

3-3-08 *ca*

Minutes

**BASEHOR CITY COUNCIL
February 4, 2008
6:00 p.m.
Basehor City Hall**

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Terry Thomas, Iris Dysart, Terry Hill, Keith Sifford, and
Jim Washington (arrived at 6:07 p.m.)

Members Absent: None

Staff Present: Carl Slaugh, Mary Mogle, Gene Myracle, Dustin Smith, Lloyd Martley,
Patrick Reavey

Newspaper: Lara Hastings, *Basehor Sentinel*

WORK SESSION – 6:00 p.m.

The work session was called to order with all members present with the exception of Councilmember Washington. The city attorney was in attendance.

Discussion regarding agenda items.

- a. Consider funding support for a feasibility study for a Leavenworth County Air and Business Park.*

Mr. Slaugh explained there was a move within the county to look into an air and business park feasibility study. The Airport and Business Park committee has been formulated and gained support from the Federal Aviation Administration (FAA) to have the study performed. The funding formula would be the same formula as used for Leavenworth County Development Corporation funding and would be based on population and assessed valuation. FAA would not be providing any funding toward the study at this time, but may consider the possibility of reimbursing part of the cost if the County chooses to move forward on the project.

President Thomas asked what the benefit would be for a regional airport. Mr. Slaugh stated it appears to be an attraction for industry. The FAA would fund up to 95% of construction costs, excluding cost of hangers and land. If Lansing and Tonganoxie chose not to participate in the study, then the committee would meet again to discuss their options. *(Councilmember Washington arrived at 6:07 p.m.)*

The aviation airport will require approximately 600 acres and remain in the county. Therefore, any proceeds would be refunded to all participating cities. Mr. Slaugh explained it is estimated to take about twenty years before the airport would make a profit. The city of Leavenworth has unofficially pledged their support for the study and will take formal action at a regular meeting.

Mr. Slaugh reported Basehor's participation would be approximately \$3,000. Councilmember Thomas asked since it would be a County effort, why would the City of Basehor participate. Mr. Slaugh explained the committee felt if all the cities expressed support there would be less opposition from the general public.

f. Approval of excise tax refund payment to Pinehurst commercial and Medicine Store.

Planning Director Dustin Smith explained when Pinehurst North was developed, the commercial part paid excise tax up front. Last year, there was a rezoning of 11.15 acres from commercial to residential. The developer has requested excise tax reimbursement of \$43,712.46. He explained commercial development pays excise tax up front; whereas, residential pays at the time of issuance of a building permit.

Councilmember Washington asked why the city should pay the amount back. Mr. Smith said it was policy and he was following the policy. Councilmember Washington asked if this parcel lost its identity stating it would be incumbent upon the City to keep the money.

Councilmember Dysart stated as she understood it, Pinehurst paid the entire tax when it was commercially platted, now homes are being built. Mr. Smith stated two homes were under construction in Pinehurst Estates, but he wasn't sure if either of those homes were within the area that was rezoned. Councilmember Dysart reported green space and sidewalks were removed in the original calculation and the excise tax should be recalculated excluding green space and sidewalks prior to reimbursement. She felt reimbursing the money was a complicated matter and should not be reimbursed.

Councilmember Hill asked, with the exception of the street, would the city lose any money. Councilmember Washington stated the city would lose the interest if they reimbursed the money. Mr. Smith stated the City would gain it back over time since it would be collected with the issuance of building permits.

Council discussed how and when staff collection of excise tax and if it was possible that some had doubled paid excise tax. Councilmember Dysart noted there was a payment from KAAZ Construction for \$5,920.20 and wondered if that had been collected twice. Mr. Slaugh stated he would need to research the matter. Mr. McIntosh reported Casey's paid excise tax and he also paid so it was double paid. President Thomas said policy should be consistent. Councilmember Washington noted once the excise tax has been collected, there should not be a reimbursement. It should be up to the developer to collect their money back from those purchasing the property. Councilmember Washington asked for the auditors to come in and do a complete detailed audit on the

excise tax fund. Councilmember Hill noted this was a separate issue and should not be confused with the question being discussed. Mr. Slaugh suggested performing an in-house audit. His past experience was that these types of audits were very costly. Councilmember Washington stated this was a complex matter and required auditors. Councilmember Hill said he was comfortable tabling action until all excise tax was reviewed.

e. Consider ZIP Code change proposal.

