

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

January 12, 2010

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, January 12, 2010, 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; Janet Amerine, City Attorney; Others present at the meeting were Mary Schauf and Jim Kendrick, Clearwater Fire Department; Donald Schauf, Clearwater EMS; Paul Rhodes, Times Sentinel Newspaper; Hannah Niebauer, Cheyenne Swan, Radan Katric, Katelyn Buck, 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 December 22, 2009

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

2. Mayor's Recommendations

City Administrator Brown stated that Mayor Justice accepted with regrets the resignation of Don Berntsen from the Planning Commission. Council gave consensus to accept the resignation.

3. Public Forum

Don Mertens addressed the Council to request the vacation of 4 feet of the 20-foot utility easement behind Lot 15, Block 1, Chisholm Ridge Addition. City Administrator Brown stated that Mertens requested a variance and was denied at the December 2009 Planning Commission meeting. During that Planning Commission meeting, it was discussed that a section in the City Zoning Ordinance states nothing is to be built in the utility easement “unless permission is granted in writing by the respective parties whose lines are involved.” Mertens stated that he has received letters from SKT, Kansas Gas and Westar Energy. SKT has agreed to relinquish four feet of the easement. Kansas Gas and Westar Energy both stated that they had no objection to the request for vacation of the east 4 feet of the easement. Council Member Frischenmeyer asked Mertens if the homeowner is aware of the risk of building something in the easement. Mertens stated that the homeowner is aware that if they build something in the easement, it is at risk of being torn down at the cost of the homeowner if any of the utility companies has work to do within the easement. Council Member York asked Mertens if there was a discussion with the homeowner before construction that the deck would be built in the easement. Mertens stated that building the deck in the easement never was discussed with the homeowner before construction. Mertens went on to explain that when he files for building permits and his plot plans are submitted, he never includes the deck in those plans. The deck is not a part of the permanent foundation. He considers a deck like a fence, a temporary structure that can be torn down. City Attorney Amerine asked Mertens what stopped him from building the deck. Mertens stated that Public Works Director Misak contacted the Sedgwick County Code Enforcement when Misak noticed the deck was going into the 20-foot easement. Mertens stated that at the Planning Commission meeting he was led to believe that the City would follow suit if the other utility companies agreed to vacate the 4 feet of the 20-foot easement. Amerine stated she understood Misak was to review the situation and submit a written response. Amerine also stated that on the plat it is clearly marked that there is a 20-foot easement. Mertens agreed. Mertens went on to state that this house is a custom home with members of the community living there. The deck is elevated and there is still a foot between the deck and the sewer line. Amerine stated that it is the policy of the City not to make a decision on items brought before Council during Public Forum. Public Forum is purely for fact finding, and the final decision would be made either later in the meeting or at the next council meeting.

4. Designate Times Sentinel as Official Newspaper for Legal Publications

City Administrator Brown stated that every year Council must designate an official newspaper for legal publications. The Times Sentinel is the local newspaper that has been used for several years. Brown stated there is a rate increase this year. Council gave consensus to designate Times Sentinel as official newspaper for legal publications.

5. Designate First State Bank as Official Depository for the City of Clearwater

City Administrator Brown stated that every year Council must designate an official depository for the City of Clearwater. The City is currently in the second year of a three year contract with First State Bank for depository services. Council gave consensus to designate First State Bank as official depository for the City of Clearwater.

6. Alcoholic Beverage License for 2010

City Clerk Wright stated that the C-Bar applied for the City's alcoholic beverage license prior to the December 31, 2009 deadline. Wright stated she has already issued the license, as they needed it to remain operating. Council gave consensus to approve the alcoholic beverage license for the C-Bar for 2010.

7. Discussion of Easement for Restroom/Concession Stand in City Park

City Administrator Brown stated the easement for the new restroom/concession stand building at City Park has posed some zoning issues. Brown stated that Ross Ave. is a county road and has a right-of-way of 50 feet from the centerline of the road in each direction. Also, the City Park is in an R-1 (residential single family) district. The R-1 district requires a 25-foot front yard setback. That would require the new building to be built 75 feet from the centerline of Ross Ave., which would put it in baseball field outfield. Brown stated that one option would be to apply for a variance with the Planning Commission, since the building is being built where the existing building is currently located. City Attorney Amerine explained another option would be to change the zoning for the park area to a commercial district. Amerine stated that the future of the commercial area of Clearwater looks to be 4th Ave. and Ross Ave. near 4th Ave. Amerine went on to state the City could prepare for that possibility by rezoning the park to meet that possible need. The commercial district doesn't have a setback, so the location of the building wouldn't be a problem. Brown stated it would be his recommendation to start the variance request now and also start work on rezoning. The rezoning process takes longer than the variance request. The variance request would hopefully be approved and construction could begin on the building before the rezoning could be approved. Council gave consensus to send a variance request to Planning Commission for the front yard setback for the restroom/concession stand and directed staff to

begin investigating rezoning a portion of City Park.

