

**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**

**CITY COUNCIL MEETING**

**MINUTES**

**MAY 14, 2013**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, May 14, 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; Liza Donabauer, City Clerk; Janet Amerine, City Attorney. Others present at the meeting were: Marvin & Mary Schauf, Clearwater Fire Department; Beki Zook, Clearwater Recreation Commission; Sue Koenig, Scott Lucas, Clearwater Public Library; Casey Carlson, citizen.

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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 Special Meeting of April 23, 2013**

**MOTION:** Council Member Jim Whitney made a motion to approve the minutes of the Special Meeting of the 4-23-13 City Council. The motion was seconded by Council Member Burt Ussery and passed unanimously.

**2. Approval of the Minutes of the Regular Meeting of April 23, 2013**

**MOTION:** Council Member Laura Papish made a motion to approve the minutes of the 4-23-13 City Council Meeting. The motion was seconded by Council Member Chris Griffin and passed unanimously.

**3. Consent Agenda**

There were no items on the Consent Agenda.

**4. Mayor's Recommendations**

Mayor Mike York made the following recommendations:

1. Appointment of Tricia Nichols to the Parks Advisory Board.
2. Resignation from Todd Dannenberg, Clearwater Recreation Commission Board, effective 7-01-13.
3. Resignation of Jami Buck from the Parks Advisory Board.
4. Appointment of Damon & Chaney Kraft to the Parks Advisory Board.

The above appointments (and resignations) were accepted with Council consensus.

5. **Mayor York: Proclamation**

Mayor York announced that National Police Week will take place May 12-18, 2013.

6. **Public Forum**

Clearwater Recreation Director, Beki Zook, stated that baseball officially started tonight in Clearwater. The High School baseball team wrapped up last night. A flyer was sent home with students on the last day of school advertising the pool events throughout the summer. The Recreation Department is working on their budget process.

Mayor Mike York asked what the oldest age groups are in baseball. Rec Director Zook stated that the oldest age groups are 9/10 girls and 13/15 boys.

Council Member Burt Ussery asked if there are adult leagues. Rec Director Zook stated that she has a tournament reserved in August at the Sports Complex. Council Member Jim Whitney asked if Clearwater is restricted in its uses of its fields for adult leagues. Zook explained that adult leagues typically take place on baseball size fields. The City is somewhat limited.

Council Member Burt Ussery stated that he would like to inquire on taking advantage of the 4<sup>th</sup> of July for team tournaments as a way to get the community involved.

7. **Request to Host Tribal Dash at Sports Complex**

Casey Carlson presented the event representing the youth football program. Carlson and other parents of ball players are proposing a "Tribal Dash." Carlson stated it is like an obstacle course race like the Warrior Dash. The group proposes to have the race on 8-03-13 at 7:00 a.m. The group would like to create a 3.2-mile obstacle course. These races are expensive. However, this is another way to fundraise for the High School football, cross-country and cheer programs. Carlson discussed how they would get people to donate the materials for the obstacles. They are requesting road closures from the City Council from approximately 7:00 a.m. to 1:00 p.m. The group will be sending 100-150 runners in waves. The runners will finish in the downtown area where they receive their celebratory beer. City Attorney Janet Amerine stated that they would have to contact ABC for an event liquor license. Carlson noted that the downtown area would be categorized an Entertainment District. Casey stated that he is familiar with working with Entertainment Districts as he

held an event in Valley Center. City Attorney Janet Amerine stated that this does not fit with the City Ordinance. Council Member Burt Ussery stated that his son has run these types of events. Carlson stated that he would charge \$2/person for liability insurance. The City of Clearwater would be a Loss Payee on the liability insurance. The money raised would replace the need for multiple fundraisers by different groups. The group will need a hundred or more volunteers. The cost is \$55 by July 1<sup>st</sup>, then \$75 after the deadline. They assume they will have 1,000 participants. Council Member Burt Ussery asked about parking. Carlson stated that he spoke with the school, and the school will allow the participants to park in the middle school and high school parking lots and will provide bussing. Council Member Chris Griffin asked if anybody under the age of 18 would be allowed to sign up for the race. Carlson stated no. Council Member Jim Whitney stated that he is concerned for the businesses that will be affected by the road closures. Carlson stated that the group would talk to the local businesses with Council approval. Council Member Burt Ussery asked if the finish line is set just because of the business locations of Cancun and C-Bar. Carlson stated that was the case.

