

**MINUTES  
CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS  
CITY COUNCIL MEETING  
October 22, 2013**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, City Council was held on Tuesday, October 22, 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; Donald Schauf, Ambulance Director; Clint Luckner, Clearwater Police Department; Bruce Long, David Papish, Scott & Roxanne Howell, Joan Fleming, City Residents; Zach Gerberding, Tyler Hobert, Kimberly Decker, Kasey Crubaugh Clearwater High School Government students.

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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.

**Approval of the Minutes of the Regular Meeting of October 8, 2013**

Council Member Papish made a motion to approve the minutes of the October 8, 2013 City Council Meeting. The motion was seconded by Council Member Griffin and passed unanimously.

**Consent Agenda**

- 1. Authorization to Enter into an Annual Service Agreement with Corrpro in the Amount of \$1,225.00.**

Council Member Whitney made a motion to accept the Annual Service Agreement with Corrpro. Council Member Papish seconded the motion and passed unanimously.

**Mayor's Recommendations**

Resignation of Mike Weakley – Clearwater Fire Department

Mayor York accepted his resignation with well wishes.

**Public Forum**

Recreation Director Beki Zook stated to the Council that she had another meeting to attend. Zook stated that basketball season has arrived. The Recreation Commission has 16 teams for Clearwater. The teams will play Haysville and Mulvane. The Photography Class had 11 adults enrolled. There will be another class offered in November.

**Consideration of a Petition to Vacate a Portion of Park Avenue, Grain Avenue and the Alley Located Between and Parallel with Grant Avenue and Grain Avenue**

City Administrator Brown stated that the City received the petition from the property owners regarding this issue. The discussion of vacating property was started at the last Council Meeting regarding the actions of the City Council in 1993. The vacation of Park Avenue and Grant Avenue to the west city limits and Grain Avenue from the south City limits of Clearwater to the north line of lot of 138 and lot 137 on Grain St. Hammers Addition and the alley between Grain and Grant south of Kansas Avenue. The Council at that time issued a Resolution for a notice of hearing and had a hearing but never had an Ordinance for a notice of hearing that was signed by the Mayor and Council in 1993.

There was an "order" signed by the Mayor; but not an Ordinance.

City Attorney Amerine explained to the Council that the legal process getting to an Ordinance was never completed in 1993. Everything was done leading up to the Ordinance. Amerine recommended to the Council to start the process again by accepting the Petition from City residents Bruce Long and David Papish. After the Council accepts the Petition then the next step is publishing a hearing in the paper and scheduling the hearing for November 26, 2013 which is the second Council meeting in November. Amerine further advised that after the hearing an Ordinance can be approved and the whole process would be completed.

Council Member Ussery asked if the Council could just move to the Ordinance since the other parts of the process were completed in 1993. Amerine advised to start the process over to make sure the involved parties understood the procedure and that it was done legally and finished so that there are no further questions in years to come.

City Resident Bruce Long stated to the Council that in his view everything was done up until the Ordinance and raised the question about this Council just approving the Ordinance. Long further stated that he and City Resident David Papish had paid money for this whole procedure to vacate the street and alleyway 20 years ago and doesn't want to have to pay again. City Administrator Brown stated the only costs for the City will be for publishing the hearing and Ordinance in the newspaper and the engineer that has been hired to see if sewer could be hooked up to the property in question. City Administrator Brown further stated that an engineer has been asked about the sewer installation at the property on Grant street and no report has been given to the city as of yet.

Council member Whitney stated that one thing about being on the Council that he has learned is the City should never give up an easement or vacate an alley or street and is not sure why it was done 20 years ago.

Council Member Griffin asked City Attorney Amerine to explain the situation involving the Petition presented to the Council again for his own understanding. Council Member Whitney also wanted to make sure what he was voting on before a motion was made to accept the Petition presented.

Council Member Ussery made a motion, against legal advice from the City Attorney, to create an Ordinance to finalize the vacation as stated in the original document from 1993. Ussery made a second motion that a petition is submitted for the modification of the document. The original motion dies for lack of a second.

Council Member Papish stated that it is her intention to get through this process as quickly as

possible so that the property can be bought and the people can get their house built.

Council Member Griffin made a motion to accept the Petition as presented by City Residents Bruce Long and David Papish. Council Member Whitney seconded the motion. Motion passed with Council Members Griffin, Whitney and Clark voting yes, Council Member Ussery voting no and Council Member Papish abstaining.