Mr. Slaugh reported there have been a number of requests regarding the different ZIP Codes for the area. He explained according to the United States Postal Service, the ZIP Code boundaries are determined by population and dictate the pay grade of the post master and staffing needs. If the ZIP Code area were to be changed, it would require reassigning of personnel and changing post master pay.

Councilmember Washington stated the population should be changed from 3400 to 3800 and a copy of the letter should be sent to Senators Roberts and Brownback and Representative Boyda. *(Note: Councilmember Washington made other statements that were not recorded due to equipment failure.)*

c. Consider policy to authorize supervisors to take home vehicles.

Chief Martley was asked how many vehicles would be taken home at this time. Chief Martley explained the sergeant, city superintendent, and himself.

Break. (6:40 p.m.)

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

All members present. The city attorney was in attendance.

CONSENT AGENDA

(Consent Agenda Items will be acted upon by one motion unless a Council Member requests an item be removed for discussion and separate action.)

- a. Approve Minutes
 1. January 24, 2008 Work Session and Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations (none)
- d. Approve calendar of events

A motion was made by President Thomas and seconded by Councilmember Dysart to approve the Consent Agenda. Discussion followed. Councilmember Sifford asked that a correction be made on page 4, Scheduled Discussion Item "a" stating that he agreed

with President Thomas, rather than disagreed. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

CALL TO PUBLIC

Members of the public are welcome to use this time to comment about any matter relating to City business that is listed on this Agenda. The comments that are discussed under "Call to Public" may or may not be acted upon by the Council during this meeting. There is a five-minute time limit. (Please wait to be recognized by the mayor then proceed to the podium; state your name and address).

a. Citizen Comments Regarding Agenda Items

Sandra Grimes (15402 Crimson) supported the City providing assistance to the property owners in Pinehurst to correct the lots with incorrect property lines. She also spoke in opposition of increasing the speed limits.

Arthur Wells (15416 Wellington Place Drive), President of Wellington Place Homes Association, want to make sure residents of their subdivision would have an opportunity to talk with city officials in an effort to make sure things were done right during the development and construction of Barrington Manor.

Councilmember Washington commented on a letter from Mr. Wells to the Homeowners Association and wanted him to confirm that was his position. Mr. Wells stated he had his position and did not want to comment further.

George Smith (14923 Parallel) agreed with take home vehicle policy, spoke in opposition of the airport study noting it would be a waste of money when the City needs a storm drainage study done. He also felt the City should review developments to make sure streets connect in an effort to move people through the city. He did not feel the city could raise the speed limit on the old part of 155th Street; however, the City should find ways to move traffic in a more expedient manor.

Dennis Mertz (2905 N. 155th St.) did not support increasing the speed limit north of Maple Street. He reported he only remembered the Planning Commission taking action on Items 1-16 and thought that Item #17 was added after the meeting (Action Item "b"). If Affinity Development was going to improve 155th Street to three-lanes, he thought the City should leave Town Center as is. Thanked Chief Martley for the revised traffic plan to 26,000 GVW and supported the change. He supported the requests made by Holy Angels Church.

(Tape 1, Side B)

Mike Duncan, Affinity Development, (9200 Indian Creek Pkwy, Overland Park, KS) gave an update on the project and noted he wished to clarify some items. Mr. Duncan started by explaining an ordinance was not law until voted on and published. The sheet that was used last week was an outside document and was a work in progress. Affinity Development has submitted no official plan up to this point and expect to submit Phase I in March. Phase I would be the new elementary school. He laid out the schedule

noting it was imperative that the school starts construction in June. They are currently working with a group for financing for the municipal facilities. Mr. Duncan reviewed the calendar of events that had transpired up to this point and explained at the August 7th Planning Commission meeting, there was no provision for the Crestwood connection mentioned and then on September 6, 2007, the Council included the provision in their motion. Mr. Duncan went on to explain he originally recommended the Crestwood connection, but not as a through street.

