

Minutes

BASEHOR CITY COUNCIL

July 7, 2008

6:00 p.m.

Basehor City Hall

Official Presiding: Mayor Chris Garcia

**Members Present: Pres. Iris Dysart, Terry Hill, Roger McDowell, Keith Sifford,
and Jim Washington**

Members Absent: none

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

Newspaper: Lara Hastings, *Basehor Sentinel*

WORK SESSION - 6:00 p.m.

The work session was called to order by Mayor Garcia with all members present. The city attorney was also in attendance.

1. Discussion of agenda items.

- b. Consider a resolution determining the advisability of the making of certain internal improvements in the city; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Basehor Boulevard Street, water and sewer improvements).*
- c. Consider a resolution determining the advisability of the making of certain internal improvements in the city; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (155th street improvements).*

Mr. Slaugh reported the petition was essentially the same petition submitted by Affinity Development back in May. A development agreement was not part of this petition. He explained although the benefit district would increase the City's debt limit, the City would still remain under the legal debt limit of 30%.

Councilmember Washington reported he spoke with the county clerk and she informed him the current debt limit was 13.2%. The debt limit should not include the sewer debt and the portion of Basehor Boulevard in front of the school. Mr. Slaugh reported he did not extract those numbers from the figures shown.

Mr. Slaugh stated an important issue was if this was a project that warranted support by the City or if Council felt the debt limit should be reserved for future projects.

Gary Anderson, Gillmore & Bell, stated all the documents were in order. He felt there was some confusion on the 155th Street project and informed Council they had the option to postpone that benefit district until a later date.

Mayor Garcia asked if the City could collect up to 5% for administrative fees and if so, shouldn't it be included in the documents. Mr. Anderson stated Council should include the administrative fee in their motion this evening if that was their wishes. Mr. Slaugh stated that amount would be set when the final cost was calculated.

Councilmember Washington asked how this benefit district would affect the City's assessed valuation. Mr. Anderson stated the assessed value has to increase; however, some of the property may maintain its original value. Bordering properties assessed valuations were discussed.

Councilmember Sifford asked Mr. Anderson to reiterate the risks associated with the benefit district. Mr. Anderson stated there were two categories 1) debt limit; and (2) how the project would affect from an aggregate standpoint for bond ratings. He stated he was only aware of one situation in Kansas where a City had to pay off bonds. If the property owner were unwilling or unable to pay, the City would be obligated to pay the debt off.

Councilmember Washington stated he was informed by a couple of bankers that four things have to happen 1) developer walk away; 2) bank refuse pay the bond and foreclose on the property; 3) City take ownership; and 4) land has to be worth less than bond amount before City would take over.

Councilmember Hill stated it was clear the project fits within the City's debt limit and questioned how the City ended up being liable for the debt. He wondered why the school did not include infrastructure in their bond issue or consider land with infrastructure. Mr. Anderson stated if all goes as it should the property owners across the street should be the only ones paying the debt.

Dr. Albers stated other schools acquire infrastructure through benefit districts and gave examples. He explained the school can legally enter into a benefit district agreement and did not feel it would put the City at risk. Councilmember Hill said he did not understand when the developer was going to put in the infrastructure and now the school district and City would end up paying for the infrastructure.

Councilmember Washington stated the City would have more benefit districts coming in the future and should be competitive with the area.

Mayor Garcia said he had an issue with school district patrons paying for something that the developer originally stated he was going to pay. He stated he spoke with De Soto school district and their benefit district was between the school district and developer.

Councilmember Sifford stated from the inception of this project, he did not believe the infrastructure was going to be done through a benefit district based on previous discussion with the developer.

President Dysart stated the developer had made comments about paying for the infrastructure; however, when the school district decided to construct the school in the development, it caused the need for infrastructure sooner than anticipated.

Dr. Albers stated the City and school district has the vehicle to construct the infrastructure and should take advantage of that now.

Councilmember McDowell stated he was new to the Council and was not aware of what was said previous to this meeting, but wanted to make sure the Council was making the right decision for the future of the City.

Mr. Slaugh stated the developer previously informed him that he anticipated using benefit districts, TIF Funding, and other forms of financing.

d. Consider an application for property tax abatement through the Neighborhood Revitalization Plan for The Medicine Store.

Councilmember Washington stated he had some issues with commercial properties receiving tax abatement; however, it did not appear there was anything that could be done about the matter at this time and recommended revisiting the resolution.

Five-minute break (6:55 p.m.)

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

All members were present including the city attorney.

Mr. Slaugh introduced

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. June 16, 2008 Work Session & Regular Meeting

- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events

Councilmember Washington wanted to make sure the payment to MJ Partners for excise tax refund was the correct property owner. Mr. Slaugh reported they were the proper recipient.

