

**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**

**CITY COUNCIL MEETING**

**MINUTES**

**August 25, 2009**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 25, 2009, 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, Jim Whitney, Sandi Keeler, and Jim Frischenmeyer, Council Members. 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 Carl Shaffer, Lew Kellogg, June Finney, Carla Butterfield, Ruby Fisher, Jerry Stitt, Farol McMillan, Maggie Liebold, Geri Deninger, Robert Pugh, Angie Shaver, Helen Fesnock, Clearwater Senior Center; Harry Cox, Clearwater Masons; Jill McMillan, Becky Schievelbein, Fall Festival Committee; Mary Schauf, Clearwater Volunteer Fire Department; David FitzGerald, Shari Mertens, Mike Kroeker, Skate Board Park Committee.

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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 11, 2009**

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

**2. Mayor's Recommendations**

With Council consensus, Mayor Justice accepted the resignation of Greg Kennard and Josh Riley as firefighters.

**3. Recognition of Carl Shaffer and Senior Citizens for Senior Level 1 Funding from the**

## **Department on Aging**

Mayor Justice presented Carl Shaffer, Senior Center Director with a Certificate of Appreciation. Justice stated that Shaffer, the Senior Center Advisory Committee, and many others have worked hard over the last 2 years to bring the Senior Center from a club level to senior center level 1 with the Sedgwick County Department on Aging. The change in level comes with an increase in funding by the Department on Aging from \$5,000 to \$18,000. Justice thanked Shaffer and other seniors for their hard work. Shaffer reviewed the efforts that took the Senior Center to level 1. Shaffer introduced several senior members of the community and explained their activities within the Center. Shaffer stated the Center is already doing the activities to get to the next funding level. The Clearwater Senior Center can't apply for the next level until 2011, but they are well on their way.

### **4. Public Forum**

Council Member Berntsen abstained due to a conflict of interest between the City and Triple B Construction. David FitzGerald stated that he was speaking on behalf of the Skate Board Park Committee, which includes Mike Kroeker and Shari Mertens. FitzGerald stated that the committee has been working on raising money to build a 12 x 12 shelter at the skate park. A bid was received from Triple B Construction in the amount of \$3,510 to build a shelter. FitzGerald stated that the committee has raised individual and group donations totaling \$1,600. The Skate Board Park Committee went to the Clearwater Recreation Commission to request a donation for the balance. The Recreation Commission donated \$2,700 to include a picnic table with the project. FitzGerald stated that he hoped to get more donations to plant some trees. Council gave consensus to place the shelter at the Skate Park.

Bob Pugh, Post Commander with the Clearwater American Legion, stated the group was trying to get more involved with the community. Pugh spoke about several activities the American Legion are putting on in honor of Veterans Day.

### **5. Fall Festival Update**

Jill McMillan, President of the Fall Festival Committee, stated she would like to finalize some of the arrangements for the Clearwater Fall Festival, which is being held October 23-25. McMillan reviewed the requests the committee needed from the City, which includes use of city streets for the carnival and the parade. McMillan explained the parade route will change this year, since the carnival will be in the street on Ross between First and Fourth. The parade will begin in the Middle School parking lot, travel down Kansas to First, and then on to Ross and continue on its normal route. After review of the list of requests,

Council agreed that the City would assist the Fall Festival with their requests.

**6. Bids for 1965 GMC Truck**

Council Member Frischenmeyer abstained from the discussion due to conflict of interest. City Administrator Brown reviewed the bids for the 1965 GMC Truck. Three bids have been received; the highest comes from Jim Frischenmeyer in the amount of \$750. Council agreed the high bid was enough to sell the truck

**MOTION:** Council Member Berntsen made a motion to accept the bid of \$750 from Jim Frischenmeyer to purchase the 1965 GMC Truck. Council Member Whitney seconded the motion and it passed unanimously.

**7. Ordinance Setting Fees to Produce Public Records**

City Clerk Wright stated the Police Department requested the Ordinance Setting Fees to Produce Public Records be reviewed. Wright continued that Interim Police Chief Garcia was referring to court records at the last meeting, which are not public records. But in reviewing the ordinance on public records, staff realized that the ordinance did need updating. With the new ordinance for fees for public records, the Police Department can use the ordinance as a guideline for collecting fees for police records. City Attorney Amerine explained that staff decided the best way to write the ordinance was to state in the ordinance that the fees will be set by resolution. Then, anytime that the fees need to be changed, Council can pass a resolution, and the ordinance won't have to be republished. City Clerk Wright assigned ordinance number 910.

**MOTION:** Council Member Berntsen made a motion to adopt Ordinance 910 Setting Fees to Produce Public Records. Council Member Frischenmeyer seconded the motion and it passed on a roll call vote of 5-0.

