

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

July 24, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, July 24, 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; and Janet Amerine, City Attorney. Others present at the meeting were Marvin Schauf, Fire Chief; Bob Cumming, Swim Team Coach; Hershel West, Waste Connections; Dustin Clevenger, Fall Festival; Cody Gerberding, Home Bank & Trust; John Mishler, Adriane Cantrell, Zogleman family, Mary Schauf, and Robert Pugh, 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 10, 2007

MOTION: Council Member Berntsen made a motion to approve the minutes of the meeting. The motion was seconded by Council Member York and passed unanimously.

2. Mayor's Recommendations

Mayor Justice, with Council consensus, appointed Ryan Smothers to the Library Board.

3. Public Forum

Adriane Cantrell, 226 N. Salt Creek Ct. stated that all of the cul-de-sacs in Chisholm Ridge have a streetlight with the exception of cul-de-sac where she lives. Cantrell continued to state that her request is for the Council to check into having a streetlight installed. City

Administrator Brown stated that there is not an easement at that location for a streetlight. Brown stated that the primary purpose of streetlights is for traffic and not for security lighting of a neighborhood. Mayor Justice stated that the City would have to obtain an easement from one of the property owners in order to have a streetlight. After a review of a map provided by Cantrell and a brief discussion of where streetlights are located in Chisholm Ridge, Mayor Justice directed staff to check with Westar about an additional streetlight.

Bob Cumming, swim team coach, reported to the Council that Clearwater won the league championship again and this makes the 9th straight year. Cumming stated that the team looked really sharp in the suits that the Council helped to purchase.

Dustin Clevenger stated that each year someone from the Fall Festival committee requests from the Council to use City property. The Fall Festival this year is September 7, 8, & 9, with the carnival being on Friday and Saturday. This year there will be a Bull Blowout held on Saturday afternoon at 2:00 at the Rodeo grounds. Clevenger stated that Brenda Hastings is the president and she would be contacting Chief Demars about the streets and when they will need to be blocked off.

Dustin Clevenger stated that he has submitted his resignation to Home Bank to go into teaching, but would like to thank the Council for the support of Home Bank. Clevenger introduced his replacement Cody Gerberding who would be handling the City account.

4. Dalton Zogleman Eagle Project Recycling Center Fencing and Visual Barrier Plan

Dalton Zogleman stated that he is going to be a freshman at Clearwater High School and has been in scouting since he was in kindergarten. For his Eagle Scout project he would like to redo the fencing, remove the cable barrier and install a 6 ft. cedar board fence on the north at the recycling area. The other part of his project is to clean up the area where the surplus items are stacked and to construct a fence on the south of the surplus items with access from the back and block that area from the public. Zogleman stated that his goal is to make the drive into Clearwater from the west a more eye pleasing experience and is requesting approval, input, and funding for his project. Zogleman continued to state that he would be soliciting help from other scouts and his adult leaders for the labor. Council Member FitzGerald stated that the 4-H Club spent two days building the sign announcing the recycling and he would appreciate if that sign could be used. FitzGerald continued to state that Public Works should clean up their own mess instead of spending money on a fence to hide the mess. Council Member Whitney questioned the timeframe for the construction of the project? Zogleman stated that he would like to have it finished by late fall. Whitney stated that he would like to see the wooden posts changed to steel posts, as they will last longer. After a brief discussion, the Council approved the construction of the north fence.

MOTION: Council Member FitzGerald made a motion to contribute \$500 toward the Eagle Scout project at the recycling center. Council Member York seconded the motion and it passed unanimously.

Mayor Justice told Zogleman that if he runs short on money and the project could be jeopardized to come back to the Council and they might be able to find additional funds.

5. **Consent of Purchaser to Extend Maturity of \$455,000 in Temporary Notes for Construction of a Senior Center from August 1 to October 1**

City Administrator Brown stated that this is a request to First State Bank to extend the maturity of the temporary notes for the construction of the Community and Senior Center from August 1 to October 1, 2007.

MOTION: Council Member FitzGerald made a motion to extend the temporary notes in the amount of \$455,000 for construction of the senior center from August 1 to October 1, 2007. Council Member Armstrong seconded the motion and it passed unanimously.

6. **Consent of Purchaser to Extend Maturity of \$282,000 in Temporary Notes for Chisholm Ridge II from August 1 to October 1**

City Administrator Brown stated that this is a request to First State Bank to extend the maturity of the temporary notes for Chisholm Ridge II from August 1 to October 1, 2007.

