

Minutes

BASEHOR CITY COUNCIL

November 17, 2008

Basehor City Hall

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Iris Dysart, Terry Hill, Roger McDowell, Keith Safford,
Jim Washington

Members Absent: None

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

Newspaper:

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 not in attendance. Councilmember Washington arrived at 6:02 p.m.

Discussion of agenda items.

- a. Consider an ordinance, granting to the City of Tonganoxie, Kansas, its successors assigns, a water line franchise to allow access to the right-of-way on the south side of U.S. Highway 24-40 between 158th and 155th Streets.*

City Administrator Carl Slaugh reported the City of Tonganoxie wishes to extend a waterline west to Tonganoxie and has requested access to the City's utility easements on the south side of U.S. Highway 24-40. City of Tonganoxie has acquired easements with the exception of the area along Honey Creek and Pinehurst subdivisions. They are requesting easements from Basehor for these areas.

Councilmember Washington asked if there was any reason the City should not participate. Mr. Slaugh stated he did not know of any reason the City should not participate. Mr. Slaugh stated the project was at the City of Tonganoxie's expense and the city superintendent noted he had spoke with Tonganoxie officials as well.

Mr. McIntosh asked if they would be able to connect to the new service line. Mayor Garcia stated if it was a transmission line he did not think it could be tapped. Mr.

McIntosh noted he signed an easement with Tonganoxie with an option to connect if possible. Councilmember Washington stated both Tonganoxie and Suburban Water franchise agreements would need to be reviewed. (*Patrick Reavey arrived at 6:10 p.m.*) It was pointed out that the agenda showed incorrect locations. Mr. Slaugh clarified the locations as shown in the proposed ordinance to run from U.S. Highway 24-40 between 153rd and 158th Streets and between 166th and 170th Streets.

f. Consider approval of payment request #1, including change order #1, to Holland Construction for 2008 Street Overlay program.

Mr. Myracle reported the change order was for an overrun in asphalt on Meyer Street, Wellington Street, and 154th Street. Mr. Slaugh reported according to the bid, the City would pay actual quantity price in the event more materials were needed.

g. Consider funding for repair of drainage issue on 155th Terrace.

Mr. Myracle reported the project would include removing a tree on the south side of the alley, re-digging a ditch on south side, placement of storm box and grade work, and replace the existing culvert with a 24 ft. culvert. He noted it was going to be “tricky” to get equipment in and out without causing damage to the tree..

e. Consider adoption of Standard Operations & Procedures policies for payroll, utility billing, accounts payable, and agenda preparation.

Mr. Slaugh reported the auditors requested written operating procedures for payroll, purchasing, and utility billing. The agenda preparation policy was added as well.

Other Business:

Mr. McIntosh reported at the last meeting, Council wanted to know how the TDD agreement would be amended so his attorney Christine Bushyhead and the city administrator worked together today regarding the wording for the proposed amendment. Mr. Slaugh reported Mr. McIntosh requested the item be on this evenings meeting; however, he did not have enough time to put together the necessary documents. He noted one of the decisions that need to be made, was if the city would group together funding from KDOT for the 150th Street interseccion project and the Wolf Creek Parkway Transportation Development District (TDD) project. Currently Mr. McIntosh was responsible for Wolf Creek Parkway bills and if amended, the City would become responsible.

Mr. McIntosh recommended adding Wolf Creek Parkway and 150th Street into one project so that both would be included in the TDD funding. Mr. Slaugh would like to acquire a proposed document from KDOT and then Council would have something to go on.

Mr. Reavey suggested changing the recommended motion to direct staff to obtain final paperwork and place on future agenda. This would allow citizens an opportunity to provide comments. Councilmember Washington stated although the matter did not require a public hearing, he wanted to defer the item until it appeared on a published agenda.

Mr. McIntosh noted nothing has changed and delays were costing him \$500 per day. Councilmember Hill stated he thought the two projects were already grouped together. Mr. Slauch stated he thought there was a consensus; however, no formal action was taken. President Dysart stated this item had been before the Council for a month and felt it was a lot of money for the City to pay and did not feel she was prepared to make a decision. Mr. McIntosh reported if the City did not act on the proposed motion, he was going to move forward on his own because he was ready to "get going" on the project. President Dysart noted KDOT nor the City had required 150th Street intersection to be improved immediately. Councilmember Washington stated he sat in meetings with KDOT where they proposed the change and he supported the change. Resident Bob Moore felt the City should move forward and address the south side as well as a safety issue; however, with today's economy he was not in favor of moving forward at this time.

