

Minutes

BASEHOR CITY COUNCIL

October 20, 2008

6:00 p.m.

Basehor City Hall

Official Presiding: Mayor Chris Garcia

Members Present: Iris Dysart, Terry Hill (arrived at 6:10 p.m.), Keith Sifford, Jim Washington

Members Absent: Roger McDowell

Staff Present: Carl Slaugh, Mary Mogle, Gene Myracle, Dustin Smith, Mark Lee, Patrick Reavey

WORK SESSION - 6:00 p.m.

Mayor Garcia announced due to lack of Quorum, the work session would be delayed until one more Councilmember arrived. With the arrival of Councilmember Hill, the work session was called to order at 6:12 p.m. The City Attorney was also in attendance.

Discussion of agenda items.

City Administrator Carl Slaugh reported there were two documents on the table tonight for Council consideration. The first agreement referred to as "Cooperative Agreement" was strictly between the City of Basehor and Benchmark Management. The second agreement referred to as "Agreement No. 225-08" was an agreement between the City of Basehor and KDOT. The funding agreement for the intersection included \$325,000 for right-of-way, clean-up of property and tires, and engineering services.

Councilmember Washington asked to see all three agreements: agreement between 1) City of Basehor and Benchmark, 2) KDOT and Basehor Properties, LLC, and 3) City of Basehor and KDOT. Shannon Marcano, attorney for Basehor Properties, LLC, presented a copy of the agreement between KDOT and Basehor Properties, LLC. Copies were distributed to the governing body.

Jim Pickett, KDOT, reported last week Council discussed the term sheet. He did not think that anything changed based on discussion from last week. He noted the attorneys had simply put the term sheet in proper legal terms. Mr. Slaugh wanted clarification regarding the right-in/right-out access for 150th Street. Mr. Pickett stated he thought that was a separate issue and any public involvement should be handled by the City. Mr. Slaugh

noted there were some issues posed by property owners located on the south side of 24-40 Hwy. Once decisions are made, he said he would begin the process to notify affected property owners. Councilmember Washington commented that at this point the city was taking advantage of KDOT's generosity and the City was only acquiring a right-of-way (ROW) at this time. The City's expectation would be that a signalized intersection would happen at some point.

Councilmember Washington did not feel the City had received full financial disclosure at this point and felt Council should see that prior to making such a significant commitment. Mr. Ed McIntosh, Basehor Properties, stated it was his understanding that financial disclosure would be made after the ROW was acquired, but he would be willing to provide whatever documents Council requested.

President Dysart asked who owned the 2.5-acre property. Mr. McIntosh stated ESAD (Larry Schouse and Kenneth Thompson) owned the property. She wanted to make sure the City received a clear title to the property. Mr. McIntosh stated through the process, only the ROW would be dedicated to the City.

President Dysart asked why he would not give the ROW to the City as other developers have. Mr. McIntosh stated this was part of the overall package. If they don't build 150th Street, Basehor Properties, LLC would have to credit that amount back to KDOT. She also pointed out that back taxes were owed and she had an issue with State funds going to pay delinquent taxes. Mr. McIntosh stated that was part of his agreement with the property owner. She also did not feel Mr. McIntosh should receive any money to remove the building that he had already agreed to remove back in May 2008. She also questioned the cost of the tire removal as well as the \$7,320 Real Estate Commission coming from taxpayer money. Mr. McIntosh stated they are only trying to come up with a fair use of the \$325,000 from KDOT that will benefit the City and the taxpayers as well as the development. She asked Mr. Pickett why the 24-40 Corridor Plan did not mention creating a right-in/right-out access at 150th.

Mr. Pickett stated the Corridor Management Plan stated the 150th Street would be a full-access intersection. He did not like doing only one side but, due to finances, the south side would have to be addressed later. President Dysart said Mr. Miles already stated the City could not afford to buy his property for the south side RI/RO. Mr. Pickett stated there are provisions in law for acquiring property in such cases. That could be addressed later and funding could also be available in the future. He confirmed the funding was for 150th Street access farther east.

Mrs. Marcano wanted to make sure Council had in their possession the correct documents addressed earlier in the meeting and said she was available to answer any questions.

Councilmember Sifford asked the City Attorney if he had an opportunity to review all the documents. Mr. Reavey stated he had reviewed the documents and requested some revisions prior to tonight's meeting. The KDOT agreement indicated the City would be responsible for any environmental issues; however, Basehor Properties, LLC has agreed to

indemnify the City for those issues. He noted if it was the Council's desire to adopt the agreements at this meeting, they could put in a stipulation that approval is subject to the City Attorney's review.

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 with the exception of Councilmember McDowell. The City Attorney was in attendance.

Mayor Garcia announced Lara Hasting would be leaving the Basehor Sentinel.