Police Chief Gene Garcia stated that C-Bar and Cancun Mexican Grill would have to apply through the state for a license. The city ordinance addresses a beer garden via Fall Festival. There are many caveats to an entertainment District. Chief Garcia stated that there would be a lot of pre-planning for the EMS and Police Department. Council Member Chris Griffin stated that the fundraiser group volunteers would have to attend Server Training in order to have a beer garden. City Attorney Janet Amerine stated that the participants would have to be forced to go behind Cancun Mexican Grill or the C-Bar. Chief Garcia stated that the ordinance requires an enclosed area with tags, alcohol has to stay within fenced in area, and security would have to be present.

Council Member Burt Ussery asked what would be the downside if beer was not offered. Carlson stated he does not know how to answer that as this is the first time this event has been offered here. Chief Garcia stated that you cannot pre-sell alcohol. Chief Garcia stated that there is a lot of preparation that needs to be done. Council Member Jim Whitney stated that if Carlson can get the approval through ABC and work with Chief Garcia and notify businesses, he would be in favor of it. Council Member Whitney stated that not having alcohol would diminish attendance, which is what happened with adult tournaments not working on City property. Council Member Laura Papish stated that the group needs to check into port-a-potties. Carlson stated that the group has a huge list of things to do but wanted to get the City's approval. Carlson stated that they are prepared to pay for off-duty police officers.

Council Member Burt Ussery asked how soon Carlson needs to get the word out. Carlson stated there is a race on June 14<sup>th</sup> in Wichita. The group would like to hand out fliers at this time.

**MOTION:** Council Member Jim Whitney made a motion to approve the request if all of the rules and stipulations are met according to legal and the police department. Council Member Burt Ussery seconded the motion. The motion carried 4-1 (Griffin nay).

**8. Library Board Director to Present 2014 Budget Request**

Dr. Scott Lucas, Library Board President, and Sue Koenig, Library Director, presented their budget request for 2014. Koenig stated that the Library has programs every Wednesday with performers at 2:00 p.m. There is story time and crafts on Thursdays at 10:30 a.m. and there will be prizes. The programs last approximately an hour. Scott Lucas stated that there are backgammon social hours at the library as well.

Lucas stated that he does not anticipate new revenues for 2014. The Library Board has adjusted actual budget with revenues they have been receiving from the State Central Library System, library fines, and a Recreation Commission Grant. The Board has increased their budgeted revenues to reflect these increases in anticipated revenues. Council Member Burt Ussery asked why the fluctuation on the 2010 and 2012 revenue numbers. Scott Lucas stated that the library got automated and received increased funding from the state. Council Member Burt Ussery asked if the City provides any funding. City Administrator Kent Brown explained that the City provides a building, and a portion of its mill to the library. Lucas stated that they provide the janitorial and a beautiful garden in the rear of the building.

Lucas referred to their salary line item. Lucas noted that the Library Board hires the best people we can hire and to keep them here, we have to pay them a good wage. The salary line item has increased several times over the last few years. Health insurance is not provided. Equipment and postage were adjusted according to previous years' actuals. They added a line item for the consortium fee for the technology and eBooks within the facility.

Lucas noted that if the Library does not receive their anticipated revenues, they would decrease their expenditures.

Council Member Burt Ussery asked if the Library tracks trends in library usage. Library Director Sue Koenig stated that they do keep track of circulation. The Library has added eBooks and is monitoring how the community is using them. Ussery stated that he would like to see a variance column in future budget presentation reflecting percent increase and decrease from 2013 to 2014. Council Member Jim Whitney suggested seeing a report along with the budget that shows how many books, participants, and programs are used to support the numbers.

