

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

May 8, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, May 8, 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 Paul Rhodes, Times Sentinel; Cory Carter, future homeowner in Chisholm Ridge; Kurtis Lauterbach, Mary Schauf, Gary Berger, Marvin Schauf, Clearwater Fire Department; Don Fitch, John Mishler, Maggie Leibold, and Betty Peitz residents; Ronald Jamison, Clearwater High School Government student.

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 April 24, 2007

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

2. Mayor's Recommendations

There were no appointments or resignations.

3. Public Forum

Cory Carter stated that plans for his house at 1143 Red River Circle in Chisholm Ridge was submitted for a building permit and the permit was issued. The builder submitted plans, which were not in compliance with the city zoning, and there was an administrative error in City Hall in issuing the building permit with 8.5 ft. side yard setbacks on both sides

of the house instead of the required 10 ft. setbacks for Chisholm Ridge. The error was caught after the concrete for the basement was already in the ground. Carter's builder, Don Klausmeyer, and owner of the lot in Chisholm Ridge, contacted City Hall and was told to apply for a variance. Carter stated that the variance was denied and there was not a good solution given to get 10 ft. setbacks. City Administrator Brown stated that when the original plat for Chisholm Ridge was submitted Don Mertens went through extra effort to get the side yard setbacks at 10 ft. for the PUD (Planned Unit Development). Brown explained that the Board of Zoning Appeals reviewed the variance request. The request was denied based on the five conditions in state statute that have to be met in order to approve a variance. After the denial of the variance Brown sent a letter to Don Klausmeyer explaining three possible options of purchasing a foot and half on each side of his property from Don Mertens, change the foundation that has been poured, or appeal the decision of the Board of Zoning Appeal to District Court. Carter stated that changing the concrete is not a option as it all has to be poured at once, the cost to purchase additional property from Don Mertens is not in his budget for the house, and District Court would probably take 18 months for a decision. Mayor Justice stated that the Council by law couldn't override the Planning Commission decision. After a lengthy discussion the Council requested staff to contact Don Mertens for a possible solution to the setback problem.

4. **Appointments**

Mayor Justice read the appointments for the paid employees and the commissions and boards by department. The Council gave consensus after each individual department was read.

Administrative:

Kent A. Brown, City Administrator

City Ordinance No. 466 and Section 2.10 of Codified Code and K.S.A. 15-204

Cheryl S. Wright, City Clerk

K.S.A. 15-204

Beverly Jo Johnson, Court Clerk and Deputy City Clerk

K.S.A. 15-204

Norma Leabo, Treasurer

K.S.A. 15-204

Janet Amerine, City Attorney & Firemen's Relief Association Attorney

K.S.A. 15-204

Becky L. Hurtig, City Prosecuting Attorney

Carol Reitberger, Receptionist/Clerical P.T.

Police Department:

City Ordinance No. 471 and Sections 2.16.010 through 2.16.030 of Codified Code and K.S.A. 15-204

Kim Demars, Police Chief

Jason Gearhardt, Sergeant

Jeremy Williams, Police Officer

Clint Luckner, Police Officer

Mark Herron, Police Officer

Keith Kuhns, Police Officer

Jeremy Watts, Police Office (PT)

Jeff Syrios, Municipal Judge

City Ordinance 383 or Section 1.20.010 of Codified Code and K.S.A. 12-1109

Ron Lambert, Animal Control Officer

City Ordinance 6 or Section 7.08.020 of Codified Code

Public Works Department:

Ernie Misak, Public Works Director

Kevin Bush, Public Works

Jim Vulgamore, Public Works

Mike Weakley, Public Works

Michael Shane Baker, Public Works

Emergency Volunteer Services:

Wayland Whitlow, EVS Coordinator (PT)

Fire Department

Marvin Schauf, Fire Chief (PT)

Police Reserves:

City Ordinance No. 471 and Section 2.16.050 of Codified Code

Requires 16 hours a month

Roy R. Riggs

Court Appointed Attorneys:

Roger Batt

Russell Mills

Arlene Burrows

Planning Commission

City Ordinance No. 274 and Section 2.32.020 of Codified Code and K.S.A.

