to get the most bang for the buck. The County is allowing the City to work with Harlan Foraker to determine the best solution. The County's interests are the same as the City's. There is a 50/50 cost share on that intersection. If the cost is more than \$100,000, the City could decide to call off the project. This provides latitude to the City. Brown stated that the primary concern for the County is that the county specs are followed. They are more of the overseer on this part of the project.

City Administrator Kent Brown stated that the Council had concerns regarding the utility relocation and related costs at Fourth Avenue. The Council does not want the City, or its residents, to be responsible for the utility relocation costs. Brown stated that the County has not completed a title search yet; however point person at the County had explained that they very sure that there would no costs to the City for moving a gas line. Brown explained that there is not a private easement for Kansas Gas Service. The City would have to pay to move it off that easement to move it out of the right-of-way. The current facilities that would have to be moved are in a public easement. The \$200,000 that the city would be responsible for is a high number. Even on the storm water project, the City can work with Harlan on the design of the project. The city gets to provide input. This project would be let at the end of 2014; construction to occur in 2015.

Council Member Jim Whitney asked if Kansas Gas Service would be responsible for the costs to move the line. City Administrator Kent Brown stated yes. City Attorney Janet Amerine asked if the resident's meters were moved closer to the road or their homes. Council Member Jim Whitney stated that the meters were moved closer to the residents' houses. Whitney stated that a citizen showed him a bill for moving a gas meter 60 feet. City Attorney Janet Amerine stated that she thinks the customers were charged to move the meter, not the line. City Administrator Kent Brown stated that the proposal was written before the meters were moved. Brown stated that staff would look at the franchise agreement regarding costs to move meters and a line. Council Member Jim Whitney does not want Westar to come back to the City stating that they have to move the gas meters again.

MOTION: Council Member David FitzGerald made a motion to table this agenda item

to later in the meeting until the City Attorney Amerine is able to review the franchise agreement. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

8. Alcoholic Beverage License for Cancun Mexican Grill for Consumption on Site

City Clerk Liza Donabauer stated that Cancun Mexican Grill recently applied for their state license to serve alcoholic beverages on site. The Clearwater Police and Fire Departments have been alerted of the application status. City Attorney Janet Amerine stated that the City does retain a license fee which allows the City to try offenses in its court. The City collects the maximum fee of \$250.00

MOTION: Council Member Jim Whitney made a motion to approve the alcoholic beverage license for Cancun Mexican Grill. Council Member David FitzGerald seconded the motion. The motion carried unanimously.

9. Follow-Up from Joint Recreation Board/City Council Meeting on 11-14-12 RE: Aquatic Center Operations

Council Member Laura Papish stated that the bond for the pool will be paid off in May of 2013. This was a 20-year bond and it will be paid off in 13 years. Council Member Jim Whitney stated that he had four calls from citizens today who expressed concerns about pool hours and general operations.

The Council engaged in a discussion about the Aquatic Center and its operations. The Council directed staff to wait for a proposal from the Recreation Commission before making any decisions.

10. Authorization to Proceed with Obtaining FundBalance Cash Receipts Program for Purchase in 2013

City Clerk Liza Donabauer stated that she presented a request to purchase the FundBalance Cash Receipts program as part of the 2013 budget year. The City Auditor recommends the program. FundBalance has offered to install the program in 2012 and bill for it in 2013 to accommodate the City's budget. The quote, as seen in the Council's agenda packet, is less than what was originally quoted in July, 2012 due to less training hours and a lower annual maintenance cost. Staff is requesting the Council's authorization to pursue installation of the Cash Receipts program. Council Consensus was provided.

City Attorney Janet Amerine noted that the product has a 30-day satisfaction period. So ultimately, the product is on a trial basis prior to the budget year.

11. Department Head Reports

No Department Heads addressed the Council.

12. Committee Reports

The 11-06-12 Planning Commission Meeting minutes were distributed in the Council Packets. The Planning Commission set for 12-04-12 has been moved to 12-13-12 for a Zoning Variance Hearing regarding parking spaces for the Dollar General retail store. The 12-17-12 Parks Commission Meeting was canceled.

