

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

October 9, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, October 9, 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; and Cheryl Wright, City Clerk. Others present at the meeting were: Lonnie Stieben, Les Langston, and Mike Machart, Planning Commission; Mary Schauf, John Kurimsky, Marvin Schauf, citizens; Paul Rhodes, Times Sentinel; Mike Roth, Superintendent of USD #264; Jonas Elsner, Triston Howland, Brittney Comstock, and Melissa Hoover, Clearwater High School students.

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 September 25, 2007

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

2. Mayor's Recommendations

Mayor Justice, with Council consensus appointed Carla Butterfield to the Community/ Senior Advisory Board.

3. Public Forum

No one addressed the Council.

4. **Mike Roth – Update Council on District Strategic Plan and Items for the Joint Meeting in November**

Superintendent, Mike Roth distributed a copy of the strategic plan for USD #264 for the next 4 to 5 years. The focus of the school district is divided into five buckets that they want to make progress over the next five years. The five buckets are: curriculum, student climate, district technology, personnel, and facilities/transportation. The community has taken on a big endeavor by building a new high school. Roth continued to state that a lot of things were left out of the new high school as far as facilities and updating the grounds. That is why the facilities/transportation is included, not because there is any need for additional buildings. Roth stated that the USD #264 Board would like to discuss with the Council the second bullet under student climate “Evaluate the need for a school resource officer.” Roth stated that the previous school that he came from has a school resource officer and he has been talking with Chief Demars concerning the subject. With a school resource officer, the school and police become very proactive in dealing with situations in the school district. Roth referenced the vision statement “Our district will be an innovative leader in education.” Roth continued to state that the only way he believes Clearwater can have a first class district is if everyone works together. Roth stated that one thing he would like to discuss at the joint meeting is how a school resource officer would benefit the school and the city. The cost could be shared and he would like to look toward to the 2008-2009 school year. Roth asked if any of the Council Members had anything to put on the agenda for the joint meeting. Council Member FitzGerald stated that he would like to discuss moving the ball field out of City Park onto school property and making City Park a quiet park. City Administrator Brown stated that the joint meeting would be November 6th at 6:15 p.m. at the district office.

5. **Ordinance – Amending Additional Height, Area, and Use Regulations to Add Features Allowed within Setbacks**

City Administrator Brown stated that the Planning Commission held a public hearing regarding exceptions allowed in setbacks. Several people spoke in favor of amending the ordinance during the public hearing. Brown stated that staff presented a copy of the old ordinance, which had not been reviewed by the Council, showing that exceptions were allowed in the setbacks. The proposed exceptions are stricter than had previously been allowed. After a brief discussion, the Planning Commission voted 4 to 2 to approve the exceptions in the setbacks as written and they are recommending an ordinance to change the current Zoning Ordinance. Brown continued to state that a side-to-side outline of the exceptions allowed in setbacks from the old Zoning Ordinance and the proposed change to the current ordinance was provided to the Council. Brown stated that the Council can either approve the ordinance as written, disapprove the ordinance and send it back to the Planning Commission for further review, or the Council can make minor changes to the ordinance. Brown advised the Council that they could do less than the Planning Commission recommends, but they cannot do more. York restated that the Council can take away, but

cannot add to the recommended ordinance.

Council Member Whitney stated that over the last couple of weeks he has changed his mind 3 different times. Whitney continued to state that he was hoping that some of the people that were doing the criticizing would be available for him to ask questions. The people that were criticizing do nothing for Clearwater. The builder does not use subs from Clearwater; the real estate agent gets her check and is gone. Whitney stated that if the restrictions are so bad, then he cannot see why there are 4 houses being built in Park Glen at this very time and there has only been one property owner come for a variance. Whitney stated that if the people want the town to be all cluttered together then he has no problem with that, as there was no one at the Public Hearing against the addition of exceptions in the setbacks. The Planning Commission was appointed and is smart enough that they do not need someone from the outside to tell him or her how to plan the City. Whitney stated that if Sedgwick County is going to do the inspections, then Clearwater needs to come in line with other cities in Sedgwick County or Clearwater will have to hire their own inspector. Whitney continued to state that he does not like people from outside telling them how to run the City. If the City is going to control the growth then put a gate up and really control the growth. Whitney stated that in his opinion the City was much better when there were only 1,600 people instead of 2,200.