Council Member Burt Ussery stated that there is an anticipated revenue budget of \$81,619 and a wash of expenditures. There are four paid employees. They have 2.25 FTEs stated Scott Lucas. Ussery stated that he would also like to know FTE numbers with budget presentations.

**9. Staff Appointments for 2013**

Mayor Mike York read through the list of appointments for the Administrative Department and asked for Council consensus regarding the list of the Administrative Department. The Council gave their consensus.

Mayor Mike York asked for Council consensus regarding the list of the Police Department.

The Council gave their consensus.

Mayor Mike York asked for the Council consensus regarding the list for the Court Appointed Attorneys. The Council gave their consensus.

Mayor Mike York asked for the Council consensus regarding the list for the Public Works Department. The Council gave their consensus.

Mayor Mike York asked for the Council's consensus to reappoint members of the Planning Commission. The Council gave their consensus.

Mayor Mike York asked for the Council consensus to reappoint members of the Public Building Commission. City Administrator Kent Brown stated that Jeanne Long is not sure if she wants to run again on the Public Building Commission as her term is up this year. The Council gave their consensus.

Mayor Mike York asked for the Council consensus to reappoint the members of the Historical Society. The Council gave their consensus.

Mayor Mike York asked for the Council consensus to reappoint the members of the Library Board. The Council gave their consensus.

Mayor Mike York asked the Council to give their consensus to appoint the Emergency Volunteer Services. The Council gave their consensus.

Mayor Mike York asked the Council to provide consensus to his recommendation to reappoint the Fire Fighters for 2013-2014. Council Member Burt Ussery asked Fire Chief Marvin Schauf if the fire fighters are current on their training. Marvin Schauf stated yes. The Council gave their consensus.

Mayor Mike York asked the Council to give their consensus on his recommendation to reappoint the Emergency Medical Technicians. Council Member Laura Papish asked the name be corrected on her husband's name from Dr. David I. Papish DO to David I. Papish DO. The Council gave their consensus (Council Member Laura Papish abstained).

Council Member Burt Ussery asked if any of the other board members come to a Council Meeting to provide a report. City Administrator Kent Brown stated no. Council Member Laura Papish noted that the minutes from the board are typically in the Council packets.

**10. Resolution Finding that the Structure Located at 200 S. Second is Unsafe or Dangerous and Directing that the Structure be Removed**

City Attorney Janet Amerine stated that the owner of the home has passed away. The structure still has to come down. Council Member Paul Clark asked if the deadline could be extended. Council Member Chris Griffin stated that the Ministerial Alliance would remove the structure through volunteer help. H.D. Mills with Southwest Salvage will bring a dumpster and three or four churches will help on Saturday, 5-18-13.

**MOTION:** Council Member Jim Whitney made a motion to adopt Resolution 12-2013 as presented. Council Member Paul Clark seconded the motion. The motion carried unanimously.

Resolution No. 12-2013

A RESOLUTION FINDING THAT THE SHED STRUCTURE LOCATED AT LOTS 31-33-35, SECOND STREET< AKINS ADDITION, IN THE CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS, COMMONLY KNOWN AND REFERRED TO AS 200 SOUTH SECOND, CLEARWATER, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE SHED STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

**11. Ordinance Amending Ordinance No. 835, Section 1 Setting Forth the Schedule of Minimum Off-Street Parking and Locating Spaces**

City Administrator Kent Brown stated that there was background information provided in the Council packets. City Administrator Brown noted that this issue came up when the Dollar General came to town. The Dollar General had a variance request to decrease the number of parking spaces that were required in the zoning regulations. City Attorney Janet Amerine presented a draft ordinance to the Planning Commission to address issues that have come forward with Stars & Stripes and Casey's Convenience Stores. The Planning Commission requested a separate definition for Convenience Store and Retail Service Establishments. City Attorney Janet Amerine noted the change in the minimum off-street loading requirements. Administrator Brown stated that this would not affect any existing businesses.

