

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

CITY COUNCIL MEETING

MINUTES

MARCH 27, 2012
(Approved 4-10-12)

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, March 27, 2012, 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, David FitzGerald, Lyle Berntsen, and Sandi Keeler, Laura Papish, Council Members. 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; Ernie Misak, Public Works Director; Kevin Cowan, Gilmore and Bell, P.C.; Linda Taggart, Sherry Ferris, Bradley Ingram, Lou Doss, James Mann, City Residents; Alexis Hill, Caleb Spellman Sak, Clearwater High School Government Students.

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 March 13, 2012

MOTION: Council Member Lyle Berntsen made a motion to approve the minutes of the 3-13-12 City Council Meeting. The motion was seconded by Council Member David FitzGerald and passed unanimously.

2. Approval of the Minutes of the Special Meeting of March 20, 2012

MOTION: Council Member Sandi Keeler made a motion to approve the minutes of the Special Meeting of the 3-20-12 City Council. The motion was seconded by Council Member Laura Papish and passed unanimously.

3. Consent Agenda

MOTION: Council Member Lyle Berntsen made a motion to approve the Consent Agenda. Council Member Jim Whitney seconded the motion and passed unanimously.

1. Authorize Payment to Mies Construction, Inc. (\$155,079.27) for Sanitary Sewer and Waterline Improvements at Indian Lakes Addition.

4. **Mayor's Recommendations**

No recommendations were made at this time.

5. **Public Forum**

No members of the public addressed the Council.

6. **Resolution Authorizing the Offering for Sale of General Obligation Temporary Notes, Series 2012, for Improvements at Indian Lakes Addition.**

Kevin Cowan, Bond Attorney, Gilmore & Bell P.C., stated that this resolution was intended to be passed at a prior Council meeting. This is a clean-up procedure to authorize the process of taking local bids and getting the notes sold tonight.

MOTION: Council Member David FitzGerald made a motion to adopt Resolution 8-2012 as presented. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

Resolution No. 8-2012

A RESOLUTION BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2012, OF THE CITY OF CLEARWATER, KANSAS.

7. **Award Temporary Note for the Financing of the Indian Lakes Addition**

Kevin Cowan, Bond Attorney, Gilmore & Bell P.C., stated the City received one bid. The process typically is to keep this process local. Gilmore & Bell contacted Home Bank & Trust and Emprise Bank in advance. The only bid received was from Home Bank & Trust. Home Bank & Trust provided an interest rate of 1.5% for a two-year option. Cowan stated that it is his opinion that this is a very good bid and rate. The bid documents stated that the award would be issued to the bank offering the lowest net interest cost. The bidder's interest cost is 1.5% of 22,950.00. Cowan noted that there is nothing irregular about this bid.

MOTION: Council Member Berntsen made a motion to award bid of the award temporary note for the financing of the Indian Lakes Addition to Home Bank

& Trust for 1.5%. Council Member Sandi Keeler seconded the motion. The motion carried unanimously.

8. Resolution Authorizing and Directing the Issuance, Sale and Delivery of General Obligation Temporary Notes, Series 2012 – Indian Lakes Addition

Kevin Cowan, Bond Attorney, Gilmore & Bell P.C., stated that this resolution pertains to the actual borrowing document. The Preamble clauses review the authority resolutions for each set of improvements in Indian Lakes including water, sewer, drainage and streets. This resolution directs the issuance, sale and delivery of general obligation temporary notes for Indian Lakes Addition. Article II discusses the authorization of issuing the notes. Section 202 contains the maturity schedule. Interest is paid at the maturity. The interest will be rolled into the end and will be a part of the total project cost. Section 203 states that the City can serve as its own paying agent. Article III discusses redemption. There is a one-year call. If the City wanted to go to the assessment process early, this section allows for the permanent financing at that time. Article IV pertains to the general obligation financing. Section 501 discusses the accounting. 502B describes that \$6,000 shall be deposited into the costs of an issuance account. The remainder of the document discusses default and tax covenants.