Jerry Avery, 3Square Contracting (9200 Indian Creek Pkwy, Overland Park, KS) gave an overview of his engineering qualifications and past experiences with Affinity Development. Mr. Avery reported to date a plan had not been finalized. They still need to figure out what was the best mix and design for the area. At this time, Affinity Development was unsure if they would construct a grocery store, medical facility, department stores, or high tech center. In his professional opinion, if Crestwood Drive went through it would create a major problem. Streets within developments normally detour people wanting bring businesses into the area. Other architects have informed him having a through street would be a safety and liability issue. Crestwood Drive served no purpose because it would go nowhere.

Jennifer Van Der Steen (9200 Indian Creek Pkwy, Overland Park, KS) real estate attorney for Affinity Development pointed out examples of successful retail and grocery stores located at 119th & Rosanna Square and 135th Street that fronted common streets rather than through streets.

Dr. Robert Albers, superintendent for USD #458, explained he was contacted a year ago about land for a new elementary school. The school district went to the voters for consideration and was approved for a new school in the Town Center development. It is important to get the school built by August 2009 and need cooperation between the City and Affinity Development and asked that both parties work through their differences. If the school district fails to open the school in August 2009, the school would lose approximately \$40,000 per month in state aid.

Mayor Garcia asked if Crestwood Drive had anything to do with the construction of the new school. Dr. Albers noted it would be necessary to have adequate roads to get to the schools. Mayor Garcia explained school traffic would be accessing onto Basehor Boulevard, not Crestwood Drive.

Father Al Rockers (15410 Leavenworth Road) appeared on behalf of Holy Angels parish to request waive of excise tax on the new church as they did for the neighbors to the south [First Baptist Church].

Aaron Gaspers, engineer for Holy Angels church, requested approval for the three agenda items pertaining to the church and also requested waive of excise tax.

Mike Bauer, president of Pinehurst Homeowners Association, reported he has issues with the pond, plat design not being enforced, and four homes that were not platted property.

Councilmember Washington asked if the bond on Pinehurst South had been released. The development agreement states the developer is required to put the sidewalks in after two years. Mr. Smith said he did not think it was being enforced and historically it was not enforced because sidewalks are destroyed during construction. Councilmember Washington stated as long as he was on the Council he would require regulations and agreements be strictly enforced.

John Flower (15515 Cedar Lane) would like to see the city engineer do a feasibility study on the proposed detention pond. He also pointed out the deviation of schedule as reported by Affinity Development and that Crestwood Road would entail a redesign of the development. The school project would not be impeded by the decision regarding the Crestwood Drive connection.

Public Portion of meeting closed.

A motion was made by Councilmember Washington and seconded by President Thomas to add Business Item "j" to the agenda for consideration of payment for Pinehurst re-platting. Discussion followed. Councilmember Washington reported the city council did not have all the information at the last meeting and felt the matter should be revisited. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

SCHEDULED DISCUSSION ITEMS

a. Discussion of speed limits in the City of Basehor

Mr. Slauch reported based on input from residents he chose to put this item on the agenda for discussion. He thought discussion should take place mainly regarding the area past City Hall, Leavenworth Road, and east on 155th Street by Holy Angels church.

President Thomas felt 20 mph on 155th Street was too slow and felt it would slow down traffic going into Affinity Development. Councilmember Washington said raising the speed would impact revenue, but did support raising the speed limit to 35 mph in areas other than school zone. He also suggested the police department strictly enforcing the speed limit if it was raised. He noted KDOT reported in the past that lowering speed limits increase traffic accidents.