**MOTION:** Council Member Jim Whitney made a motion to approve Ordinance 970 as written. Council Member Laura Papish seconded and the motion.

**ROLL CALL VOTE:** Ussery yea, Papish yea, Clark yea, Whitney yea, Griffin yea. Five Yea. Motion carried.

**12. Review Changes in Business Park Realtor Contract with Weigand Commercial Group**

City Administrator Kent Brown stated that there was a one-year agreement for the listing agent for the Industrial Park property. The agreement in the council's packet is the

same as the previous year.

Council Member Burt Ussery asked about the marketing efforts of Weigand. Council Member Burt Ussery asked if the 10% commission is standard. City Administrator Kent Brown stated that Weigand put it through their avenue that is currently available for those seeking industrial property, which is called the LoopNet. The City had a previous firm host the marketing efforts for the industrial park.

Council Member Jim Whitney stated that they received 11 inquiries over the last year or two.

**MOTION:** Council Member Burt Ussery made a motion to authorize staff to execute the agreement with Weigand & Sons for a one-year extension. Council Member Paul Clark seconded the motion. The motion carried unanimously.

**13. Appoint Remainder of Aquatic Center Staff for 2013 Season**

City Administrator Kent Brown stated that Chuck Reitberger, Pool Manager, has completed the process for the additional staff for the summer. A list within the Council's packets shows the remaining persons that need to be appointed:

Lifeguards:

Nathan Sizemore  
Izaak Graham  
Cainan Spellman-Sak  
T.J. Layton  
Will Snyder  
Tessa Castor  
Charley Wilkens  
Kylie Molisee

Basket Room Attendants:

Josie Ray  
Lauren Akin

The Mayor asked for the Council's consensus to appoint the above list. The Council provided their consensus.

**14. Department Head 2014 Budget Requests**

Fire Chief Marvin Schauf stated that he inventoried the gear down at the shop. The Velcro on the front of their gear has shrunk. Fire Chief Schauf needs to order 15 new Bunker Coat and pants sets and 6 new pairs of boots. The Jaws Cutters can only be purchased from Salina. Chief Schauf has a total of \$23,360.00 in additional items he would like to purchase in 2014. Council Member Jim Whitney stated that the Council has not

approved new gear for a long time. Council Member Burt Ussery asked if the current gear presents a safety issue. Chief Marvin Schauf stated yes.

Police Chief Gene Garcia presented a summary of their general fund requests, which include: lease agreements on three police vehicles, replace modems, purchase interview/interrogation room surveillance-recording equipment, repair and acquire two new Tasers, increase training and certification, and capital improvement items (carpet, range improvements).

Police Chief Gene Garcia reviewed his court budget requests. Chief Garcia noted that there would be an increase in jail costs, computer support and legal fees.

Donald Schauf, EMS Director, presented his budget request. Schauf noted that he would like to increase his Medical Supplies and Training/Seminars line items. In the past, he has had to use his donation fund for the medical supplies. Schauf is also requesting \$8,000 for two Mosimo Rad 57, which are carbon monoxide poisoning detectors. Council Member Laura Papish asked why he needed two. Schauf stated that he would outfit both ambulances. Council Member Laura Papish asked if Schauf could trade between ambulances. Schauf stated that it is tricky to do that because if one ambulance is being used, then the backup would go out unequipped.

**15. Replace Flooring in Portion of Police Department**

Police Chief Gene Garcia stated that this year's budget reflects a cost for replacement flooring in the entryway of the Police Department. Chief Garcia stated that he received three quotes from local business owners including Janzen's and Machart Construction. Mike Machart's quote was the lowest and includes redoing the bathroom and materials. Mike Machart's bid is for \$996.00.

**MOTION:** Council Member Burt Ussery made a motion to authorize Mike Machart, upon verification of price, to replace the carpet in the entryway at a cost not to exceed \$996.00 and move forward with getting a quote on replacing the carpet throughout the rest of the department. Council Member Laura Papish seconded the motion. The motion carried unanimously.

