

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

November 11, 2008

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, November 11, 2008, at 7:50 p.m., after a Joint Meeting between Clearwater City Council and USD #264 School Board in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Mike Justice, Mayor, Lyle Berntsen, David FitzGerald, Sandi Keeler, and Jim Whitney. Council Member Mike York was absent. The following staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; Jodi McBee, Deputy City Clerk; and Janet Amerine, City Attorney. Others present at the meeting were Beki Zook, Recreation Director; Ernie Misak, Public Works Director; Donald Schauf, Clearwater EVS; Mary Schauf, Clearwater Fire Department; Christine Van Allen, Garion Masterson, Callie Brueggeman, Cole Pearson, Matt Moore, Braden Taylor, Levi McGuire, Sam Sipp, Donald Wolfe, Clearwater High School Government students.

Mayor Justice called the meeting to order at 7:50 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 October 28, 2008

MOTION: Council Member FitzGerald made a motion to approve the minutes of the meeting with the amendment of the motion made to approve minutes of October 14 to read Council Member FitzGerald instead of Berntsen. The motion was seconded by Council Member Berntsen and passed unanimously.

2. Approval of the Minutes of the Special Meeting of October 31, 2008

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

3. Mayor's Recommendations

Mayor Justice, with Council consensus, appointed Karen Matzen to the position of Assistant Director EMS.

Mayor Justice, with Council consensus, appointed Marlene Hand to the Senior Center Advisory Board.

4. Public Forum

No one addressed the Council.

5. Executive Session-Personnel

MOTION: At 8:00, Council Member FitzGerald made a motion to enter into Executive Session for a period of 15 minutes for personnel reasons. Council Member Berntsen seconded the motion and it passed unanimously. Beki Zook, Recreation Director, was asked to join the Executive Session.

At 8:15, Council returned to regular session with no action taken.

6. Review Joint USD #264 School Board and City Council Meeting

Mayor Justice asked Council for any input on the joint meeting with USD #264 School Board. Council Member FitzGerald stated that there is a need for a stop light at the cross walk near Chisholm Ridge. Council Member Berntsen agreed and stated the cross walk needed to be moved to the west. Council continued to discuss various crosswalk and stoplight options. Council Member Whitney suggested adding a flashing school zone light closer to the intersection of Ross and Tracy so traffic turning onto Ross from Tracy is aware of the school zone speed limit of 20 mph. City Administrator Brown stated he would contact Sedgwick County for suggestions on how to handle the zone signage.

Mayor Justice, with Council consensus, directed staff to develop the appropriate policy on how the Clearwater Police Department work home school sporting events.

7. Update on Schoolhouse on Historical Museum Property

Judy Cumming, Director of the Clearwater Historical Museum, joined the meeting to update the Council on the status of the schoolhouse behind the Historical Museum. Cumming stated due to some paperwork errors, the date to hear something back about the grant has been pushed back to December. The Historical Society is currently not spending money on the schoolhouse because money spent before the grant is received will not be paid

back by the grant. The Historical Society is waiting on bids to get the schoolhouse put on a foundation. Cumming continued to state that there is a beehive in the schoolhouse that they are having trouble finding someone to remove. The bees cannot be killed, because they are a protected species. Cumming requested anyone that knows of a beekeeper that would be willing to remove the bees to contact her. Cumming stated there has been tarps purchased to cover the roof, she needs some assistance in getting them placed on the roof. Mayor Justice stated the City could assist in getting the tarps put on the roof. Justice said he would also talk to SKT about using their bucket trucks to help with the project. Justice requested that when the Historical Society hears something about the grant, please contact the City to let them know what is happening.

Judy Cumming left the meeting.

8. Review of Joint Recreation Commission and City Council Meeting

Mayor Justice reviewed the proposal from the Recreation Commission for the donation of the \$100,000. The four post lighting system from Musco Lighting is to be installed, and inserts for portable fence at 225 feet and at 275 feet. Council Member Whitney asked if permanent fence would need to be laid for the sidelines to 275 feet to make the field totally enclosed for the outfield temporary fence at 275 feet. Mayor Justice stated he would be in favor of laying temporary fence along the sidelines for the 275 feet measurements. Council Member FitzGerald stated he was disappointed that the area where the ball field is will not be able to be used for anything else. Council Member Whitney stated that even though the area is a ball field, it won't be used for other things, and Council should just move forward. Council Member Berntsen stated it would be irresponsible for the City to spend money to move the baseball field when it is much more inexpensive to update the current field in City Park. Justice stated that the Recreation Commission is willing to give the City \$100,000, with some stipulations, then the City should accept the money and use it improve the park. Bathrooms and improvements to the skate park could be some of the options where the money could be spent after the lighting costs. FitzGerald stated that there has been concern expressed over the use of the church parking lot next to the ball field during events held at the Park. Justice replied that if organizations or persons have concern over the use of certain private parking lots, the organization could take some action on its own to prevent the parking, or it should express its concerns directly to the entire Council. After more discussion regarding parking and placement of fence, Council agreed to accept the proposal from the Recreation Commission for the donation of \$100,000. Council agreed to put permanent fence up to 225 feet on the sidelines and temporary fencing would be used for the 275 feet sidelines.

