

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

August 14, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 14, 2007, 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 Justice, Mayor, Mike York, Lyle Berntsen, David FitzGerald, Judy Armstrong, and Jim Whitney. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Janet Amerine, City Attorney and Marvin Schauf, Fire Chief. Others present at the meeting were Lonnie Stieben, Mary Schauf, and Jim Wells, citizens.

Mayor Justice called the meeting to order at 6:30 p.m. Justice 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 July 24, 2007

City Administrator Brown referenced an error in the motion for extending the temporary notes for Chisholm II. City Clerk Wright referenced an error in the discussion of the Kansas Gas Service Franchise agreement.

MOTION: Council Member FitzGerald made a motion to approve the minutes of the meeting with corrections. The motion was seconded by Council Member Armstrong and passed unanimously.

2. Mayor's Recommendations

There were no appointments or resignations.

3. Public Forum

Marvin Schauf, Fire Chief, reported that there was a hot water tank fire that morning. There were minor damages since the homeowner noticed the fire early. Schauf stated that he

noticed that there were no fire detectors in the house. Schauf requested a notice be included in the next newsletter stating, "that every house should have smoke detectors". Mayor Justice suggested that in the meantime it could be added as a message on the utility bill. Schauf also stated that he has had several calls concerning the smell of natural gas and has not been able to find the source. The Council briefly discussed with Schauf the frequency of residents reporting the smell of natural gas and that the gas company has not detected any cause other than over odorizing.

4. Public Hearing Chisholm Ridge II Water, Sanitary Sewer, and Paving Assessments

At 6:47 p.m. Mayor Justice opened the public hearing for Chisholm Ridge II water, sanitary sewer and paving assessments.

At 7:35 p.m. Mayor Walker closed the public hearing for Chisholm Ridge II water, sanitary sewer and paving assessments.

5. Ordinance – Levying Special Assessments for Chisholm Ridge II Water, Sanitary Sewer, and Paving-and Providing for the Collection of Such Special Assessments

Mayor Justice stated that the ordinance is the legal document that sets the special assessments for Chisholm Ridge II water, sanitary sewer, and paving. City Clerk Wright assigned Ordinance No. 880. Wright stated that the ordinance is published in the Times Sentinel, letters would be mailed, and the homeowner has 30 days from date of publication to pay the assessments. After the 30-day period the bonds will be sold and principle and interest will be submitted to the Sedgwick County Clerk.

MOTION: Council Member FitzGerald made a motion to approve Ordinance No. 880 levying special assessments for Chisholm Ridge II. Council Member Whitney seconded the motion and it passed on a roll call vote of 5 to 0.

6. Public Hearing 2008 Budget

At 6:47 p.m. Mayor Justice opened the public hearing for the 2008 City of Clearwater budget.

City Administrator Brown stated that the information from the forms that the Council has been reviewing is transferred to the State form and that is the document that is signed and sent to the Sedgwick County Clerk. Brown referenced the Notice of Budget Hearing sheet stating that the budgeted expenditures for 2008 are \$3,013,942, including the cash carry over, of which \$600,101 would come from ad valorem tax (property tax). Based on the valuation provided by the Sedgwick County Clerk the tax rate for 2008 is 43.878 down from 44.294 in 2007. Brown reviewed that the Council stated at the last meeting they wanted a

tax rate 2007 that was the same of less than 2008. Brown explained some of the processes that staff went through to reach the 2008 budget.

At 7:37 p.m. Mayor Justice closed the budget hearing for the 2008 budget.

MOTION: Council Member Berntsen made a motion to adopt the 2008 budget as presented. Council Member Armstrong seconded the motion and it passed unanimously.

7. Award Bid for Lease Purchase Financing for Pumper/Tender Fire Vehicle

City Clerk Wright stated that request for bids for lease/purchase financing of a fire vehicle were hand delivered to the two local banks. The request for bid was for an option of either 11, 12, or 13 years with a \$80,000 down payment required around November 1 with the balance of the \$167,985.00 due at delivery around February 2008. The only bid received was from First State Bank with the following options.

11 year option	5.38%	2/1 Int. Payment of \$1,084.68 Mo. Payment of \$1,695.27
12 year option	5.67%	2/1 Int. Payment of \$1,142.64 Mo. Payment of \$1,617.64
13 year option	5.67%	2/1 Int. Payment of \$1,142.64 Mo. Payment of \$1,531.46

Wright continued to state that it has been the consensus of the Council to commit \$20,000 per year to the lease purchase of a fire vehicle. The 11-year option exceeds that amount by \$343 and the budget should be able to handle the additional amount. Wright stated that there is a lower interest rate for 11 years over the 12 and 13-year option. Council Member FitzGerald suggested choosing the 11-year option. The Council briefly discussed the various options.

