

**MINUTES**  
**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**  
**CITY COUNCIL MEETING**  
**August 27, 2013**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, August 27, 2013, 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, Paul G. Clark, Chris Griffin, Burt Ussery, Laura Papish, Council Members. The following staff members were present: Kent Brown, City Administrator; Barbara Salinas, City Clerk; Janet Amerine, City Attorney. Others present at the meeting were: Marvin & Mary Schauf, Clearwater Fire Department; Gene Garcia, Police Chief; Ernie Misak, Public Works Director; Ken Friedline, Todd Dannenberg, Eric Walter, Maynard Lemon, citizens; David Reynolds, Michael Hewitt; Catryne Modene; Cainan Spellman-Sak, Clearwater High School 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.

**Approval of the Minutes of the Regular Meeting of August 13, 2013**

Council Member Papish made a motion to approve the minutes of the August 12, 2013 City Council Meeting. The motion was seconded by Council Member Ussery and passed unanimously.

**Consent Agenda**

There were no items on the Consent Agenda.

**Mayor's Recommendations**

Mayor Mike York did not have any recommendations.

**Public Forum**

No one came forward to address the Council.

**New Business**

**Public Hearing RE: Structure at 250 N. Byers.**

City Administrator Brown reviewed the history that has led to the Public Hearing. The property owners appeared on July 23, 2013. Brown described the condition of the property and the intentions of the owners to remove the shed. The Sedgwick County Code Enforcement Inspector also reviewed the building and the results of his inspection were that the shed needed to be removed. At the meeting of July 23, 2013, the Council granted a time frame for removal of the shed and City Attorney Janet Amerine also submitted the letter and photos as evidence.

The Mayor then opened the Public Hearing and asked that anyone wishing to address the Council to come forward.

Ken Freidline, 250 N. Byers, property owner came forward to address the Council. Mr. Freidline stated that the barn is still standing and he did receive the letter from the City and acknowledged that the building needs to come down. He stated there was a car inside the shed, but it has since been removed. He stated he is in the process of securing a dumpster/container from Waste Connections so that he can clean out the shed. He offered the shed to the Fire Department for training exercises, however, the Fire Chief stated that they are not allowed to burn. Mr. Freidline stated that once he has a dumpster he will start tearing down the shed and estimated a two week completion. He added that they are also working on the house, making it ready to move in.

With the consensus of the Council, the Mayor asked Mr. Friedline to report his progress to the Council at the September 24, 2013 Council meeting.

City Attorney Amerine stated that the next step would be to prepare a resolution on findings and asked the Council's recommendation of 30-60 days. The Council agreed to allow 30 days. City Attorney Amerine stated she would have it prepared for the September 10<sup>th</sup>, 2013 City Council Meeting.

**Consideration of the Adoption of the 2013 Standard Traffic Ordinance Regulating Traffic Within the Corporate Limits of the City of Clearwater.**

Police Chief Garcia addressed this item. Chief Garcia stated that the proposed Ordinance is the annual adoption of traffic laws for municipalities. He noted some of the changes to the Standard Traffic Ordinance, specified within the proposed ordinance; Exhibition of Acceleration and Maximum Speed Limits. Chief Garcia recommended that the Council approve adoption of the proposed Ordinance.

Councilman Griffin asked about the 30 mph limit for residential areas. Chief stated that 30 mph is a state standard. He added that they did make adjustments for the Chisholm area where there are children at playing by posting street signs. Councilmember Griffin and Councilmember Ussery both stated they were uncomfortable with a 30 mph residential speed limit and asked if the City could adjust to decrease the posted speed. Chief Garcia stated that it can be initiated. City Attorney Amerine stated that this process would involve considerable justification.

Councilman Ussery asked if this was relevant to replacement of speed limit signs. Administrator Brown stated that requirements to speed limit signs addressed the size of the letters and reflective requirements. These required changes need to be made prior to 2018. He stated that some of the signs have been replaced.

Councilman Whitney made a Motion to Approve Ordinance No. 972 adopting the 2013 Standard Traffic Ordinance; Regulating Traffic within the Corporate Limits of the City of Clearwater. The motion was seconded by Councilmember Clark.