A motion was made by Councilmember Hill and seconded by President Dysart to approve the Consent Agenda as submitted. 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).

Mayor Garcia reported Item "h" was only to set the public hearing date.

John Flower (15515 Cedar Lane) addressed Item "h" as the president of Cedar Lakes Homes Association. He reported the response from the home owners has not been positive. They do not feel the items listed in the Annexation Plan was enough to offset the cost in taxes. He reported State Statute 12-535 would allow the residents to enter into negotiations with the City of Basehor.

Wanda Strange (18356 155th St) asked if it was possible to have a Basehor mailing address if they are annexed. She explained she pays higher sales tax in Bonner Springs. Mr. Slaugh reported the post office has agreed to change the City name; however, the Zip Code would not change. Mrs. Strange stated the County provides excellent snow removal.

Bob Workman (18210 153rd St.) asked why the City wanted to annex Cedar Lakes. Mayor Garcia stated it was due to the fact that Cedar Lake subdivision was connected to the City's sanitary sewers. Mr. Workman stated at the last public hearing, not one person spoke in favor of the annexation. He reported the additional taxes (\$65-\$100 per month) and would put a burden on the retiree's. He did not feel the residents would benefit for the difference in taxes.

Cathy Stueckemann (15501 Cedar Lane) opposed the annexation. She asked how many acres of land would be annexed. Mr. Slaugh reported the City would be squaring off their boundaries and would not fall under the 21-acre limit.

Dr. Albers, USD 458 superintendent, introduced Mr. John Bradle (9534 Lee Blvd, Leawood, KS) to represent the school district regarding the benefit district. He stated the

benefit district was a “win win” proposition for the students, school district, and the City. The benefit district was being proposed because the school needs the street in order to construct the school. The boulevard would also encourage other commercial businesses to locate in the area. He reported the school district has already invested considerable funds in the site and design fees and total approximately \$56,000. He concluded by stating the school district was not asking the City to pay anything.

Pat Jeannin, USD #458 School Board member, pointed out a year ago the city council and school board met to work together regarding a future school and its location. Affinity Development provided a plan showing the location of the future school. He explained if the school was built on 155th Street, it would cause a traffic issue. It was noted the City’s risk would be minimal and the developer would have to walk away from the property; which he did not feel would happen since a bank would most likely not loan the money.

Dr. Albers, USD 458 superintendent, agreed with the aforementioned comments made in support of the benefit districts. He researched Kansas Statutes that would allow school districts to create benefit districts. Councilmember Hill asked if the school district included the cost of the purchase of land and if so, there should be additional funds included in the bond amount. Dr. Albers stated there were no cost of land built into the bond issue. He noted if the developer was required to pay the costs, the cost would be passed onto the new owner which would increase the cost of the home. Councilmember Hill stated he still felt the members of the City Council and school board had a duty to look out for the taxpayers.

Ellen Green (2608 155th Terr. Lane) reported Basehor was known as a progressive school district and was enthusiastic about the family style atmosphere at Basehor Dairy Days in 2005. She reminded the governing body that the school district would bring in additional economic development.

Closed public portion of meeting.

SCHEDULED DISCUSSION ITEMS

None BUSINESS

- a. *Consider a proclamation declaring July 26, 2008 as Shrine Bowl Day in the State of Kansas and recognition of all-star Swede Johnson of Basehor-Linwood High School participating in the 35th Annual Shrine Bowl Football Game in Emporia.*

A motion was made by Councilmember Washington and seconded by Councilmember Hill to approve the proclamation declaring July 26, 2008 as Shrine Bowl Day in the State of Kansas and recognition of all-star Swede Johnson of Basehor-Linwood High School participating in the 35th Annual Shrine Bowl Football Game in Emporia. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

- b. Consider a resolution determining the advisability of the making of certain internal improvements in the city; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Basehor Boulevard Street, water and sewer improvements).***

A motion was made by Councilmember Washington and seconded by President Dysart to adopt the Resolution as written and allow for negotiations of administrative fee to be collected by the City. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 4-1.

RES 2008-07. A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF BASEHOR; MAKING CERTAIN FINDINGS WITH RESPECT THEREFORE; AND IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (BASEHOR BOULEVARD, WATER AND SEWER IMPROVEMENTS).

- c. Consider a resolution determining the advisability of the making of certain internal improvements in the city; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (155th street improvements).***

A motion was made by Councilmember Washington and seconded by President Dysart to approve the Resolution as written and allow for clause adding an administrative fee. Discussion. Mayor Garcia stated his concern was that the document did not specifically state that the developer would pay the special assessments for the properties on the west side of 155th Street.