MOTION: Council Member Jim Whitney made a motion to adopt Resolution 9-2012 authorizing and directing the issuance and sale and delivery of the general obligation temporary notes for Indian Lakes as presented. Council Member Lyle Berntsen seconded the motion. The motion carried unanimously.

Resolution No. 9-2012

A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2012, OF THE CITY OF CLEARWATER, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

The intent is to hold the closing on 4-10-12. The money will then be available to pay bills. Cowan asked the City Clerk to have the signed documents and transcript ready by early next week.

9. Waste Connections Recognizes Top Three Recyclers in Clearwater

Herschel West, Waste Connections District Sales Manager, stated that the City of Clearwater has participated in the recycling program since January 2011. Council Member David FitzGerald asked West if he knew the percentage of residents that are actually redeeming their RecycleBank points. West commented that he would have this type of statistical information in June. West presented an award and \$75 Mize's gift card to Linda Taggart, and Brad Ingram and Sherri Ferris who received the honor of being top recyclers in Clearwater. City resident Jamie Comstock was also a recipient but not in attendance.

Papish asked West if he had the results of the Green Schools donation program. West stated that he would soon be notified of the total points and match dollar amount. West explained that the Green Schools donation program was a onetime program. Recycle Bank will match the citizen's donated points dollar for dollar.

10. Public Hearing of Dangerous Structure at 818 E. Ross Avenue

City Administrator Kent Brown stated that this structure is the garage or shed located on the north side of the property at 818 E. Ross Avenue. Willy Lynn, Sedgwick County Building Inspector, inspected the property in January. The Council approved setting a public hearing. Pictures of the building were provided in January. The pictures showed large holes in the roof. The attempts to repair the roof looked like patchwork. City Administrator Kent Brown has spoken several times with the owner of the property, Lou Doss. The tenant, James Mann, has been contacted by the inspector. Since January, the tenant has done additional work to the roof. Pictures were taken on 3-26-12. There was a stop work notice issued to the occupant while in the process of working on the roof. Administrator Brown read the letter that was written by Willie Lynn regarding the structure.

Lou Doss and Mr. Mann were present to discuss response. Property owner Lou Doss stated that she spoke with a licensed contractor this morning. The contractor has the proper building materials that are needed to complete the job. The contractor has looked at the section that Mann has completed. Mann has purchased 2x4s and other materials to complete the project. Doss states that she is trying to comply with the City Council and will work toward completing the structure. Mayor York explained that when a letter is sent to a citizen about the condition of his or her property it starts a chain reaction: citizens report other properties that need fixing. York explained that the City Council is not picking on Mann or Doss.

Council Member Jim Whitney stated that to be in compliance, the property owner has to have a building permit. Brown stated that the original permit was a roofing permit. Administrator Brown responded that Inspector Lynn is working with Doss and Mann. Council Member Jim Whitney asked if 45 days would be enough time to complete the roofing project. Doss stated that 45 days seems fair. City Attorney Janet Amerine asked if Doss agrees to 45 days. Doss stated yes. Amerine thanked Doss for attending tonight's

public hearing.

Mayor Mike York closed the public hearing at 7:08 p.m. Amerine asked that the Council pass a motion to accept 45 days for project completion as a result of the hearing.

MOTION: Council Member David FitzGerald made a motion to accept completion of the roofing project within 45 days and approved by the Building Inspector at 818 E. Ross. Council Member Jim Whitney seconded the motion. The motion carried unanimously.

11. Agreement Renewal of Sno Zone to use City Park Concession Stand

City Administrator Kent Brown stated that Bill & Audrey Kenney submitted a letter of interest in utilizing the City Concession Stand during the summer of 2012. Kenney has operated a business out of the City park concession for the past several years. The Kenney's would like to continue at \$125 per month. The Kenney's asked if the City would be willing to grant a two-year agreement. Brown stated that the City has not put this out for proposal to other interested parties. Brown stated that the \$125 doesn't cover all the costs for the facility. If the facility is being rented out for someone else's profit, the City should be able to cover its costs. Council Member Jim Whitney stated that he thought that Government Teacher Mike Justice stated that all sales during ball games go to the Government Class. When the ball game ends, then 100% of the sales goes to the Sno Zone. Council Member Jim Whitney stated that he would like more information. Council Member David FitzGerald stated that he would like to table this discussion until staff can gather the needed information. City Attorney Amerine added that in last year's agreement Kenney agreed to clean the City concession bathrooms.

