

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

DECEMBER 27, 2011

(Approved 1-10-12)

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, December 27, 2011, 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, Mayor; Jim Whitney, Jim Frischenmeyer, and Sandi Keeler, Laura Papish, Council Members. Council Member Lyle Berntsen was absent. The following staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; Janet Amerine, City Attorney. Others present at the meeting were: Mary Schauf, Clearwater Fire Department; and Jim Snyder, citizen.

Mayor 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 13, 2011

MOTION: Council Member Laura Papish made a motion to approve the minutes of the 12-13-11 City Council Meeting. The motion was seconded by Council Member Jim Frischenmeyer and passed unanimously.

2. Mayor's Recommendations

Mayor York requested the Council to accept the resignation of Phil Sturchio, Volunteer Emergency Manager, who has moved to Oklahoma. In his place, the Mayor recommended appointing Jason Templin as the Volunteer Emergency Manager. Jim Whitney stated that he is not familiar with Jason Templin. Mary Schauf stated that he is in Firefighter 1. He comes to most meetings and has a lot of interest in what is going on. With council consensus, Templin was appointed as the Volunteer Emergency Manager.

3. Public Forum

Jim Snyder stated that his property taxes have gone up approximately 70% over the last 10 years. Snyder noted that his property value has not matched that tax increase. Snyder

has noticed that city citizens have to pay for services they did not have to pay for in the past. He cited the City Dump as an example. Snyder feels that the budget spending is going out of control. Snyder expressed dissatisfaction for the "road to nowhere" at the Industrial Park. Snyder also stated that he is concerned that the small town "Norman Rockwell" feeling of Clearwater will disappear. He does not want Clearwater to turn into another Haysville or Derby. Snyder's biggest pet peeve is how much his taxes are going up. Snyder asked that Council make some cuts or not spend as much money. Snyder noted that better communication was discussed as a future initiative at the Town Hall Meeting. Snyder was not aware that the Council meeting to discuss a mill levy increase was publicized.

Mayor York referred to Snyder's comment in regard to the industrial park as a "road to nowhere". Most projects of this same caliber are long term projects. It could be 15-25 years before the industrial park is filled and could alleviate the City's overall taxes. Mayor York further stated that charging to use the dump was a cost saving measure for the citizens of the City. York stated that it is his opinion that if the City is not growing some, it will die. The City has not grown in the last few years.

Jim Snyder asked how much revenue was raised from dump passes and fees. City Administrator Brown stated that the Dump raises approximately \$5,000. Its expenditures are approximately \$4,000. The revenue from the Dump funds employees' wages to man the dump and meet air quality regulations by limiting what type of material is brought to the dump.

Snyder asked about the latest mill levy increase. City Administrator Brown stated that the City has been using some cash reserve money to keep from raising taxes more than what was absolutely necessary. Council Member Jim Whitney explained that the health insurance premiums and the minimum wage increases were factors in raising taxes. Council Member Keeler asked when the last time was that the City had to raise taxes. City Administrator Brown explained that approximately three years ago, the County made a mistake in the City's evaluations. The rate went from 44 mils approximately nine years ago to 50 mils recently. It is still too much; however, several costs have been added over the years to the City budget. Administrator Brown stated that the electricity rates have increased. He also noted that the senior center and industrial park were added. The part time fire chief position, a police records clerk, and a new fire truck have also been added as new expenses. Snyder stated that as the size of Clearwater increases so should the property valuations. Mayor Mike York explained that only one new home was built in Clearwater last year. The Service Center, a portion of Ninescah Township, the Clearwater retirement community, and some of the Southern Kansas Telephone (SKT) classifications of personal property have come off the tax roll. They are classified according to non-profit ruling. The City loses the property valuations from those properties for the City Budget.

Council Member Laura Papish stated that she is new to the Council. She stated that she was amazed how much it costs to run a city. During the budget process, the Council did look at every line item and attempted to make cuts where possible. Council Member Papish noted that the reason the Council raised the mil levy was to create a reserve.

Snyder asked how much the remodel cost on the front of the City Building. He also asked whether it was necessary. Council Member Jim Whitney noted that the City is held to

ADA requirements. The remodel was completed for energy savings measures. The architect provided options and this is what the Council decided on.

