

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

**CITY COUNCIL MEETING**

**MINUTES**

**FEBRUARY 12, 2013**

**(Approved 2-26-13)**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, February 12, 2013, 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, Sandi Keeler, Council Members. Council Members David FitzGerald and Laura Papish were 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, Mary Schauf, Clearwater Fire Department; Donald Schauf, EVS Director; Pamela Riggs, Senior Center Director; Kylie Cain and Chris Griffith, 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 January 22, 2013**

**MOTION:** Council Member Sandi Keeler made a motion to approve the minutes, with corrections, of the 1-22-13 City Council Meeting. The motion was seconded by Council Member Jim Whitney and passed unanimously.

**2. Consent Agenda**

**MOTION:** On a motion by Council Member Jim Whitney, second by Council Member Sandi Keeler, all voted to approve the Consent Agenda:

1. Authorize Payment to Clearwater Area Chamber of Commerce for 2013 Membership; Gold, plus Business Associate (\$675.00)

**3. Mayor's Recommendations**

Mayor Mike York made the following recommendations:  
Appoint Rachael Bell, as Clearwater Public Library Board Member.

The above appointment of Rachael Bell was accepted with Council consensus.

**4. Public Forum**

Pastor Chris Griffin stated that he finished the carport at 118 S. Byers with a new roof and siding. Griffin stated that the property owner will schedule completing the foundation work at the end of March.

Pamela Riggs, Clearwater Senior/Community Center Director, introduced herself and talked about offering new computer and cooking classes at the Community/Senior Center. The Center will soon offer a few classes on cooking for one, cooking for diabetes, and healthy cooking. The Department on Aging has installed a new computer with electronic sign-in at the Center. The seniors like the new login process rather than writing their names in an attendance book. She stated that attendance numbers are increasing for Center activities. The Center has seen an increase in numbers at the monthly luncheons.

**5. Approve the Temporary Note Sale Purchase**

City Administrator Kent Brown stated that this is the temporary note sale for the improvements along the commercial properties on Ross Avenue. The documents regarding the temporary note are in the Council notebooks.

**MOTION:** Council Member Lyle Berntsen made a motion to approve the sale of the temporary notes for the City of Clearwater. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

**6. Resolution Authorizing and Directing the Issuance, Sale, and Delivery of General Obligation Temporary Notes**

City Administrator Kent Brown stated that this resolution authorizes the sale of the general obligation temporary notes, series 2013-1.

**MOTION:** Council Member Sandi Keeler made a motion to adopt Resolution 7-2013 as presented. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

Resolution No. 7-2013

A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2013-1, OF THE CITY OF CLEARWATER, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND

AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

7. **Approve the Statement of Final Costs for the Business/Industrial Park Infrastructure and Establish a Date and Time for a Public Hearing on Proposed Assessment for Such Project**

City Administrator Kent Brown explained that the Council would be approving the assessment schedule for the property owners within the business park tonight. Most of the property within the business park is currently owned by the city. The special assessments would start in December 2013. The sale of the general obligation bond will occur before the 4-01-13 due date of the temporary note. Tonight, the Council would also establish a date and time for the public hearing on the proposed assessments.

**MOTION:** Council Member Lyle Berntsen made a motion to authorize and accept the statement of the final costs and proposed assessment rolls and set the date of the public hearing for 2-26-13. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

8. **Agreement – Operations at City Park Concession Stand**

City Administrator Kent Brown stated that the Council directed staff to post a rental sign at the City Park Concession stand. Administrator Brown has received an inquiry from Kylie Cain who would like to work with the city. Kylie Cain is in the process of purchasing the Sno Zone and the equipment from the previous owners. Cain is present to answer any of the Council's questions. Kylie Cain has received a copy of the agreement from the previous year.

**MOTION:** Council Member Lyle Berntsen made a motion to approve the agreement with Kylie Cain for the operation of the Sno Zone at the City Park. Council Member Sandi Keeler seconded the motion. The motion carried unanimously.