Mr. Anderson reported the property owners that have not formally agreed to pay the benefit district and would not be included unless negotiations were made hereafter. President Dysart stated the developer on one occasion stated he would pay the assessments on the west side. Mr. Anderson stated there was no written agreement at this time noting the benefit district paperwork would come back at a later date and could include the wording at that time. He questioned if the Council wanted to proceed with the 155th Street project at this time. Councilmember Washington felt the school would generate traffic in 2009 and saw no reason to delay construction and felt staff should negotiate with the developer as soon as possible. Mayor Garcia stated he wanted to see it in writing before approval. Mr. Anderson stated the City was not legally obligated until the City adopts an ordinance creating the general obligation bonds. He suggested the City enter into a development agreement with respect to the west side of 155th Street.

Council members Washington and Dysart withdrew their motions. A motion was made by Councilmember Washington and seconded by President Dysart to approve the Resolution as written with the conditions that a clause be added requiring an administrative fee and that Affinity Development enter into a Development Agreement stipulating that the developer pay special assessments for properties west of 155th Street. A roll call vote was

taken with members Washington, Dysart, and McDowell voting yes. Members Hill and Sifford voted nay. Motion passed 3-2.

RES 2008-08. A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF BASEHOR; MAKING CERTAIN FINDINGS WITH RESPECT THEREFORE; AND IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (155TH STREET IMPROVEMENTS)

d. Consider an application for property tax abatement through the Neighborhood Revitalization Plan for The Medicine Store.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the request for Neighborhood Revitalization Plan rebate for the Medicine Store as submitted. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

e. Consider approval for an application to the Kansas Water Pollution Control Revolving Loan Fund for the Waste Water Treatment Facility expansion project

Mr. Slaugh reported the information provided to Council did not include resident inspection fees estimated at \$269,000. He was in the process of negotiating with a contract inspector; however, it may be necessary to go out for bid. The loan that was being applied for was to authorize a spending limit and would pay interest only on the amount drawn from the loan. Total loan request would be \$5,936,000. All forms have been digitally distributed to the Council.

Councilmember Washington was surprised to see the \$1.2 million line rehabilitation amount shown on the loan documents. Mr. Slaugh stated that was an estimate based on the recent televising of the existing sewer lines. He reminded Council this was a potential amount and would not necessarily be borrowed. Mr. Myracle stated it was difficult to know what lines would need to be repaired or replaced five years down the road. Currently there are lines that need to be replaced at this time. Councilmember Washington felt the rehabilitation projects should be paid from maintenance fees.

Mr. Slaugh reported if the City does not have a reserve balance in the Sewer Fund, it would be necessary to wait for line repairs, or go back to KDHE and request an amendment to the loan.

Mr. Myracle stated Council chose to build a smaller sewer plant expansion and address the I & I problems rather than going with the original plant. Council discussed the age of the sewer lines and recent filming of 35,000 ft. of line.

Councilmember Sifford stated it was easier to ask for the \$1.2 million now rather than later and the project should move forward.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve the resolution authorizing the loan application for approximately \$5,936,000 and authorize mayor to sign the necessary documents. A roll call vote was taken with all members voting in favor with the exception of President Dysart. Motion passed 4-1.

f. Consider a drainage repair proposal for property located at 15399 Meadow St., David Brown.

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to approve the drainage repair proposal for property located at 15399 Meadow Street [not to exceed \$7,928]. Discussion followed. President Dysart asked who the contractor was and type of pipe. Mr. Myracle reported Westland Construction would be installing elongated pipe that would be attached to the existing pipe by a collar. President Dysart stated the property owner contends the existing pipe was not installed correctly and should be fixed at the same time. Council discussed other drainage problems in the area and responsibilities of the developer and contractor. Mr. Slaugh stated the developer should install silt fencing throughout the development to minimize erosion. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Five-minute break. (8:47 p.m.)

g. Consider continued funding support for Leavenworth County Development Corporation (LCDC) for FY2009.

A motion was made by Councilmember Washington and seconded by President Dysart to approve funding support for Leavenworth County Development Corporation for budget year 2009 [not to exceed \$6,924]. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 4-1.

h. Consider annexation of Cedar Lake subdivision and set a public hearing.

RES. 2008-09. A RESOLUTION OF THE CITY OF BASEHOR, KANSAS, REGARDING PUBLIC HEARING TO CONSIDER ANNEXATION OF CERTAIN PROPERTY ADJOINING THE CITY.

Mr. Slaugh stated Council needed to make the decision where to hold the public hearing, (school, library, VFW Hall). The public hearing would need to be held between September 8 and the 15th.

Mr. Slaugh reported K.S.A 12-535 referenced by Mr. Flower was for the purpose of negotiating services; however, services were already provided. Mr. Reavey stated the Council was following legal protocol.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to pass the Resolution as written and direct staff to set final date and location of hearing as stipulated in Section 3 and to authorize the mayor to sign the Resolution. A roll call vote was taken with members Sifford, Washington, and Dysart voting in favor. Members Hill and McDowell voted nay. Motion passed 3-2.

i. Consider moving forward with action on old VFW Building 2805 N. 155th.