Council Member FitzGerald stated that he attended the Planning Commission meeting and he was really disappointed that no one spoke at the Public Hearing against the proposed change. FitzGerald continued to state that he was disappointed that the people that spoke do not live in town; all the parties that spoke were real estate people or builders.

Council Member Berntsen stated that he attended the Planning Commission meeting and was also disappointed in the turn out at the Public Hearing. He was also disappointed that it was projected that the houses should be closer together so there would be more additions and there would be more people to support more businesses. Berntsen stated that as close as Clearwater is to Wichita it is hard to keep a business going. More people will not create more business. Berntsen stated that in the old ordinance bay window were allowed and the new ordinance is allowing cantilevers. Berntsen stated that he does not like cantilevers and is against allowing them in the setbacks as there is a difference between a bay window that has glass and a cantilever is completely closed in. Berntsen questioned what is an architectural design embellishment? City Administrator Brown stated that the wording was taken from Wichita/Sedgwick County Unified Zoning Code and is not sure what is included.

Mayor Justice stated that he keeps hearing that the Council wants to keep the distance between houses and he does not disagree. Justice continued to state that the fact remains that most of the City was built under the old zoning and it included stricter exceptions in the setbacks than are being proposed by the Planning Commission. Passing the ordinance will

not change the current 12.5 ft. setbacks in the majority of the City or the 10 ft. setbacks in the Chisholm Ridge development. Justice stated that he does not see that there is a big change proposed or that the houses would be crammed together.

Council Member York stated that he has read all of the paperwork many times and does not agree that all of the proposed ordinance should be approved. York stated that he does not have a problem with a, d, e, j, or k, but has a problem with the rest of the items listed. York continued to state that at the Public Hearing a person alluded to what they thought was the fact that Clearwater has had controlled growth or the growth would not be less than 1%. York stated that he does not agree with that at all. Clearwater has never had controlled growth; he has lived in Clearwater over 40 years and it has more than doubled in size. York stated that he wished there would have been more people speak at the Public Hearing other than people that are in the business to make money from real estate.

Mayor Justice suggested that the Council review the ordinance item by item to see which items there is a consensus.

- a) Consensus
- b) Consensus after a brief discussion
- c) Consensus
- d) Brief discussion concerning architectural design embellishments, consensus to remove as they do not know what it is and then approved
- e) Consensus
- f) Consensus
- g) After a lengthy discussion the Council was divided 2 – 2 and the Mayor is not allowed to vote in a consensus.
- h) Consensus
- i) Consensus
- j) Consensus
- k) Consensus

Mayor Justice suggested tabling additional discussion on the ordinance until Council Member Armstrong arrives at the meeting.

At 8:05 p.m. Mayor Justice continued the discussion on features to be allowed inside setbacks. Justice reviewed the process of the Council and explained that the Council has can go more strict, but cannot go more lenient. Justice explained that there is a 2 to 2 vote among the Council Members on whether to allow “Chimneys, flues and ventilating ducts that do not project more than two (2) feet into a required setback and when placed so as not to obstruct light and ventilation”. Council Member Armstrong requested clarification that so far the Council has accepted the Planning Commission recommendation with the exception of removing “architectural design embellishments” from item d). Justice stated that is

correct. Armstrong stated that she is inclined to allow the chimneys in the setbacks as it is not usually that much of a width projection. City Clerk Wright assigned Ordinance No. 887.

MOTION: Council Member Armstrong made a motion to approve Ordinance No. 887 as submitted with the exception of striking in section d) “architectural design embellishments”. The ordinance will amend the section in the Zoning Ordinance on additional height, area, and use regulations to add features allowed within setbacks. Council Member Whitney seconded the motion and it passed on a roll call vote of 3-2 with Council Members Armstrong, Whitney, and FitzGerald voting for the ordinance and Council Members Berntsen and York voting against the ordinance.