9. **Follow-Up of 2-06-13 Joint Meeting Between School Board, Recreation Commission, and City Council**

City Administrator Kent Brown stated that staff has continued to research the sports complex as recently discussed at the 2-06-13 joint meeting between the School Board, Recreation Commission, and the City Council. Staff had understood that due to a grant agreement in the 1980s the City would be unable to sell or lease the property to another entity. Since the joint meeting, staff has found that this is not the case. The sponsoring entities for the grounds at the sports complex have to make sure the grounds remain used for outdoor recreational use. The School and Rec Board seem interested in transferring all, or a

portion, of the interest of the property over to their responsibility. Each party has a different idea regarding the level of service for activities at the sports complex. The boards have agreed to look into the possibility of a different arrangement. City Administrator Brown and City Attorney Janet Amerine are continuing to research all related paperwork to determine whether there is any “out” to the arrangement.

The aquatic center bond will be completed this year. The Recreation Commission is interested in looking to utilize the funds in another way. Council Member Jim Whitney stated that if the city can sell the Sports Complex and grounds, he would like to sell it all to the School District. The School District has a larger tax base. Whitney stated that in a discussion with the public works director, Ernie Misak, transferring the sports complex to the school district would eliminate the need for 2-3 temporary summer help. There would also be less wear-and-tear on the city’s mowing equipment. The transfer would allow the public works department to turn their attention to improving the City Park. Public Works Director Ernie Misak stated that he is not in favor of “lease” arrangements.

City Attorney Janet Amerine asked if the City owed on the lights and scoreboard. City Administrator Kent Brown stated that they are paid in full. Council Member Jim Whitney stated that the City would need to maintain the easements for the sewer line. City Attorney Janet Amerine explained that she would put a reverter clause in the agreement that states if there were a change in the use of the property from public outdoor recreation to private use, then the property would revert to the City. Attorney Amerine plans to go to the courthouse and research all paperwork related to this property. Attorney Amerine explained that Kansas law requires that land use restrictions appear on the deed or on a restrictive covenant.

Council Member Jim Whitney stated that the Boards are looking for an immediate answer. He noted that he is only in favor of an “all or nothing” deal regarding the school district taking over the property at the sports complex. He is not in favor of allowing the school to take a portion(s) of the property. Attorney Amerine stated that she heard the Recreation Board is willing to pay for the grant. Attorney Amerine stated that she would include language in the agreement stating that the School must purchase all 48 acres and must be willing to buy out the original grant if necessary. Council Member Lyle Berntsen and agreed that it should be an all or nothing deal. Council Members Berntsen and Whitney also agreed with Attorney Amerine about adding language to the deed that if the property is used for anything other than outside recreation, the property would revert back to the City.

City Attorney Janet Amerine stated that in looking at the big picture, the sports complex would connect the Middle School and High School properties. City Administrator Kent Brown stated that this is why it would be important to have a reverter clause in the contract. He explained that the Recreation Commission cannot purchase property; however, they can own property if it is donated. Council Member Jim Whitney asked if a reverter clause would still be relevant if the property was donated.

City Administrator Kent Brown asked if the Council Members were okay with staff pursuing this issue. The consensus of the Council was affirmative.

City Attorney Janet Amerine stated that the city would retain the water rights. The school would have to pay the water, and lease the water rights from the city. Administrator

Brown stated that this is something that staff would have to research.

City Attorney Janet Amerine will look at the deed. City Attorney Amerine stated that City Administrator Brown should pursue the federal and state applications that affect this deed. Administrator Brown should also inform the School Board that the City would require the acquisition of all 48 acres and its use would be restricted to outside recreation.

**10. Request from HS/MS Cross Country to use Disc Golf Course for 4-20-13 Tournament**

Kent Brown, City Administrator, stated that he received a request to utilize the city disc golf course property to host a tournament. Council Members Whitney and Berntsen stated they are in favor of allowing someone to utilize the property.

**11. Review Annual Changes in Monthly Sewer Rates**

City Administrator Kent Brown stated that the City has an escalator of 1% each year for water rates in January and sewer rates in March. Administrator Brown distributed a chart with a graph to show cash reserves for the sewer and water funds. He explained that tonight's discussion is initiated by the City Auditor's advice during his 2011 audit review.

City Administrator Kent Brown explained that there was an increase of 11 cents for water in January due to the code. There will be a 20-cent base rate increase in March for sewer usage. The rate is applied each month to residences and businesses. The chart shows the cash balance in the sewer fund from 1997-2012. There was a spike in the cash reserves in 2003-2004 due to the sewer lagoon project. The funding for the project at that time provided an excess of funding for the construction of the project.