MOTION: Council Member Berntsen made a motion to accept the agreement with the Recreation Commission for the donation of \$100,000 including a four pole

light system on the field in City Park with temporary fencing inserts at 225 feet and 275 feet with any money left over to be spent at the Council's discretion. Council Member Keeler seconded the motion and it passed with a vote of 3 to 1 with Council Members Berntsen, Whitney, and Keeler voting in favor of the motion and Council Member FitzGerald voting against the motion.

Mayor Justice stated the joint meeting between the Recreation Commission and City Council brought a new layout for the field 2 at the Sports Complex. Most ball diamonds are not symmetrical, so the new concept is for 190-foot sidelines and 215-foot center field. Council Member Whitney asked if those measurements fit within the guidelines of the softball/baseball leagues that would use that field. Justice stated that there are not exact measurement requirements; there are measurement ranges and these fit into those ranges.

City Administrator Brown stated that the issue that came out of the joint meeting with the Recreation Commission was fixing the fence at fields 2 and 3 at the Sports Complex. USD #264, The Clearwater Recreation Commission, and the City of Clearwater would split the cost of fixing the fence in thirds. The Recreation Commission stated they would give \$8,000 to the fence project. A bid from Kansas Fence had been accepted at a previous Council meeting. Brown requested that the bid process not start over again, but go back to Kansas Fence with any changes. With Council consensus, staff was directed to request alternate bids from Kansas Fence to add fixing the backstop, wings and gate on Field 3.

9. Contract with Musco Lighting and/or Reeves Electric for Lighting in City Park

City Administrator Brown presented the contract with Musco Lighting for lighting at City Park. Brown stated the contract was for \$41,000 for the equipment only. Brown stated City Attorney Amerine had reviewed it and had some changes to recommend. Amerine reviewed her changes. Amerine stated the late charge on payment was listed as 1.5% monthly, which is essentially 18% annually. She suggested changing the language to read, 18% per annum which works more in the City's favor. Amerine stated that the City chose to buy a 25-year warranty on the equipment. The contract waives all other warranties if the 25-year warranty is purchased. Amerine suggested changing the language on the contract in that clause to read "in addition to" rather than "in lieu of". This would keep the warranties implied by law as well as the addition of the purchased warranty. The next change Amerine suggested was to limit the cost set forth in the UCC provisions in regards to "cover", selling the equipment if the City could not use it, and not expand on them. The City would be limited in what Musco could charge in trying to sell the equipment to someone else. The final change Amerine suggested was eliminating any collection costs. The City would pay an 18% per annum charge if late and that should cover collection costs. Council Member

Whitney asked if the City would be required to pay the contract in full at delivery or could payment be made after installation of the lights and they are in working order. Amerine stated the contract states payment is to be made at delivery because the contract reads Musco has nothing to do with the installation. Council Member Whitney stated he recalled the Musco Representative had stated he would attend the installation to make sure the lighting was in working order. Brown stated that we are paying Musco for the equipment and Reeves for the installation, but Brad Thompson, the Musco Sales Representative, stated Musco would make sure the lighting worked. Amerine stated that the contract specifically states that Musco is just a supplier. Mayor Justice stated that a retention fee of 10% should be included to insure the lighting is accurate. Council Member Whitney stated he would rather see a contract where Reeves was the subcontractor for Musco and Musco would be responsible for insuring the proper installation of their equipment. With Council consensus, Mayor Justice directed staff to go back to Musco and discuss making changes to the contract.

10. Proposal to Replace Public Works Pickup

Public Works Director Misak addressed Council to discuss the replacement of the Public Works pickup. Misak stated he found a comparable truck to the 2003 Dodge Ram that was totaled in the accident at 135th and 71st St. A 2004 Dodge Ram 1500 with 38,000 miles was found in Belton, MO for \$13,300. A 7- year/70,000 mile power train warranty can be transferred for \$150. Misak stated he searched the Internet and also asked local dealer Gary Whitney to search, and he was unable to find a comparable vehicle in Kansas. Misak requested authorization to travel to Belton, a suburb of Kansas City, to inspect the vehicle and if in good condition, purchase the vehicle. The City received \$13,950 for the previous truck. Money would be left over to purchase a toolbox and add some amber lights in the rear cab window. City Attorney Amerine asked if Misak ran a Carfax on the truck. Misak stated that he did run a Carfax and it came out clean. It is a one-owner vehicle.

