

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

March 11, 2008

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, March 11, 2008, 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 Kim Demars, Police Chief; Mary Schauf, Fire Department; Kenny Hughes, citizen; Jonas Elsner, Aaron Bell, David Vogel, Kylan Ward, Jordan Ford, and Matt Pogue, 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 February 26, 2008

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 Mike Cass to the Clearwater Public Library Board.

3. Public Forum

No one addressed the Council.

4. Lease/Purchase Bid for Section 24 Financing

City Administrator Brown reviewed the bids received from the two local banks, Home Bank & Trust and First State Bank & Trust.

Item		10 years	10 yr	15 years	15 yr
		Annual payment	Interest rate	Annual payment	Interest rate
Home Bank & Trust	bank qualified	\$43,769.38	4.56%	\$33,316.48	5.00%
Home Bank & Trust	non bank qualified	\$46,925.67	6.00%	\$36,203.19	6.25%
First State Bank & Trust		\$43,965.89	4.67%	\$33,938.19	5.31%
Total Bid Items					

Item		20 years	20 yr
		Annual payment	Interest rate
Home Bank & Trust	bank qualified	\$28,956.13	5.49%
Home Bank & Trust	non bank qualified	\$31,443.57	6.50%
First State Bank & Trust		no bid	no bid

Brown stated that the City had requested bids for 10, 15 and 20-year lease/purchase agreements to finance the purchase of the land in the northwest quarter of Section 24. Brown stated that Home Bank & Trust had provided separate bids for bank qualified and non bank qualified bids for 10, 15 and 20 years. Brown stated that he received clarification from Home Bank & Trust regarding bank qualified and non-bank qualified. The difference depends on the rating of the City's debt and that number would not be available until after the Council meeting, so the Council should use the non-bank qualified numbers. In addition, Home Bank & Trust has a \$4,000 documentation fee charged in conjunction with its leasing. First State Bank & Trust provided bids for 10 and 15 years with no documentation fee, and had no bid for 20 years. Brown stated that after review, city staff recommendation

is the First State Bank & Trust bid, with the number of years to be decided by the Council. Mayor Justice questioned if there is an early payoff clause? Brown stated that there is no early payoff penalty. Justice suggested that the Council finance the land for 15 years with the lower yearly payment with the thought that perhaps the lease/purchase would be paid off early and rolled into an infrastructure loan.

MOTION: Council Member FitzGerald made a motion to accept the bid from First State Bank & Trust for a period of 15 years at an interest rate of 5.31%. Council Member Armstrong seconded the motion and it passed unanimously.

5. **Petition Regarding the City of Clearwater Fireworks Ordinance**

Kenny Hughes provided to the Council a letter, petition, and some articles from the Internet on fireworks. This information is in support of the concerns from residents that the fireworks ordinance provides too many days and hours for shooting fireworks, and it is not being enforced. Council Member FitzGerald thanked Hughes for his hard work. Hughes stated that a lot of older people go to bed early for various reasons, children have trouble going to sleep, dogs have sensitive hearing, and shooting fireworks for nine days bother all of them. Hughes continued to state that many dogs are especially affected as the loud noises scare them, they won't go outside, and they get so scared that they run away. FitzGerald stated that he did not want to eliminate the sale of fireworks. Many people enjoy shooting fireworks and the permit charge is used to pay for the fireworks display and many people look forward to the display. Council Member Whitney stated that Clearwater is terrible about enforcing the law on illegal fireworks. Whitney continued to state that under State law the enforcement of legal and illegal fireworks falls under the jurisdiction of the fire department. Mayor Justice stated that the Clearwater fireworks ordinance is modeled after the State fireworks ordinance. Justice stated that the illegal fireworks could be enforced, but the restrictions of people shooting fireworks after curfew is difficult to enforce. In order for the police to ticket a person they have to personally see them shoot the fireworks and this is almost impossible. Chief Demars stated that other ways of enforcement include; if a person sees someone shooting fireworks after the curfew they can come to City Hall and file a complaint and that would be processed through the City Prosecutor or if an officer see someone with fireworks after hours they can confiscate the fireworks. Demars stated that the fine is \$100.00 or 30 days in jail for shooting fireworks after the curfew. The Council discussed at length the number of days for shooting off fireworks. City Administrator Brown stated that if the Council eliminates July 5th, a clause could be included in the ordinance stating that in case of inclement weather, by notification from the Mayor, another day could be added. Council Member FitzGerald stated that he does not want to spend taxpayer's money for the fireworks display. After additional discussion, the Council directed staff to prepare an amendment to the ordinance with the selling and shooting days to be from the July 1st to July 4th. Staff was also directed to call the surrounding cities concerning the amount of fees charged for fireworks permits.