MOTION: Council Member York made a motion to enter into the Lease/Purchase Agreement with First State Bank for the period of 11 years at the interest rate of 5.38% with a monthly payment of \$1,695.27. Council Member Berntsen seconded the motion and it passed unanimously.

MOTION: Council Member FitzGerald made a motion to purchase a pumper/tender fire vehicle from Emergency Fire Equipment in Mayfield for the amount of \$167,985.00. Council Member Berntsen seconded the motion and it passed unanimously.

8. Request from First Baptist Church to Pave Alley Which Enters Into Church Parking Lot

Mayor Justice stated that there is a request from First Baptist Church to pave the alley from Prospect Ave. leading into the church parking lot, with the church paying the entire cost of the project. The Council briefly discussed the situation and the reason for the alley to dead-end at the church. City Administrator Brown stated that the First Baptist Church owns the portion of Gorin Avenue by the church. Justice stated that the trash truck would be driving on the alley in order to service the church and homes in the area. Justice suggested that staff send a letter of approval, including in the letter that the City is not liable for the alley because of the traffic of the trash trucks. By consensus, the Council agreed for First Baptist Church to pave the alley off Prospect leading to the church parking lot.

9. Interlocal Cooperation Agreement Respecting Multijurisdictional SWAT Team Between Sumner County, Kansas Sherriff Department and the City of Clearwater

City Administrator Brown stated that this agreement has come before the Council before and City Attorney Amerine suggested some changes. This is the revised Interlocal Cooperation Agreement Respecting Multijurisdictional SWAT Team Between the Sumner County Sherriff Department and the City of Clearwater. This agreement allows police officers from Clearwater to participate in training with the Sumner County SWAT. City Attorney Amerine stated that the City of Clearwater is responsible to provide equipment and insurance for any participant in SWAT. Council Member FitzGerald questioned if Chief Demars recommends approval of the agreement? Brown stated that he received the revised agreement from Chief Demars. Brown stated that currently only Officer Luckner is participating in the SWAT training and is doing so on his own time. Council Member Whitney questioned if the City already has the necessary equipment? Brown stated that the City has the equipment including the communication equipment. Council Member Berntsen questioned if an officer has to be active in the training before he can be called out for a SWAT incident? Brown stated that if there should be a call out, Officer Luckner would be the only one called. Justice stated that this agreement has the previous objections removed and thinks it is good training and the officers are required to get 40 hours of training each year to certify.

MOTION: Council Member Armstrong made a motion to approve the Interlocal Cooperation Agreement Respecting Multijurisdictional SWAT Team Between Sumner County, Kansas Sherriff Department and the City of Clearwater. Council Member FitzGerald seconded the motion and it passed unanimously.

10. Proposal for Security Cameras in City Park

City Administrator Brown stated that he contacted several companies and received only 1 qualified proposal for security cameras. Brown continued to state that City Park is

continually having vandalism and graffiti and there have been a couple of incidents at the old city shop. The cameras are just one option to try and mitigate or prevent future problems and to be able to convict based on video evidence. Brown stated that he recommends taking this step. Brown stated that for City Park the proposal is for 4 high resolution weatherproof color infra-red day/night cameras, base unit with expanding capabilities, power supply color 13" monitor, and a battery backup with a cost of almost \$4,000. The cameras and installation at the city shop would run around \$2,000. Brown briefly discussed where the feed or pictures would go. The Council briefly discussed that if the cameras are visible or reachable there could be a possibility of vandalism to the cameras. Council Member FitzGerald stated that it is hard for him to support the cost of the cameras when there is not enough money to finish the sidewalk on Fourth Avenue. Whitney stated that he knows the vandalism is bad, but there are not many buildings in City Park worth a lot to spend that kind of money on cameras. Council Member Armstrong questioned if there is money in the 2007 budget to absorb the cameras? Brown stated since the parking lot is being financed there are available funds. FitzGerald again questioned if there is money for the camera why is there not money for sidewalks? Brown stated that there is money in the budget to construct the sidewalk on Fourth Avenue from the Historical Museum to Elaine Avenue. FitzGerald questioned when the sidewalk is going to happen? Brown stated that it was decided that the city guys would do the sidewalk and they are working on the bridge at the current time. FitzGerald stated that he wants to go out for bid for the sidewalk. Mayor Justice stated that a bid was received for the sidewalk and the Council decided that the city crew could do it cheaper. Justice continued to state that the Council should not be critical of the timeframe when they voted for the city crew to do the job. FitzGerald stated that it is time to re-think that decision. Council Member Berntsen stated that he agrees with FitzGerald, but he wants to see multiple bids on all projects. FitzGerald requested that staff provide at least 2 bids for the next Council meeting on a cost of doing the sidewalk on Fourth Avenue from the Historical Museum to Elaine Avenue.