**MOTION:** Council Member York made a motion to adopt Resolution 7-2009 Establishing the Rates and Service Charges for Copying and Inspecting City Records. Council Member Keeler seconded the motion and it passed unanimously.

**8. Sedgwick County Culvert Project**

City Administrator Brown stated that Sedgwick County is replacing a bridge on 103<sup>rd</sup> Street West (Maize Rd.). The City has a water line running along side the bridge in the ditch. The replacement bridge is larger than the existing bridge. The new wing walls run over the top of the existing water line. The water line will need to be moved to the west 5 to 10 feet to make way for the new bridge. Brown stated that the entity that maintains the road has the right to ask the City to move the line at the City's expense. There are some large trees that need to be removed to move the water line to the west. The City will have to hire out for the tree removal. The bridge replacement is scheduled in September. Council Member Whitney suggested contacting Sedgwick County Commissioner Carl Peterjohn to request the County remove the trees for the City or share in the cost.

City Administrator Brown stated the other Sedgwick County project involving the City is replacing the culvert at City Park that runs under Ross. The County is looking at replacing that culvert in the spring. Ross will have to be closed for approximately a week to allow for construction. The City is trying to encourage the County to do the project during spring break week for Clearwater Schools. The City has a water line running down the middle of Ross. Public Works is estimating the water line runs right under the existing culvert. The line won't have to be moved at this time. The replacement culverts will be slightly wider than what is currently there. This should help with water flow during heavy rains. Council Member Whitney asked if this would be a good time to move that line. Whitney continued he didn't like to see improvements made over the top of an old water line. Council directed staff to research what it would take to move the water line.

**9. Community Fisheries Assistance Program Contract**

City Administrator Brown stated that Kansas Department of Wildlife and Parks is requesting the City sign a contract to continue to be a part of the Community Fisheries Assistance Program. Currently, the City receives a \$1,000 per year to maintain the fishing ponds at Chisholm Ridge. The contract would continue the receipt of the minimum of \$1,030 per year to maintain the ponds. The Department of Wildlife and Parks will continue to stock the ponds with fish and the City will continue to maintain the pond area.

**MOTION:** Council Member Berntsen made a motion to authorize the Mayor to sign the Community Fisheries Assistance Program Contract. Council Member Frischenmeyer seconded the motion and it passed unanimously.

**10. Park Board Recommendation on Windmill in City Park**

City Administrator Brown stated that the Park Advisory Board has made some

recommendations on the windmill to be placed at City Park. Brown stated the windmill was formerly at the corner of Tracy and Ross. It has been refurbished and is ready to be placed at City Park. The park proposal places the windmill at City Park straight north of the crosswalk, approximately 30 feet west of the merry-go-round. The Park Advisory Board is recommending a 6-foot black wrought iron fence be put up around the base of the windmill to keep people from climbing the windmill. They also recommended having a concrete pad with engraved bricks around the pad. The bricks could be engraved and sold to help with the cost. Council agreed that the bricks were a good idea, but the bricks should surround the fence from the outside of the fence. Park Advisory Board also recommended placing a plaque or metal weather proof sign at the windmill with a picture, history, and who refurbished the windmill. Then, tie a sidewalk from the playground area to the windmill and then down to the parking lot. Mayor Justice stated Council needs to decide how to proceed. Council Member Whitney suggested the first item would be to get a cost estimate on placing the windmill, pouring the concrete pad, and installing fence. Justice stated then the walkway and bricks would be the next step. Council Member York stated that they would need dimensions of the bottom of the windmill to get bids for concrete. Justice asked if their needed to be lighting on the windmill. Brown stated there is electricity nearby, so getting lights added would not be a problem. Whitney stated that initially, the windmill needs to be placed and secured, and then the City can worry about lighting and signage. Harry Cox with the Clearwater Masons stated that Masons understood that they were responsible for the sign. Justice stated the Masons may submit ideas for the sign, but they are not responsible for it. Whitney also stated the City needs to make sure to contact all parties involved in getting the windmill refurbished, so the sign is accurate. Council directed staff to get bids for placing the windmill, concrete, and fence.

**11. Notice To Abate Nuisance**

City Clerk Wright requested that the notice to abate nuisance be tabled until a certified letter is mailed to the responsible party.

**12. Voting and Alternate Voting Delegate to the 2009 League of Kansas Municipalities Convention**

Mayor Justice stated in the past Council has appointed City Administrator Brown as Voting Delegate and City Clerk Wright as Alternate Delegate to the annual League of Kansas Municipalities Convention. Brown stated that this year the convention is in Topeka. Brown continued to review information regarding the convention. Council gave consensus to appoint Brown as Voting Delegate and Wright as Alternate Voting Delegate to the 2009 League of Kansas Municipalities Convention.