Roll Call Vote: Ussery yea; Papish yea; Clark yea; Whitney yea; Griffin yea. Motion carried unanimously.

**Consideration of an Ordinance Amendment Regulating Public Offenses Within the Corporate Limits of the City of Clearwater.**

Police Chief Garcia addressed this item. Chief Garcia stated that the proposed Ordinance is the annual adoption of the Uniform Public Offense Code. The proposed Ordinance will amend Section 1 and Section 2 of Ordinance No. 955 and regulate public offenses with the corporate limits of the City of Clearwater. The 2013 Uniform Public Offense Code will be incorporated by reference. Chief Garcia recommended that the Council approve adoption of the proposed Ordinance.

There was some discussion as to the process and reference materials for the Uniform Public Offense Code. City Administrator Brown provided a copy of Ordinance 955 in the form of a booklet. This Ordinance adopted the 2012 Uniform Public Offense Code for Kansas Cities. Brown stated that a new book is issued annually. All changes will be reflected within the newly adopted Code.

A motion was made by Councilmember Whitney to approve Ordinance 973 Amending Regulating Public Offenses within the Corporate Limits of the City of Clearwater. Councilman Griffin seconded the motion.

Roll Call Vote: Ussery yea; Papish yea; Clark yea; Whitney yea; Griffin yea. Motion carried unanimously.

**Consideration of an Ordinance Amending Ordinance No. 663 Section 3, Adding a Traffic Infraction of Careless Driving and Providing for Penalties by Municipal Court.**

Police Chief Garcia addressed this item. Chief Garcia stated that the proposed Ordinance, amending Ordinance No 663 was recommended by the Prosecutor and Municipal Court. Chief Garcia stated the addition of the Careless Driving infraction is another option for the Court to use and recommended approval.

A motion was made by Councilmember Papish to approve Ordinance No. 974 amending Ordinance No.663, Section 3, Adding a Traffic Infraction of Careless Driving and Providing Penalties by the Municipal Court. The motion was seconded by Councilmember Ussery.

Roll Call Vote: Ussery yea; Papish yea; Clark yea; Whitney yea; Griffin yea. Motion carried unanimously.

**Consideration of an Ordinance Authorizing the Issuance of a Special Event Retailers' Permit for the Sale of Cereal Malt Beverages at a Special Event within the City of Clearwater.**

Police Chief Garcia addressed this item. Chief Garcia stated that two years ago the State allowed for each municipality to adopt a Special Events Ordinance. He stated that City Attorney Amerine provided an ordinance for review based on an ordinance adopted by the City of Wellington.

City Attorney Amerine stated that currently we are allowed to license the distribution of cereal malt beverages as long as it is distributed at a bar or establishment. A Special Event Retailers' Permit for the sale of cereal malt beverages during a special event allowed a controlled sale of cereal malt beverage.

Councilmember Ussery asked if the permit would require the special event area to be contained. Chief Garcia responded that the proposed ordinance did not contain that wording and that the Council may wish to consider that addition. Councilmember Ussery stated that he felt the area needed to be a contained area. There was some discussion regarding the wording “contained” and “controlled”.

Councilmember Whitney suggested that they come back with another draft that would include the “contained area” wording. He offered as a comparison the beer garden at the State Fair. Chief Garcia suggested that a Special Event Retailer’s Permit would be a good fit for the music event at the Fall Festival. He suggested that the proposed ordinance include contained area and training of servers.

Councilmember Whitney suggested that we get this done to allow organizations to move forward with their planned events and agreed with Councilmember Ussery on the wording “contained”.

Councilmember Griffin asked about the locations that these types of events would be allowed. Chief Garcia stated that the current ordinance allows for Commercial or Industrial zoned areas and we do have an ordinance prohibiting cereal malt beverages on city owned property. He stated that we could suspend or retract for special events/fundraisers. i.e. softball fields. Councilmember Ussery stated that the Council had previous discussions regarding fundraising and felt it would be a good opportunity for city events, if done right and he would be in favor. Councilman Whitney asked if we would need to change the wording to allow consumption on City property.