MOTION: Council Member David FitzGerald made a motion to table the Agreement Renewal and discussion until the 4-10-12 City Council Meeting. Council Member Lyle Berntsen seconded the motion and passed unanimously.

City Administrator Kent Brown asked for staff direction regarding whether the City should solicit proposals from other interested parties. After some discussion, Council decided it was too late to offer an agreement to another business at this time. Council will work with the Kenney's on an agreement that both parties can agree upon. Staff will gather information regarding costs for electricity, water, and insurance for Council's review at its meeting on 4-10-12. Administrator Brown stated that Kenney is the only entity that has wanted to run the business over and beyond the baseball season. The Council decided that a sign would be placed in the window of the concession stand after the summer. The sign would advertise the availability of the concession stand for 2013.

12. Discussion of Pool Rates for 2012

Kent Brown, City Administrator, stated that it is time for the Council to start discussing pool rates. Season passes will become available for sale on May 1st. Brown explained that the daily entrance rate is \$3.25. Season passes are \$45 for a single membership. Families of four persons can purchase a membership for \$135 with an opportunity to add additional persons for \$33.75. Coupons are \$30.00 for 12 coupons, which are available at the City building. The family membership and coupon rate has changed slightly in the last four years. Total attendance has wavered over the years due to individual circumstances and weather. The concession stand sales belong to the City. Concession stand sales have decreased since Casey's opened across the street from the pool. Daycare businesses come in and purchase the coupon books, and Wichita citizens use the pool because it is compact and easy to monitor kids. Brown suggested that perhaps the Council would consider increasing the cost of the coupon book by a dollar. Brown noted that comments have been made about the City's daily admission price being higher than surrounding its communities. Brown noted that Haysville, Goddard, and Mulvane have higher membership fees. Brown stated that although memberships dropped approx \$1,000 since 2010, the quantity of coupon purchases increased immensely. Council Member Jim Whitney stated that the pool is not a moneymaker. The City has never made any money on it. Brown stated that the City loses less than \$7-8,000 a year.

City Administrator Brown stated that the pool would open the Sunday of Memorial Day. The Council should determine a closing date. Typically, the City kept the pool open until Labor Day. The high school uses the pool for PE Class during the first two weeks of school. After Council consensus, staff is directed to leave the rates the same as 2011.

13. Committee Reports

No meeting minutes were distributed in the Council Packets. The 4-03-12 Planning Commission Meeting is rescheduled for 4-17-12. A public hearing is set for 4-17-12 to hear a request for a zoning variance at 151 S. Gorin. The following committees are scheduled to meet and are open to the public to attend:

Planning Commission: Meeting scheduled for 4-17-12

Park Board Advisory: Meeting scheduled for 4-16-12

14. Claims & Warrants

City Clerk Donabauer presented the claims and warrants as of 3-27-12 for \$184,235.29. .

MOTION: Council Member Laura Papish made a motion to approve the claims and warrants as presented. Council Member Sandi Keeler seconded the motion and passed unanimously.

15. Old Business

City Attorney Janet Amerine asked about Cole's Cuts. City Administrator Brown stated that Russell Mills has told him that he had the variance request form. Mills stated that he would return the form to the City building by the end of this week. Council Member Whitney asked what his variance request is. Brown responded that he did not know yet what the specific request is for. Brown explained that his property is adjacent to the residential district. It is supposed to have a setback of 15'. The variance request would be to encroach on the setback. Mills wants to build the same size building that he has now. City Administrator Brown stated that the City would know what the plans are once the City receives the plat plan and variance request. Amerine stated that the current building encroaches on the present setback. The general rule is that downtown commercial properties can go from property line to property line unless it abuts residential zoning.