8. Review Annual Changes in Monthly Water and Sewer Changes

City Administrator Brown stated that the water and sewer rate ordinances that were passed in 2008 included a 1% annual increase to the rates that would start with the January billing of this year. The base rate for both the water and sewer are the only rates affected. The usage rates will remain the same. Council gave consensus to change the water and sewer base rates.

9. Ground Water Associates Letter

City Administrator Brown reviewed the letter from Ground Water Associates. At a previous meeting, Council agreed to pursue obtaining additional water rights from the wells in the well field east of Clearwater. In the letter, Ground Water Associates states that in order to obtain additional water rights the Division of Water Resources (DWR) will allow water needs projections out to 20 years. Brown stated he needs authorization from Council to visit with Harlan Foraker about extending the projection of water needs from 2025 to 2030, which is what the DWR allows. Brown stated he then needs authorization from Council to contract with Ground Water Associates to file for the additional water rights. Council Members Whitney and Frischenmeyer both stated they don't want the contract to be open without a cost estimate. Council gave consensus for staff to contact Harlan Foraker about extending the water needs projection and to contract with Ground Water Associates to file for additional water rights.

10. Results from Recycling Survey

City Administrator Brown stated that a recycling survey was included with the last city newsletter. The City's trash contract will expire this summer. Brown stated that Sedgwick County has discussed requiring cities to mandate curbside recycling. Currently, the City has a recycle drop off location that is completely voluntary and free. Brown stated the survey was sent out to get an idea of residents' opinions concerning changing the current recycling system in Clearwater. Brown stated that staff received about a 10% response. Brown reviewed the responses. Eighty percent stated they did recycle. Of those that do recycle, 85% said they use the local recycle center. When asked how much residents would be willing to pay to have curbside recycling, 43% said they don't want to pay extra. Council Member Frischenmeyer stated that he understood that recycling would reduce the cost of trash service. Brown stated it would depend on the service providers bids, but most likely trash costs would increase with curbside recycling due to cost of gas, personnel, and equipment needed for additional routes to pick up the recycling. Council briefly discussed

recycling and associated costs.

11. Kansas Rural Water Annual Meeting Designation of Voting Delegate

City Administrator Brown stated that Council must designate a voting delegate to the Kansas Rural Water annual meeting. By consensus, Council designated Public Works Director Ernie Misak as voting delegate and Brown as an alternate.

12. Consent Agenda

Council gave consensus to pay the invoice from Ground Water Associates in the amount of \$4,920.27 and the REAP assessment beginning January 1, 2010 in the amount of \$752.00.

13. Reports

Council Member Whitney stated that he has noticed work being done on fire hydrants. Whitney stated that the hydrants at 2nd and Park and Prospect and Nancy need risers installed. They are too close to the ground.

Council Member Whitney stated he wants copies of the contractor's license, insurance, and bond certificate in City Hall for the contractor that is assisting with the building of the restroom/concession building before construction begins.

Council Member York asked if there will be a fence installed along the perimeter of the property where the new Casey's convenience store is going to be built. City Administrator Brown stated that Casey's will build a fence along the north property line. City code states that a screen must be built between different zoning districts. There is a vegetation row along the east property line that is adequate for property separation.

14. Executive Session - Legal

MOTION: At 7:55, Council Member Berntsen made a motion to enter into Executive Session for legal reasons for 50 minutes. The motion was seconded by Council Member Keeler and passed unanimously.

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

Council directed staff to contact Don Mertens in writing to clarify whether he wants a vacation of the easement or a variance.

15. Executive Session - Personnel

MOTION: At 9:00, Council Member Berntsen made a motion to enter into executive session for personnel for a period of 55 minutes. The motion was seconded by Council Member Whitney and passed unanimously.

At 9:55, Council returned to regular session with no action taken.

16. 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 January 12, 2010 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 26th day of January, 2010.

Jodi McBee, Deputy City Clerk