6. **Ordinance – Changing Zoning Classification of Certain Properties Within the City of Clearwater**

City Administrator Brown stated that the ordinance is for the property that was annexed at 8015 Butterfly Court. The default zone for any annexation is R-1 (single family dwelling) and all of the multiple acre sites that have been annexed, after a Public Hearing, have been changed to R-L (Residential Low Density). The R-L classification is similar to the R-R classification in Sedgwick County. The property owners within 200 ft. were notified and the Planning Commission held a Public Hearing. The Planning Commission recommends approval. City Clerk Wright assigned Ordinance No. 886.

MOTION: Council Member FitzGerald made a motion to approve Ordinance 886 changing the zoning classification on the property at 8015 Butterfly Court. Council Member Berntsen seconded the motion and it passed on a roll call vote of 4 to 0.

7. **Pedestrian Crossing Ross Avenue at Chisholm Trail**

City Administrator Brown stated that there was a request for a pedestrian crossing on east Ross Ave. at Chisholm Trail. Brown stated that he visited with the Sedgwick County traffic engineer and they are willing to put in a crosswalk, but not willing to install a light. If the Council were interested in a light it would take a letter and probably paying for the light. Sedgwick would paint the bars on the street and install signage. Brown stated that the Council has discussed that the crosswalk should be on the east side of the entrance of Chisholm Ridge and Sedgwick County thinks the best location for the crosswalk is at the west end of the west lake as there might be a traffic hazard with cars turning right out of Chisholm Ridge. The Council briefly discussed the two locations and the consensus is to have the crosswalk at the Chisholm Trail entrance.

8. **Southern Kansas Telephone Company Quote for Software Upgrade to Voice Mail**

City Administrator Brown reported that the Police Department is beginning to have problems with their voice mail. Brown stated that a repairperson with Southern Kansas Telephone Company checked out the voice mail system and it is time to replace the hard drive on the system. Brown stated that he is not requesting a decision at this time as he is still waiting for additional information on the quote.

9. **Proposal for General Pruning of Trees to 8' Above Side Walks and 12' Above All City Streets**

Mayor Justice stated that the Council requested staff to get a proposal for general pruning of trees over all streets, sidewalks, and alleys in the City. Brown stated that he received a rough estimate for budget purposes and should be receiving another proposal shortly. The first proposal is for 40 blocks in the City since the tree growth is basically from Wood to Nancy plus Michelle and Southeast Drive and from 3rd Avenue to Grain. Brown stated that the company that gave the proposal told him that it is sometimes easier to do the whole City on a three-year cycle instead of doing a portion of the City every year. Brown continued to state that the proposal is for the streets and the sidewalks, but not the alleys. After a brief discussion, Brown stated that he would have additional information next meeting.

10. **Resolution – Declaring the Eligibility of the City of Clearwater to Submit an Application to the Kansas Department of Transportation for Transportation Enhancement Grant for Downtown Development**

City Administrator Brown reported that a part of the grant application to the Kansas Department of Transportation for downtown development requires that the Council pass a resolution of support and authorize the Mayor to sign the resolution. Brown stated that he put in the packets a partially completed grant application with a 70/30 match for Council review. Brown reviewed for the new Council Members that there were town meetings about a year and half ago and Landworks Studio was selected to come up with a plan based on residents comments for beautifying the 100 block of Ross. Brown stated that the design cost from Landworks Studio was \$210,000 and the construction engineering is based on a percentage and a 2010 cost for the entire project is around \$254,000. Brown stated that for this funding cycle of grants the state has between 7 to 9 million dollars to give out on projects around the entire state. Brown stated that the questions he would like to have answered are if the Council is still interested in trying for the grant and if they prefer a 70/30 match or an 80/20 match. After a brief discussion, the Council advised Brown to continue with the grant application and to change the match to 80/20 and to pass the resolution of support. City Clerk Wright assigned Resolution No. 15-2007.

At 7:55 p.m. Judy Armstrong entered the meeting.

MOTION: Council Member FitzGerald made a motion to pass Resolution No. 15-2007 showing Council support to submit an application to the Kansas Department of Transportation for Transportation Enhancement Grant for downtown development and for the Mayor to sign the resolution. Council Member Berntsen seconded the motion and it passed unanimously.

