

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

SEPTEMBER 13, 2011

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, September 13, 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, and Sandi Keeler, Council Members. Council Members Laura Papish and Lyle Berntsen were absent. The following staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; Janet Amerine, City Attorney; and Gene Garcia, Police Chief. Others present at the meeting were: Marvin and Mary Schauf, Clearwater Fire Department; Donald Schauf, EVS Director; Lonnie Stieben, SKT; Ron Fleming, Bob Parmely, Ed Mikesell, David Beck, Don & Janie Winter, Chris Robinson, Leo Seiter, citizens; Nicole Hiatt, Danielle Pate, Caleb Spellman-Sak, Steven Boede, Taylor Williams, Travis Gross, Bryce Petersen and Jonathan Mengelkoch; Government students.

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 August 23, 2011

MOTION: Council Member Sandi Keeler made a motion to approve the 8-23-11 City Council minutes as presented. The motion was seconded by Council Member Jim Whitney and passed unanimously.

2. Mayor's Recommendations

Mayor Mike York recommended appointing Carol Schroeder as a member of the Library Board with Council's consensus.

3. Public Forum

No members of the public spoke.

4. Department Head Reports

Gene Garcia, Police Chief, stated that the Clearwater Ministerial Alliance held a community worship Service of Remembrance & Honor on Sunday, September 11th. He

stated that he appreciated the service and effort of the group. The number of attendees impressed him. Officer Schauf will graduate from the law enforcement training academy on 9-16-11. He plans to attend the ceremony. The Clearwater Police Department sponsored the Child ID program at the Recreation's "I survived the first week of school" event on 8-26-11. The ID program is very popular. He would like the Council's support to obtain the Child ID equipment for future City sponsored events. Chief Garcia distributed and reviewed a handout with the Council concerning an ordinance about residents taking in cats and dogs to the Animal Shelter and then billing the City of Clearwater. Garcia proposed that the animal control officer or the responding officer be the deciding factor on who takes an animal to the shelter. Garcia explained that currently, anyone could leave an animal at the shelter. If the citizen uses a Clearwater address, the City is automatically billed for the shelter service.

City Attorney Janet Amerine would like to update the agreement with the City of Wichita. Chief Garcia is going to follow-up with the City of Wichita and get a copy of their current contracts with other Cities. Amerine will draft an updated ordinance if needed.

Marvin Schauf, Fire Chief, stated that the ceremony by the Ministerial Alliance in the park was appreciated. Ron Fleming contacted Schauf about testing the gas line at the nursing home. Schauf stated that the Kansas Gas Company certifies the gas line.

Council Member Whitney asked Schauf if the flow test for the fire hydrants was scheduled yet. Several insurance agencies have contacted him. Schauf stated the test would be done soon.

5. Public Hearing to Secure or Repair Unsafe Structures at 201 N. Gorin, 250 N. Prospect, and 112 N. Prospect

Mayor York opened the public hearing for discussion.

Kent Brown, City Administrator, stated that the notice of tonight's public hearing was printed in the newspaper. The building inspector for Sedgwick County has written an inspection letter for the properties at 201 N. Gorin and 250 N. Prospect. Marvin Schauf has evaluated and deemed the properties as fire hazards, which could be unsafe for firefighters in case of a fire. Brown stated there are pictures included in the Council books for the properties at 250 N. Prospect, 201 N. Gorin, and 112 N. Prospect. All three property owners were sent letters by certified mail.

Bob Parmely, property owner at 250 N. Prospect, was present at the meeting. Parmely spoke with a contractor who will send him a detailed estimate. The contractor will be able to start work next week. It will be a five-day job. City Attorney Amerine asked what specifically the contractor would be fixing. Parmely stated that the contractor would be fixing the garage door and the hole in the roof. The damage was initially caused by a hailstorm and then water damage. City Attorney Amerine supplied Bob Parmely with a copy of the reports from Fire Chief Schauf and the building inspector from Sedgwick County. Mayor York asked about the gas leak and Fire Chief Schauf stated that he had contacted Kansas Gas Service. The leak was fixed. Council Members Keeler and Whitney would like to have the property at 250 N. Prospect fixed within 30 days.