Council Member Sandi Keeler noted that besides Snyder no other Clearwater resident is here at tonight's meeting. It is published that the City Council meetings are held on the 2nd and 4th Tuesday of every month. People do not attend the meetings. Council Member Laura Papish stated that the public hearing notices are published in the newspaper. The actions of the Council are reported in the newspaper.

Council Member Sandi Keeler stated that the City sends out surveys and Council receives approximately a quarter of the total mailed out. Keeler further noted that the Council appreciates citizens coming and speaking at the City Council Meetings. Mayor York stated that he appreciates Snyder coming tonight.

4. Department Head Reports

No Department Heads were present.

5. Public Hearing 2011 Budget Amendment

Mayor Mike York opened the public hearing for the 2011 Budget Amendment at 7:05 p.m.

City Administrator Kent Brown stated that this is a clean-up procedure that is done at the end of every calendar year. The amendment encompasses a few changes that were not accounted for at the time of the 2011 budget process in the summer of 2010. One transfer is for \$20,000 from the General Fund to Debt Service. The other transfer is for \$7,100 from the Library Fund to the Library Capital Fund. The Library Board requested the transfer. The \$20,000 transfer is to cover a shortfall in special assessments. The amendment would not affect taxes or tax rates. It applies to the 2011 budget year, which is nearly over. Brown explained that there was an amended expenditure amount in the Special Parks & Recreation Fund for the purchase of fireworks. The expense in that line item was not part of the original budget.

6. New Property Owner at 112 N. Prospect Requests 30 Day Extension

City Administrator Brown stated that the property that was owned by Nancy Stotler has been offered for sale to H.D. and Greg Mills from Southwest Salvage. The property owner was informed at a November Council meeting that the work to the house needs to be completed by the end of December. The sale of the property will close on Thursday, 12-29-11 and the new owners would like to request an extension beyond December 31st. The new owner does intend to replace the windows, replace the siding, and brace the north wall. The windows, once ordered, will take two weeks to arrive.

Mayor Mike York stated that normally he would have misgivings about granting an extension. However, H.D. Mills has a lot of respect throughout the City. Mayor York does not have a problem with granting the extension. Papish recommended granting an extension

to February 29, 2012 due to weather conditions. City Attorney recommended that the City negate the extension of the date if the closing date would fall through.

MOTION: Council Member Laura Papish made a motion to authorize the extension of the repairs to be made at the property by the Mills until February 29, 2012 unless the pending sale does not go through. Council Member Sandi Keeler seconded the motion. The motion carried unanimously.

City Administrator Kent Brown stated that an unsafe structure letter was sent to the property owner at 800 E. Ross regarding the shed behind the home. The roof of the shed has holes in it and needs to be repaired. Property Owner Lou Doss called City Administrator Brown and stated that the renter at 818 E. Ross is willing to repair the roof of the shed. The City Attorney stated that the legal basis behind this letter is to get this property written up and then to inform the owner that the repairs would have to pass inspection. Council Member Jim Whitney stated that a building permit may be required. Council Member Whitney also stated that the roof should be brought up to code so that the tin does not blow off and injure someone. Council Member Whitney asked that Sedgwick County Code of Enforcement Inspector Willie Lynn be contacted to let the property owner know if the repairs are feasible. Mayor Mike York noted that the trusses and wall plates may be too old to support a new roof.

With no public comment, the public hearing regarding the Budget Amendment for 2011 was closed at 7:18 p.m.

MOTION: City Council Member Sandi Keeler made a motion to approve the 2011 budget amendment as presented. Council Member Jim Frischenmeyer seconded the motion. The motion passed unanimously.

7. Review and Approve Phase 1 Design Contracts for Indian Lakes Phase 1 Infrastructure

City Administrator Kent Brown stated that this is for the contract between the City and Professional Engineering Consultants. This is the developer's engineer. This engineer has been the basis of the foundation for the project. It would be fitting for the City to go with the engineer that has been with the developer. The payment provision costs are on page seven of the contract. City Attorney stated that the contract is approved as to form. Council Member Jim Whitney asked if the engineering and inspection costs would be \$145,000. Brown stated that it depends on the services that are utilized. Council Member Whitney asked where the money would come from. City Administrator Brown explained that a temporary note would have to be obtained. The City borrows the money. The properties within the development would be assessed the costs and would be used to pay back the City. The property would have one property owner. City Attorney Amerine stated that the inspections are a key component to this contract. This situation occurred when the City Pool was being built which was not properly inspected at different stages throughout the building

process. The fees are important to this contract so that proper inspections are performed throughout the building process.

