

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

September 9, 2008

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, September 9, 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; Jodi McBee, Deputy City Clerk and Janet Amerine, City Attorney. Others present at the meeting were Marvin Schauf and Mary Schauf, Clearwater Fire Department; Donald Schauf, Clearwater EVS; Kim Demars, Clearwater Police Department; Brittany Corr, Tara Wolfenbarger, Stephanie Barker, Elizabeth Cordell, Korey Johnson, and Kylee Hopkins, Clearwater High School Government 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 August 26, 2008

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 Jerad Schneider as Cadet Firefighter and Rhonda Barber as EMT-B.

3. Public Forum

No one addressed the Council.

4. Revised Proposal for City Park Ball Field Lighting Electrical Project

City Administrator Brown requested to table the discussion of the City Park Ball Field Lighting Project. Brown stated the Musco Representative is checking with local contractors regarding installation of the lights to relieve some of the cost of the project. Tech-Line Sports Lighting was contacted by a local electrical subcontractor and submitted a quote to the City as well. Both company representatives are available to make presentations at the next Council meeting. Council Member FitzGerald stated he noticed the playground area was not lit very well. FitzGerald suggested looking into lighting in that area as well. Mayor Justice stated that the lighting in the park area is going to be included in the entire park project that the Park Board and Council have been working to complete. Council Member York stated there used to be lighting on the north side of the shelter house. Council Member Whitney recalled the light was taken down because it was being vandalized. Whitney stated that lighting the area would invite people to hang around the park after curfew. Police Chief Demars stated the police officers were doing foot patrol through the park to enforce the curfew. Demars suggested posting the curfew in the park to notify the public of the curfew. Mayor Justice suggested the discussion regarding lighting the park area and posting curfew signs at the park be included in the agenda for next meeting after the lighting representatives review the ball field lighting.

MOTION: Council Member FitzGerald made a motion to table the Ball Field Lighting Project until the next Council meeting. The motion was seconded by Council Member Berntsen and passed unanimously.

5. Recommendation to Approve Zoning Change from R-1 to R-L

City Administrator Brown stated that the Planning Commission made the recommendation to change the zoning at 145 N. Grant. A public hearing was held to change the property zoning from R-1 (single family dwelling) to R-L (residential low density). No opposition was received at the hearing nor to the publication. The request came in to rezone the property for its current purpose. Brown stated if the zoning change is approved the Planning Commission plans on issuing a special use permit to limit the number of animals permissible on the property, which is approximately 5 acres. Deputy Clerk McBee assigned Ordinance number 894.

MOTION: Council Member Berntsen made a motion to approve Ordinance No. 894 to change the zoning at 145 N. Grant from R-1 to R-L. Council Member York seconded the motion and it passed on a roll call vote of 5 to 0.

6. Final Plat-Park Glen at Clearwater 4th Addition

City Administrator Brown stated the Planning Commission is recommending approval of the Final Plat for Park Glen at Clearwater 4th Addition with a condition of obtaining an offsite drainage agreement including a complete drainage plan. City Attorney Amerine recommended the Mayor review the signed offsite drainage agreement before he signs the final plat. Council Member York asked what the side set backs were in this addition of Park Glen. Brown stated that the side setbacks in this Planned Unit Development, which is the overlay district for Park Glen 4th, are 10 feet. Brown reviewed the division of land and placement of water and sewer lines in the development. Amerine stated that there will be a lake included in the future 5th Addition.

MOTION: Council Member York made a motion to approve the Final Plat of Park Glen 4th Addition with the condition of an offsite drainage agreement being obtained from adjacent property owners before the Mayor signs the final plat. Council Member FitzGerald seconded the motion and it passed unanimously.

7. **Charter Ordinance to Exempt the City of Clearwater from State of Kansas Session Laws (2008) Regarding Mayoral Appointments**

City Attorney Amerine stated that the Council had directed her to write a Charter Ordinance exempting the City from the State of Kansas Session Law regarding Mayoral Appointments. Mayor Justice stated opting out of the law by adopting the ordinance would keep the Council from being required to state that a person is unqualified and unfit to take an appointment if the Council doesn't approve the Mayor's recommendation. Deputy Clerk McBee assigned Charter Ordinance number 16.