12-701 To 12-715b

Les Langston 2007 - 2010 city
Ryan Shackelford 2007 - 2010 city

Historical Society:

City Ordinance No. 545 and Section 8.01.050 in Codified Code and K.S.A. 12-1687

Sue Smith 2007 - 2011 City
Dick Hardesty 2005 - 2009 Illinois/Sumner
(unexpired term)

Chisholm Trail Recreation Commission:

Rebeka Zook, Joint Employee Clearwater Recreation and City of Clearwater

Library Board:

K.S.A. 12-1222 Term of four years
Glenda Light 2007 – 2011

5. Park Glen Utility Easement – Request to Vacate

Council Member Armstrong requested to be excused from any discussion, as she owns the other piece of the easement. Don Fitch, 433 Clear Creek, stated that he has never asked for an easement to be vacated, as the original plat does not show a utility easement on his property. Fitch explained the steps he went through before purchasing the property to make sure there was not a utility easement other than the one at the back of the property. Fitch stated that after he built his house and poured a concrete pad that his title company notified him that there is a utility easement on his property. Fitch stated that he does not know for sure which is the legal beginning of his property. City Administrator Brown stated that the utility easement in question was not done as part of the original plat. The utility easement was done as a separate instrument after the platting of Park Glen III at the request of Gordon Mikesell, Economic Strategies. Fitch stated that he talked to Westar and Gordon Mikesell and there is no intent or desire to put a streetlight in the utility easement and instead of Westar removing the conduit, they told Fitch to just cap the conduit. Mayor Justice stated that a plat or an addition of an easement to a plat are legal documents and can't be ignored just because Westar or the developer say they have no intent or desire to use the easement. The only way that the Council has to legally change this is to vacate the easement. The Council discussed briefly if it is in the best interest of the City to hold on to the easement or if it could be vacated. By consensus, the Council agreed to vacate the easement. Brown stated that City Attorney Amerine would be present later with the document to vacate the easement.

6. Approve Pool Staff

City Administrator Brown presented the staff hired by Chuck Reitberger for the 2007 Aquatic Center season. Brown stated that an assistant manager has not been designated.

MANAGER

CHUCK REITBERGER

LIFEGUARDS

**JENNIFER CALDERON (WSI)
MAUREEN WHALEN (WSI)
KATIE REITBERGER
ABBEE WIDLER (WSI)
CODEE WIDLER (WSI)
TREVOR SMOTHERS
KELSEY MILLS
KYLIE HOPKINS
JORDAN MILLS
LEXIE FORSYTHE
KYLE SMOTHERS
ASHTON WATT
TYLER SPENCER
KACI WELLS
ALLISON REITBERGER
DYLAN SPENCER
MORGAN KENNEY
ALLIE FRIDAY
GRANT REICH**

BASKET ROOM ATTENDANTS

**COURTNEE WIDLER
MICHAEL PURDOM
EMILY MISAK
JESSICA FRANCE
STETSON JOHNSON**

MOTION: Council Member FitzGerald made a motion to approve the 2007 Aquatic Center staff as presented. Council Member Berntsen seconded the motion and it passed unanimously.

7. Senior Community Center Update

City Administrator Brown stated that the punch list from Accel is down to 4 to 6

items to get corrected. The senior citizens have painted the walls and floor in the craft room. A 2-tub sink that was removed at the Sports Complex has been installed in the craft room. Brown stated that two of the four layers of wax have been put on the tile. A date to move into the new building has not been determined. Brown reported that the Planning Committee from the Senior Center would like to have the Grand Opening of the Community Senior Center on June 10th from 1:00 p.m. to 4:00 p.m. Council Member Whitney questioned if Mark Cox has added the outlet drain to the east detention pond? Brown stated that it has not been done, but it has been wet.

City Attorney Amerine arrived at the meeting.

Park Glen Utility Easement Continued

City Attorney Amerine presented a Release of Easement that she prepared dealing with the utility easement on the properties of Donald and Elna Fitch and Bernard and Judith Armstrong. Amerine continued to state that the City of Clearwater releases the easement on the properties owned by the previous mentioned names at 433 Clear Creek and 912 Clear Creek. Mayor Justice stated that the Council previously discussed this matter and agreed to approve the Release of Easement.

MOTION: Council Member York made a motion to accept the Release of Easement for the properties at 433 Clear Creek and 912 Clear Creek and authorize Mayor Justice to sign. Council Member FitzGerald seconded the motion and it passed unanimously.

8. Bid for Sprinkler System at Senior Community Center

City Administrator Brown stated that all parties that previously bid on the sprinkler project were given a detailed map of the shrub and lawn areas on the property and the opportunity to again bid on sprinkler installation. Brown stated that he received bids from Unkel Underground for \$4,406 and from SSI for \$4,260. Brown referenced the details of the bids including the warranty. The Council briefly reviewed the bids and discussed the warranty and that the system would have to be winterized.