City Administrator Kent Brown also contacted the property owner at 201 N. Gorin. The resident stated that she is currently unemployed and recognizes there is a problem.

Brown offered an option that during Fall Clean-up, the garage could be demolished and then pay for the removal. City Attorney Janet Amerine wanted it clearly stated that the homeowner at 201 N. Gorin did not appear at the public hearing and did not ask for additional time.

The property at 112 N. Prospect is missing two windows and almost all other windows are rotted out. Juveniles were getting into the building. There is debris piled four feet deep in the garage and could be a fire hazard. Since July, two large sheets of plywood were placed on the windows and homeowner started replacing the siding on the house. The Building Inspector from Sedgwick County gave some additional instructions for the removal of the siding and no work has been done since July. The property owner did not appear at the hearing and did not make contact with the City.

Mayor York closed the public hearing at 7:06 p.m.

City Administrator Kent Brown read through a drafted copy of a resolution for the property at 250 N. Prospect.

MOTION: Council Member Frischenmeyer made a motion to pass Resolution 06-2011. The resolution stated that the property owner at 250 N. Prospect needs to complete repairs to roof and garage doors, remove flammable debris and paper from premises, and repair and replace windows on the shed within 30 days of publication. Council Member Whitney seconded and the motion passed unanimously.

City Administrator Kent Brown read through a drafted copy of a resolution for the property at 112 N. Prospect. Council Member Jim Whitney stated that this is a permanent residential structure. Council Member Sandi Keeler questioned whether the building should be demolished if the north wall of the structure moves in and out. City Attorney asked if the house could remain intact if the garage was demolished. Council Member Whitney stated that the homeowner did not come to the meeting and did not address city's concerns.

MOTION: Council Member Keeler made a motion to pass Resolution 07-2011. The resolution stated that the property owner at 112 N. Prospect needs to remove plywood sheeting from windows, Repair and/or replace windows, Remove flammable materials and trash from premises, Replace north exterior wall, and cover all holes in siding within 30 days of publication. Council Member Whitney seconded and motion passed unanimously.

City Administrator Kent Brown read through a drafted copy of a resolution for the property at 201 N. Gorin. Mayor Mike York asked whether the cost of the demolition would be put on the tax roll if the property owner were financially unable to pay to have it done. City Attorney Amerine stated it should go on the tax roll. The Homeowner will receive the bill and will have so many days to pay it. If the bill does not get paid the bill is sent to the County Clerk. It goes on permanent taxes to pay back the City of Clearwater. If this gets done in a timely fashion, it will coincide with the citywide clean up. If Waste Connections will accept the concrete the City Clerk could figure out the cost of demolishing and hauling away the concrete to be billed to the resident.

MOTION: Council Member Whitney made a motion to pass Resolution 08-2011. The resolution stated that the property owner at 201 N. Gorin needs to completely remove the garage at 201 N. Gorin. Council Member Frischenmeyer seconded and the motion passed unanimously.

6. **Ordinance Changing Zoning Classification of Duckhorn Properties and Southcrest, LLC. Property Within the City of Clearwater and Amending the City of Clearwater Zoning Map**

City Administrator Kent Brown stated that the Planning Commission had a Public Hearing on September 6th to change the zoning on the property located north of Ross and east of 4th Avenue. The Planning Commission voted to recommend to the Council to change Parcel B from A-L (Agricultural) to R-2 (Two and Three-Family Dwelling District).