Chief Garcia stated that he would have an ordinance by October for the Council’s review and adoption.

#### **Discussion on Proposed Ordinance regarding the Storing of Motor Vehicles in Yards.**

Police Chief Garcia addressed this item. Chief Garcia provided a slide presentation of numerous examples of vehicle storage in yards. He offered definitions of Motor Vehicles and Other Vehicles, which is defined as anything used for transportation and does not have to be propelled. Chief stated that of those pictured, one-half were motor vehicles. The slide presentation included 90 photos of brush piles, inoperable vehicles, trailers, farm implements, boats, vehicle parts and trash. It was noted that some of the vehicles were parked on dirt, rock and grass. All were located in back yards and alleyways. The photos were all taken within 7-8 blocks in Clearwater.

Councilmember Ussery asked how these issues are brought to the attention of the Police Department. Chief Garcia stated that the Police Department acts at the direction of the Council. He further stated they do receive an occasional complaint. Councilmember Ussery stated that he is looking five years down the road and future growth. He acknowledged that we need to set a higher standard and get the situation under control now.

Councilmember Griffin asked how much manpower it will take to monitor this issue and expressed concern about this taking away the jobs we need to be doing. Chief stated that they would prioritize much like other departments. He stated that currently they utilize the weekends to police and Mondays to call on infractions noted.

Councilmember Ussery stated that safety concerns need to be addressed first. He stated that the citizens need to be notified of infractions. He added that if we do nothing we are giving permission to allow the law to be abused. Chief Garcia stated that when policing and notifying, citizens question the law and want to see an Ordinance or law where others are quick to comply.

Councilmember Papish stated that she feels safety is a concern, but that homeowners should have certain freedoms; leniency and safety should be first concerns.

Councilmember Whitney asked where we draw the line. He cited an example of 15 vehicles in a back yard. He stated that Chief Garcia needs something black and white to be able to enforce.

Councilmember Ussery suggested having community meetings to focus on this issue. He suggested explaining the laws and enforcement of those laws, including a time line for enforcement.

Chief Garcia said that he made some adjustments to our current ordinance. City Attorney Amerine stated the ordinance provided only amends section .030; the rest of the ordinance remains the same.

The Mayor stated that this is a maintenance issue and that if we do not keep working at it, it will only get worse. He stated that most people manage to keep up their property, but there are some that need policing and continually maintained. Chief stated that they try to address everything that comes to their attention, but that it is a matter of treating everyone equally. He stated that they rarely ticket anyone for this offense.

Councilmember Ussery asked if the current wording is indefensible due to the wording and followed with questioning if any citations have been thrown out due to the wording. Chief Garcia said he is currently working with a citizen now, and in response to Councilmember Ussery's question, he responded that they have not had a citation thrown out due to indefensible wording. Councilmember Ussery suggested that we work with the current ordinance and if we have citations dismissed, at that point we can address a new ordinance. He suggested using it in extreme cases and allowing it to go through the system. Chief Garcia stated that the Prosecutor suggested the changes and he agreed; the prosecutor did not provide any wording changes. Councilmember Papish suggested wording changes for extreme cases and safety issues.

Chief Garcia stated that in six months he could come back to Council with an action report so that they could see progress. He stated they will try to employ more community policing.

It was the consensus of the Council to table the item and bring it back at an unspecified date for Council review.

### **Accept and Consider Bids for the Financing of the New Ambulance**

City Administrator Brown reviewed the bids submitted for the Financing of the new ambulance. The bids were submitted with inclusion of a \$25,000 down payment and options for 5, 6 and 7 year payoffs. Brown stated that bids were received from Home Bank & Trust, Emprise Bank and Republic First National. After review of the bids submitted, staff recommended the 6 year payoff submitted by Emprise Bank

Councilmember Whitney asked if the vehicle could be paid off in 5 years. Councilman Ussery stated that he supported the 6 year plan due to tight funding and the \$2 fee collected would give a head start on the next ambulance purchase. Administrator Brown stated the payments would be made semi-annually, as has been done in the past.

Councilmember Papish made a motion to award the bid for financing the new ambulance to Emprise Bank for 6 years.