Mayor Mike York asked City Administrator Kent Brown about the track record of PEC working with other cities. Administrator Brown stated that PEC is one of the main firms and largest firms in south central Kansas. He stated that he has not heard any negative stories about PEC.

MOTION: Council Member Jim Whitney made a motion to approve the Phase 1 Contract for Engineering Services on the Indian Lakes Phase I Infrastructure. Council Member Jim Frischenmeyer seconded the motion. The motion passed unanimously.

8. Write-Off of Uncollectible Utility Bills

City Clerk Liza Donabauer reviewed the uncollectable utility bills. City Clerk Donabauer stated that there are four situations where bills become uncollectable. First, the account has been sent to the Kansas Setoff Program over five years ago and no collection has been received. Second, the customer has declared chapter 7 bankruptcy. Third, there is no social security number on file and the account cannot be placed for collection. Lastly, a citizen passed away and staff was provided a death certificate.

MOTION: Council Member Laura Papish made a motion to write-off the uncollectable utility bills in the amount of \$920.37. The motion was seconded by Council Member Jim Whitney and it passed unanimously

9. Alcoholic Beverage License for C-Bar for Consumption on Site

City Clerk Donabauer reviewed the alcoholic beverage application for consumption of liquor on site at the C-Bar location. The actual liquor license for the bar is through the State. This license is an occupational permit allowing C-Bar to do business within City limits.

MOTION: Council Member Sandi Keeler made a motion to approve the Alcoholic Beverage License application for the C-Bar for liquor consumption on site. The motion was seconded by Council Member Laura Papish and it passed unanimously.

10. Amended Road Maintenance Agreement with Ninnescah Township

City Attorney Amerine amended the Agreement to identify the payment due date from the City to Ninnescah Township as September 1st. Staff is seeking Council's approval of the amended language. Staff will forward the Agreement to the Township Board for their signature. Upon return of the document, the Mayor and City Clerk will sign the Agreement

and a copy of the final Agreement will be forwarded to the Township.

MOTION: Council Member Jim Whitney made a motion to approve the amended Road Maintenance Agreement with Ninnescah Township and authorize the signature of the Mayor. Council Member Jim Frischenmeyer seconded the motion. The motion carried unanimously.

11. **Earthquake Insurance**

City Clerk Donabauer presented Renn & Company's quote for earthquake coverage which would be for an additional \$508 in annual premium. This pricing information is based on the City's current limits. The coverage has a 10% deductible which is different than the current deductible on the City's property losses. Linda Ricketts at Renn & Company is simply asking that staff let her know if the City is interested in adding this type of coverage to the City's current policy. Laura Papish stated that she is surprised at how low the premium is. Whitney stated that this may be money that should not be spent, however, if the City can prove that a water line was damaged as a result of an earthquake, this would be money well spent. Whitney asked if the 10% deductible is on the claim or the premium amount. City Attorney Amerine and City Clerk Donabauer noted that typically it is on the claim amount. Jim Whitney and Frischenmeyer stated it would be money well spent if a claim would need to be submitted.

MOTION: Council Member Sandi Keeler made a motion authorizing the City to add earthquake insurance to its current policy spend the \$508 for earthquake insurance. Jim Frischenmeyer seconded the motion. The motion carried unanimously.

12. **City Website Discussion**

City Administrator Brown stated that CivicPlus has a good web product. However, the City does not have the resources to take full advantage of the website. The City was offered an opportunity to do a re-design. The City pays approximately \$3,000 annually for the hosting and maintenance of the City's website. CivicPlus is a good company and is reliable. The City also received a proposal from Spinnaker. Currently, the City's comprehensive plan and zoning regulations are on the website. The minutes from all of the agencies are hosted on the City's website. To move the content from the existing website and training will comprise the initial conventional pricing. Constant Contact Email is feasible through Spinnaker.

