

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

October 13, 2009

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, October 13, 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 York, Lyle Berntsen, Jim Whitney, Sandi Keeler, and Jim Frischenmeyer, Council Members. Mike Justice, Mayor, was absent. 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 Mary Schauf, Clearwater Volunteer Fire Department; Jennifer Arnold, Clearwater Area Chamber of Commerce; Eileen Garrigus, Michael Cantrell, Adriane Cantrell, Residents; Paul Rhodes, Times-Sentinel Newspaper; Shelbie Serpan, Erin Bergmann, Cody Bech, Megan Shuman, Kera Curley, Tyler McGrath, Jake Everhart, Adam Keiss, Ike Sandberg, Clearwater High School Government Students.

Council President York called the meeting to order at 6:30 p.m. York 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 22, 2009

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.

2. Approval of the Minutes of the Special Meeting of September 30, 2009

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

3. Mayor's Recommendations

There were no appointments or resignations.

4. Public Forum

Jennifer Arnold, Clearwater Area Chamber of Commerce, stated that the Chamber would like to have the Downtown Halloween Event again this year. Arnold requested that beginning at 5:15 Ross be blocked off from First to Byers for the young people to parade their costumes. After the parade, only Ross between Lee and Tracy would need to be blocked for a community donation barbeque ending at 7:30. Local businesses are encouraged to hand out candy to the trick-or-treaters. Council Member Frischenmeyer asked if the Ross should be blocked further west to Byers until 7:30 so the Masonic Lodge would be included in the trick-or-treating. Arnold stated that the parade was extended to Byers so the Masonic Lodge would be included. Arnold continued that she understood that Tracy was an emergency route and couldn't be blocked for long periods of time. Brown stated that Tracy is blocked during Fall Fest, and that the EMS, Fire, and Police knew to use alternate routes. Arnold stated she would encourage the Masons to move to the 100 block of Ross to pass out candy, but if they wanted to stay at their location she would work with the Police to block the appropriate streets. Council gave consensus to have the streets blocked for the Halloween event.

5. Addendum to Exclusive Right to Sell Agreement

City Administrator Brown requested that review of the Addendum to Exclusive Right to Sell Agreement with Steve Martens of Grubb & Ellis be tabled because Martens was unable to attend this meeting. Council agreed to table the item.

6. Drainage Concerns on Salt Creek Ct. and Red River Dr. in Chisholm Ridge

City Administrator Brown stated he has been approached by Eileen Garrigus regarding drainage concerns on Salt Creek Ct. in Chisholm Ridge. Eileen Garrigus stated that when it rains she gets water in her yard that cannot drain and it has come in her windows. Garrigus stated she researched the covenants of Chisholm Ridge and found that the fences that are along the drainage pathway are to be 4 inches off the ground. The fences along the drainage pathway between her house and the drainage pond are not four inches off the ground. Michael Cantrell, also a resident on Salt Creek Ct., stated that he was one of the first houses on Salt Creek Ct. and before all these fences were installed, the rainwater drained off quickly. Brown reviewed pictures of drainage issues and storm water drainage plans of Chisholm Ridge. Brown stated that besides the fences, there is some river rock a resident has placed in their yard that blocks the drainage inlet that is keeping the water from