Papish asked if staff needs direction on the 130 N. Tracy nuisance letter. Papish stated that since it is spring she would request that a weed letter should be sent to the Merten's regarding the Chisholm Ridge development. Council Member Whitney stated that he was asked about this by a resident in Chisholm Ridge.

Council Member Whitney asked if Brown found any pricing information for rubber mulch. City Administrator Kent Brown stated that he contacted the vendor and school and has not received any information yet. Whitney stated that it is his understanding that the mulch does not travel. Washed pea gravel is expensive and washed sand does not pass the weight test. Brown stated that there is a border around the small playground equipment. When it rains hard, there is drainage through the playground and the mulch travels with it. Brown stated that the last time he checked on the pricing for rubber mulch it was \$800-\$1,000 per playground.

City Administrator Kent Brown stated that he asked Willy Lynn to look at 118 S. Byers. Willy wrote a letter regarding the property which indicates that there are problems with the roof and windows. Brown stated that proceeding with a resolution at the next meeting would be the next step in the process. The homeowner would be given notice. Council Member Whitney stated that he has been complimented by several citizens regarding the Council's effort to clean up some of the properties in the City.

City Administrator Kent Brown stated that the house on South Second has been sent a letter and the project has moved forward. City Attorney Amerine stated that with a resolution, the homeowners would move faster. Whitney asked if the homeowners were asking for additional time. Administrator Brown stated that he should contact them to inform them that they need a building permit and may be contacted by Willy regarding working with the advice of a licensed contractor. After Council discussion, Staff is directed to have Willy Lynn from Sedgwick County contact the homeowner and advise them in the same way that 818 E. Ross was handled.

16. Department Head Reports

Ernie Misak, Public Works Director, reported to the Mayor and Council:

- Misak reported that the estimate for fixing the sewer line on N. Fourth Street would be \$3,500 for a 4' path. The contractor insists that the patch is indestructible. The work would begin after 9:00 a.m. so it would not interfere with school traffic. With Council consensus, Misak is authorized to schedule the contractor for the repairs.
- Misak reported an update on the sewer line in Park Glen. Misak estimates that it would cost \$45,000 for the piping materials for the gravity feed. Upon completion of the project, 90% of the homes would be on that line. The houses in Clear Creek Court would have to remain on the current wet well line. Council Member Jim Whitney noted that a lot of pumps could be bought for the \$45,000. The pump needing to be replaced was installed in 1998. Whitney stated that there will be a cost to obtaining the easements if the gravity feed is approved. Misak stated that long term, the gravity feed project is the thing to do. Short term, the project is a lot of money.
- Misak stated that EPA's sewer discharge permit renews in August. The three-year permit puts more restrictions on the City. Staff is working with KDHE and Kansas Rural Water to determine how and why the City would have a problem. KRWA is coming down on 4-04-12 to determine the proper amount of sludge in the ponds. Misak recommends using the effluent water for irrigation.
- Misak stated that he needs to hire one or two persons for summer help. Misak would like the temporary help to work three days a week. Misak would like to hire immediately so that the mowing schedule can get back on track. Misak stated that staff mows approximately 120 acres between mowing the sewer ponds, the sports complex, etc.
- Misak stated that Well #3 had an Inorganics test on 2-12-12. The well was shown to have a high level of Nitrates. Staff will work closely with KDHE regarding public notification and steps on future operation of the well.
- Misak stated that burning at the brush dump has many restrictions. The City can burn with a wind of less than 5 mph. Misak recommends increasing the dump workers' hours because the dump has to be manned during burning.

17. Staff Reports

City Attorney Amerine stated that a purchase agreement has been signed and earnest money has been brought to Alpha Title Company in regard to the City's first sale at the Industrial Park.

City Administrator Kent Brown stated that City Engineer Harlan Foraker with Certified Engineer Design sent a note stating that the project on Lee and Ross Ave will start the week of 4-06-12. The pre-construction conference will held during the first week of

April.

City Administrator Kent Brown put in a call to Sedgwick County about the 4th Street project. Brown had a question regarding the shoulder and if the ditches would be wider.