The Planning Commission voted to recommend to the Council to change Parcel C from A-L (Agricultural) to R-3 (Multiple Family Dwelling). The Planning Commission voted to recommend to the Council to change Parcel D from R-3 (Multiple-Family Dwelling) to C-2 (General Commercial). The Planning Commission voted to recommend to the Council to change Parcel A from A-L (Agricultural) to C-2 (General Commercial). City Administrator Kent Brown stated that the preliminary plat review of this project would be scheduled for the next Planning Commission Meeting. It is a critical part of the process, which would review drainage easements, transportation issues, etc. Two Planning Commission Members cannot be at the meeting on October 4, 2011 so the meeting has been scheduled for October 18, 2011 to review the preliminary plat and hold the public hearing.

The Chairperson from Planning Commission, Lonnie Stieben, reviewed with the Council the highlights of the Planning Commission Meeting. Stieben stated that the bulk of the issues were about the commercial area. There were concerns from residential property owners about privacy and trash issues and the congestion on 4th Street.

City Resident Ron Fleming owns a home at 820 E. Ross. He stated that he is a longtime resident and wants this town to have businesses and grow. Fleming stated he is however deeply opposed to having the business backing up to a residential area. Fleming further stated that he thinks an area further north is better suited for the commercial area. Fleming continued to state that he lives close to Casey's and it is very loud until they close at night. He does not think more commercial buildings in this area is a good idea.

Stieben reviewed the future land use plan from the Comprehensive Plan for the City.

Administrator Kent Brown stated that in the Comprehensive Plan for the City of Clearwater there is an expectation to have commercial property along 4th and Ross. Any zoning change has to match the Comprehensive Plan. The property in Parcel C would be used for residential housing similar to what is near the Senior Center on Janet. The senior apartments would include garages because Southcrest, LLC. has better luck renting an apartment that comes with a garage. The Comprehensive Plan looks ahead twenty years and there is a need for a significant number of additional duplex and/or multiple family dwellings. This zoning change is allowing for duplex and multi-plex buildings.

City Attorney Janet Amerine stated that John Riggs helped the Planning Commission redo the entire zoning codebook. The screening requirements are included in the book. Amerine and Brown both recommend to the Council to leave the screening

requirements as written unless they want the Planning Commission to review the screening requirements in their entirety. It is comparable to other cities and does not require extra things like a concrete wall or other expensive details. The screening will create a barrier between the residential and commercial properties. The screening will be a part of the building permit for the commercial buildings. Residential zones next to other residential zones do not require screening according to the zoning code. The Council examined a preliminary drawing voluntarily provided by one of the developers.

Council Member Whitney stated that he understands the need for other housing options and does not know where else this commercial development should go. Downtown is not an option. Whitney understands city resident Ron Fleming's feelings and is taking that into account. Whitney stated that another downtown business has been lost this week so prospects are not good in the downtown area. City Administrator Kent Brown stated that if residents want a compact community this is a decision that needs to be made. Council Member Whitney stated that 4th Street is a prime example of where houses neighbor businesses.

City Attorney Janet Amerine explained that there are two Ordinances drafted for this zoning change. One Ordinance is for Parcels A, B, and C. The other Ordinance is for Parcel D. Each ordinance is specific to the property owner: Southcrest, LLC, and Duckhorn Properties, LLC.

MOTION: Council Member Jim Whitney made a motion to accept Ordinance 942 regarding Parcels A, B and C as written. Council Member Sandi Keeler seconded and the motion passed unanimously.

MOTION: Council Member Jim Whitney made a motion to accept Ordinance 943 regarding Parcel D as written. Council Member Sandi Keeler seconded and the motion passed unanimously.

7. **Petition from Additional Property for Curb and Gutter on Lee Avenue**

City Administrator Kent Brown stated that the petition is for the triplex north of the Pizza Hut owned by several people including Don and LaDonna Lawrenz. They have signed the petition knowing the cost to their property will be about \$2,000. Gary Berger picked up a copy of the petition but has not returned a signed copy to the City Building.