**13. Consent Agenda**

Council gave consensus to pay annual membership dues of \$667.50 to Kansas Rural Water Association.

**14. Executive Session-Personnel**

**MOTION:** At 8:15 p.m., Council Member Frischenmeyer made a motion to go into Executive Session for personnel matters for a period of 15 minutes. Council Member Whitney seconded the motion and it passed unanimously.

At 8:30 p.m., Council returned to regular session with no action taken.

Mayor Justice, with Council consensus, accepted the resignation of Shawn Clem from the Clearwater Police Department.

With Council consensus, Mayor Justice appointed Darrell L. Haynes and Theodore J. Ohlemeier as part time Police Officers with the Clearwater Police Department, providing they pass the appropriate background checks.

**15. Reports**

City Administrator Brown stated that the City of Clearwater is being forced to publish an ordinance stating that it has raised tax rates when it has not. A formula within the municipal state budget form requires that cities must publish an ordinance attesting to an increase in tax revenues for the budget even if the taxes have not been increased. The formula is flawed. Brown stated he has spoken with people both at the County and State level trying to get out of having to publish an ordinance that is untrue. Brown stated that if the ordinance is not published, funds could be withheld from the City. City Attorney Amerine stated that this is State generated legislation that is not representative of what is true and correct. Mayor Justice stated that the City should publish an advertisement or a disclaimer with the ordinance in the paper that states that the City is being forced to publish the ordinance that does not correspond with Council actions. Council agreed to have an ad published in the paper along side the ordinance stating the City has been forced to publish the ordinance and it is incorrect.

**MOTION:** Council Member Frischenmeyer made a motion to adopt Ordinance 909 Attesting to an Increase in Tax Revenues for Budget Year 2010 for the City of Clearwater as delegated by the State of Kansas. Council Member Berntsen seconded the motion and it passed on a roll call vote of 5-0 under

protest.

City Administrator Brown stated he has a meeting with Steve Martens, broker of the Clearwater Business Park, to renew the contract to market the property.

City Administrator Brown stated that the City Hall remodel project is coming to a close. The front door needs to be replaced and some painting still needs to be done. Brown stated a citizen was concerned that the City didn't get a building permit for the remodel. Brown stated that the City did not need to obtain a building permit for the City Hall remodel project because it was a purely cosmetic remodel.

City Administrator Brown stated that Sedgwick County Code Enforcement contacted him. They informed him the City would have to get a licensed contractor to sign off on the concession stand building.

City Administrator Brown stated that Public Works is doing small crack repair throughout town. Barricades are setup to prevent people driving over the sealant. Brown stated the bids for the road project have been extended due to some additions and adjustments of streets to be maintained.

Interim Police Chief Garcia stated that he has received several applications for special use vehicle permits.

City Administrator Brown stated that he has a request to purchase fill dirt from the City. The City currently does not have an abundance of dirt available to sell. After a brief discussion, Council agreed not to sell dirt at this time.

City Clerk Wright stated that the Fire, Ambulance, and Police Departments had a picnic and pool party in July. The Fire and Ambulance Departments are requesting the money to pay for the expenses of the party to be taken out of their donation accounts for their portions. Wright requested direction from Council to make those entries. Mayor Justice stated that in the future maybe the City could waive the fee for the pool rental, since the members of the Fire and Ambulance Services donate their time to the City. Then, the money for food and drinks could come from another source, other than donations. Council agreed that this year the money could come from donations, but in the future money for parties should come from somewhere other than donations. Council directed Wright to make the appropriate transfer of funds.

Council Member Whitney was asked by residents if the City had an ordinance that addressed how long a person could use a travel trailer as a residence in the City. Whitney

stated there is a family living in a travel trailer in town. They have hooked into water and sewer at the establishment where they are staying. City Clerk Wright stated that tapping into city water and sewer is not legal. Council directed staff to write a letter to inform the establishment that it is illegal to allow an outside trailer to tap into its water and sewer service.

Council Member Whitney asked if some weed trimming could be done at City Park.

Council Member York stated that the house on the northwest corner of Prospect and Hellar has tall weeds.

Council Member York stated that house at 150 N. Tracy has a large pile of brush in their yard that needs to be hauled off.

Council Member Berntsen requested that the older skate park equipment get anchored down to the concrete. Council discussed the success and future plans of the skate park.

Mayor Justice stated that the new casino site has been selected at the Mulvane exit of the Kansas Turnpike. Council discussed some possible implications the casino would have on Clearwater.

City Administrator Brown stated that the City is proceeding with taking a case to the Division of Water Resources regarding our current water rights. There is a study that says the recharge rate from the area should be higher and that would allow the City to pump more water.

**16. 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 August 25, 2009 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 8<sup>th</sup> day of September, 2009.

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Jodi McBee, Deputy City Clerk