MOTION: Council Member York made a motion to extend the temporary notes in the amount of \$282,000 for Chisholm Ridge II from August 1 to October 1, 2007. Council Member FitzGerald seconded the motion and it passed unanimously.

7. **Chisholm Ridge Phase II Water, Sanitary, Sewer, and Paving Notice of Hearing and Statement of Costs Proposed to be Assessed**

City Administrator Brown stated that some time ago the developer of Chisholm Ridge II presented a petition to construct utilities and streets. The petition stated how the improvements would be assessed. Brown stated that Chisholm Ridge II was assessed for the storm sewer at the same time at Chisholm Ridge I. Brown continued to state that this is only for the principal costs and there will be a pay in period after the hearing. Mayor Justice stated that law requires a public hearing before the assessments are presented to the property owners.

MOTION: Council Member FitzGerald made a motion to set and notice the public hearing for Chisholm Ridge II assessments on August 14th at 6:30 p.m. Council Member Berntsen seconded the motion and it passed unanimously.

8. **Resolution Amending Resolution No. 12-2005 which Authorized the issuance and Delivery of \$455,000 Principal Amount of Temporary Notes**

City Administrator Brown stated that the original resolution, which authorized the temporary notes, had a maturity date of August 1 and this resolution would change the maturity date to October 1, 2007. City Clerk Wright assigned Resolution No. 10-2007. Mayor Justice stated that this Council's action is tied to the request to First State Bank to change the maturity date of the temporary notes.

MOTION: Council Member Berntsen made a motion to approve Resolution No. 10-2007 changing the date on \$455,000 in temporary notes from August 1 to October 1, 2007. Council Member York seconded the motion and it passed unanimously.

9. **Resolution Amending Resolution No. 12-2005 which Authorized the issuance and Delivery of \$282,000 Principal Amount of Temporary Notes**

Mayor Justice stated that this is the same as the other resolution changing the date on temporary notes from August 1 to October 1, 2007. City Clerk Wright assigned Resolution No. 11-2007. Mayor Justice stated that this Council's action is tied to the request to First State Bank to change the maturity date of the temporary notes.

MOTION: Council Member FitzGerald made a motion to approve Resolution No. 11-2007 changing the date on \$282,000 in temporary notes from August 1 to October 1, 2007. Council Member Berntsen seconded the motion and it passed unanimously.

10. **Franchise Contract with Waste Connections for City Residential Trash Service**

Mayor Justice stated that Waste Connections returned the contract for trash service with some changes from the original bid. City Attorney Amerine stated that she does not like clause (19) in the contract about attorney fees as it can get away quickly. Amerine read clause (8) "Fuel and Landfill Costs. In addition, Waste Connections reserves the right to adjust the rates hereunder at any time based upon increases in fuel and landfill costs. See Attachment A". Amerine stated that this was not in the original bid from Waste Connections. Council Member FitzGerald stated that the Council voted to accept the bid as presented and as far as he is concerned the contract presented by Waste Connections is not

good. Council Member Whitney stated that during the discussion on the contracts it was specifically stated that there would be no fuel surcharge. Hershel West, Waste Connections stated that there is no problem to remove clause 8 and Attachment A explaining clause 8 and clause 19. Amerine stated that if clause 8 & 19 were removed she would recommend that the Mayor sign the agreement. West stated that he would get the contract changed and return it to City Hall on Wednesday since August 1 is fast approaching. City Administrator Brown stated that in 1B it says that pickup shall be at the curb. West stated that means curb or alley. Amerine requested that at the time the other changes are being made to add “or alley” to 1B.

MOTION: Council Member Armstrong made a motion to authorize Mayor Justice to sign the contract with Waste Connections after clause 8 & 19 have been removed and “or alley” has been added to 1B. Council Member Berntsen seconded the motion and it passed unanimously.

City Administrator Brown asked Hershel West if Waste Connections was set up to deliver new trash containers to the City residents. West stated that a truck would be in Clearwater tomorrow with new containers. Council Member FitzGerald questioned if the pickup days would remain the same? West stated that the pickup days would be Monday and Thursday, but the schedule is not complete.