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. October 6, 2008 Work Session & Regular Meeting
 2. October 13, 2008 Work Session
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the Consent Agenda as printed. President Dysart stated on page 8 of the October 6 minutes the vote should read 5-0 on Business Item "b". She also questioned the amount shown on page 11 which reads \$42,000 when it should read \$42,128. The City Clerk noted that was the way it was stated in the meeting. A show of hands was taken with all members voting in favor as corrected. Motion passed 4-0.

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 and state your name and address).

a. Lois Fulkerson, Steven Rosenthal – Street conditions at 2954-56 N. 155th Terr.

Steve Rosenthal (22715 171st St.) representing Sanders Rentals provided photos taken by Lois Fulkerson of the property at 2954-56 N. 155th Terr. He stated this drive/alley has always been a problem due to drainage issues. He said the storm drainage should be on the south side of the driveway rather than the north. He noted the drive would not erode if it were not for the drainage issues. He stated the alley really belongs to the City and that the road could never be permanently fixed due to the drainage problem.

Mr. Slaugh stated the issue had come to Council in years past. Because the other properties on 155th Terr. have private drives, past Councils have been reluctant to put money into property that is used as a private drive. Mr. Slaugh said he spoke with the north property owner, J.D. McDowell, who was willing to make repairs to the drive and was interested in making contact with the property owner to the south for cooperation on the project. Mr. McDowell, however, is also concerned about the drainage issues. Mr. Slaugh stated that two weeks ago the City Superintendent laid cold mix and solved some of the problem. Mr. Slaugh felt the City vacating the alley might create personal issues between the two property owners. He said the City should address the water that drains toward the property. Mr. Rosenthal stated he thought the property owner he represented might be in favor of repairing the drive if the drainage issues were addressed by the City.

Mr. Myracle (*Tape 1, Side B*) said about two years ago his crew cleaned the ditch and replaced the culvert tube. The email that was sent said the City put in the inlet box and he was unaware of when the box was installed. He thought to fix the problem the City would need to install another catch basin. Mr. Rosenthal again stated the catch basin should be on the south side. Mr. Myracle said there is not enough elevation on the south and the tree in the front yard (Sanders Rental) would need to come out also. He reiterated the City does not maintain alleys and supported vacating that portion of the alley since it was of no use to the Public Works Department. Mr. Slaugh stated over time the alley has evolved into a private drive rather than an alley. Mr. Rosenthal said drainage is the problem, not ownership.

Mayor Garcia requested the City Superintendent compile a cost estimate (remove tree, set inlet, etc.) to correct the drainage issues.

Councilmember Washington asked about other platted alleys and said the City should look at either vacating or maintaining them. Mr. Rosenthal said maintenance would be minimal if drainage was addressed.

George Smith (14923 Parallel) expressed concerns about the City's ability to maintain future infrastructure due to the shaky economy and housing market. He felt the City should take a look at where they spend money. The grocery store has been at the top of the list; however, he felt residents would buy their groceries at WalMart or other locations on their way home. He supported improving the 150th Street intersection for safety reasons. He was concerned that Miles Excavating was allowed to put in new buildings, against the Planning Commission recommendations. In the future this will create additional issues for the City when obtaining that right-of-way from Miles. He thought the City could

use the existing right-of-way to relocate the road instead of spending more money to support private enterprise.

Joe Nick (14700 State Ave) asked what records existed that showed there was an entrance at 153rd St. He noted there was never a driveway on the Landauer property and did not feel Basehor Properties should be paid for an access that never existed. Mr. Pickett showed on the map where an access break existed on the plat. Mr. Nick stated he was going to lose a cross-over which was very important to his property. Mr. Pickett stated the Corridor Management Plan showed when reasonable access was provided by some other Method, a median would be put in. Mr. Nick suggested that cutting down the bank at 150th Street would make the street usable as it is.

The public portion of meeting was closed.

SCHEDULED DISCUSSION ITEMS

BUSINESS

a. Consider approval of an ordinance authorizing the establishment of a KDHE loan for the wastewater treatment plant expansion.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the ordinance authorizing the establishment of a KDHE loan for the wastewater treatment plant expansion. Discussion followed. President Dysart stated at the last meeting she voted in favor of the loan; however, she had time to go over the figures again and expressed her dissatisfaction that the loan payment had doubled with the new expansion with an annual payment of \$1,386,058 in year 2011. Revenues are estimated at \$1,176,000 leaving the City with a shortfall. A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion passed 3-1.

Mr. Slaugh stated he thought Business Item "c" should be addressed before Item "b".

c. Consider approval of KDOT Corridor Management agreement to include an option to escrow funds for funding of 150th Street and 24-40 improvements.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve Agreement 225-08 between City of Basehor and KDOT. A show of hands was taken with all members voting in favor. Motion passed 4-0.

b. Consider agreement with KDOT and Benchmark Management to purchase right-of-way on 150th Street & 24-40 Hwy

A motion was made by Councilmember Washington to approve the Cooperative Agreement contingent on City Attorney review and also contingent on receipt of a full financial disclosure package from Basehor Properties, Benchmark Management, and related entities showing ability to secure financing and complete the project, with such

package being acceptable to City Attorney and City Auditors. Motion died for lack of second.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the agreement contingent upon legal staff approval. President Dysart asked if changes had been made to the term agreement. Mr. Slaugh stated the agreement was Exhibit A and currently being drafted by KDOT.