Councilmember Sifford noted 3-4 years ago the issue was brought up and was a nightmare trying to come to a consensus and agreed that some speed limits should be re-evaluated.

b. Discussion concerning more stringent wastewater treatment standards to be required as part of the plant expansion.

Mr. Slaugh reported at the last meeting he attended with KDHE he was informed the City would be required to meet Level B standards. He noted if the City chose to wait to meet the new standards, KDHE would require the City to meet the more stringent standards in year 2011. KDHE suggested extending State Revolving Loan payments to 20 years rather than the proposed 12 years in an effort to meet the standards and reduce the potential for increases in monthly sewer fees to residents.

Council discussed whether to wait until 2011 just in case KDHE changed standards. Mr. Slaugh asked Council to provide him with questions that he could address with KDHE. The proposed cost to meet Level B and C would be approximately \$2.7 million.

Councilmember Washington read an excerpt from Burns & McDonnell study pointing out that Basehor pays higher utility rates than the surrounding area. Councilmember Dysart noted the basis of the design was based on Level A and questioned if Burns & McDonnell would need to go back and redesign the expansion. Mr. Slaugh stated that would depend on KDHE. She asked what Mr. Slaugh was asking Council to approve. Mr. Slaugh noted this was strictly a discussion item, no action needed at this time.

c. Consideration of expending monies from the appropriate line item in the budget to pay the City Engineer for a regional detention study associated with Barrington Manor, Wellington Place and Holy Angels property, pursuant to creating a neighborhood park.

Mr. Smith reported, during the site plan process for the Holy Angel's Church and Barrington Manor residential subdivision, it was discussed if there was a way to design one detention pond to serve Barrington Manor, Wellington Place, and Holy Angels property rather than having two dry basins. This would create a larger lake and better trail system. The initial estimate for an engineering study would be \$3120 and would come out of Special Studies, Planning Department budget.

Councilmember Sifford asked what the City would gain from combining all the basins. Mr. Smith said it was a plus any time the city could eliminate a detention basin. This would reduce maintenance of three ponds to one large pond and create new park and trail area. Eventually it would become City owned.

President Thomas commended staff for considering alternatives. Mr. Smith noted Holy Angels and Barrington Manor have agreed to enter into discussion. Councilmember Washington reported the information was confusing and did not feel that residents of Wellington Place were in favor of the regional detention pond. He felt the developer from Barrington Manor should visit with Wellington Manor and work out a plan that would work for everyone. Councilmember Hill asked what prompted this consideration and asked why the city would want to eliminate a dry detention basin. Mr. Smith noted dry basin's become a maintenance problem. Councilmember Sifford stated he was not sure the City should get into the business of designing developer's developments and felt

the residents of Wellington Place want to be left alone. President Thomas did not want to see the city spend money on the study. No further action to be taken at this time.

Break at 8:15 p.m. Mayor Garcia called the regular meeting back to order at 8:24 p.m.

BUSINESS

a. Consider funding support for a feasibility study for a Leavenworth County Air and Business Park.

A motion was made by Councilmember Washington and seconded by President Thomas to authorize the expenditure of \$3,017 for the feasibility study to assure a place at the table. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. The motion passed 4-1.

b. Approval of revised ordinance containing corrected legal descriptions and clarification language amending the Zoning Ordinance of the City of Basehor, Kansas by rezoning certain property in the City of Basehor, Kansas for Basehor City Center from CP-1, Neighborhood Business and R-O, Suburban Residential to MU-2, Mixed-Use General and PR, Planned Residential and a Preliminary Development Plan.

City Attorney Patrick Reavey recommended tabling Item "b" until the next meeting and suggested discussing the matter in executive session prior to taking action.

Councilmember Washington felt action should not be tabled. Councilmember Sifford stated he wanted to hear what the city attorney had to say prior to taking action. Council agreed.