MOTION: Council Member Jim Whitney made a motion to accept the petition as written. Council Member Sandi Keeler seconded and passed unanimously.

8. **Resolution for Curb and Gutter on Lee Avenue**

City Administrator Kent Brown explained to the Council that there is no resolution tonight. The City is waiting to receive a petition from Gary Berger.

9. **League of Kansas Municipalities Voting Delegates**

City Administrator Brown stated that the League of Kansas Municipalities Conference is in Wichita this year from October 8-10th. The Mayor and Council are invited to attend. The City must assign one voting and one alternate delegate. Council agreed to assign Brown as voting delegate and City Clerk Donabauer as alternate delegate.

10. Consent Agenda

City Administrator Kent Brown explained that the invoice from APAC Kansas Inc., Shears Division, is for the street work on the industrial park entrance and at First and Ross for \$148,208.10. With consensus, the Council authorized payment of the invoice.

11. Staff Reports

City Clerk Liza Donabauer stated the City received a request from the Cub and Boy Scouts of America. They wish to reserve the City Park and Restroom Facilities on Saturday, Sept 17th through Sunday the 18th. This request is a repeat of last year's campout event at the City Park. The Scouts plan to arrive on Saturday at approximately 4:00 p.m., have dinner at the park, set up camp, spend the night, and leave by 10:00 a.m. on Sunday morning. Just as last year, they would like to have a fire in an above ground fire barrel. They have spoken with the Fire Chief and plan to bring water buckets and extinguishers. Council consensus was to approve the request.

City Attorney Janet Amerine stated to the Council that the Fall City Attorney's Association of Kansas (CAAK) meeting is scheduled for Friday, October 7th in Wichita. She will be attending the seminar.

City Administrator Kent Brown stated that staff is planning on going to court on September 21st regarding a resident who is charged with stealing water from their neighbor. The City has a resident who has been taking water from their neighbor. The realtor has been notified about the violation. City Administrator Brown also stated that Staff has spoken with its Workers' Compensation representative and other Cities, about dress code. Addressing the City's dress code policy will be more complicated than just wearing shorts. City Administrator also stated to the Council that the survey regarding City services and the 4th Ave project would be ready for Council to look at the next meeting. Brown further stated that several weed letters have been sent out. The City has received some responses.

12. Council Reports

Council Member Sandi Keeler commended the Ministerial Alliance for the program in the park to honor the Police, Fire, and Ambulance workers and volunteers.

Council Member Jim Whitney would like the weeds knocked down at the Industrial Park by the silt fence.

Council Member Jim Frischenmeyer concurred with Council Member Keeler regarding the Ministerial Alliance program in the park. Frischenmeyer thanked Police Chief Garcia for blocking S. Gorin for the block party in his neighborhood. The skateboard ramp is broken.

City Administrator Kent Brown stated to the Council that the skateboard ramp is being fixed and the top is being redone. He further stated there would be a semi truck trailer parked in the alley between Lee and Tracy. The owner of the truck passed away and the owner's brother lives in the 100 block of S. Lee. The owner's brother will be removing the contents of the trailer. He contacted City Hall to receive permission before moving the trailer. Brown checked with Shackelford Machine and it does not block anything in the way of their business. It will be moved in several weeks.

City Attorney Amerine spoke on behalf of Brenda Hastings about the "I Survived the First Week of School" party in the park. The Clearwater Recreation Commission provided food, drinks, and games. The Clearwater Chamber Board helped as well. Approximately 500 people attended the event. It was free to the public.

Mayor Mike York would like City Administrator to send a nuisance letter to the homeowner at 129 S. Gorin. There is a pick-up load of concrete, a few fence posts, and a 55-gallon barrel in the yard.

15. Adjournment

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

CERTIFICATE

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

I, Carol Reitberger, 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 September 13, 2011 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 27th day of September, 2011.

Carol Reitberger, Deputy City Clerk