Brown stated that in the long term, Spinnaker would be a savings. Hiawatha, Greensburg, and Clay County use Spinnaker. They guarantee reliability in making the website available. It will take some City resources to get the website moving. There is an amount in the Administration Department's budget that is used for furnaces, brickwork, and small repairs in the office. Communication was discussed as a need in the Town Meeting.

Council member Jim Whitney asked what it would cost to go back to Civic Plus if staff and Council did not like Spinnaker. City Administrator Brown stated that the City would probably be charged a new set-up fee since all of the information would have to be transferred back and web site would have to be reconstructed.

Council Member Laura Papish asked if there are volunteers that could come in and update the website. Council Member Jim Whitney proposed spending money on a part-time student to assist in updating the website. City Administrator Brown stated that websites are effective when they are updated and maintained. If money is saved on the website hosting, then perhaps a part-time person could be utilized to update the website.

Council Member Sandi Keeler stated that she would be in favor of pursuing Spinacker. Staff was directed to obtain a contract from Spinacker, arrange the timing component of the new website roll-out, and determine what would be needed to be released from the current CivicPlus relationship.

13. Staff Reports

City Clerk Liza Donabauer presented the Amended Default Language from the City's 457 Plan Document at the 12-13-11 City Council Meeting. The City's Registered Representative on the Security Benefit plan was Robert Bachman of SagePoint Financial, Inc. in Wichita. Bachman has since been replaced by Marvin R. Fisher of SagePoint. Fisher has reviewed the Amended Plan Language and is familiar with the City's Plan. For administrative purposes, the City does need to sign a Non-Brokerage Change Request acknowledging that Marvin R. Fisher is now the City's Registered Representative for the Plan. Fisher has also passed along an invitation to introduce himself at a future City Council Meeting if anybody is interested. Staff seeks authorization to sign, and seek the Mayor's signature on the Non-Brokerage Change Request Form to Change Registered Representative regarding the Security Benefit 457 Employee Plan. Council gave authorization.

City Clerk Liza Donabauer stated that according to the Personnel Regulations Manual, an employee is eligible to transfer up to 16 hours of their sick leave to a shared sick leave bank in January of each year. A form will be distributed during the last payroll of December giving employees the option of taking advantage of the program. A committee consisting of the Mayor, Council President, and the City Administrator would review any requests to use shared leave for an employee who would request use of the shared sick leave hours. The shared sick leave hours would be available to those that lack sufficient earned sick leave in an event of temporary medical disability.

City Attorney Janet Amerine presented the Merten Brief. After exchanging briefs and replies to briefs, it is now in Mertens hands to write a reply. Then it is set for oral argument. City Attorney Amerine asked lead attorney Dave what the time frame would be. Amerine asked if it could be resolved in 2012. Dave stated that it could barely. All this action is on the appeal of the District Court's decision. The same conclusion could be reached on appeal. One of the strongest arguments that the City has is an action that happens in mandamus for the City to issue a building permit for that deck. Another strong argument is the utility easement is where the City has a sewer line.

City Attorney Amerine stated at the last City Council meeting Duckhorn Properties thought there were certain things standing in the way of their development. One of the barriers was the City's requirement of a 60% letter of credit. Ed Mikesell with Duckhorn Properties would like to have 35% letter of credit. Whitney stated that the Developer would need to know if he had assurance that he had the City's approval of 35%. Amerine stated that she and Brown could not find any language that needs to be fixed. The language allows Council to set the terms. She advised that Whitney could make a motion of intent, that when presented, the City would accept an offer of a 35% letter of credit. When Duckhorn Properties presents their letter of credit, then the City could approve it. It would give the Developer assurance that he could proceed with the project. City Administrator Kent Brown stated that there is flexibility in the code to grant case-by-case basis. The developer will be the sole property owner. The letter of credit would be due once the plans and specifications are completed and ready to be sent out for bids. The letter of credit will be due when the City decides the project is ready to begin. City Attorney Amerine stated that Council would determine tonight if the 35% letter of credit is doable.

MOTION: Council Member Jim Whitney made a motion of intent to accept a letter credit of 35% when presented by Duckhorn Properties for the financing of the infrastructure of Indian Lakes Phase I. Council Member Sandi Keeler seconded the motion. The motion passed unanimously.