MOTION: Council Member Armstrong made a motion to approve Charter Ordinance No. 16 exempting the City from State of Kansas Session Law Regarding Mayoral Appointments. Council Member FitzGerald seconded the motion and it passed on a roll call vote of 5 to 0.

Mayor Justice suggested a letter be written to the State Legislature addressing the mayoral appointment issue and several other issues.

8. **Amendment to Agreement with Clearwater Recreation Commission**

Mayor Justice stated the amendment to the agreement with the Clearwater Recreation Commission was to take back the responsibility for contracting the concession stands at City Park and the Sports Complex. City Attorney Amerine stated she had dated the amendment September 23rd to allow the Recreation Commission to review and sign the agreement at their next meeting.

MOTION: Council Member Armstrong made a motion to authorize the Mayor to sign the amendment of the agreement with Recreation Commission taking back the contracting for concessions at City Park and the Sports Complex. Council Member York seconded the motion and it passed unanimously.

9. **Amended Road Maintenance Agreement with Ninnescah Township**

Mayor Justice stated that City Administrator Brown had requested an amendment of the Road Maintenance Agreement with the Ninnescah Township to change the formula for payment. Brown reviewed the current formula and how it included the levy for fire coverage in the annexed areas north of Clearwater, which should go to the Clearwater Fire Department, not the township road maintenance. Therefore the formula will be changed to only include the taxes for road maintenance. Brown stated he already spoke to Ken Chambers of the Ninnescah Township Board regarding the change and also planned on attending the next township meeting.

MOTION: Council Member York made a motion to approve the amended Road Maintenance Agreement with Ninnescah Township correcting the formula for payment. Council Member Armstrong seconded the motion and it passed unanimously.

10. **Proposal to Replace Video Equipment in Police Vehicles**

Police Chief Demars stated the audio/video equipment currently in the police vehicles is obsolete. Some of the units are not working appropriately and the cost of repair is high due to the age of the equipment. The equipment that Demars is proposing to purchase is state of the art equipment with audio coverage of 1,500 feet and reverse time capture of 30 seconds to one minute. Terms of purchase can be in a lump sum payment of approximately \$4,000 per kit or a 3- year lease/purchase of \$121.31/month, with installation included in that price. Demars stated he is requesting 2 units at this time. The current malfunctioning equipment can be cannibalized to keep the other units running, and then the cars could be rotated to keep the operable equipment in use. Brown stated there was no room in the budget to purchase the 2 units this year, but there was room to make lease payments. After a brief discussion regarding payment options, council agreed to purchase 2 units on lease. If there is money in the police budget at the end of the year, the lease may be paid down. If not, pay one off in January, 2009 and the other in 2010.

MOTION: Council Member Armstrong made a motion to approve the lease/purchase of 2 Digital Ally DVM-500 Digital Video Mirror Kits. Council Member Berntsen seconded the motion and it passed unanimously.

Police Chief Demars stated the police department had been promoting their nonemergency phone number, 584-2349, letting the public know they are more accessible. Officers were out during Fall Fest handing out promotional items and letting their presence be known.

Mayor Justice requested an update from Chief Demars of an incident of one of the officers discharging his taser during a fight outside of the bar. Chief Demars stated that the officer followed procedure before and after firing the taser. The police department is now reviewing the incident. Demars stated the fight occurred near the Fall Festival Street Dance but had nothing to do with the dance. It started in the bar and flowed out into the street. Council Member FitzGerald commended the police department for their presence at the Fall Festival. Demars stated there were 5 arrests made during Fall Festival, none of which occurred in the dance or carnival area. Council Member York asked Demars for his opinion on the move of the street dance to the downtown area. Demars stated there were no problems at the dance. Demars stated it was good to have Ross blocked from 4th to Tracy to allow festival goers to walk back and forth from the dance to the carnival without the worry of vehicle traffic.