Mayor Justice stated that the Council should get back to the discussion of the cameras. Council Member Armstrong stated that if there is money available in the 2007 budget then it would probably be advisable to have cameras installed before construction begins on the City Park improvements. Council Member Berntsen stated that he does not see that the funds would be available for major construction in the park for a few years. Council Member Whitney questioned if someone is caught by the cameras damaging the park is there a commitment to prosecute the individuals? Justice stated all that is necessary is to give the directive to the police department, that if anyone is caught they need to go through the court. Jim Wells, from the audience, stated that he purchased 4 cameras for outside and an inside monitor that record on DVD for around \$400. Council Member Whitney stated that the theft of equipment of the old shop amounts to quite a few dollars, while the damage is mainly vandalism at City Park and does not amount to that many dollars. Brown stated that he discussed the cameras with Chief Demars and he felt it is an overall tool to help convict individuals regarding the damage at City Park. Justice suggested

putting the cameras at the old and new shop and waiting until a later date for the cameras at City Park. The Council briefly discussed to pros and cons of Mayor Justice's suggestion to purchase only cameras for the maintenance facility.

MOTION: Council Member York made a motion to purchase the equipment to monitor the maintenance facilities on west Ross Avenue at a cost of \$2,272.00 from Alarm and Security Specialists. Council Member Armstrong seconded the motion and it passed unanimously.

11. Recommendation from Planning Commission to Vacate 3 foot of Easement in Park Glen I

City Administrator Brown referenced a vacant lot in Park Glen I where the builder submitted a variance request to the Planning Commission. The variance request was to shift building a house to the west side of the lot encroaching on side yard setback of the neighboring lot. The homeowner of the lot to the west attended the meeting and voiced exception to the variance. Brown continued to state that the Planning Commission suggested moving the house to the east towards Reserve A, a 40 plus foot drainage ditch. Brown had the utilities located and without having a surveyor locate the property pins it appeared that vacating 3 foot of the easement seems like construction would be away from the utilities. Brown stated that the recommendation from the Planning Commission is to deny the zoning appeal and to request the Council to vacate 3 foot of the easement so that a house can be built on the lot. Brown stated that the utility easement is larger than a normal easement and suspects that there might be a mistake on the plat. Brown stated that he contacted a survey company to get the exact description of the 3-foot easement requested. Council Member FitzGerald questioned why Brown and Public Works staff was measuring the property when the person that is building the house should provide a survey? Brown stated that he thought he was giving customer service to the builder. City Attorney Amerine stated that in order for her to submit the vacation to the Register of Deeds she has to have the legal description of the easement. Council Member Whitney stated that it is not the responsibility of the City to pay for a survey of the property. Whitney commented that there have been a lot of variance requests and the person should know the size of the lot when they buy the lot and it is not the responsibility of the City to find a way for them to build a house. Amerine stated that this is an odd shaped lot and this is the third builder that has tried to build a house on the lot. Council Member Armstrong, after reviewing the plat, stated that she thinks that the easement is unrealistic and that someone made a mistake and the City should have it fixed. Whitney stated that he has no problem with vacating the 3-foot easement, but he does have a problem with the City as a whole paying for any part. Armstrong stated that there are empty lots in town and we want people to build on them. Armstrong continued to state that if the City makes it difficult for builders to build on a lot then that restricts the tax base of the City. FitzGerald stated that he is not trying to make it hard to sell lots, but he has a problem with city employees with tape measures when there is other work to be done. Brown stated that

the reason staff was measuring the lot is to see if it was feasible to go any further into the inquiry until the status of the sewer line was known. Mayor Justice interjected that the City was checking to see if it was feasible to have the property surveyed. Before the builder can continue he will have to have the property surveyed and the lot owner would pay for the survey. Council Member Berntsen questioned if the vacation of the easement could be filed without a survey? Amerine stated that the City could try and the Register of Deeds might accept and then again it is unlikely as they are very particular. Justice stated that if the Council makes a motion to vacate the easement then the builder would know that it is approved and the builder can then get the survey and give the legal description to Amerine.

MOTION: Council Member Berntsen made a motion to vacate the west 3 feet of the easement on the east side of Lot 1 Block 2 in Park Glen I addition. The motion was seconded by Council Member Armstrong and passed unanimously.