MOTION: Council Member FitzGerald made a motion to authorize the purchase of a 2004 Dodge Ram Pickup from Cragg Motors in the amount of \$13,300 with an extended warranty for \$150. Council Member Whitney seconded the motion and it passed unanimously.

11. Contract from Randal Steiner for Architect Services for Exterior Remodel and Lobby Remodel of City Hall

City Attorney Amerine reviewed the contract from Randal Steiner for architect services for exterior and lobby remodel of City Hall. Amerine stated she had only one recommendation for change. She suggested adding a clause stating “the architect hold us (the City) harmless for any occurrence, damages, or liability under the Kansas Fairness and Public Construction Contract Act”.

MOTION: Council Member Berntsen made motion to accept the contract with Randal Steiner, Architect, for exterior and lobby remodel of City Hall with the addition of the Kansas Fairness and Public Construction Contract Act clause. Council Member Keeler seconded the motion and it passed unanimously.

12. Process to Fill Municipal Judge Position

City Administrator Brown stated the City's Municipal Judge, Jeff Syrios, was elected District Court Judge. Syrios will be resigning December 17th, and needs to be replaced. The current City Prosecutor, Becky Hurtig, has expressed interest in becoming the Municipal Judge. Brown stated that the Mayor appoints the Municipal Judge with Council consensus. Mayor Justice stated that Jeff Syrios was the City Prosecutor before he was appointed Municipal Judge. Since Hurtig was familiar with the court and how things are run, Justice stated he would like to appoint Becky Hurtig as Clearwater Municipal Judge. Justice stated that someone has expressed interest in the Prosecutor position, as well. Council gave consensus to have staff look into the person interested in the Prosecutor position and talk to Hurtig about the judge position.

13. Request to Document Corrected Easements in Hammers Addition

City Administrator Brown stated the City agreed to vacate the street easement for Grain at the horse barn property in return for drainage and sewer easements when Mike Ganaway brought the property to be rezoned several months ago. The surveys have been done for each easement. Obtaining the drainage easement on Ganaway's property is just the first step in a drainage project that needs to be done on the southwest side of town. After a discussion regarding drainage, Council gave consensus to have staff send the legal descriptions to Harland Foraker, City Engineer, to draw up the easements.

14. Reports

City Administrator Brown stated the Planning Commission would like some direction on the changes to the parking ordinance. Brown asked Council if they would like to see semi-truck parking banned from the streets or just more tightly regulated. Council Member Berntsen stated currently the trucks are regulated by weight with no trucks weighing over 16,000 lbs. allowed to park on city streets over night. Council Member Whitney stated his concerns with truck parking were visual obstruction of traffic and damage to streets caused by the larger vehicles. Council Member Berntsen suggested maybe regulating trucks by tag weight. After a discussion regarding trucks by size and weight, Council stated they weren't looking to ban truck parking, just make the restrictions on semi truck parking stronger.

City Administrator Brown stated the wet well in Park Glen had been running more hours than normal lately, so Public Works has plans to blow out the line to the ponds or adjust the line connection to the rest of the system.

City Administrator Brown stated there was a Public Building Commission meeting held last week. As of right now, they are on track to pay off the Public Building Commission Bond for the Aquatic Center by 2012, two years ahead of the revised schedule.

Council Member FitzGerald stated a house on 4th just South of Elaine has water puddling in their driveway due to the sidewalk on their property. Brown stated the City has plans to cut the driveway to help the water drain. If that doesn't help the problem, the City will have to discuss other alternatives with the homeowner.

Council Member FitzGerald stated the trash truck in town leaves the lids open after dumping the trash dumpsters. FitzGerald said he had several people complain that when the lids are left open after a rain the dumpsters are heavy with water, and people can't get them back up to their homes. City Clerk Wright stated she would contact Waste Connections and find out if they lids could be closed after they are dumped.

Council Member Whitney stated that there is a black trailer sitting in front of 619 Southeast Drive that needs to be moved.

Council Member Whitney stated there is a pothole that needs to be filled in the alley between SKT and First State Bank.

Council Member Whitney stated there is a pothole on Nancy that needs to be filled.

Council Member Whitney stated the control boxes on the sprinkler system at the Sports Complex have been destroyed. Whitney stated next spring the boxes and wiring needs to be maintained.

Council Member Whitney stated the tree stubs at the Sports Complex need to be trimmed back.

Council Member Whitney stated there are several steel posts sticking out of the ground at the Sports Complex. Whitney asked that Public Works get them taken out if they are not being used to mark something.

Mayor Justice stated he would like to schedule a meeting before month end to discuss ball field maintenance at the Sports Complex and City Park. The meeting would involve School, City, and Recreation persons involved in maintaining the fields. Justice would like

to see a change in field prep on off game days.

15. 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, Jodi McBee, Deputy 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 November 11, City Council meeting.

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

Jodi McBee, Deputy City Clerk