MOTION: Council Member FitzGerald made a motion to accept the low bid from SSI in the amount of \$4,260 for installation of a sprinkler system at the Clearwater Senior Community Center. Council Member Armstrong seconded the motion and it passed unanimously.

9. Discuss Rental Policy and Rates for Senior Community Center

City Clerk Wright stated that staff has contacted other cities that have community

rooms and the rental rates run from zero to a very large amount. It appears that the average is somewhere around \$25.00 to \$30.00 per hour with a maximum around 5 hours, for example if the room rents for \$25.00 the maximum for the day would be \$125.00, plus an up front deposit of the maximum or higher. The up front deposit is returned if all the cleaning requirements are met and there is no damage to the building. Wright stated that there are some decisions to be made about if custodial service is provided in the cost of the building or if it is over and above the cost of rental. City Administrator Brown stated that the two things staff need tonight in order to prepare a policy for review is direction on the fee and if there is a difference between a local and non-local fee. Mayor Justice stated that he thinks that the cost of the custodial fee should be built in the rental rate. Justice continued to state that the citizens of the City of Clearwater are paying taxes for the building so the rate for them to rent the building should be lower than anyone that rents the building that has no tax effect. After a lengthy discussion, the Council suggested starting with a City only fee of \$30.00 per hour with a maximum of \$150.00, and with a \$150.00 up front deposit. Rental to anyone outside the city limits the rental fee would be \$70.00 per hour with a maximum of \$280.00 and an up front deposit of \$280.00. Brown stated that using these guidelines staff would provide a graph and some sample policies for the next meeting.

Maggie Leibold addressed the Council stating that during the potluck dinner the senior citizens discussed the name for the building. They decided that they liked the name of Clearwater Senior and Community Center. By consensus, the Council agreed and would change the name of the building.

10. Bids for Copier/Printer for City Hall and Police Department

City Administrator Brown stated that it is time to look at replacing the copier/printers in City Hall and in the Police Department. Brown stated that he has received bids from three different companies. There is still one year left on the five-year contract, but the proposals include buying out the remaining time on the contract. The copiers are billed on a monthly lease payment, plus a per copy overage fee. Brown stated that he received bids from Image Quest for a Cannon, from Business Systems Inc. for a Konica Minolta, and from Digital Office Systems for a Ricoh. Brown reviewed the current cost for the copiers and the proposed cost. Brown stated that staff has been frustrated at times with the current copier and with the service provided. The Council and staff discussed at length the bids from Image Quest and Digital Office Systems. City Clerk Wright requested that the Council not make a decision until the next meeting when staff would have a recommendation.

11. Ordinance Annexing Land

City Administrator Brown reported that he received a request for annexation from the owners of the property located behind the Post Office and Stars and Stripes. This is an adjoining annexation. By consensus, the Council approved the annexation of land into the

City. City Clerk Wright assigned Ordinance No. 878.

MOTION: Council Member Berntsen made a motion to adopt Ordinance 878 for the annexation of property. Council Member York seconded the motion and it passed 5 – 0 on a roll call vote.

City Administrator Brown stated that there is a second piece of property that the same owner is requesting annexation. This is the piece of property that adjoins Diagonal Road on 95th and 135th and is the rest of the quarter where the Church of Christ is located. This property does not adjoin the City and cannot be annexed without an extra step. The extra step is that the Council has to pass a resolution asking the Sedgwick County Commissioners to approve the annexation. Brown stated that another option is if the City would ask Hammers if they would let the City annex a portion of their property into the City so the annexation would be adjoining. Brown stated that the property he is talking about is agriculture and is not suggesting annexing the house. After a brief discussion, the Council directed staff to contract the Hammers family regarding annexation of all or a portion of their property in order to be able to record adjoining annexation.

12. Discuss Trash Franchise Request for Bid

City Administrator Brown stated that the trash franchise with Waste Management is up August 1st. Brown requested that the Council give staff direction for an RFP (request for proposal) for trash service in Clearwater. Brown stated that he wants to make sure that anyone that bids on the trash pickup has a backup in case of illness so there is not a break in service. After a brief discussion, Council advised staff to include the following:

- Multiple year agreement
- Clean up days spring & fall at a central location
- Residential service only
- Free trash pickup for City locations
- City staff to continue to do billing
- Curbside recycling (alternate)

13. Change Order #1 Clearwater Senior Community Center-Accel Construction

City Administrator Brown reviewed change order #1 from Accel Construction for the Senior Community Center; in order to furnish and install the range hood for an additional (\$175), to add an additional handicap ramp (\$950) and to lower the upper cabinets in the kitchen (\$485) for a total of \$1,610.00.