City Administrator Kent Brown stated that he contacted Gerald Ready about his business parking lot. The lights on the stop sign at the four-way stop had to be replaced. City Administrator spoke with Brent Spencer regarding the wood in the south side of his property. City Staff has not heard from the person with the travel trailer. The City resident at 118 N. Byers has been contacted regarding an untagged car. The Police Department has shrunk a list of 29 cars parked on non-grassy areas to less than nine. Carl Shaffer, Senior Center Director, turned in his mileage reimbursement for the entire year. Shaffer was reminded that he needs to use the City car when available.

City Administrator Kent Brown stated that he received an email from Council Member Lyle Berntsen about having cement streets in the City. Council Member Jim Whitney asked about the longevity of cement streets. Brown stated that if installed properly, the first 10 years are fairly maintenance free. To make repairs, it is additional work. With asphalt, an asphalt patch is fairly easy and can quickly be repaired and driven on. Cement can be several weeks to repair and be drivable. The lifecycle costs are fairly comparable. City Administrator Brown noted that Haysville, in partnership with PEC has cement road. Council Member Jim Whitney noted that there is a dry cement process that if properly installed, can be driven on fairly soon. Council Member Lyle Berntsen has received information from Andale Ready Mix regarding the process. Council Member Whitney stated that it works well on streets that are driven on less than 30 mph. It would work well for the new development at Indian Lakes. Brown stated that a representative from Andale could make a presentation at a future City Council meeting.

14. Council Reports

Council Member Laura Papish stated that she gave recycle points from her residence to the Clearwater High School. The school will receive money from the Recycle Bank.

Council Member Sandi Keeler asked City Administrator Brown what the status of the Mills building is. Brown stated that a letter was sent to Russell Mills. Mills was asking for clarification on whether Mills could be allowed to build a new building that would be the same size as the current building. City Administrator Brown explained that the owner has three options: rebuild less than half the size of the current building, tear down the entire building and apply for a variance to use an extra 5' or build a new building that is 35' wide. Brown has not heard back from Mills since the letter was sent. Council Member Keeler stated that at the beginning Mills didn't have the money to make repairs. City Attorney Amerine stated that she hopes Mills puts in a new building that is 5' narrower. City Administrator Brown stated that there is no guarantee that the Board would approve a 5' variance. There is a delay in the process of obtaining a variance. The variance must be published in the paper at least 20 days prior to the Planning Commission Meeting. The earliest it could be heard would be at the February Meeting if the application is submitted to the City by January 16th.

Council Member Papish asked if the Everett Jackson Property has improved. City Administrator Brown stated that he hasn't driven by the property lately. Council Member Jim Whitney stated that Council will have to drive by the property periodically.

Council Member Jim Whitney asked if Well #6 has been replaced. Brown stated that an estimate has been presented however, nothing has been scheduled. It is out of service. The cost is estimated at approximately \$10,000 to \$11,000. They are hoping to increase 90 gallons a minute. The other two wells out east have been pulled. Council Member Papish asked if there is a maintenance schedule. City Administrator Brown stated that the wells are maintained. Council Member Jim Whitney stated that the City needs to create a CIP plan to account for projects in the next five years. It is a lot easier to budget for repairs such as this when there is a plan. Council Member Papish agreed.

Council Member Papish asked who would be responsible for creating a CIP Schedule. Council Member Whitney stated that each Department Head would do that. The vendor could assist in that process. It puts the responsibility back on the City Council for not abiding by the CIP plan. City Attorney Amerine stated that a plan needs to be made to meet ADA requirements. The plan should include at least one ADA fix per year. Council Member Jim Whitney stated that this could be part of the CIP plan and would make it easier for the City Council at budget time. It is better to plan rather than to band-aid. Mayor Mike York stated that is why the water rates should have been increased years ago.

Council Member Jim Whitney cautioned that if a block of water main would blow up, the City would have to borrow money to fix it. There are not enough reserves to make these types of fixes.

15. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Sandi Keeler moved for adjournment. The motion was seconded by Council Member Laura Papish and passed unanimously.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I, Liza Donabauer, 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 December 27, 2011 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 10th day of January, 2012.

Liza Donabauer, City Clerk