11. Kansas Gas Service Franchise

City Administrator Brown stated that it is time to renew the franchise agreement with Kansas Gas Service. Brown continued to state that utility companies use the easements in cities in order to get their product to the customers. The utility company pays the city for this use and currently the gas franchise is at 3% and was executed in 1987. City Attorney Amerine stated that the League of Kansas Municipalities recommends that cities take the highest percent possible of 5 percent. The utility franchise tax goes to the general fund and is collected from places and properties that are not subject to property tax. Everyone that has a gas utility has to pay the gas franchise tax including schools, churches, and the nursing home thus spreading the taxation to other places. Council Member Armstrong stated that she assumes that it is a pass through where the utility company charges the customer and in turn remits that amount to the city. Mayor Justice stated that it is a pass through and affects everyone that has a gas utility. Amerine stated that other franchise agreements have been for 10 years with a review at 5 years. After a brief discussion, the Council agreed to set the percent at 5 and to have the agreement for a 10-year period with a review after 5 years. Justice requested staff to convey their wishes to the representative at Kansas Gas Service.

12. First Christian Church Sewer Service

City Administrator Brown stated that the First Christian Church located at the corner of First and Wood was the first structure built north of Wood. The sewer comes out of the church at one side of the double doors and goes straight out to the parking lot with a cleanout not too far from the sidewalk in the parking lot with the sewer being 9 foot deep at that location. At the south edge of the church parking lot the sewer makes a 90-degree turn and goes to the east edge of the church parking lot. At that point it makes another 90 degree turn goes under Wood Avenue and between 531 Wood and 601 Wood on the south side of Wood where there is another cleanout and then to the sewer main behind the houses. As everyone knows, service lines are the responsibility of the customer and the mains are the responsibility of the City. The problem is that the entire 4 inch service line from the church with the two 90 degree turns and then under the street and between the houses is the responsibility of the church. Brown stated that on one of the maps that he has looked at it shows a main and a manhole in the church parking lot; however, there is no manhole. Brown stated that the question to the Council from the church is whether the City would take any of the responsibility of the line on the south side of Wood Avenue. The Council discussed at length the sewer lines in all directions from the First Christian Church and possible options to change the sewer. Mayor Justice stated that he is cautious about the City all of a sudden taking responsibility for footage on any access line. By consensus, the Council directed staff to convey to the church that unless there was a written agreement between the city and the church at the time of construction of the line that the city is not willing to take over any part of the service line.

13. Rental Policy and Pricing Structure for Clearwater Community Center

Council Member Armstrong stated that the Community and Senior Advisory Board somewhat changed the rental rates suggested by the Council. The security deposit of \$125.00 was left the same for anyone renting the building whether they lived inside the city or outside of the city. The rate to rent the building reflects that the city residents are paying for the building with their tax dollars so the city rental rate is set at \$25.00 per hour with a maximum of \$125.00 and the rental rate for anyone outside the city is \$50.00 per hour with a maximum of \$200.00. The Council briefly discussed the rental rate. Armstrong stated that the advisory board is still working on a way for anyone needing access to the building. Armstrong stated that the first two events, the chicken dinner and the jam session, were very successful.

MOTION: Council Member Berntsen made a motion to approve the rental policy and the pricing structure as recommended by the Community and Senior Advisory Board. Council Member York seconded the motion and it passed unanimously.

14. Revised Bid Pumper/Tanker

Fire Chief Marvin Schauf stated that at the last fire meeting the new pumper/tender was discussed by the volunteers. It was suggested to add the following equipment to the vehicle; flood lights on each side of the vehicle in order to see at night, intercom system in order for the fire fighters to hear the radio, and brackets to hold air bottles. Another item that just came out is a swiveling quick dump chute that would be very helpful. Schauf stated that he received a quote from Emergency Fire Equipment in Mayfield for the pumper/tender to be equipped the way they want would be \$167,985.00. Schauf stated that it would take six months to build the vehicle. An \$80,000 down payment would be due in three months when the chassis is received by Emergency Equipment and the balance at delivery. City Administrator Brown stated that staff did some preliminary checking about financing, but at that time the amount for the vehicle was still changing. Brown stated as soon as the Council approves a final amount then a lease purchase bid would be sent out to the local banks. By consensus, the Council approved the new amount of \$167,985.00.

15. Fire Contracts

City Administrator Brown referenced one of the fire contracts with London, Illinois, and Ninescah townships that Clearwater Volunteer Fire Department services. Brown stated that he needs direction from the Council if they want to change any of the terms on the contracts. Mayor Justice stated that this is the time to change the mills requested from the townships. Justice continued to state that this change would not help with the 2008 budget as they are working on their budgets right now as we are. This will give the city time to get the contracts negotiated for the 2009 budget. After a brief discussion, the Council suggested that the contracts be raised from 4 mills to 6 mills for a 5-year contract period.