City Administrator Brown gave copies of a sample Resolution that could be accepted in the upcoming meeting on November 26, 2013. This document states that all property owners will be notified and discussion will continue during the hearing at the second meeting in November. City Attorney Amerine stated that there is a cost to post the Resolution in the newspaper and to notify the property owners within 200 feet.

Council Member Whitney made a motion to set the Resolution #15-2013 for the upcoming meeting on November 26, 2013. Council Member Griffin seconded the motion. Motion passed with Council Members Griffin, Whitney and Clark voting yes, Council Member Ussery voting no and Council Member Papish abstaining.

City Administrator will continue to work with the engineer and get the information as soon as possible regarding the connection to the city sewer mains.

#### **Consideration of the Cellular Telephone Tower Lease Agreement**

City Administrator Brown stated that he emailed electronically the information from City Attorney Amerine about the proposed lease agreement with the current owner. Brown stated it gains the City additional revenue and it keeps in place the revenue on an annual basis. Brown would like Council direction if the Council would like to go ahead and receive an agreement to continue.

Council Member Ussery states that a 30 year agreement is a long time to commit in this day and age with technology changing daily. Ussery would like to regulate the price over the next 30 years because in 15 years the dollar amount could not be as good as it is now. Council Member Clark how long the previous agreement was for and City Administrator stated lease would be up in 2034 which was originally 25years. Council Member Clark stated then that really makes the agreement for 50 years. Council Member Papish asked if they could leave the agreement as is to expire in 2034. City Administrator Brown stated yes. Brown was just presenting the agreement to the Council that was sent to him. Brown stated this is the tower at the brush dump.

Council directed staff to let property owner know the Council is not interested in extending the contract beyond 2034.

#### **Consideration of Proposed Changes to the Sale of Cereal Malt Beverages at a Special Event within the City of Clearwater**

Police Chief Gene Garcia proposed to the Council some changes in the Ordinance about the sale of cereal malt beverages at special events. Garcia recommends to the Council that there be background checks on all servers/applicants to be paid prior to event. Garcia recommends that the need for

police or fire or other municipal services with the cost to be paid by the applicant. Garcia recommends that in the permit regulations section that a special permit requires all those serving cereal malt beverage be 21 years of age and attend the state's alcohol beverage training and have no prior violation of the statute. A special event permit shall be in a confined area with that restricts access by barriers and require and approved tagging system.

Council Member Ussery asked if the permit fee of \$25.00 is a set fee. Garcia responded yes.

Garcia would do the background checks. Garcia would recommend that the Sports Complex be added to the confined areas so that the city could have softball tournaments. A special permit would be issued for each individual event. The application process would include the venue of the event.

Council Member Ussery made a motion to approve the changes as presented in the Chapter 5.09 sale of Cereal Malt Beverages at Special Event Ordinance so Attorney Amerine can draft the Ordinance for approval. Council Member Clark seconded the motion and passed with Council Members Ussery, Papish, Clark and Whitney voting yes and Council Member Griffin voting no.

#### **Consideration of a Request for Street Closure for Halloween in Clearwater Downtown Event**

City Administrator Brown stated there has been a request for the street to be closed from Tracy to Lee for Halloween. Brown recommends the Council provide authority to close the streets.

Council Member Whitney made a motion to close the streets for the Halloween in Clearwater Downtown event as provided. Council Member Papish seconded the motion and passed unanimously.

#### **Consideration of a Donation Request from the Clearwater High School Government Class for Participation in the Clearwater Fall Clean up**

City Administrator Brown stated that were 5 rolloffs for this past Fall Clean-up. The weather was rainy on Friday so not a lot of participation on that day. The donation would be for the spring and fall clean up days.

Council Member Whitney made a motion to donate \$1,500 to the Clearwater High School Government Class for the help with the spring and fall clean-ups. Council Member Griffin seconded the motion and passed unanimously.

#### **Resident Agreement as part of Water Right Application for Well #7**

Tabled

#### **Department Head Reports**

Police Chief Garcia appreciates the support from the City Council on the Holiday Dinner. Cancun Mexican Grill will cater the event. In this year's budget the Council had approved weapon replacement for the Police Department, so new weapons have been purchased. The total for the new holsters were \$1,000 and the new fire arms were \$4,800. Chief Garcia would like to first offer the police officers a chance to buy the old weapons at the trade in value of \$330. Council Member Papish asked if the officers do not purchase the weapons, what happens to the guns. Chief Garcia stated that they will be kept by the Department. Garcia stated the fire arms will not be sold to the

public because they are law enforcement marked.