Council Member Lyle Berntsen asked for a recommendation on a percentage increase. City Administrator Kent Brown stated that he does not have a certain percentage in mind. The City does provide recycling, water, sewer, EMS, and trash services for a little over \$60 for an average family of four. Council Member Jim Whitney stated that in comparison with cities similar in size, Clearwater was in the lower third percentile in having the lowest utility rates.

City Administrator Kent Brown stated that it is not definite that the City will be allowed to discharge into the river for the long-term future. It is also unknown on whether the City will have to search for open ground as a place to discharge. He cautioned that if the city has to take other actions in sewer treatment, there would be significant additional costs. He stated that the 20-cent annual increase in sewer is minimal. The 11-cent increase in water is also minimal. Council Member Whitney stated that an increase in the water rates is needed with the upcoming challenges. Council Member Jim Whitney stated that the City may have to do some exploratory drilling to look for additional wells. The City may also have to consider purchasing additional water rights in the near future if the City continues to grow. Whitney further stated that he would be in favor of a 2% increase this year on top of the 1% standard increase.

Public Works Director Ernie Misak stated that increasing the rates by 10% with approximately 800 customers would only provide an additional \$160-180 in monthly

revenue. He stated that this is not adequate in building the reserves for the City.

More discussion ensued about raising the water and sewer rates.

City Attorney Janet Amerine stated that the sewer is the only topic on tonight's agenda. The water would have to be added to a future agenda if the City Council wants to consider raising water rates as well.

City Administrator Kent Brown stated that the City would keep paying on the sewer pond expansion until 2023.

There was a brief discussion on water and sewer taps. Public Works Director Ernie Misak stated that staff could do some research on what other communities are charging. In conducting research, staff will differentiate those cities whose city employees are digging, tapping, and doing the work, from the cities allowing others to tap into the city's sewer line. He noted that the water and sewer tap fee will not generate a lot of revenue but is worth noting. City Attorney Janet Amerine stated that in drafting the ordinance, she could leave the fees for the sewer tap blank.

City Attorney Janet Amerine stated that she would have the amending ordinance ready for the next Council meeting. The drafted ordinance will reflect an increase in the base sewer rate at \$1 as well as the 1% annual increase that is already in place.

## **12. Set Date for Spring and Fall City Wide Clean-Up Weekend**

City Administrator Kent Brown stated he spoke with Waste Connections about scheduling the spring clean-up for the third week in April (4/19-4/20/13). City Administrator Brown is also looking at scheduling the third weekend in October (10/18-10/19/13) for the fall clean-up.

## **13. Budget Calendar**

Liza Donabauer, City Clerk, presented the 2014 budget calendar for the upcoming ten months. Shortly following the City Council election, the department heads will present their budget requests. This will be a good time to schedule a tour for new and existing Council members to help determine the goals and objectives for the following year's budget. The budget calendar is laid out in such a way to meet publishing requirements and the State's budget deadline of 8-25-13. The 2013 budget amendment process has also been laid out in the event a budget amendment is necessary. City Clerk Donabauer asked the Council Members if they wanted to select a date for the tour and workshop tonight or after the new Council members have come on board. Council consensus was to wait until after elections.

## **14. Department Head Reports**

Donald Schauf, Director of EMS, stated that he received two bids for the new ambulance. They are within \$200 of each other. The bids will be presented at the next Council Meeting. Osage Ambulance has indicated that it would be a 5-month process to build the ambulance. Staff is allowed to go to the factory to watch the building process. An

inspection would be performed. Osage Ambulance will have a demo at the EMS building on 2-23-13 at 7:00 p.m. Council Member Jim Whitney asked if the other ambulance is fixed. Schauf stated yes.

Police Chief Gene Garcia provided the following update:

- There have been quite a few cases generated by the SRO during the past month.
- There were eleven cases since the last Council Meeting: 70% were generated within the city limits, and 30% were outside the city limits.
- The officers went out this weekend and personally contacted those with trailers and cars that are parked in front yards.
- Council Member Jim Whitney stated that a person wanted him to pass along a “thanks” to Officer Riggs on finding out who ran a car through his fence.
- An officer arrested a burglar that will be tried by the County through the district court. The burglar was caught in the act by a Clearwater citizen.
- Officer Haynes was instrumental in assisting the county in the apprehension of a suspect in a stolen vehicle. The Sheriff sent a nice letter commending Haynes.
- There was discussion about having cameras at the City Park and how important this will be when the new tree house is placed in the park.