A motion was made by Councilmember Washington and seconded by President Thomas to go into Executive Session for up to twenty minutes to discuss Item "b". A roll call vote was taken with all members voting in favor. (8:27 p.m.). At 8:29 p.m., Council reconvened into regular session. The city attorney explained Council needed to add to their motion the reason for the Executive Session; which was attorney-client privilege and to invite the city administrator and planning director into the session.

Councilmember Washington and President Thomas agreed to amend their original motion to add that the Executive Session was for the purpose of attorney-client privilege and invited the city administrator and planning director into the session. A roll call vote was taken with all members voting in favor. Motion passed 5-0. (8:35 p.m.)

At 8:47 p.m., the mayor called the regular meeting back to order.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to table until later in the meeting giving the city attorney and planning director

time to properly draft the ordinance. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

See Page 11 and 12 for action taken on this agenda item.

c. Consider policy to authorize supervisors to take home vehicles.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve as written. Discussion followed. Councilmember Washington asked that the motion be amended and that "and" be stricken from the policy. He felt the department head should be the one to authorize the take home vehicle rather than the city administrator. President Thomas noted the city administrator would be the one to authorize the department head to take home a vehicle. Councilmember Sifford stated his motion would stand as stated. A roll call vote was taken with all members voting no with the exception of Councilmember Sifford. Motion failed 1-4.

A motion was made by Councilmember Washington and seconded by President Thomas to approve the policy and remove the word "and". A roll call vote was taken with all members voting in favor. Motion passed 5-0.

d. Consider ordinance amending code on truck traffic.

A motion was made by President Thomas and seconded by Councilmember Dysart to approve the ordinance amending code on truck traffic as presented. A roll call vote was taken with all members voting in favor. A motion passed 5-0.

e. Consider ZIP Code change proposal.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve the proposal and send copies to Representative Nancy Boyda and Senators Brownback and Roberts. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

f. Approval of excise tax refund payment to Pinehurst commercial and Medicine Store.

A motion was made by Councilmember Washington and seconded by President Thomas to table action and require that staff bring in auditors and audit excise account in detail back to 2003. Discussion followed. Mr. Slaugh asked if Council wanted to see cost estimate prior to taking action. Council agreed if the cost was over the city administrators spending authority, then he was to bring the matter back to the council for further consideration. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

g. Consider Preliminary (amended 2/21/08) Plat for Holy Angels Catholic Church, as requested by the Catholic Archdiocese, Kansas City.

A motion was made by President Thomas and seconded by Councilmember Hill to approve the *Preliminary (amended 2/21/08)* Plat for Holy Angels Catholic Church, as requested by the Catholic Archdiocese, Kansas City. Discussion followed. Councilmember Washington asked if the plat, as submitted, passed by the Planning Commission. Mr. Slauch was not aware of any changes. Mr. Lutgen stated he thought the *Preliminary (amended 2/21/08)* Plat was approved by the Planning Commission with the re-alignment. Councilmember Sifford would like the motion to state that the revision was included. Councilmember Washington read a portion of the staff report stating it was included in the *Preliminary (amended 2/21/08)* Plat. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

h. Consider Final Plat for Holy Angels Catholic Church, as requested by the Catholic Archdiocese, Kansas City.

A motion was made by President Thomas and seconded by Councilmember Dysart to approve the Final Plat for Holy Angels Catholic Church and waive payment of excise tax. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Mr. Lutgen stated he did not feel the city should approve the Final Plat since changes would be made in the future. Mr. Smith stated the church has indicated they would change the alignment of the street with 153rd Street. Mr. Lutgen explained the city would be accepting right-of-way that would change in the future. He explained typically they would not put something on the agenda before MHS Solutions reviewed and approved construction drawings.

Mayor Garcia explained the issue has come up that the road was not going to end up in the same location as voted on. The city attorney noted if the Council was misinformed, the council could rescind their motion.

President Thomas and Councilmember Dysart agreed to rescind their original motion. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Staff was directed to place this item on the February 21st agenda.

i. Consider Site Plan for Holy Angels Catholic church, as requested by the Catholic Archdiocese, Kansas City.