11. Proposed Ordinance to Adjust Water Rates

After reviewing the previous ordinances, City Administrator Brown stated water rates have increased only once in 26 years. Brown reviewed several water rate increase options. Brown reviewed examples of a percentage increase on an annual basis, base and consumption rate increases by dollar amounts, progressive rate increases, and average winter consumption base rates. Brown noted staff had contacted several neighboring cities on water rates and there is no consensus on how rates are charged. Brown noted that the progressive rate impact the larger customer, such as the schools and the nursing home, more than the average consumers. Council Member Armstrong suggested issuing a different rate for the schools and the nursing home. Brown stated the Average Water Consumption (AWC) rate addresses the question of larger customers being heavily impacted by using large amounts of water. The AWC takes the average of three winter months water usage to set your base rate for the year and if you consume more than that average in one month you are charged a percentage more. Council Member Whitney stated he liked the base rate including 2 gallons with a progressive rate because he believes that those who use more water should have to pay more on their bill. Whitney also stated a water meter test charge should be included in the ordinance. Brown stated that the meter set fee needs to be raised to cover cost of the meter and labor of installation. After a lengthy discussion on water rate charges, Council directed Brown to draft a rate increase proposal, with impact numbers on customers, that includes a base increase from \$8.00 to \$11.00 including 2,000 gallons consumed and consumption rates at 2,001-5,000 gallons at \$3.75 per 1,000 gallons, 5,001-10,000 gallons at \$4.25 per 1,000 gallons, and 10,001 gallons and up \$4.75 per 1,000 gallons. The proposal is

to also include a 1% annual increase.

12. Set Date for Joint Meeting with USD 264 Board

City Administrator Brown stated USD 264 has requested a joint meeting with City Council on November 11. Council discussed topics up for discussion were water rates, school zone lights on 4th street, and fencing at the Sports Complex. Council gave consensus to set the joint meeting with USD 264 Board for November 11 at 6:00 pm.

13. Appoint Voting Delegate and Alternate for League of Kansas Municipalities Conference

Mayor Justice stated that City Administrator Brown had been the appointed delegate and City Clerk Wright the alternate for the League of Kansas Municipalities Conference in years past. The conference is October 11-13 in Wichita. Brown asked Council to let staff know if they planned to attend the conference. Council gave consensus to appoint Kent Brown voting delegate and Cheryl Wright alternate for the 2008 League of Kansas Municipalities Conference.

14. Consent Agenda

Mayor Justice stated the membership dues for the Chamber of Commerce are due. The City has paid for the gold membership in the past. Council gave consensus to pay \$600 for the gold membership for the Clearwater Chamber of Commerce.

15. Reports

Fire Chief Marvin Schauf addressed the Council requesting making the festival area at City Park a no smoking area during Fall Festival. With the crowds and the hay bales everywhere, there is a huge safety issue. EVS Director Donald Schauf commented many public places, such as schools and hospitals, are now non-smoking areas. Mayor Justice stated that enforcing non-smoking areas is a problem. City Attorney Amerine suggested encouraging the Fall Festival Committee to advertise the festival as a non-smoking event.

City Attorney Amerine asked if the City had received payment for the damaged fire hydrant. City Administrator Brown stated we had not. Amerine recommended filing a suit in small claims court on behalf the City against the man who damaged it. Amerine suggested the claim should include the cost of the hydrant plus labor costs.

City Administrator Brown stated the old tanker that is being replaced by the new pumper tender truck needs to be sold. A member of the fire department has requested to purchase the tanker. Council agreed to review a written proposal from the individual to

purchase the tanker.

City Administrator Brown stated Clearwater Emergency Volunteer Services was contacted by the Sumner County EMS to assist in coverage now that the City of Belle Plaine has done away with their ambulance service. EVS Director Donald Schauf stated that he and Brown had discussed whether it was viable for Clearwater EMS to cover for Belle Plaine and they both agreed it was not. Council also agreed the Clearwater EMS did not have the equipment or manpower to assist in Belle Plaine's need for Emergency Services.

City Administrator Brown stated he and Mayor Justice would be meeting with Steve Martens to set lot prices for the Clearwater Business Park.