President Dysart stated she meant to vote against Business Item "c" and asked if the vote could be retaken. Mayor Garcia stated the vote stood as taken.

A show of hands was taken with all members voting in favor with the exception of Councilmember Washington. Motion passed 3-1.

d. Consider resolution ordering demolition of structure at 2805 N. 155th Street.

Councilmember Sifford wanted to make sure legal counsel had reviewed the documents. Mr. Slaugh reported Mr. Cooper today provided a structural engineer opinion deeming the property safe. Building Inspector Mark Lee stated the engineer looked only at the soundness of the structure, but he also noted there were some minor issues to be addressed. Mr. Lee said the even if the structure was sound, there were other violation issues. Mr. Slaugh noted the owner stated it was an historical home and that he had the necessary experience to restore it. The property owner was already in the process of upgrading the structure when the Building Inspector put a stop work order on the work because he had failed to obtain a permit. The property owner requests the structure remain in its current state until he decides what to do with it. Mayor Garcia stated, in his personal opinion, the building should be demolished since the property owner has waited so long to respond. He has made little effort to cooperate or to make the structure safe.

Mr. Reavey stated he had not seen the letter received earlier today. He again recommended the City hire its own structural engineer prior to making a final determination.

Councilmember Washington stated he realized the City Attorney had reservations; however, he felt the City should move forward with condemnation process. Councilmember Sifford agreed but said he thought it best to follow the City Attorney's advice. Councilmember Hill pointed out the engineer's document merely states the structure "can be" made to meet code. Mayor Garcia said he felt ample time had been given.

Mr. Reavey stated if Council wanted to go into more detail, it should be discussed in Executive Session.

e. Consider renewal of an auditing contract with Lowenthal, Singleton, Webb and Wilson for 2008.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the auditing contract with Lowenthal, Singleton, Webb and Wilson for 2008, not to exceed \$17,800. A show of hands was taken with all members voting in favor. Motion passed 4-0.

EXECUTIVE SESSION

- a. *Acquisition of real estate - proposals for obtaining right-of-way and easements for the 150th Street improvement project*
- b. *Personnel matters of non-elected personnel*
- c. *Attorney-Client Privileged Matters*

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to convene into Executive Session for up to twenty-minutes to discuss attorney-client privileged matters, acquisition of real estate, and personnel matters of non-elected personnel and to include the City Attorney and City Administrator in the session. A show of hands was taken with all members voting in favor. Motion passed 4-0. (8:00 p.m.)

At 8:22 p.m., Mayor Garcia called the regular meeting back to order announcing that Council needed to take action on Business Item "d".

- d. *Consider resolution ordering demolition of structure at 2805 N. 155th Street.*

Councilmember Washington moved to table item "d" and directed the City Engineer to bring in a structural engineer to perform an inspection to determine whether or not the property at 2805 N 155th Street meets Kansas statute requirements for safety and to provide a report showing what it would take to bring the property into compliance. Councilmember Sifford seconded the motion. Discussion followed regarding future action and timeline. A show of hands was taken with all members voting in favor. Motion passed 4-0.

CITY ADMINISTRATOR REPORT

- Meet the candidate forum will be held October 21 at the VFW Hall.
- A legislative breakfast meeting will be held in Lansing on Dec. 2. Council members need to make reservations.
- A month ago, there was a discussion regarding Flygt brand mixers verses EMU. The supplier came back stating some equipment had been duplicated in the bid and, by deleting those items, the price came down to the original bid amount allowing for purchase of the Flygt mixers. Councilmember Washington said he was upset with staff for bringing this issue up again since Council had already addressed the issue. Mayor Garcia said Councilmember Dysart brought up the subject of saving taxpayers' money earlier in the meeting and he felt this was an issue where the City could save the taxpayers' money.

- The City received a Gold Star for safety through Kansas Municipal Insurance Trust. This allowed the City to receive a 5% discount on the 2009 Workers Compensation premium. He commended the City Superintendent for all his hard work to achieve this status.
- Leavenworth County Commissioners met this morning regarding the annexation of the Field of Dreams property. The annexation had been held up because of road access; however, today the Commissioners agreed to the annexation with the contingency that the two property owners improve the road at their cost.

MAYOR'S REPORT

None

COUNCIL MEMBER REPORTS

None

ADJOURNMENT

There being no further business to discuss, a motion was made by Councilmember Sifford and seconded by Councilmember Washington to adjourn the meeting. A show of hands was taken with all members voting in favor. Motion passed 4-0. Meeting adjourned at 8:35 p.m.

Submitted for Council approval with/without corrections or additions this 3rd day of November, 2008.



Mayor Chris Garcia

Attest:


Mary A. Mogle, CMC, City Clerk

Transcribed by Carole Dickey, Receptionist