MOTION: Council Member FitzGerald made a motion to approve change order #1 from Accel Construction in the amount of \$1,610.00. Council Member Armstrong

seconded the motion and it passed unanimously.

14. Consent Agenda

By consensus, the Council approved payment of request #7 from Accel Construction in the amount of \$5,290.00 for work completed at the Senior Community Center. The Council approved payment request #8, the retention, in the amount of \$20,833.00 and advised staff to hold the check until City Administrator Brown agrees that the punch list has been completed to the satisfaction of city staff.

15. Reports

City Attorney Amerine reported that she and Council Member Armstrong attended the Governing Body Institute in Topeka on Saturday. Amerine stated that the League strongly advises that the grievance policy should be removed from the Personnel Handbook. Amerine stated that the League suggest that at appointment time each City should ask all employees to sign an Oath & Affirmation of Loyalty. Council Member Armstrong stated that she thought the sessions on personnel was very good. Amerine stated that there were several people in her sessions from Coffeyville and they were just fined \$40,000.00 for IRS fringe benefit violations. Amerine stated that the main violations were cell phones, uniforms, and vehicles.

City Administrator Brown reported that police car #3 was down for a day due to a short in the wiring.

City Administrator Brown reported that the police officers during their shift are doing a periodic walk thru of City Park to try to cut down on vandalism.

City Administrator Brown reported that the TSS (total suspended solids) is too high at the sewer ponds. KDHE will be working with Public Works to try to find a solution to the algae problem.

City Administrator Brown reported that during the spring cleanup a city employee damaged a citizen's pickup. The City has received a bill for the damage and the amount is below the insurance deductible.

City Administrator Brown reported that he met with John Henzel at the tennis courts and that the problem with the surface is not a structural problem, but an aesthetics problem. Henzel stated that the cracks would not interfere with the play on the court and the cracks will not expand any further. Henzel is offering to extend the maintenance guarantee for an additional year. Brown stated that he still plans to get a second opinion concerning the

cracks.

City Administrator Brown reported that the League of Kansas Municipalities is setting up a fund for the City of Greensburg that was leveled by a tornado the past weekend. Brown stated that he would have more information later on how to contribute. Brown stated since the tornado in Greensburg he has been asked by the Mayor and others concerning Clearwater's disaster plans. Brown stated that there are several sets of plans in place, but probably there is not an overall tornado disaster plan. There is a water emergency, storm debris, mass medical, and shelter plan. Brown stated that the Mayor had requested to sit down in the near future with all department heads and review disaster plans. City Attorney Amerine stated that all City employees should have nametags. Council Member Armstrong questioned if there is a plan to add an additional storm siren at the east side of the City? Brown stated that storm sirens are for people to hear outside and are not intended for people to hear inside the house.

Council Member FitzGerald stated that he has heard good comments about the cleanup especially that the railroad ties have been removed.

Council Member Armstrong stated that the Municipal Leadership Academy that she attended at the League of Kansas Municipalities was very good. She attended sessions on Constitutional Home Rule, Kansas Open Meetings Act, Personnel Basics, Municipal Finance, and an update on the legislative session that effects municipalities. Armstrong stated that she found out that she and Council Member FitzGerald should not both serve on the same PRIDE committee due to the Kansas Open Meetings Act.

Council Member Berntsen questioned if the new well house is being funded by KDHE or city taxpayer dollars? City Administrator Brown stated that the entire project is KDHE funded.

Mayor Justice stated that there are weeds growing up into the asphalt trails in Chisholm Ridge. Justice has advised staff that the weeds should be heavily sprayed.

16. Executive Session

MOTION: At 10:00 p.m. Council Member York made a motion to enter into executive session for personnel matters for 5 minutes. Council Member FitzGerald seconded the motion and it passed unanimously.

17. Executive Session

MOTION: At 10:05 p.m. Council Member FitzGerald made a motion to enter into executive session for legal purposes for 25 minutes. Council Member York seconded the motion and it passed unanimously.

At 10:30 p.m. the Council returned to regular session with no action taken.

Mayor Justice directed City Administrator Brown to contact Don Mertens, Chisholm Ridge Developer, concerning the problems with the setbacks on the house at 1143 Red River Circle to try to come up with a solution.

18. 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 May 8, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 22nd day of May 2007.

Cheryl S. Wright, City Clerk