City Administrator Kent Brown stated that he received a petition from Mike and Bobbie Gannaway regarding the request to vacate a portion of North Grain Avenue. Brown would like to request the Council to accept the petition tonight. A resolution would be presented at the next meeting to set a public hearing.

MOTION: Council Member Jim Whitney made a motion to accept the petition from Mike and Bobbie Gannaway to vacate a portion of North Grain Avenue. Council Member David Fitzgerald seconded the motion. The motion carried unanimously.

City Administrator Brown stated that the brush dump employees have requested raises. Mayor Mike York stated that this could be taken care of at the next Council meeting. Whitney stated that as Misak suggested, the dump employees would be requested to put in more hours. City Attorney Amerine stated that she would check to make sure it has to be a designated employee of the City watching the burning at the City dump.

Council Member Sandi Keeler asked whether an additional shift could be set aside at the dump for those residents that work second shift and cannot dump during the designated dump hours. City Administrator Brown said shift workers can call the City to arrange for a Public Works employee to meet them at the dump at a time more suitable for them.

Public Works Director Ernie Misak asked if the Council would approve a purchase of a metal detector. The detector is normally \$695, and at the Water Show it would be \$499. It would be used to locate manholes. With Council consensus, Misak was authorized to purchase the metal detector with his budgeted funds.

18. **Council Reports**

Council Member David FitzGerald stated that there is trash in the west alley located east of the mortuary. There is a lot of clutter. FitzGerald stated that he wants to compliment Misak on the windmills that his staff has built. FitzGerald asked about the weed letter process. Brown explained that a letter is mailed to the property owner. The property must be mowed within seven days. FitzGerald stated that consistently the same lawns are in need of being mowed. FitzGerald stated that he was at the City Park today. FitzGerald would like to request for a path from the windmill to the Museum. The Rec Board offered \$1,500. Public Works Director Misak stated that someone had volunteered to do the work if the City could supply the concrete. FitzGerald stated that he would like to get a bid.

Council Member Jim Whitney stated that Recreation Director Beki Zook contacted him regarding the scoreboard at the Sports Complex. Whitney stated that there are 570 bulbs and over 200 bulbs are burnt out. The bulbs are \$2.50 a bulb plus labor to install. Zook asked if the Council would want all of the lights replaced or just the ones that are burnt out.

Whitney stated that Zook stated that the school uses the scoreboard.

Council Member Jim Whitney stated that he was also contacted by a private citizen regarding the stickers at the batting cage. Whitney clarified that a private individual cannot take machinery and dig up City property. Whitney offered that his company could spray for the stickers after April and Memorial Weekend. This type of vegetation needs to be sprayed twice.

Council Member Jim Whitney received a complaint from a citizen regarding the property at 137 N. Lee. Apparently, the property owner is collecting garbage again. Whitney confirmed that there is a satellite dish and refrigerator on the property. Mayor Mike York stated that he thinks people are dumping on his property. Council Member Laura Papish asked if there could be a sign placed on the property. York stated that a face-to-face meeting is necessary. The resident is collecting junk illegally.

Council Member Sandi Keeler stated that she received a complaint about the citizen using a radar on Tracy Avenue. City Administrator Brown explained that if a formal complaint is filed with the Police Department, the Council could perhaps do something at that time.

Council Member Laura Papish asked about the house on Fourth Street. City Administrator Kent Brown stated that the Cotton house on North Fourth received a letter regarding their hot tub. Brown stated that the neighboring house has many vehicles in the back yard. He clarified that Police Chief Gene Garcia is looking for direction from the Council regarding the vehicles in the yard on North Fourth. Council Member Laura Papish will not be able to attend the Council Meetings on April 10th or May 8th.

13. Adjournment

MOTION: Being no further discussion to come before the Council, Council Member David FitzGerald moved for adjournment. The motion was seconded by Council Member Lyle Berntsen and passed unanimously.

The Meeting adjourned at 9:19 p.m.

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 March 27, 2012 City Council meeting.

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

Liza Donabauer, City Clerk