16. Resolution – Request to Sedgwick County Commissioners to Make Finding on Annexation of Land

City Administrator Brown stated that there is a house being built on Lot 1 Block 2 in Prairie Meadows Estate and they are requesting annexation into the city. Since this property is north of the city, it would be an island annexation and the City has to pass a resolution to request that the Sedgwick County Commissioners give permission to annex the property. City Clerk Wright assigned Resolution No. 12-2007. Mayor Justice stated that anyone north of Clearwater wanting to connect to the Clearwater water line the requirement is that they have to request to be annexed into the City.

MOTION: Council Member York made a motion to approve Resolution No. 12-2007 to request that the Sedgwick County Commissioners to make findings regarding annexation of land. Council Member Whitney seconded the motion and it passed unanimously.

At 8:35 p.m. Mayor Justice request a short recess for 5 minutes.

At 8:40 p.m. the Council returned to regular session.

17. Review 2008 Budget

City Administrator Brown reported that the valuation received from Sedgwick County only rose from 13,506,414 in 2007 to 13,676,510 in 2008. Brown stated that staff reviewed the County Clerk's budget information for 2007 & 2008 and found a large decrease in the State Assessed, which is the utilities and railroad. After further review staff realized that the State Assessed in the county went down 5% while Clearwater's State Assessed went down 37%. Brown stated that he has put a phone call into the State of Kansas and has not heard back from them as to what caused the large decrease in State Assessed.

City Administrator Brown stated that since the last meeting staff has increased the Bond & Interest Fund, as there is additional debt that was not reflected in the last pass of the budget. Also, at the last meeting the revenue for the fire contracts was raised and that will not happen until 2009. The changes in revenue by staff created a difference from a flat budget to around \$16,000. Staff then started looking at expenses that could be decreased and lowered various items totaling around \$9,000 and now the question is does the Council want to leave it at that with an increase to the budget or do they want a flat budget? After a brief discussion, the Council does not want the budget to increase so more cuts would have to be found. Brown stated that based on the information from Schauf on the new pumper/tender the fire budget could be decreased by \$5,000. The Council increased the revenue from the gas franchise \$2,000, which is all that is needed to make a flat budget with no increase. Council Member FitzGerald questioned if the high loader is still in the budget? FitzGerald continued to state that he does not think the high loader is needed, but instead a backhoe should be purchased. Brown stated that the high loader is still in the budget and that the Public Works Director requested a high loader over replacing the backhoe. Council Member Whitney stated that there are 4 pieces of equipment that have a loader; there is a skid-steer, two John Deere tractors, and the backhoe. The employees say that the backhoe is worn out and needs replaced. Whitney continued to state that there are 2 dump trucks that could be used to haul material instead of using the backhoe going back and forth to get material.

Mayor Justice questioned if the current budget reflected an increase in water rates? City Administrator Brown stated that it did not. Brown continued to state that he would like to give the Council some options regarding water rates. Brown suggested to leave that

discussion for a later meeting as the Water Fund is a stand-alone fund and would not affect the budget as far as the tax levy. Council Member Berntsen stated that funds can be carried over in the water fund and the idea of increasing the water rates is to accumulate funds for major infrastructure replacement or purchasing water rights.

MOTION: Council Member Berntsen made a motion to set the budget hearing for August 14th and incorporate all changes discussed by the Council. Council Member Whitney seconded the motion and it passed unanimously.

18. Consent Agenda

By consensus, the Council approved payment to Utility Service Co. for water tank maintenance in the amount of \$4,751.80.

By consensus, the Council approved payment to Tyler Technologies for annual maintenance fee for Fund Balance software in the amount of \$2,933.00.

By consensus, the Council did not approve a request from the Booster Club for a sponsorship.

20. Reports

City Administrator Brown reported that Jim Vulgamore had open-heart surgery and will be off work for 4 to 6 weeks. Brown also reported that the seasonal workers would be leaving in about 2 weeks.

City Administrator Brown reported that Sunday morning about 1:15 a.m. there was a fire at the octagonal building in City Park next to the basketball court. The fire started in a trash container that was setting next to the building and the police are investigating. The fire department responded quickly, but there is still a lot of damage with the bathroom not being usable at this time. The insurance company has been contacted.