Council Member Chris Griffin asked about the Fall Festival Dunk Booth. Garcia reported the Police Department raised about \$200 for one hour.

Chief Garcia stated that Officer Luckner is going to a class on child Internet issues. Garcia would like to have a program at the Library about children on the internet. Garcia would also like to keep the seniors involved and emphasize about scams in the area and on the internet.

Chief Garcia reported to the Council that he was going to a grant writing class in November. Garcia stated the class will be at Butler County and is specifically geared to Law Enforcement.

### **Committee Reports**

Planning Commission has a meeting scheduled for November 5, 2013 and Park Advisory Board has a meeting scheduled for November 18, 2013.

### **Claims & Warrants**

City Clerk Barbara Salinas presented the claims and warrants as of October 22, 2013 in the amount of \$32,246.82. Additional claims and warrants came in to city office since Friday in the amount of \$2,713.81.

After discussion, Council Member Papish moved to authorize payment of the claims and warrants for \$34,960.63. The motion was seconded by Council Member Ussery and passed unanimously.

### **Old Business**

Council Member Ussery stated to the Council that he would like a plaque for all of the Past Presidents of the Fall Festival Committees. Council Member Ussery stated the group should be recognized for all of their hard work. The plaque should be on display at the City Building. Ussery would also like a proclamation for the whole group of volunteers and present it at the next Council Meeting.

### **Staff Reports**

City Clerk Salinas had nothing to report.

City Attorney Amerine stated that she would be working on her City Attorney report from the League Meeting. Attorney Amerine reported that she has some contact names about permits granted in several Kansas Cities for water rights.

City Administrator Brown stated that the bridge work on 103<sup>rd</sup> is nearing completion. The bridge work is completed and they are working on the dirt work to finish up the project. The City has been monitoring the progress.

The City has met with three Engineers regarding the waste water. Administrator Brown has received one report back from a group of engineers. Administrator Brown would like references and feedback from the cities that the engineers have worked in previously before making a decision. Administrator Brown should have all three reports ready for the next Council meeting. Council

Member Ussery would like to have the Engineer that is picked to come to the Council meeting and give his report in person and allow the Council to ask questions about what will need to be done. Public Works Director Misak has also been at the meetings to interview the prospective Engineers.

City Administrator Brown reported the Park Advisory Board will have their recommendations of projects at the City Park ready for the second meeting in November.

City Administrator Brown stated that in the next water bill there will be an extra notice enclosed that states a change in recycle dates for the rest of 2013. A list will also be provided by Waste Connection for the upcoming 2014 year.

### **Council Reports**

Council Member Griffin had nothing to report.

Council Member Whitney stated he was contacted by the resident at 151 S. Fourth about the drainage ditch that was put in by the city. Council Member Whitney is asking if Public Works Director Misak could go look at property and talk to the city Resident. Council Whitney thinks if the City were to pour a vertical wall the full length of the property, the dirt will not slope.

Council Member Whitney has been monitoring the Sports Complex baseball fields. The fields have not been mowed in 8 to 9 weeks. The agreement was the baseball coach and players would take care of the infield that had sod laid down. Council Member Whitney went out there and mowed the field and it took him 3 ½ hours because the grass was 3 feet tall. There are about 3 dump trucks full of grass for the Public Works department to take to the dump. Council Member Ussery asked if the field maintenance was a verbal agreement or in writing. Council Member Whitney stated that it was a verbal agreement. Next year when the pre-season meeting occurs with the school representatives, maintenance of the fields should be in writing.

Council Member Whitney stated that he landscaped the Senior Center with mulch when the Center opened. It has all blown away. Council Member Whitney is going to replace it with rock and possibly plant a few trees on the east side of the parking area.

Council Member Whitney was contacted by the State Fire Marshall office about allowing combustible hay bales next to commercial buildings. The Fire Marshall stated they should be moved. Council Member Ussery stated that now that the City is aware of the situation there is an obligation to move the bales.

Council Member Clark had nothing to report.

Council Member Papish asked who maintains the electronic sign. City Administrator stated the city maintains the sign. The agreement in place states the City pays for the phone line and the school pays for the electricity.

Council Member Ussery had nothing to report.

**Adjournment**

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

The Meeting adjourned at 9:30 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 October 8, 2013 meeting.

Given under my hand and official seal of the City of Clearwater, this 24th day of September, 2013.

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Barbara Salinas, City Clerk