Mr. Smith reported the site plan showed the old alignment and can come back to him for approval showing the new alignment.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve the site plan. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

j. Consider payment for Pinehurst South re-platting.

Mike Bauer informed the Council he was the first resident of Pinehurst South. When he discovered the property line error, he met with city staff. It was discovered that six homes were built in error. Their side yards do not meet setback requirements. He met with the planning director and it was agreed the city would pay \$1,000 and the property owners would pay \$1,000 to have paperwork drafted and file to change the property lines. At a previous meeting, Council turned down the contribution of \$1,000. He expressed his dissatisfaction that the city was not enforcing codes or forcing the builders to do what they are supposed to do.

Planning Director Dustin Smith reported he started working with Mr. Bauer from the time he learned of the setback issues with the six properties. The mayor had authorized him to spend \$1,000 if the property owners agreed to pay the other \$1,000. Affidavits were prepared and signed by all property owners but one. When the Council decided not to pay the \$1,000, the project stopped. Mayor Garcia stated when the issue was first presented to him; he authorized the expenditure of \$1,000 to keep it off the agenda since that was within his spending authority. Councilmember Washington asked the mayor if he did it within his authority. Mayor Garcia answered yes. Mr. Bauer explained when the Council turned down the \$1,000, he sent an email to the building inspector (*Tape 2, Side A*) and council members expressing his concerns that this issue was not caused by the property owners, but the builder. He explained the process he went through with staff and property owners.

Councilmember Washington asked the city attorney if the Council could take action since they had previously made a motion to deny payment. Mr. Reavey explained another motion could be made as long as the motion was different than the original motion to pay \$1,000.

A motion was made by Councilmember Washington and seconded by President Thomas Dysart (*amended 2/21/08*) to pay \$1,001 as per the mayors past efforts to alleviate the matter. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

b. Approval of revised ordinance containing corrected legal descriptions and clarification language amending the Zoning Ordinance of the City of Basehor, Kansas by rezoning certain property in the City of Basehor, Kansas for Basehor City Center from CP-1, Neighborhood Business and R-O, Suburban Residential to MU-2, Mixed-Use General and PR, Planned Residential and a Preliminary Development Plan.

(Refer to page 8 and 9 for discussion.)

Mr. Reavey returned reporting the proposed ordinance corrected errors in the legal description that was previously submitted. With respect to the street issue, that debate would be discussed at a different time. He commented, in defense of the city planner, the procedure that was initially recommended was an approach that other cities have taken. Mr. Reavey reminded Council the mayor casts a vote on any zoning ordinances.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to approve the ordinance as presented by the city attorney. A roll call vote was taken with all members, including the mayor, voting in favor. Motion passed 6-0.

CITY ADMINISTRATOR REPORT

a. Reschedule Strategic Planning Session (March 1, 2008)

Mr. Slauch asked if March 1, 2008 would work for the Strategic Planning Session. Council agreed to meet on March 1 (8:00 a.m. – noon).

Other topics:

- Due to President's Day holiday, the next regular meeting will be held on Thursday, February 21. Work Session would be held on Monday, February 11th.
- Received request from Rusty West to waive outstanding bill or at least pay half of the base amount less penalties. Mr. West said staff informed him the fees charged initially were paid in full and that no other fees would be billed. Mr. Slauch suggested placing this item on the next agenda for action.
- City Superintendent will meet with Leavenworth County on February 5 regarding reimbursement of costs for recent ice storms.

MAYOR'S REPORT

None

COUNCIL MEMBER REPORTS

None

EXECUTIVE SESSION

None

ADJOURNMENT

There being no further business to discuss, a motion was made by President Thomas and seconded by Councilmember Washington to adjourn the February 4, 2008 meeting. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Submitted for Council approval with/without corrections or additions this 21st day of February 2008.


Chris Garcia, Mayor

Attest:


Mary A. Mogle, CMC, City Clerk



Note: Due to equipment failure, there is no audio recording of this meeting. The minutes were transcribed from the clerk's notes and council input.