

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

NOVEMBER 8, 2011

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, November 8, 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: Mayor Mike York, Jim Whitney, Jim Frischenmeyer, Laura Papish, Lyle Berntsen, Council Members. Council Member Sandi Keeler was absent. The following staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; Janet Amerine, City Attorney; and Gene Garcia, Police Chief; Ernie Misak, Public Works Director. Others present at the meeting were: Marvin and Mary Schauf, Clearwater Fire Department; Donald Schauf, EVS Director; Rob Hartman, PEC; Ed Mikesell, Duckhorn Properties; Scott Lucas, Library Board; Nancy Stotler, David Johnson, Residents; Taylor Dickerson, Ryan Al-Sharieh, David Koch, Caitlin Bergmann, Clara Maus, Clint Lewis, Tanner Gardner and Allie Palmer, High School Government Students also attended.

Mayor Mike 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 October 25, 2011

MOTION: Council Member Laura Papish made a motion to approve the 10-25-11 City Council minutes as presented. The motion was seconded by Council Member Jim Frischenmeyer and passed unanimously.

2. Mayor's Recommendations

Mayor Mike York recommended to the Council to accept the resignation of Ron Lambert as Animal Control Officer and appoint Pat Lambert as the Animal Control Officer. There was Council consensus.

3. Public Forum

No one addressed the Council at this time.

4. Department Head Reports

Fire Chief Marvin Schauf stated that there are problems with two section gauges on

Engine #2 and #3. Schauf relayed to the Council that a representative from Sedgwick County Fire has stated that they will be donating a used, but upgraded cascade system to the Clearwater Fire Department.

Public Works Director Ernie Misak reported to the Council that there was some damage to the City Park Bridge and Gazebo. The total cost of labor and materials was approximately \$600. Misak reported that there is a windmill down at Ross and Prospect. Misak is concerned that the windmill will come off and hurt someone. He would like the Council to consider allowing Public Works to weld each windmill to the base. Council Member Laura Papish asked Misak how long it would take to weld each windmill. Public Works would have to pull each windmill prior to welding it to the base. The entire process would take approximately 25 minutes for each windmill. Council Member Jim Whitney asked Misak what the cost would be to replace the windmills with normal street signs. Public Works Director Misak replied that the windmills are unique and they could rebuild the frames with stronger materials. If the windmills are welded then there is no need to grease and maintain them.

Ernie Misak, Public Works Director, stated that all of the trees have been trimmed over the streets. His staff also repaired all of the cuts in the streets. Misak stated that there was a water service repair on Elaine. A 3" meter was replaced at Elementary West. Misak reported that the alley has been patched behind the Webb-Shinkle Mortuary and Shinkle is happy with the results. Misak reported that Fire Chief Schauf would have to test two new water hydrants as they were recently replaced. Misak reported that he would like to attend a wastewater standards advisory board meeting in Salina on November 18th. He would like to send Cole Hollis to class in Newton to be certified in backflow prevention. Misak announced that Public Works employee Mike Weakley would be retiring after January 1st. Misak is not anticipating filling the vacant position until March 2012. Misak stated that someone backed over the frost-free hydrant at the City Shop after the Fall Cleanup weekend. Since two customers were affected, two public works employees were called out to fix it on Sunday. Making an after-hours repair is done on overtime. Misak stated that he would provide a cost estimate of the repairs by the next Council Meeting.

Public Works Director Misak stated that there were six to seven dumpsters used for the Fall Clean-up weekend. Misak also reported that the chain at the City's dump entrance was cut. Someone also placed a personal padlock on the cut chain. City employees cut and removed the padlock and replaced with a City padlock. Council Member Whitney informed Misak that the Senior Center and ball fields have been winterized.

Police Chief Gene Garcia reported to the Council that there is ongoing vandalism in the City Park. Photos have been captured of the suspects causing the damage. The photos were taken before and after curfew hours. However, the type of equipment being used is not taking very clear pictures. The Police Department did solve who ran over the water hydrant and it will be going to court. Garcia also reported to the Council that over the Fall Festival weekend, the part-time officers put in 49 ½ hours at regular pay. The full-time officers put in 46 ½ hours of overtime. Those hours are typical for the Fall Festival to be adequately covered. Sedgwick County sent four officers to Clearwater for a four-hour time period on Friday and Saturday nights. The additional coverage was very beneficial. Garcia also stated that new tires were purchased for a patrol vehicle. The City is keeping its vehicles longer and the worn tires are due to normal wear and tear.