draining properly from Garrigus's yard to the drainage pond. Brown stated that the fences blocking the drainage are a covenant issue within the development and the City doesn't have authority over that problem. The river rock is blocking the drainage inlet and the City has authority to ask the property owner to remove the rock so the water can drain from the drainage inlet to the drainage pond. Council Member Whitney stated that he has done landscaping work in Chisholm Ridge for many years and before all the fences the drainage was fine. Whitney continued that the developer has allowed homeowners to build fences in the drainage path. Whitney stated that a homeowner shouldn't be allowed to build something that impedes the drainage that causes a larger problem for another homeowner. City Attorney Amerine stated that it is not in the City's zoning code or subdivision regulations to keep homeowners from building a fence in the easement. Amerine went on to say that it is a covenant issue with the Chisholm Ridge Development and the City has no recourse. Amerine stated that Chisholm Ridge needs to get their Homeowners Association organized to get some action. Brown stated that since the easement in Chisholm Ridge is labeled a utility easement, the City has access to the utilities underground. If the easement had been labeled a utility and drainage easement, then the City could have access to surface issues such as drainage. Council Member Frischenmeyer asked if the City could enforce any drainage issues in that drainage path. Brown stated that since drainage is an issue on surface of the ground and not underground, he is unsure the City could take action. Amerine stated if Council directs her to do so, she could do additional research to see if the City can do any surface work to change the flow of drainage in a utility easement. Garrigus asked who's responsible for removing the rock that is blocking the drainage inlet. Brown stated initially the homeowner is responsible for removing the rock. The City has the right to ensure the rock stays away from the drainage inlet and doesn't damage city property. Whitney stated that the pictures show that the inlet is damaged. After a lengthy discussion regarding what the homeowners and the City are responsible for regarding the drainage issue, Council directed staff to have the inlet repaired, to write letters to the homeowners to encourage them to take action in relieving the drainage problem, and research the City's right to change the surface to relieve drainage issues in a utility easement.

City Administrator Brown stated there is a second drainage issue in Chisholm Ridge on Red River Dr. Brown stated storm water draining from the north is draining down the storm drain. The street gets mud covered because of all the silt in the water. Council Member Whitney suggested cutting a ditch straight south so the water flows straight towards Ross. Brown stated that he would speak to the landowner and the farmer that farms the land to see if they would work with the City on fixing the problem.

7. Ordinance Regulating Traffic Within the Corporate Limits of the City of Clearwater

City Attorney Amerine stated that the Council annually passes the Ordinance

Regulating Traffic Within the Corporate Limits of the City of Clearwater to adopt the STO into city code. The STO is the tool used by the police officers for enforcement in Municipal Court. City Clerk Wright assigned ordinance number 913.

MOTION: Council Member Whitney made a motion to adopt Ordinance 913 Regulating Traffic Within the Corporate Limits of the City of Clearwater. Council Member Frischenmeyer seconded the motion and it passed on a roll call vote of 5-0.

8. **Ordinance Regulating Public Offenses Within the Corporate Limits of the City of Clearwater**

City Attorney Amerine stated that the Ordinance Regulating Public Offenses Within the Corporate Limits of the City of Clearwater is passed annually. The only offense that the city opts out of is disallowing barbed wire. City Clerk Wright assigned ordinance number 914.

MOTION: Council Member Berntsen made a motion to adopt Ordinance 914 Regulating Public Offenses Within the Corporate Limits of the City of Clearwater. Council Member Keeler seconded the motion and it passed on a roll call vote of 5-0.

9. **Engagement Letter from George, Bowerman, & Noel, P.A. for the Audit of City of Clearwater and the Clearwater Cemetery District Financial Statements for 2008**

City Clerk Wright stated that she received an engagement letter from George, Bowerman, & Noel, P.A. for the audit of City of Clearwater and the Clearwater Cemetery District financial statements for 2008. Wright stated George, Bowerman, & Noel, P.A. contacted her after the last council meeting. Wright stated that the auditors began the 2008 audit on September 29th. Council gave consensus for the mayor to sign the engagement letter with George, Bowerman, & Noel, P.A.

10. **Consent Agenda**

Council gave consensus to pay Corrpro annual service agreement for water storage tank/clarifier cathodic protection in the amount of \$1,060.00. Council Member Whitney asked if with the age of water tower should there be any additional work done to the tower. Brown stated that he hasn't received any indication from the Public Works Director that any additional work is required.

11. Reports

City Administrator Brown stated that he had received the Sedgwick County mitigation plan. The plan covers all 21 cities in Sedgwick County and reviews any possible risk that could happen in the County and how the hazards might be handled. Brown reviewed a few areas within the mitigation plan that included Clearwater. Brown stated the reason the mitigation plan is important is because of the grant the City submitted for the storm shelter. One of the steps in getting the grant approved is passing a resolution stating the City adopts the Sedgwick County Mitigation Plan. Adopting the mitigation plan basically states that the City of Clearwater will cooperate with Sedgwick County in response to any risk stated within the mitigation plan. Council agreed that that resolution should be adopted to acquire the grant to construct the storm shelter. City Clerk Wright assigned resolution number 9-2009.