6. Review Police Procedures Manual

City Administrator Brown stated that Police Chief Demars and City Attorney Amerine have reviewed the suggested Police Procedure Manual. Brown suggested that the Council only review the first 20 pages tonight. Council Member FitzGerald questioned that in 4.004, under HIPPA laws, if an employee has to tell their employer the nature of the illness or injury. After a brief discussion, it was determined that this is the same language as for Sedgwick County employees. Police Chief Demars stated that there is a reason for most of the sections, but some of it can be modified or changed if it is seen to be unique to the Clearwater situation. Mayor Justice stated that employees in the police department are held at a higher level of accountability than other employees due to the 24-hour work coverage. Demars stated that the Code of Ethics is taken from the Law Enforcement Academy. The Council and Demars reviewed the manual section by section with the Council asking various questions of Demars. Demars explained inside the city limits that an officer can not exceed the speed limit by more than 10 miles an hour, except in a life and death situation or in the event of a high speed chase. Demars continued to state that at 10 miles over the speed limit it takes less than a minute to drive anyplace in the city. The Council briefly discussed that any type of political activity is not allowed while on duty. The Council briefly discussed officers smoking and chewing tobacco while on duty, with no changes being made at this time. Council Member Armstrong questioned if there are lockers provided at the station if an officer prefers not taking his weapon home. Chief Demars stated that each officer has a locker with a key and the lockers are behind a locked door and it is personal preference whether an officer takes his weapon home. Demars stated that under modern policing one of the requirements of an officer is that an officer should have access to their weapon at all times, because you never know when you are going to be called to assist another agency or you could become a target. The Council will review another section of the manual at the next meeting.

Council Member FitzGerald stated that on Kansas Avenue there are 3-way stop signs at First, Second, and Third Avenues and the bus drivers are requesting that they be removed. Mayor Justice stated that Kansas begins being a one-way street at Prospect and the purpose of the stop signs is to slow down the traffic. There is a driving lane and a walking lane on Kansas and the cost for curb and gutter would be very expensive. Police Chief Demars stated in order to add or remove a stop sign an extensive study would have to be done.

Police Chief Demars left the meeting.

7. Proposal for Professional Engineering Service for the Proposed Water System Study

City Administrator Brown stated that he received some clarification from Harlan Foraker on the water study proposal. The flow tests involved with his proposal will be actual flow tests not computer generated flows. The goal is that every fire hydrant would be tested for actual data. Since Sedgwick County Fire Department has better equipment for flow testing, coordination between Sedgwick County Fire and Clearwater Fire (and Public Works possibly) in performing tests and gathering the data will be needed. Brown continued to state that Harlan Foraker would be working with PEC (Professional Engineering Consultants) as they have the water system model software. PEC would take the raw data from Harlan Foraker and then provide outputs from the software. Foraker will then conduct the analysis of storage capacity (water tower), lines, fire flows, water well capacity and water rights. Brown stated that he also received a full proposal from Wilson & Co. In the Wilson & Co. proposal they would not be testing every fire hydrant probably only 20 to 25 for the flow testing. Brown stated that Wilson & Co. has performed water studies for many cities, while Certified Engineering has really only completed a study for one city. The cost for the Wilson & Co. study is \$17,500 and provided a bar chart detailing the cost. The cost of the study from Harlan Foraker, Certified Engineering Design is \$15,500. Brown stated that the pro is that Wilson & Co. does water studies consistently and has experience in other cities where Foraker does not. Brown stated that the pro for Harlan Foraker is that he has been the City Engineer and will probably be involved with future projects in the City and has history. The Council discussed each contract at length. By consensus, the Council agreed that all of the fire hydrants should be flow tested. Mayor Justice questioned if Harlan Foraker or someone from his office would initially be with our people for training on flow testing? Brown stated that his understanding is that Harlan Foraker's person would be working with Sedgwick County Fire for the flow tests on the fire hydrants.

MOTION: Council Member FitzGerald made a motion to accept the bid from Certified Engineering Design in the amount of \$15,500 with the contract amended to add that all fire hydrants are to be flow tested. Council Member York seconded the motion and it passed unanimously.