5. **Library Board to Address Council: RE: Open Board Positions**

Library Board Member Scott Lucas addressed the Council about vacancies on the Library Board. The Board is struggling to fill the positions. There have been four vacancies over a two-year period. The Board has been able to fill two positions to bring the total to five members out of seven needed. The Library Board is asking the City Council to help fill the open two positions. The Library Board is a separate Government entity that oversees the Library Director and the financial duties of the Library. The Board is also an advocate for the Library. The Board meets every third Tuesday of the month. The Board has advertised its vacancies on Channel 2, the Library, Community Center, and in several church bulletins.

6. **Ordinance to Change Zoning Classification for 204 S. Tracy Avenue**

City Administrator Brown stated that the Planning Commission reviewed the proposed zoning ordinance for a change in zoning classification for 204 S. Tracy Avenue. The Planning Commission unanimously recommended approval of the ordinance. The lot is located next to the Webb-Shinkle Mortuary. The variance is to change the current zoning from R1 to C2. There is a house currently on the lot that would be demolished and then made into a parking lot to be used for the Mortuary. A storage shed may be added to the lot in the future.

MOTION: Council Member Lyle Berntsen made a motion to approve Ordinance 944 as written. Council Member Jim Frischenmeyer seconded and the motion passed unanimously.

7. **Planning Commission's Recommendation to Approve Final Plat for Indian Lakes Addition**

City Administrator Brown stated that the final plat is to approve access easements and use regulations. Rob Hartman, PEC, and Ed Mikesell, developer, presented the Council with a color rendition of the 30-acre development. Hartman and Mikesell are seeking approval of the final plat from the Council after reviewing the final plat with the Planning Commission and receiving their approval. The Planning Commission reviewed a checklist of items associated with the plat application, the requested changes in easements, access controls along Ross Ave and certain drainage areas. If for any reason the Council has a question or concern regarding the plat, the Council can disapprove the plat or send it back to the Planning Commission for further review.

Rob Hartman, PEC, reported to the Council that there would be 21 lots to be used for rental units with two car garages, assisted senior living, commercial office uses or small medical office or enclosed storage units. The first phase, which includes paving, sewer and storm drainage, will cost approximately \$893,000. There is a proposal to change the street width from 39' to 29', which would minimize project costs and future maintenance. This would equate to \$160,000 savings to the City. These older communities don't typically have more than two vehicles and the covenants would not allow for street parking.

Mayor Mike York asked City Administrator Kent Brown if there were streets already in the city limits that were as narrow as 29'. Brown replied that there would not be any residential homes on the entrance into the Indian Hills addition; there should not be a need for street parking. The businesses along that street would have a parking lot for their customers and employees. Mayor York asked if there could be "No Street Parking" signs posted in the 100 block of Indian Hills Drive. City Administrator Brown stated that signs could be posted. Brown stated it would be a lot like South Fourth Street where there is no on-street parking. Brown stated that R-2 has less of a setback than R-1. Reserves A, B, C & D would be the responsibility of the property owner. The City would not have any maintenance responsibilities to those reserves. The senior living housing phase will not happen for at least a couple of years. Brown discussed the elimination of an existing pond on the north side of the development.

MOTION: Council Member Jim Whitney made a motion to approve the final plat for Indian Lakes Addition. Council Member Laura Papish seconded the motion. The motion passed unanimously.

8. Homeowner at 112 N. Prospect Requests Extension

City Administrator Brown stated that a Resolution was passed stating that the building at 112 N. Prospect was dangerous and in need of repair. The property owner was given a copy of the Resolution and told the repairs should be made in 30 days. The resolution stated that within ten days of publishing the Resolution, progress should be made. The remainder of the work should be completed within a 30-day time frame. Brown has visited with property owner, Nancy Stotler, several times about the repairs and the progress made at the home. Stotler has stated that there is the possibility of the home changing over to a new owner.

Nancy Stotler, homeowner at 112 N. Prospect, stated to the Council that the garage on the property has been stabilized with 4x4 posts. She is making progress in the rest of the house as well. The garage is cleaned out except for a few appliances. There is still a dumpster in front of the property. Mayor York asked Stotler whether all items (as outlined within the Resolution) would be fixed if the Council were to grant a 30-day extension. City Attorney Janet Amerine showed Stotler a copy of the Resolution which outlines the required repairs and clean-up. Stotler stated that the new property owner would assume the remainder of the unfinished work. Amerine stated the 30 day deadline carries over with the transfer of the property. Council Member Jim Whitney stated that progress was made to clean up the property. He would recommend granting a 30 day extension. He would also consider a request from the new owner. City Attorney Amerine suggested the Council grant a 45-day extension. The new homeowner must agree to complete the repairs within 45 days. It is unrealistic to expect to expect completion within 30 days. Council Member Jim Whitney asked Stotler to give a copy of the Resolution to the new property owner to be included in the purchase agreement contract.