MOTION: Council Member Keeler made a motion to accept Resolution 9-2009 adopting the Sedgwick County Mitigation plan. Council Member Berntsen seconded the motion and it passed unanimously.

City Administrator Brown stated that it appears that the grant for the standalone emergency shelter is going to be approved. The prefabricated structure will sit next to the EVS building. The generator will not be a part of the grant because the grant will only allow a generator that supports the shelter and not the whole EVS building. Council Member Whitney asked if the grant would subsidize what it would cost for a generator that would cover the shelter and the City could cover any cost above that to pay for a generator that would support both the shelter and the EVS building. Brown stated that the grant was very specific about where and how the generator would be hooked into the shelter, so Brown stated he was certain that the grant wouldn't allow any money for a generator if it supported more than just the shelter. Brown stated after the City receives approval for the grant for the shelter, Council will have to make some decisions about how to fund the project and then start taking steps to acquire the generator. Brown stated the grant for the storm shelter is an 80/20 grant, so the City will be responsible for 20% of the total cost of the project.

City Administrator Brown stated the street project is beginning this week. The replacement of the curb and guttering in the 100 block of south Lee has begun.

City Administrator Brown stated that Public Works is doing pressure testing on the fire hydrants this week.

City Administrator Brown stated staff mailed out flyers regarding the up coming city

wide cleanup. City Clerk Wright stated that brush dump attendants will be posted at the site and will be checking driver's licenses.

City Administrator Brown stated that the person that was offered the Police Officer job turned it down. The Police Department is now accepting applications for a full time Police Officer.

City Administrator Brown stated that the Planning Commission had a change of zoning hearing for the property north of Walt's to be changed from residential (R-1) to commercial (C-2). Casey's General Store is interested in building a store at that location. The change of zoning passed and there is now a 14-day protest period for the zoning change. The change of zoning will come before Council at the next meeting.

City Administrator Brown stated that The River Church has been contacted again regarding the camper that is parked on their property. The water and sewer have not been disconnected and Brown stated he has asked them again to disconnect.

City Administrator Brown stated that there is again a delay in the Verizon tower. Westar is holding them up to get commercial power to the site.

Council Member Whitney stated there is a refrigerated trailer that parks at the sports complex. Whitney asked if the owner could be contacted to park further away from Ross. Residents of Chisholm Ridge are bothered by the noise of the motor running. Whitney continued that he would still like to see the parking ordinance reviewed by Planning Commission.

Council Member Whitney requested the road to the soccer fields be maintained. Whitney stated that there is also a portajohn that has fallen apart that needs to be picked up.

Council Member Whitney stated he has received several phone calls from people concerned with school kids riding the fire trucks during Fire Prevention Week. Whitney stated the insurance company should be contacted to find out if the City is covered in case of a fall.

Council Member Whitney requested a list of items mentioned by Council, Mayor, and Staff throughout the year during council meetings. Then, the Council can review the list and see if there are any outstanding items that need to be completed before the end of the year.

Council Member Keeler asked why the trailer is still on the property next to the Senior Center on Janet. Brown stated that the company that is hauling off the trailer said it was going to take them a few weeks to remove it.

Council Member Berntsen asked if a letter had been sent to the property owner at the southeast corner of Tracy and Hellar regarding their brush pile and tall weeds. Brown said a letter has not been sent. Brown stated he wasn't sure anything could be done regarding the brush pile but he would go look at the weed issue.

Council Member Berntsen stated that drainage way between Wood and Elaine has limbs growing over it that need to be trimmed back before they start collecting debris.

12. Executive Session-Attorney Client

MOTION: At 8:40, Council Member Keeler made a motion to enter into Executive Session for a period of 5 minutes for Attorney Client. Council Member Berntsen seconded the motion and it passed unanimously.

At 8:45, Council returned to regular session with no action taken.

13. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Keeler moved for adjournment. The motion was seconded by Council Member Whitney 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 October 13, 2009 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 27th day of October, 2009.

Jodi McBee, Deputy City Clerk