11. Consent Agenda

By consensus, the Council approved payment to CORRPRO Companies for the yearly cathodic protection of the water tower in the amount of \$960.00. Council Member Whitney questioned if the tank review should be added to the contract. City Administrator Brown stated that another company, which also paints the tower every five years, does the tank review.

12. Executive Session

MOTION: At 8:20 p.m. Council Member FitzGerald made a motion to enter into executive session for a period of 20 minutes for personnel reasons. Council Member Berntsen seconded the motion and it passed unanimously.

The Council returned to regular session at 8:40 p.m.

13. Reports

City Clerk Wright reported that the Chamber of Commerce and Recreation Commission would be sponsoring Trick or Treat Downtown on Wednesday October 31st. The Chamber of Commerce is requesting to block off the 100 block of Ross Avenue from 6:00 p.m. to 7:30 p.m. The Chamber of Commerce is also requesting cones in front of 130 E. Ross beginning at 5:00 p.m. for a tent and cooker as they would be serving hamburgers and hot dogs. By consensus, the Council approved the requests from the Chamber of Commerce providing they get approval from Chief Kim Demars to block off the street.

City Administrator Brown reported that both prospective officers passed their evaluations. Officer Garcia began work on October 9th and Officer Clem will begin work on October 16th.

City Administrator Brown reported that the fire hydrant has been fixed on Southeast Drive and Fourth Avenue.

City Administrator Brown reported that he has not heard anything from the surveyor on the elevation of the generator at the water well east of town.

Council Member Berntsen questioned if anything has been heard on the grant money from the recycling. City Administrator Brown stated that the funds are available, but it is a reimbursement type of grant. Brown continued to state the Public Works has requested a quote on roofing the building.

Council Member York questioned if anything has been heard from the young man who requested to do his Eagle Scout project at the old shop area? City Administrator Brown stated that he has not heard anything further from him and does not know if he has contacted Ernie Misak.

Council Member Whitney stated that he has received several complaints about potholes. The complaints are mostly in the areas where Public Works has cut the asphalt for repairs. Whitney stated that he has a list of areas of concern that he would provide that list to City Administrator Brown.

Council Member Whitney stated that he has had another complaint concerning the property at 118 S. Byers. One of the neighbors reported that they almost got hit because the bushes, trees and weeds are so tall that they cannot see to back out of their driveway. Whitney stated that if that property was next door to any of the Council or staff, something would have been done long ago. Whitney continued to state that it is ridiculous that the neighbors have to live around such a mess. City Administrator Brown stated that the City cut the weeds at the beginning of summer. It was discussed that a church in town has cleaned up the property and replaced windows, by Habitat for Humanity, and the City. After a brief discussion, the Council advised staff to check with the Sedgwick County Health Department and report back at the next meeting.

Council Member Whitney stated that he understands that a farmer hit a fire hydrant in the Prairie Meadows area. Whitney questioned if the farmer has been charged for the damages? City Administrator Brown stated that he would look into the fire hydrant and report back to the Council.

Mayor Justice stated that the alley between Lee and Gorin beside First State Bank and Southern Kansas Telephone Company is in horrible shape, there is a big section broke and there is a huge hole. Council Member Whitney reported that there is a section of the curb broke in front of First State Bank. City Administrator Brown stated that Public Works would be doing wide crack repair beginning tomorrow.

Council Member FitzGerald reported that he attended the League of Kansas Municipalities Conference in Overland Park for three days. FitzGerald stated that a lot of small cities are receiving grants for walking and bike paths and thinks that the City should work hard trying to find grants. FitzGerald stated that he attended one meeting about

locating waterlines. It was very interesting that the technology is available to use GPS to locate waterlines. FitzGerald stated that one of the speakers was Ed Barlow who spoke about the fast moving pace of technology and pushing small town development. FitzGerald stated that he got to talk to people from other cities and learned a lot and it was well worth his time.

City Administrator Brown reported that he has been contacted by Sedgwick County Hazardous Waste and they are unable to be in Clearwater on the 3rd weekend of October for the fall citywide cleanup. Brown stated that he plans to schedule the hazardous waste disposal for the spring cleanup weekend.

14. 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 October 9, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 23rd day of October 2007.

Cheryl S. Wright, City Clerk