Mr. Slauch reported this property has structural, electrical, and dangerous issues. The property owner has failed to meet the necessary requirements. Structural inspection of the property was made showing there was no lead based paint and one engineer stated there were no structural issues in the basement. The city administrator read a portion of the letter where Mr. Cooper requested time to remove salvageable items from the house and then he would raze the building.

Mr. Reavey stated if the Council was still questioning the structural integrity of the building, the Council could pay an engineer to provide an independent inspection.

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to allow the owner of 2805 N. 155th Street thirty (30) days from July 8, 2008 to rectify the dangerous and unsafe structure issues and if not rectified by August 8, 2008, the City authorizes staff to hire a structural engineer to inspect the property and advise of necessary action. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

j. Consider a pavement management proposal from MHS Engineers.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to retain MHS Solutions to accept the pavement management proposal by MHS Solutions as submitted not to exceed \$13,000. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

k. Consider appointments to the planning commission.

Mayor Garcia requested Council reappoint member John Matthews and appoint Kevin Jones to fill the term of David Povilonis.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the mayor's appointments as submitted. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

The city clerk administered Oath of Office to Mr. Jones.

l. Set hearing date for 2009 City of Basehor budget.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to schedule the 2009 Budget hearing for August 4th at 7:00 p.m. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

CITY ADMINISTRATOR REPORT

a. 24-40 Corridor and 150th Intersection discussion.

Mr. Slaugh reported developer Ed McIntosh was still negotiating with KDOT for compensation for lack of access to 24/40 Highway. The city administrator reported the challenge was that the solution that would benefit the north side of 24/40 Highway would most likely not be cost beneficial for the property owner on the south side of 150th Street.

b. Zip Code Changes

Mr. Slaugh reported a letter was sent to the postal service on the 16th of June requesting a change from "preferred" City name to Basehor for property located from 24/40 Highway to K-32. Bonner Springs has opposed the action; therefore, the postal service has held up action until an agreement could be reached between the cities. Mr. Slaugh stated he could submit that I-70 be the boundary line. City of Bonner Springs would be addressing the matter on July 14th.

Mayor Garcia asked if Bonner Springs could file an injunction stopping Basehor from changing the City name. Mr. Reavey was not aware of anything prohibiting Basehor from making the Zip Code change. Councilmember Washington stated the City spent a lot of time updating the Comprehensive Plan to show I-70 as the south boundary. The Board of County Commissioners was showing the Basehor growth area as K-32.

Mr. Slaugh would continue to work with the postal service and Bonner Springs to resolve any issues.

c. Buxton Report

The Buxton Report would advertise the City of Basehor for \$22,000. Councilmember Washington stated it was LCDC's job to promote Basehor.

d. Road maintenance on 158th and Parallel, consider deal with Leavenworth County

Mr. Slaugh has been working with Leavenworth County to make improvements to 158th from Parallel to 24/40 Highway and 155th Street west to city limits on Parallel, and 155th west to city limits on Leavenworth Road. Estimated cost would be \$40,867 plus cost of asphalt.

MAYOR'S REPORT

- Mayor Garcia will be out of town from July 17th to the 27th for vacation. President Dysart will preside over the meeting in his absence.
- In an effort to save time, starting August 4th Mayor Garcia will ask for a show of hands from council members when voting.
- The mayor has instructed the city superintendent to identify the streets and curbs in Pin Oak Subdivision that need immediate attention and submit to Council for action.

COUNCIL MEMBER REPORTS

Keith Sifford

Councilmember Sifford extended his condolences to Myracle family on loss of their grandfather.

Terry Hill

Councilmember Hill thanked Mayor Garcia for addressing the repair issues in Pin Oak Subdivision. He noted he had an opportunity to inspect the streets and felt there were some issues needed to be addressed in the near future.

EXECUTIVE SESSION

A motion was made by Councilmember Washington and seconded by President Dysart to adjourn into Executive Session for attorney-client privilege concerning non-elected personnel not to exceed ten minutes. The city attorney and city administrator attended the Executive Session. A roll call vote was taken with all members voting in favor. Motion passed 5-0. (9:40 p.m.)

At 9:50 p.m., Mayor Garcia called the regular meeting back to order.

ADJOURNMENT

There being no further business to discuss, a motion was made by Councilmember Hill and seconded by Councilmember Sifford to adjourn the July 7th regular meeting. A roll call vote was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 9:55 p.m.

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

Attest:


Mary A. Mogle, CMC, City Clerk




Mayor Chris Garcia