13. Claims & Warrants

City Clerk Liza Donabauer presented the claims and warrants as of 11-25-12 for \$30,016.46. Since the Monday cut-off date, six claims were received for a total of \$12,114.21. Donabauer requested that the Council authorize payment of all claims for a total of \$42,130.67.

MOTION: After discussion, Council Member Laura Papish moved to authorize payment of the claims and warrants for \$42,130.67. The motion was seconded by Council Member Jim Whitney and passed unanimously.

14. Old Business

Council Member David FitzGerald asked why the Senior Center Director job opening is not listed on Channel 2. The position is advertised with The Times Sentinel, the City website, Facebook page, and with the Sedgwick County Department on Aging. Council Member David FitzGerald would like it added to Craig's list and Channel 2.

Council Member Jim Whitney stated that Park Glen mowing has never been done. City Administrator Kent Brown stated that the property owner was notified; so the City could mow it and the property owner could be charged.

Mayor Mike York asked about the property at 250 S. First. City Administrator Kent Brown stated that they have been notified regarding the trash in their yard, and their automobile. A Police Officer made contact with the individual.

15. Staff Reports

City Clerk Liza Donabauer stated that she would like to request an executive session at the end of the meeting. Otherwise, she has nothing to report.

Attorney Amerine stated she has nothing to report.

City Administrator Kent Brown read an emailed report from the Police Department. The mobile units will be operational within a week and installed in the assigned vehicles. The Police Department also reported that letters were sent to a few residents about illegally parked vehicles. The semi-truck trailer parked in the alleyway in the 100 block of South Lee has been addressed and will be towed in the next week. City Attorney Janet Amerine stated that the trailer is abandoned property. Council Member Sandy Keeler suggested that the Police Department acquire the trailer and use it for storage. Then the Department would

be able to get rid of their storage unit. City Administrator Kent Brown stated he would discuss this issue with Police Chief Gene Garcia.

Officer Rebekah Schauf has scheduled a free child protection seat event on 12-01-12. Court Clerk Jo Johnson and Officer Schauf have an appointment to have a CPTED meeting with a local business.

City Administrator Kent Brown will be attending a County Commissioner meeting to discuss annexation for two properties. The state-wide conference for city managers is in Dodge City and Administrator Brown will be attending that from 12-05-12 to 12-07-12.

Administrator Brown reminded Council that employee evaluations are coming up in January. Council Member Laura Papish asked if the review of the evaluation would take place outside of a Council Meeting. Administrator Brown stated that it can be a work session or held after a short Council Meeting.

16. **Council Reports**

Council Member Lyle Berntsen stated that he was driving through Chisholm Ridge and noticed that a resident is driving over a storm drain. The homeowner has a rock driveway to the back of his yard. There are chunks missing out of the catch basin. City Administrator Brown stated that there needs to be a curb cut at the location of the rock driveway. Staff will look into this so there is no flooding problem for other residents.

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

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

Council Member Jim Whitney stated he had nothing to report.

Council Member David FitzGerald stated that he had nothing to report.

Mayor Mike York stated that he had nothing to report.

Mayor York called for a five minute break at 8:03 p.m.

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

City Clerk Liza Donabauer requested that the Council and City Administrator Kent Brown meet in Executive Session to discuss personnel matters of non-elected personnel.

MOTION: At 8:07 p.m., Council Member Lyle Berntsen 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 David FitzGerald and passed unanimously.

At 8:17 p.m., Council returned to regular session with no action taken.

Staff will forward franchise agreement to Attorney Janet Amerine for her to review.

Mayor York recommended appointing Sharon Lampe for the Billing Clerk/Receptionist. The above appointment of Sharon Lampe was accepted with Council consensus.

18. 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 David FitzGerald and passed unanimously.

The Meeting adjourned at 8:18 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 November 27, 2012 City Council meeting.

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

Liza Donabauer, City Clerk