MOTION: Council Member Jim Whitney made a motion to grant a 45-day extension to

property owner at 112 N. Prospect. Council Member Laura Papish seconded the motion. The motion passed unanimously.

City Administrator Kent Brown stated that the garage at 201 N. Gorin Ave was declared unsafe and dangerous. Council directed, via Resolution 8-2011, that the structure be removed or repaired and the premises made safe and secure. The homeowner was required to begin repairs or demolition within ten days of the Resolution's publication. The repairs or demolition were required to be completed within 30 days of the publication. A second letter from the Sedgwick County Department of Code Enforcement states that due to the deteriorated condition of the structure, it is no longer feasible to repair the structure. The Sedgwick County Building Inspector has determined that since the cost of repair would exceed the value of the building, the building should be removed as soon as possible. Administrator Brown presented a copy of an Ordinance to the Council stating that the costs of removal by the sale of salvage from such structure, if any, would be paid by the City's General Fund. The levying of special assessments against the lots or parcels of land on which such structures are located. The enforcing officer is authorized to cause the structure to be razed and removed and the premises made safe and secure. The Enforcing Officer is authorized to invite bids, negotiate a contract, or cause the work to be done by City employees. The enforcing officer shall keep an account of the costs of the work and may sell salvage from such structures. All costs incurred by the City in the removal of such structure shall be paid from moneys received from the sale of the salvage or shall be assessed as a special assessment against the lots or parcels of land.

MOTION: Council Member Lyle Berntsen made a motion to adopt Ordinance #945 to remove the garage at 201 N. Gorin Ave. Council Member Jim Whitney seconded the motion. The motion passed unanimously.

9. Review Brush Dump

City Administrator Kent Brown reported to the Council that City Staff would begin selling the brush dump passes on January 3rd for the 2012 season. Currently it is \$20 for the year and \$5 for a single trip. The City has earned over \$5,000 and spent between \$3,000 and \$4,000 in payroll. The survey reflected comments about dump hours. Council Members Papish and Berntsen stated that the Brush Dump fees were very reasonable. Administrator Brown stated that the Dump is open to City residents only.

10. Banking Agreement Renewal

City Clerk Liza Donabauer stated that the City is nearing the end of its three-year agreement with Emprise Bank as the City's official depository. First State Bank originally signed the agreement prior to the buy-out. Staff briefly met with Emprise Bank who has stated that they would be interested in extending the agreement for one year with the City. The extended agreement would contain the same terms as the original agreement. Staff would then enter into a formal Request for Proposal process prior to entering the 2013 fiscal year. With Council consensus, staff was given authority to proceed with a one-year

extension with Emprise Bank.

11. Review Survey Results

City Administrator Kent Brown reported to the Council that 165 surveys were received. The results indicated a 2:1 against participation with the County in the street project on 4th Street. Out of the 165 surveys received there were 55 votes for the project. There were 110 votes against the joint project. Brown will assemble a summary of responses from the survey regarding general City services. Councilmember Papish noted that the survey results indicated many citizens would be in favor of a town hall meeting.

12. Staff Reports

City Clerk Liza Donabauer stated that it has been the City's practice to purchase and distribute \$25 gift cards from Mize's Grocery Store as a Christmas gift for City employees. She asked if the City Council wished to provide this type of gift again in 2011. With Council consensus, staff was given direction to proceed with purchasing gift cards for City staff. Donabauer read a thank you note from former City Clerk Cheryl Wright for the flowers she received in honor of the passing of a family member.

City Administrator Brown stated that the American Legion Post sent a draft of what they would like to see written on the plaque for the flag. Administrator Brown is working on zoning for Hellar and Grant horse barn that is owned by Mike Gannaway. There needs to be a correction on the easement description. Brown sent the materials to a surveyor. City Attorney Amerine will draft an ordinance upon the surveyor returning the information to City staff. The time frame should be a couple of weeks. Administrator Brown has been speaking with Southern Kansas Telephone (SKT) about a proposal on security equipment for four different cameras in the City Park. Brown is considering security options for the concession stand and other locations. Funding could come from the Police Donations fund which could eliminate staff time and cost.