There was some discussion and question regarding the 5 year versus 6 year plan before Councilmember Ussery made a motion to award the bid to Emprise Bank for 6 years, but to also consider a 5 year pay off, if possible.

Council Ussery was advised that there was a motion on the floor made by Councilmember Papish.

Councilmember Whitney then seconded the motion made by Councilmember Papish. A vote was taken and the motion carried unanimously.

#### **Consider and Set a Date for Strategic City Council Planning Work Session.**

City Administrator Brown asked for suggestions from the Council regarding a date and time for a strategic planning work session. It was suggested that the work session be held on the second Saturday in January of 2014 to allow enough time before they begin work on the next budget year.

It was the consensus of the Council to hold the strategic planning work session on Saturday, January 11, 2014 at 8:00 am. The location would be determined at a later date.

#### **Department Head Reports**

Chief Marvin Schauf reported that they will be conducting a pump test on Thursday and the Council was invited to attend. He also reported the wench would be repaired this week.

Chief Garcia reported they now have the first of two replacement vehicles on the street. He reported an incident at the High School that involved calling in the Highway Patrol to conduct a search in which nothing was found. He stated there have been some speeding as of the first week of school and there is new signage posted from Chisholm to the Sports Complex due to incidents last year.

Beki Zook, Recreation Director reported that Volleyball and Flag Football will be starting soon. They held a Water Day at the park and it was successful. She reported that the Parks Board met and outlined priorities for the park; sidewalk and identification sign at City Park.

Councilmember Ussery asked if it was possible for the flag football teams to utilize the Sports Complex, however, Beki noted that due to scheduling conflicts, they would not have access.

Councilmember Whitney asked about the softball tournament. Beki reported that it was cancelled due to lack of participation. She reported that she only had 2 ½ teams express interest in participating. Councilmember Whitney reported to Beki that he heard good comments from the community about the softball season.

Councilmember Papish asked if the Recreation Commission would be paying for the proposed sidewalk. City Administrator Brown stated the Rec Commission is paying for the sidewalk and the proposed identification sign would be paid from the City's Park budget.

Ernie Misak, Public Works Director was not present. City Administrator Brown provided an update on Public Works issue. He reported that they did receive the new tractor today, but encountered some problems with the trade. There has been nothing further to report on the ponds; we are still waiting on a letter from KDHE.

Councilmember Ussery stated that he assisted an elderly person who fell from the curbing on Ross Avenue. City Administrator Brown stated that this is maintained by the County and he also noted there are some problem areas. He stated the curbing is a city issue and we would need the property owners to agree to new curbing similar to the Lee Avenue project.

### **Committee Reports**

City Administrator Brown advised the Council of the upcoming meetings, Planning Commission on September 3, 2013 and Park Advisory Board on September 16, 2013. He noted that the Planning Commission meeting was tentative and could be cancelled if there is no business.

Councilmember Papish stated that she felt we need to address safety issues before we spend money on signs and sidewalks, referring to the Parks/Rec Commission projects. Brown stated that he would keep the Council apprised. Councilmember Clark asked about future meetings of both the Recreation Commission and Focus Group. Brown stated the Recreation Commission meets the second Wednesday of each month at 6:30 pm and the Focus Group meets the fifth Monday when it occurs in a month, with the exception of September, due to Fall Festival.

### **Claims & Warrants**

City Clerk Barbara Salinas presented the claims and warrants as of August 27, 2013 in the amount of \$56,148.83.

Councilmember Papish asked about the payment to Eck monument Co in the amount of \$125. Chief Garcia stated that this was for the inscription on stone as a tribute to fallen officers at a memorial in Topeka, Kansas. The stone was purchased and is now displayed at the Police Department.

Councilmember Papish asked about the Mileage reimbursement to Charles Reitberger for the Pool budget in the amount of \$138.98. City Administrator Brown stated this is for personal vehicle use, if the city vehicle is not available. It was also a combination of other items and the amount was not for mileage alone.

Councilmember Papish asked about the small postage amounts. City Administrator Brown explained that the postage meter is set up to divide postage amounts to each department. The postage meter machine has postage added regularly by City Hall staff.