8. Contract Proposal to Prepare Plat for Section 24

City Administrator Brown stated that in order to develop the land in Section 24 for an Industrial Park it is time to plat the property and rezone it from the default R-1 to Industrial. Brown stated that he suggests contracting with Harlan Foraker, Certified Engineering Design to prepare the plat at an estimated cost of \$12,500. Brown stated that he hopes that the plat would be completed for the May 5th Planning Commission meeting. The plat process would include a drainage plan and easements for utilities.

MOTION: Council Member Armstrong made a motion to contract with Certified Engineering Design to prepare a plat and authorize the Mayor's signature on the contract. Council Member FitzGerald seconded the motion and it passed

unanimously.

9. **Resolution Relating to Adopt 457 Deferred Compensation Plan**

City Clerk Wright stated that for several years the City has offered a 457 Deferred Compensation Plan for the employees; however, there has been no local representative for employees to talk to about the plan, all questions were by phone to Washington D.C. Wright stated that she received a phone call from Robert Bachman with AIG Financial Advisors marketing a 457 Deferred Compensation Plan with Security Benefit. Wright stated that she felt that there might be more employee interest if there was a representative that the employee could sit down with and discuss the type of investing that would be best for them. Last week Robert Bachman and Tyler McMaster with Security Benefit provided pizza for the employees at lunch and explained their product. Wright stated at this time she is not recommending eliminating the 457 account with ICMA, but adding Security Benefit as an additional option for the employees. City Administrator Brown stated that all employees are members of KPERS Retirement System, where the City contributes a percent of the employee's wages as determined by the Legislature. The 457 Plan is entirely employee pretax contribution. City Clerk Wright assigned Resolution No. 2-2008.

MOTION: Council Member York made a motion to adopt Resolution No. 2-2008 relating to a 457 Deferred Compensation Plan with Security Benefit. Council Member Armstrong seconded the motion and it passed unanimously.

10. **Nuisance Properties**

City Administrator Brown stated that he wrote a nuisance letter to the former resident of 231 N. Prospect and has had no response. City Attorney Amerine stated that the Council should pass a resolution at the next meeting that gives the property owner 10 days to clean up the property or time for appeal by the property owner. If there is no appeal, the resolution authorizes the City to go in and clean up the property and assess the charges to the property. City Clerk Wright informed the Council that should the property go into foreclosure there is a good possibility that the amount assessed to the property for clean up would not be paid. Amerine stated that her experience with mortgage companies is that when a property goes into foreclosure they immediately send a representative to secure the property. Brown reported that he received a letter from Sedgwick County Code Enforcement concerning the property at 118 S. Byers. The letter states, "The results of my inspection are that I found the house and outbuilding are not presently being maintained in a safe and sanitary condition, which is in violation of the applicable codes. The service utilities, i.e. gas, electric, water, and sewer, are also in violation of the code." Mayor Justice questioned what is the next step on this property? Brown stated that the next step is to send a letter to the property owner stating that the City needs to inspect the inside of the property. Amerine suggested that Sedgwick County Public Health, Public Works, Fire Department and City Administrator all

attend the inspection. Justice stated that the homeowner is a habitual violator. In the past churches and Mennonite Housing have cleaned up the property. The Council requested staff to write a letter to the property owner regarding an inspection.

11. Staff Recommendation for Purchase of Backhoe

City Administrator Brown stated that three members of the Public Works Department went to Newton and McPherson and operated two different backhoes. Ernie Misak is recommending to the Council to purchase the New Holland B115 with 4 equal sized tires at a cost of \$51,888.00. Brown stated that the New Holland has a 5-year/3,000 hr. warranty. The purchase of the New Holland B115 is a quality designed front loader as well as a quality-designed backhoe.

MOTION: Council Member York made a motion to purchase the New Holland B115 backhoe at the cost of \$51,888. Council Member Armstrong seconded the motion and it passed unanimously.

12 Reports

City Administrator Brown stated that he apologizes to the Council that his weekly e-mails have not gotten through the last couple of weeks.

City Administrator Brown stated that the City had a meeting with the School District regarding the baseball and softball fields at the Sports Complex. Most of the discussion was long-term solutions. Public Works would be installing 2 x 12 on the fence behind the softball diamonds. The outfield lines will be straightened and staff will be trying to do something to the hump on a couple of the fields. Brown stated that all the City does to the fields is put on keel and the City could be using some kind of soil conditioner. It was suggested that grass should be on the infield of the big field.