City Administrator Brown stated he attended an air quality meeting. There was a real possibility the Wichita Metro Area might violate the ozone standard. Wichita had violated it two years in a row. If the area had violated the ozone standard for a third year, there would be requirements the cities in the Metro area would have to meet and there would be funding cutbacks in areas such as transportation funding in certain categories. Currently, Wichita Metro is okay because of the cool summer this year, but there maybe problems in the future.

City Administrator Brown stated the trash trucks were having trouble getting out of the alley in the block bounded by Gorin, Lee, Kansas, and Park. Public Works are building a ramp in the alley to correct a large dip from the alley to the street on Kansas.

City Administrator Brown reported the Senior Center is having a fish fry on Saturday, September 13th from 5-8pm. The dinner is open to the public.

Council Member York reported the street sign at Janet and Rolling Hills Dr is turned facing the wrong streets.

Council Member York requested an update on the schoolhouse behind the Historical Society. City Administrator Brown stated he would contact Judy Cumming, Historical Society Director, to request information on the status of the building.

Council Member Berntsen stated he was glad to see Police, Fire, and EMS representatives in the park and carnival area during Fall Festival.

Council Member Armstrong stated she attended the Legislative Affairs Committee meeting. There were some good presentations on the Kansas Bio and Science Curriculum. There was a doctor presenting information on the new composite hip replacement material that is being heavily lobbied to come to Wichita because of all the aircraft composite engineers in the area.

Council Member Whitney reported there is a lot of trash in the alley behind of 204 S Gorin. Whitney requested the homeowners be addressed regarding clean up.

Council Member Whitney reported there is a broken down vehicle parked in front of the fourplex in the 100 block of N Prospect. Neighbors are requesting the vehicle be moved.

Council Member Whitney commended Beki Zook, Recreation Director, for trimming the trees at the Sports Complex. Some of the trees have some large stubs that Zook possibly didn't have the equipment to get trimmed back to the tree. Whitney requested Public Works trim back any stubs that may be a hazard.

Council Member FitzGerald asked City Administrator Brown if he had found about selling the asphalt at the City Dump to residents. Brown stated he had not addressed that issue at this time. FitzGerald also questioned if there had been any more information discovered about TV dumpsites in the area because of the switch from analog to digital television signals in 2009. Brown stated he was going to a Solid Waste Summit and would address the TV issue at that meeting.

Council Member FitzGerald reported there is a car with flat tires sitting in the cul-de-sac on Janet Court that had been there for a long time.

Mayor Justice stated the crosswalk sign is missing on Ross between the High School and the CIC.

Mayor Justice requested staff to draft a thank you letter to the Fall Festival Committee for the job they did over the weekend.

16. Executive Session-Personnel

MOTION: At 9:15 p.m., Council Member FitzGerald made a motion to enter into executive session for a period of 10 minutes for personnel reasons. Council Member Whitney seconded the motion and it passed unanimously. City Clerk Wright was asked to attend.

MOTION: At 9:25 p.m., Council Member FitzGerald made a motion to enter into a council only executive session for a period of 5 minutes for personnel reasons. Council Member Berntsen seconded the motion and it passed unanimously.

At 9:30 p.m., Council returned to regular session with no action taken.

MOTION: Council Member Armstrong made a motion to remove the Acting City Clerk status from Jodi McBee effective September 8th. Council Member Berntsen seconded the motion and it passed unanimously.

City Administrator Brown stated an individual who was in town over the Fall Festival weekend had his car damaged by the manhole cover in the alley between Prospect and First south of Ross. Brown stated he would be submitting the claim to the insurance company.

Mayor Justice asked if Jeff Syrios were elected District Court Judge, would Becky Hurtig be interested in moving up from Prosecutor to Judge at Clearwater Municipal Court. Brown stated he had talked to her about that issue and she would be interested in stepping in as Judge. City Attorney Amerine stated she is on a committee with the Wichita Bar and there would be several individuals interested in the Prosecutor position that Hurtig vacates, if the time comes.

17. **Adjournment**

MOTION: Being no further discussion to come before the Council, Council Member York 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 September 9, City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 23rd day of September 2008.

Jodi McBee, City Clerk