13. Council Reports

Council Member Lyle Berntsen asked Council about reimbursing Lee Harp for the airline ticket that was purchased for D.A.R.E. Training. Berntsen received a complaint about a corvette on N. Lee with an expired license tag. Police Chief Garcia has previously contacted the owner of the vehicle. The homeowner keeps moving the vehicle. Berntsen received complaints on the junk along N. Lee. The alley is almost blocked. City Administrator Brown commented that a nuisance abatement letter should be sent to the homeowner. City Attorney Amerine commented that a resolution needs to be approved. Mayor Mike York has explained to the homeowner that salvage may not be stored within the City limits unless it is out of sight. The homeowner stated that he requested permission to build a larger garage. The homeowner claims that the City denied his request. City Administrator Brown stated that a set of plans has never been brought to the City building for approval. The homeowner cannot operate a salvage business on a residential lot without a zoning change and a home occupation permit.

Council Member Laura Papish asked for clarification on checks issued for materials to repair a merry-go-round and to Judy Cumming for an activation fee.

Council Member Jim Whitney asked if the school paid for their half of the fertilizer and winterizer used on the baseball and softball fields. City Administrator Brown stated that he did not think so. Council Member Whitney proposed creating an inventory of all illegal vehicles within the City. He noted that there were several comments in the recent City survey regarding this issue. Police Chief Garcia stated this has been brought up before and the officers have been doing a good job of enforcing trailers. However, cars are different. Council Member Whitney stated that if a car is illegally tagged and parked on a City street it should be enforced. If a car is illegally tagged and parked in a residential backyard, the City cannot do anything. Council Member Jim Whitney noted that a new porch was built on the front of the home at 210 S. Gorin. However, no further work has been performed. The property still has holes in the windows and walls.

City Administrator Kent Brown stated that the City received a letter from Russell Mills requesting that the City assist in the cost of re-roofing the building owned by Cole's Cuts. Mills also requested that the City install a guardrail around the south perimeter of the building as it meets the alley. Council Member Lyle Berntsen stated that the City does not have wholesale buying power to purchase building materials for businesses within City limits. Councilmember Jim Whitney stated that the City is not in the business of repairing businesses. However, a nuisance letter does need to be sent to Cole's Cuts based on the condition of the building. Shingles are frequently lying in the alley and can be a hazard.

Councilmember Whitney stated that a recent comment was made by a citizen that the City has forced several businesses out of business. He stated that the City needs to stand up for itself and that the City has not taken any specific action(s) that forced the businesses out of business.

City Council Member Jim Frischenmeyer stated that the Recreation Commission has asked if the City has property available for a trap shoot event. City Administrator Kent Brown stated that the City Police has a shooting range; however, nobody else is allowed to shoot on the property. It is too much of a liability to the City. City Attorney Janet Amerine stated that the City does not have adequate facilities for a public shooting range.

Mayor Mike York stated that Carl Schaffer, Community Center Director, called him with concerns and questions from the Advisory Committee. The Committee has asked whether the City or homeowner is responsible for an injury that could occur on uneven sidewalks within City limits. City Council Member Laura Papish stated that as discussed at the October 11 City Council Meeting, it is the responsibility of the homeowner to replace the sidewalk. However, the City will help remove portions of the old sidewalk. City Attorney Janet Amerine suggested that the City do an inventory of sidewalks that need to be removed or replaced. Then the City could send notices to homeowners regarding deadlines to remove or repair portions of sidewalks in disrepair on their property. If the sidewalks are not repaired or removed by the deadline, the City will send the property owner an invoice for the repairs. Amerine stated that sidewalk enforcement is difficult.

Mayor Mike York stated that a citizen left a voicemail regarding a dilapidated garage at a residence east of Walt's. There is a large hole in the roof. City Attorney Janet Amerine stated that Fire Chief, Marvin Schauf, and the building inspector would

have to inspect the property. Upon their inspection, a letter and resolution can be drafted.

14. Executive Session - Legal

MOTION: At 8:00 p.m. Council Member Jim Whitney moved to enter into executive session to discuss a legal matter with City Attorney Janet Attorney. Council Member Lyle Berntsen seconded the motion. The motion passed unanimously.

At 8:05 p.m. the Council returned to regular session with no action taken.

City Administrator Kent Brown requested Council’s approval to attend the 2011 Kansas Association of City/County Management (KACM) Conference from November 30 December 2 in Topeka. He also explained that according to the City’s Personnel Policy Manual, when any regular holiday falls on a Saturday or Sunday, the preceding Friday or following Monday shall be declared a holiday by the City Administrator or Mayor. He stated that the Christmas holiday falls on a Sunday and therefore, Monday will be declared a holiday. He stated that the same would be for New Year’s Day, which also falls on a Sunday. City Administrator Brown stated that the Deputy Clerk’s computer is up for renewal this year. The computer will be replaced prior to year-end.

15. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member Lyle Berntsen moved for adjournment. The motion was seconded by Council Member Jim Whitney 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 November 8, 2011 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 8th day of November, 2011.

Liza Donabauer, City Clerk