Public Works Director Ernie Misak provided the following update:

- The County is replacing a bridge east of town between Hoover and 103rd. Public Works had to go out and find the water line. The county stated that the city does not have an easement there. Public Works Director Misak is concerned that the bridge will be 90’ longer and 10-12’ wider. There is cause for concern with the water line becoming exposed.
- The water line at Indian Lakes should be in this week. Tests will be run. The sewer line is in.
- Wastewater samples for BOD and TSS tested below the maximum levels required. Public Works will be pulling a second sample tomorrow. The salts and the chlorides were still at 300. The City has only been discharging for nine days.
- The high school baseball field needs more keel on the warning track. This will cost approximately \$1,000 and will go on the other two fields as well.
- The John Deere mower has been repaired and the door on the northwest side of the old shop needs repair.
- Public Works has also fixed some humps on the south end of Tracy and will do more milling as weather permits.

## **15. Committee Reports**

The 12-13-12 Planning Commission Meeting Minutes were included in the Council’s packets for their review. The Planning Commission met on 2-05-13. City Administrator Kent Brown provided a workshop for the new and existing Planning

Commission Members, which touched on topics such as Roles and Responsibilities of the members, and a brief overview of the Comprehensive Plan, Subdivision Regulations, and the Zoning Ordinance. The following committees are scheduled to meet and are open to the public to attend:

Planning Commission: Meeting scheduled for 3-05-13

Park Advisory Board: Meeting scheduled for 2-18-13

#### **16. Claims & Warrants**

City Clerk Liza Donabauer presented the claims and warrants as of 2-08-13 for \$48,208.66. Since the Friday deadline, additional claims were received for \$360.98. Donabauer requested that the Council authorize payment of \$48,569.64.

**MOTION:** After discussion, Council Member Sandi Keeler moved to authorize payment of the claims and warrants for \$48,569.64. The motion was seconded by Council Member Jim Whitney and passed unanimously.

#### **17. Old Business**

Council Member Jim Whitney stated that the old house at 210 S. Gorin has been sold. Whitney reported that the porch has since been removed. City Attorney Janet Amerine stated that as long as the new owner has started demolition by 3-01-13 then this satisfies the start of the demolition process. The house now needs to be demolished by 4-01-13.

#### **18. Staff Reports**

City Clerk Liza Donabauer asked the City Council to allow Carol Reitberger and herself to attend the CCMFOA Spring Conference from March 12-15, 2013. Each conference provides great content, but they have found that meeting other City Clerks and Deputy City Clerks provides them with a wealth of information. Early registration for the conference is \$250, otherwise \$310. With consensus, the Council authorized Reitberger and Donabauer to attend the conference.

Attorney Amerine stated that she has nothing to report.

City Administrator Kent Brown stated that the bridge south of town would be closed for a week. The Monkey Tree House is nearing completion. The group would like the tree house delivered at the end of March with a grand opening at a later date. Jason Martin, on behalf of the fundraising committee, will do the base.

Brown reported that the Industrial Working Group met last week. The members met and were given information and have decided to move forward with marketing the business park.

City Administrator Brown requested a 15-minute executive session for personnel matters of non-elected personnel with Police Chief Gene Garcia.

**19. Council Reports**

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

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

Council Member Jim Whitney stated that he had nothing to report.

City Clerk Liza Donabauer stated that Council Member Laura Papish came in earlier today to discuss a concern about 135<sup>th</sup>. She inquired as to whether test results have been provided to the city. City Administrator Brown sent an email to David Spears with Sedgwick County. The results of the tests will be in at the end of March or beginning of April.

**20. Executive Session - Personnel matters of non-elected personnel**

**MOTION:** At 8:16 p.m., Council Member Sandi Keeler made a motion to enter into executive session for Personnel matters of non-elected personnel for 15 minutes and invite Police Chief Gene Garcia. The motion was seconded by Council Member Jim Whitney and passed unanimously.

At 8:31 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 Sandi Keeler moved for adjournment. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

The Meeting adjourned at 8:33 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 12, 2013 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 26th day of February 2013.

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Liza Donabauer, City Clerk