City Administrator Brown reported that the Police Department's Intrepid is in the shop. There is an electrical system problem similar to the other Intrepid.

City Administrator Brown reported that Public Works is replacing some of the lumber on the bleachers. Brown stated that it might be a good idea to look into replacing the wood bleachers with aluminum type bleachers. The approximate cost of an aluminum bleacher is \$3,500.

City Administrator Brown stated that Beki Zook priced temporary fencing for the ball fields and provided examples of two designs. Brown stated that the white fence panel type of fencing would run around \$4,800 and the netting type fence with the caps would run around \$2,000. Council Member Whitney stated that some concern with the panel type is

the wind, but he heard of one city that filled the PVC pipe with sand and eliminated the wind problem. The Council discussed each design.

City Administrator Brown stated that Public Works had a complaint from a homeowner concerning a problem of odor in the water. Ernie Misak checked the water and found no odor. The chlorine residuals were checked and they were all right. Public Works is continuing to monitor water in the home.

Council Member Berntsen questioned if the old Intrepid has been sold? City Clerk Wright stated that it was supposed to go to auction, but it was found that the City did not have the title. When a vehicle is leased the title is not received until after the lease is over, and staff failed to request a title at that time. The title has now been requested and as soon as it is received the vehicle will go to the auction at Gene Francis.

Council Member Armstrong stated that on Friday she and City Administrator Brown went to Hesston and toured the ASR (Aquifer Storage and Recovery) and it was amazing. Armstrong stated that she attended the REAP meeting on Monday and there was a presentation for a Bioscience Center someplace in Kansas. This center would be for future work on orthopedic appliances or composite hip and knee replacements. South Central Kansas is trying to lobby to get the Bioscience Center in the Wichita area since there is already work being done with composite materials.

Council Member Whitney stated that he attended the USD #264 meeting. Mr. Roth brought up the letter that the Council requested staff to send regarding the electrical for a community shelter at one of the schools. Whitney stated that he briefly addressed the School Board concerning what the Council is interested in accomplishing. Whitney stated that he got the impression that it is not a big priority among the School Board members. City Administrator Brown stated that he spoke with Mr. Roth and no action was taken, but it would be brought up again at the next School Board meeting.

Council Member Whitney questioned if the "Thank you" certificates for the business have been finalized? City Administrator Brown stated that he is almost finished with them.

Council Member Whitney stated that he has received resident complaints concerning semi-trailer parking in residential areas overnight. There is a semi in the 600 block of Rolling Hills Court that set on the street for 3 days with the motor running. There is another semi that is parked in the 200 block of N. First. This vehicle parks all weekend in front of the mailboxes with an extension cord running across the street. Whitney continued to state that another semi at 144 N. Grant that set on the street with the motor running all weekend. Whitney stated that the ordinance states that there is no overnight parking of vehicles on any city street of any commercial vehicle greater than 16,000 lbs. Whitney stated that other cities put signs up at the entrance with the rules for semi parking on city streets and suggest

putting up signs at all 5 entrances. City Administrator Brown stated that he would talk to Chief Demars concerning overnight parking of semi-trucks and trailers.

Council Member FitzGerald stated that there is a concern with the City putting ground up asphalt on some of the alleys that the alley would be higher than the yards causing drainage problems. City Administrator Brown stated that he has had this conversation with Public Works and they will be checking the alleys during a rain. The Council briefly discussed various alleys.

Council Member FitzGerald stated that Howard Walker contacted him stating that he would like to learn to run the baler.

Mayor Justice requested since the baseball and softball season is beginning he wants to make sure that the concession stand area at the Sports Complex is clean and ready for groups to use during games.

Mayor Justice stated that he received a call and they are going to need some help at recycling on Saturday. Justice stated that he had some kids that could work, but wanted some adult help. Council Member Berntsen stated that he would be able to work on Saturday at the recycling.

Mayor Justice questioned if the Council should set a date for the Council tour. After a brief discussion, it is tentatively set for March 29th at 8:00 a.m.

City Administrator Brown stated that he would be out of the office from March 14th to March 21st.

13. Executive Session - Personnel

MOTION: At 10:00 p.m. Council Member York made a motion to enter into executive session for 15 minutes for personnel reasons. 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.

MOTION: Council Member Armstrong made a motion to raise the Pool Manager salary from \$4,800 to \$5,500 per season. Council Member Berntsen seconded the motion and it passed unanimously.

14. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member

York 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 March 11, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 25th day of March 2008.

Cheryl S. Wright, City Clerk