**16. Contract for Fourth of July Fireworks Show**

City Administrator Kent Brown stated that the fireworks show is funded through proceeds from the Fireworks license (\$5,000 each). This revenue comes out of the Special Parks Fund. Administrator Kent Brown asked the Council if they want a fireworks show, and for what price. Administrator Kent Brown also asked if the Council wants to get a quote from a different provider. Council Member Burt Ussery asked about bringing the community out to the football field to have a community event. Council Member Laura Papish stated that something has been done similar to this in the past and it was fun. However, no groups have expressed an interest in hosting this type of event over the last few years. Council Member Burt Ussery stated that he would talk to community members about

potentially putting together a Fourth of July event. Council Member Jim Whitney stated that he would like the City to provide the fireworks show. The Council provided consensus for staff to pursue obtaining a quote for a fireworks show.

**17. ASCAP**

Kent Brown, City Administrator, explained that the city is at risk of getting in trouble for not having the license. The license fee is based on population of a city. City Attorney Janet Amerine verified that this is something that the City has to obtain to have music played or performed during city events.

**MOTION:** Council Member Burt Ussery made a motion to authorize staff to renew the 2013 ASCAP license. Council Member Paul Clark seconded the motion. The motion carried unanimously.

**18. Review of Annual Council Tour Held on 5-14-13**

City Administrator Kent Brown stated that City Council viewed three sites today. Brown asked the Council if they wanted to see the EMS building, the Tornado Shelter, the wells, and other facilities. Council Member Paul Clark stated that he thinks another tour is important. Council Member Laura Papish stated that she would be on vacation during the next Council Meeting. The Council decided to meet on 6-11-13 at 5:00 p.m. to continue their Council Tour.

**19. Department Head Reports**

Gene Garcia, Police Chief, stated that they have received bids for replacement vehicles in his department. Lt. Jason Gearhardt is in Washington DC for the fallen officers' ceremony. Chief Garcia stated that he has approached Council Member Chris Griffin regarding becoming a Police Chaplin. Chief Garcia talked about the importance of having a resource such as this for police calls. The Police Department is inundated in domestic violence cases, barking dogs, and reported gunshots.

Ernie Misak, Public Works Director, provided the following update:

- The pool is intended to be filled on Thursday.
- Ernie Misak and Cole Hollis will be attending training on Wednesday for a KDHE plan that is due in October. The training on Stage 2 disinfection byproduct rule in Kingman (is for water).
- The restrooms at the City Park will be open for the entire day for the Track & Field Day.
- The security camera is up and operational at the City Park on the new playground equipment.
- Ernie Misak will only review capital items during his budget presentation.

- Misak has not bought the new tractor yet.
- Council Member Jim Whitney noted that over half of the trees are dead at the Sports Complex. Nobody at the City was informed that the seedlings were planted, or who would be responsible for watering/caring for them.

Marvin Schauf, Fire Chief, stated that his department hosted the Fire Chief's Meeting this past weekend. Chief Marvin Schauf stated that a Fire Chief spoke at the event noting that bottle rockets are illegal in Kansas. Bottle rockets are supposed to be confiscated.

Chief Marvin Schauf stated that the radios were reprogrammed. Chief Schauf now needs to get them installed in the trucks. Chief Schauf will have to have someone come down from the radio store to install them.

Fire Chief Marvin Schauf stated that a large explosion took place tonight shortly before 6:30 p.m. Ron Lambert blew up a chemical in a tree.

## 20. Committee Reports

The 5-7-13 Planning Commission meeting minutes were distributed in the Council Packets for Council review. The following committees are scheduled to meet and are open to the public to attend:

Planning Commission: Meeting scheduled for 6-04-13

Park Commission: Meeting scheduled for 5-20-13

## 21. Claims & Warrants

City Clerk Liza Donabauer presented the claims and warrants as of 5-10-13 for \$114,354.44. Burt Ussery asked questions regarding Casey's fuel and whether the City has tried to negotiate prices. The City does receive a small discount, which is noted in the statement.