Lonnie Stieben stated that he has an item that is going to be brought up at the next Planning Commission regarding side yard setbacks. Stieben continued to state that the Zoning Ordinance was adopted with 12-½ feet side yard setback and no exceptions. Stieben stated that Sedgwick County Code Enforcement told him that all other cities have exceptions.

Examples of exceptions include: bay windows, window wells, condensing units, chimney flues, eaves, and various other exceptions. City Administrator Brown stated that the language in the Zoning Ordinance states “The setback line for yard requirements shall be determined by measuring the horizontal distance from the property line to the nearest architectural projection of the building.” Stieben stated that if the letter of the law were followed a lot with the 12 ½ ft. side yard setbacks plus 44” window wells on both side of the house on a 90 ft. lot there would only be 57 ft. of buildable space. Stieben continued to state that the Planning Commission would be discussing exceptions at the next meeting on September 4th. Mayor Justice stated that part of the Zoning Ordinance should be fixed, as he does not think that the intent is to have houses 30 to 35 feet apart.

12. **Reports**

City Clerk Wright reference a copy of a document received from Roger Dawson concerning the dedication of the EVS Building to Wes Tackett a former fire chief. Dawson requested that the Council read and give approval then he would have the document framed and plan the date for the dedication.

City Clerk Wright reminded the Council of the League of Kansas Municipalities Conference in Olathe October 6 to 9th.

City Attorney Amerine stated that Homeland Security is requiring that everyone in

government take a test, including the Governing Body or the City will not be eligible for federal grants. Amerine continued to state that the training is the responsibility of each person in case of a disaster and the deadline is coming up shortly. Mayor Justice stated that the City has a plan. Amerine stated that it is required that everyone has nametags and is trained by an authorized trainer. Justice requested that staff check with Sedgwick County Emergency Management concerning the required training.

City Administrator Brown reported that well #2 is functional and is pumping. All of the testing is not in place. KDHE has not notified the City of the exact testing regimen that will be required except the frequency of the testing. KDHE should be notifying the City shortly.

City Administrator Brown reported that the high school would be using the pool for some of their classes and for sports teams after school. The school would be responsible to find lifeguards and to pay them.

City Administrator Brown stated the property at the corner of Hellar & Grain, commonly known as the horse barn property, is going to be put up for auction. The auctioneer believes that Grain Avenue, which runs thru the property has not be vacated. Brown stated that he is still investigating as he remembers seeing a map where the street was vacated. Brown stated that the sewer line runs thru the property and the City should have a utility easement, but sees no reason to have a street as it would require a bridge to be built over the drainage area. Brown stated that he would have more at a later date.

City Administrator Brown stated at the last meeting it was discussed that the State Assessed portion of the revenue for the 2008 budget dropped 34% and that he had a call into the State. The utilities and railroad are assessed on a statewide basis instead of submitting taxes to each individual entity. Brown continued that the vast majority of the decrease in revenue was due to a drop in taxes paid by Southern Kansas Telephone Company. The State could not give a breakout or a reason for the decrease. Council Member Armstrong discussed some possible reasons for the decrease from Southern Kansas Telephone Company.

Council Member Whitney reported that he has received complaints that the property at the southeast corner of Tracy & Heller has not been mowed all summer.

Council Member Whitney stated that he received a couple of calls from businesses concerning the kids jumping the curbs with their skateboards. They talked to a police officer and they were told nothing could be done, as there would have to be a sign stating that skateboards are not allowed. After a brief discussion, it was decided to take a look at the Skateboard Ordinance.

Council Member York reviewed several properties that he has driven by and found

violations to the nuisance ordinance. York stated that he would be personally contacting the homeowners.

Council Member York questioned truck parking on the city streets. After a brief discussion of the Parking Ordinance the Council requested a change for the habitual violators. Mayor Justice requested City Attorney Amerine to review the Parking Ordinance and submit those changes to the Planning Commission for review. Justice requested that City Administrator Brown talk to Chief Demars and let him know that the Council wants a priority put on vehicles parking on the city streets.

13. Executive Session - Personnel

MOTION: At 9:20 p.m. Council Member FitzGerald made a motion to enter into executive session for personnel purpose for a period of 30 minutes. Council Member Berntsen seconded the motion and it passed unanimously.

At 9:50 p.m. the Council returned to regular session with no action taken.

With Council consensus, Mayor Justice accepted the resignation of Police Office Jeremy Williams effective August 23, 2007 with regrets. Justice thanked Officer Williams for his 4 plus years of service to the City of Clearwater Police Department.

14. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Armstrong moved for adjournment. The motion was seconded by Council Member FitzGerald and passed unanimously.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I, Cheryl S. Wright, 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 August 14, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 28th day of August 2007.

Cheryl S. Wright, City Clerk