City Administrator Brown reported that the new police car has been picked up from Olathe Ford and they are switching the electronics and radios from the Intrepid to the new Crown Vic.

City Administrator Brown reported that the state inspector would be in town on Thursday to inspect the ambulance.

City Administrator Brown reported that the generator at well #7 should be complete this week.

City Administrator Brown reported that there is a hole in the culvert in front of the EVS building. This area is Sedgwick County maintenance and they have been advised. They put some asphalt over the problem, but it does not appear that it will be successful.

Council Member FitzGerald stated that he is aware that the parking lot in City Park would not be started before Fall Festival, but it sure would be nice to have the bridge finished. City Administrator Brown stated that the footings have been poured and that the bridge would be done before Fall Festival. FitzGerald stated that the weeds in the parking lot really should be cut down and sprayed.

Council Member Whitney stated that on the southeast corner of Third & Kansas water stands in the street all of the time. City Administrator Brown explained the problem in the area and that over the years the city crews dig out the curb periodically.

Council Member Armstrong stated that the Advisory Board discussed having a separate rental rate for non-profit groups such as 4-H Club, Boy Scouts, etc. Armstrong stated that Carl Shaffer suggested something like \$25.00 flat fee for three hours in order to pay the janitor and the utilities with a possible quid-pro-quo that they would do an educational presentation on a Friday night. City Administrator Brown stated that he would want it on a case-by-case basis, because there are a lot of non-profits. Mayor Justice questioned if the rental is going to be handled by Shaffer? It was decided that he would have the calendar, so he would have to take care of the rentals. Brown stated that the overall decision if they want to have another tier of rental prices is the Council's, but the case-by-case decision would be that of the Advisory Board and Shaffer.

Council Member York questioned if that has been any response from Mark Cox concerning the mowing at the Senior Apartments? City Administrator stated that he has not met with Cox for some time, but he would follow up.

Council Member Berntsen stated that there is a manhole in the alley between Prospect and the 100 block of First Avenue that is really washed out and Berntsen is concerned that it might get damaged.

Council Member Berntsen stated that several people have contacted him about the change of the court/police clerk. The response has been better than he expected, but a lot of them still have the same concern that it is fine Monday – Friday from 8 to 5, but they would like to be able to contact the police force at other times. One of the suggestions is for the officer to carry a cell phone. City Administrator Brown stated that cell phones would be good for officers to call out, but having a cell phone ring could create an officer safety issue. Brown stated that the second reason he is against cell phones is that if an officer is called and it does not go through dispatch of where he is going and he ends up in trouble no one

knows where to find the officer. Brown stated that he knows people like to call the officer directly instead of using 911, but there is a safety issue by not using 911 including that the call is not recorded. The Council continued to discuss various ways of communication from the community to the officer with no decision made.

Mayor Justice stated that Dr. May is not willing to pay for any portion of redoing the sidewalk in front of his business. May feels that if there is a possibility of getting the grant for the Downtown Development the sidewalk could end up getting torn up in a year. By consensus, the Council decided to fix the curb and the handicap ramp only.

Mayor Justice stated that the City, in a nice way, should let the citizens know that it is the responsibility of the residents to take care of the weeds along the curb and gutter and for cutting limbs that hang over the streets. Council Member Armstrong stated that the City has to communicate to all the residents concerning the change in the trash company, new pickup days, and the change in price of the bulk pickup. Armstrong suggested that the City put out a newsletter to update all of the people in town about the trash change, fall and spring cleanup days, dump hours, recycling, rental fees for the new center, and dog licenses. City Administrator Brown stated that it would have to be mailed this week and staff would try to put it together and get it mailed.

City Administrator Brown stated that the sign for the EVS Building has been received to make it the Wes Tackett EVS Building. Brown stated that he would be working with Roger Dawson on the re-dedication.

City Administrator Brown stated that in order to renew the permit on the sewer lagoons the City is going to have to conduct monthly tests instead of quarterly test. This is due to an ongoing problem with the suspended solids.

21. Executive Session

MOTION: At 10:00 p.m. Council Member FitzGerald made a motion to enter into executive session for attorney client for a period of 10 minutes. Council Member Berntsen seconded the motion and it passed unanimously.

At 10:15 p.m. the Council returned to regular session with no action taken.

22. Adjournment

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

Member Berntsen 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 July 24, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 14th day of August 2007.

Cheryl S. Wright, City Clerk