**MOTION:** After discussion, Council Member Laura Papish moved to authorize payment of the claims and warrants for \$114,354.44. The motion was seconded by Council Member Jim Whitney and passed unanimously.

## 22. Old Business

Council Member Burt Ussery noted that the Council received a document that addresses the question about the Community Service. Council Member Burt Ussery asked about the status of the alleyways that need to be dragged. City Clerk Liza Donabauer stated that she asked Public Works Director Ernie Misak about the progress on the alleyways and he noted that they have repaired a few, but still have several to do.

**23. Staff Reports**

City Clerk Liza Donabauer stated that tonight is her last Council Meeting. Donabauer thanked the Council and Mayor for being who they are. Donabauer stated that the last two years have been the best two years of her life and she enjoyed every minute of working in this community.

City Attorney Janet Amerine stated that she had nothing to report.

City Administrator Kent Brown stated that the additional entry into the pool would be discussed at a future meeting. Administrator Brown has not found a cheaper alternative. Administrator Brown noted that he would be gone over the next couple of weeks to utilize vacation time.

**24. Council Reports**

Council Member Chris Griffin asked what rotation schedule is used for cleaning out ditches. Mayor Mike York stated that when a citizen calls with a complaint, that is when a ditch is cleaned out. They are sometimes cleaned on an as-needed basis. Council Member Chris Griffin noted that the ditches along South Second that need to be cleaned out.

Council Member Jim Whitney stated that 410 South Third has been abandoned for several years. The hedge sticks out enough that it hits passing vehicles. City Administrator Kent Brown stated that he sent a letter to the property owner who directed him to contact his attorney. The property is in Chapter 7 bankruptcy. Council Member Jim Whitney stated that he was contacted by someone in Chisholm Ridge regarding the unmowed Mertens' property along the north end of Red River.

Council Member Paul G. Clark stated that he had nothing to report.

Council Member Laura Papish asked about the mowing along the Simply Perfect Variety Store. City Administrator Kent Brown stated that he sent a letter to the property owner. They have seven days to take care of the property.

Council Member Burt Ussery stated he had nothing to report.

Mayor Mike York asked if anybody has contacted the City regarding the telephone or electric company cutting limbs and not picking up their limbs. Mayor York noted an alley south of the bank.

City Administrator Kent Brown noted that the bank has requested a repair to the alleyway between their building and the SKT building. The alley was paved by a private party. The alley is city property. The private party does not want to pay for the cost to maintain the property.

City Council Jim Whitney asked City Administrator Kent Brown to contact Andale Ready Mix to give a price on all of the dirt roads. Whitney would like to see a bid on each road in time for the next budget process. It is a flowable fill process that is a very firm base. Mayor Mike York asked if this is a dustless surface. Council Member Jim Whitney stated that it is not completely dustless. Council Member Burt Ussery stated that this was done on Tyler and the dust went away over time. It is a nice surface. The Council talked about the potential for petition carriers.

**25. Executive Session - Personnel Matters of Non-Elected Personnel**

**MOTION:** At 10:26 p.m., Council Member Jim Whitney made a motion to enter into executive session for 10 minutes. The motion was seconded by Council Member Laura Papish and passed unanimously.

At 10:36 p.m., Council returned to regular session with no action taken.

**26. Executive Session - Consultation with an Attorney on Matters that would be Deemed Privileged in Attorney-Client Relationship**

**MOTION:** At 10:38 p.m., Council Member Laura Papish made a motion to enter into executive session for 20 minutes. The motion was seconded by Council Member Jim Whitney and passed unanimously.

At 10:58 p.m., Council returned to regular session with no action taken.

**27. Adjournment**

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

The Meeting adjourned at 11:00 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 May 14, 2013 City Council meeting.

Given under my hand and official seal of the City of Clearwater, this 28th day of May 2013.

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Liza Donabauer, City Clerk