Councilmember Ussery asked about the payment to TFM Services for strip/wax of the Senior

Center in the amount of \$763.60. He asked is this was done annually and thought it was exceptionally high. City Administrator Brown stated that the quote was in line with that type of work and noted that the work had not been done recently.

After discussion, Council Member Clark moved to authorize payment of the claims and warrants for \$56,148.83. The motion was seconded by Council Member Ussery and passed unanimously.

### **Old Business**

There was additional follow up to the following items:

137 N Lee – A court date has been set and final deadline provided before a fine is imposed.

Ditches along Second Street – Kent will follow up.

410 South Third – Property is a foreclosure and may need to monitor.

Dollar General – The company has been contacted regarding high weeds; Compliance letter will be sent out tomorrow.

### **Staff Reports**

City Clerk Barbara Salinas stated the new utility bills will go out this week. City staff has been working closely with Postal Presort and our FundBalance software support to get the program started.

Attorney Amerine stated that due to a conflict of interest, the Judge and Prosecutor will be replaced with the Judge-Pro Tem and Prosecutor Pro Tem for disposition of one specific case. She stated this is necessary to maintain the integrity of the court. Councilmember Ussery asked about their payment. Chief Garcia stated they will both be compensated proportionate with what the Judge and Prosecutor are currently paid.

City Administrator Kent Brown stated that the Public Building Commission will meet on the afternoon of August 28<sup>th</sup> to address the final payment of the municipal pool. He noted the pool has been drained after the water turned green.

Brown reminded the Council of the League Conference the second week of October in Overland park. If you plan on attending, please let staff know as soon as possible so that arrangements can be made.

Brown stated the 2012 Audit was delivered along with the Council Packets. Councilmember Ussery asked for a copy of the Audit from 2011. He also asked for any follow up from the auditor along with his recommendations. In the future, Councilmember Ussery would like to see a document prepared for Council showing the auditor's annual recommendations, timeline for completion and compliance.

**Council Reports**

Council Member Burt Ussery would like to develop a means to communicate with council when we have an incident in Clearwater, citing the high school incident. He suggested some sort of voice mail communication to get information to the Council. He feels that as city leaders, they need to know this information. He also mentioned the dedication of the City Park that the Council was unaware of and did not attend. Brown stated that he also likes the idea of a form of mass communication with Council, but provided some caution. He does not want to put Council in the position of speaking as Public Information officers. Chief Garcia added, with regard to the high school incident, that it was strategized with other agencies and he did keep City Administrator Brown, Mayor York and the School Superintendent informed and it was a determination as to what was to be made available to the public.

Councilmember Papish stated that she has had complaints that the trash receptacles on Ross Avenue have not been emptied regularly. Brown stated that staff would check into this.

Councilmember Clark stated that we are having issues with the high grass at Simply Perfect. Brown stated that it will be mowed again and billed again to the property owners.

Councilman Whitney stated that he spoke to Mr. Cox regarding the property south of the Senior building, north side of Janet between the Village and cemetery land. It needs to be mowed, but could not determine the property owner. He also offered the apologies from the Mikesell family with regards to the miscommunication of the Park dedication. He added that groups should not make decision for city property events suggesting they come before the Council to advise them of proposed events.

Councilmember Griffin had nothing to report.

**Executive Session**

At 9:15 p.m. Councilmember Whitney made a motion to convene into Executive Session for 25 minutes to review Personnel matters of non-elected personnel. Councilmember Ussery seconded the motion. The motion carried unanimously.

At 9:40 p.m., Council returned to regular session with no action taken.

A motion was made by Councilmember Ussery to direct staff regarding the recommendation provided for Senior Director, Pamela Riggs. The motion was seconded by Councilmember Papish. The motion carried unanimously.

**Adjournment**

Being no further discussion to come before the Council, Councilmember Whitney moved for adjournment. The motion was seconded by Council Member Clark and passed unanimously.

The Meeting adjourned at 9:45 p.m.

**CERTIFICATE**

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

I, Barbara Salinas, 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 August 13, 2013 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 10th day of September, 2013.

\_\_\_\_\_  
Barbara Salinas, City Clerk