Resident Bill Hooker asked Mr. McIntosh what his plans were if the City did not move forward. Mr. McIntosh noted lots would be sold off. Mr. Hooker reminded Council that there were no restrictions placed on Mr. McIntosh and he could have built the store two years ago. Mayor Garcia stated the City was trying to bring in economic development to help reduce residential taxes and felt the negativity about the store should stop.

Mr. Flower said he would like everyone to look at the things that could happen along the corridor once the frontage road was completed. If the City participates in the 150th Street improvements through the TDD, they would pay it off in a short time.

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

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

The regular meeting was called to order with all members present. The city attorney was present. *(Tape 1, Side A)*

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. November 3, 2008 Work Session & Regular Meeting
 - b. Approve Treasurer's Report & Vendor Payments
 - c. Approve investment recommendations
 - d. Approve calendar of events

A motion was made by President Dysart and seconded by Councilmember McDowell to approve the Consent Agenda as written. A show of hands 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).

No comments; therefore, the public portion of the meeting was closed.

SCHEDULED DISCUSSION ITEMS

None

BUSINESS

- a. *Consider an ordinance, granting to the City of Tonganoxie, Kansas, its successors and assigns, a water line franchise to allow access to the right-of-way on the south side of U.S. Highway 24-40 between 158th and 155th Streets.*

Kathy Bard, Assistant City Administrator/City Clerk, was present to address Councils questions regarding the city of Tonganoxie's request for utility easements. She reported the streets shown on the agenda were incorrect. Mr. Slauch reported the correct locations were discussed during the work session and are shown correct in the proposed ordinance.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve an ordinance granting to the City of Tonganoxie, its successors and assigns, a water line franchise to allow access to the right-of-way on the south side of U.S. Highway 24-40 between 153rd and 158th Streets and between 166th and 170th as proposed. A show of hands was taken with all members voting in favor. Motion passed 5-0.

ORD. 543 - AN ORDINANCE, GRANTING TO THE CITY OF TONGANOXIE, KANSAS, ITS SUCCESSORS AND ASSIGNS, A WATER LINE FRANCHISE, PRESCRIBING THE TERMS THEREOF AND RELATING THERE TO.

- b. *Consider ordinance annexing Field of Dreams Sports Complex property (requested by Basehor Athletic Association).*

Mr. Slaugh reported this item was approved the city council then forwarded to the Board of County Commissioners for approval. County Commissions granted approval. The next step to finalize the annexation was to adopt an ordinance.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the ordinance annexing Field of Dreams Sports Complex property was submitted. President Dysart stated the resolution had not been signed and questioned who would pay for improvements and maintenance to the roads adjoining the property. Mr. Slaugh stated the County had yet to forward a signed copy of the resolution. The city attorney stated as long as the county commissioners approved the resolution in an open meeting; it was okay to take action. Mr. Slaugh stated the roads were private and Basehor Athletic Association has an agreement with the property owner to the west that they would share the improvement costs. The County would assume maintenance once the private road was improvement to county standards. President Dysart's concern was that the County would come back and make the City provide maintenance to Fairmount Road. Planning Director Dustin Smith noted the City did not annex the road right-of-way between the two properties; however, the City did annex to the center of Fairmount Road. Mr. Slaugh stated he did not think the County would require the City to maintain Fairmount Road until Victory Crest was annexed at which time the Interlocal Maintenance Agreement would need to be amended. Mr. Myracle stated the situation would be similar to other cooperative areas within the city limits. John Flower stated in order for the county to require the City to maintain the area, the Interlocal Maintenance Agreement would have to be changed. A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion passed 4-1.

Ord. 544 – AN ORDINANCE ANNEXING LAND KNOWN AS FIELD OF DREAMS INTO THE CITY OF BASEHOR, KANSAS.

c. Ordinance implementing fee for payments in lieu of construction as a means of dealing with subdivisions without completed sidewalks (planning).

The proposed ordinance would establish a fee of \$4.60 per square foot of sidewalk to be paid in lieu of construction for non-curb and non-guttered development. The ordinance also stipulates how payment was to be applied and the criteria for determining if the payment in lieu of construction was appropriate.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to approve the ordinance as written. A show of hands was taken with all members voting in favor. Motion passed 5-0.

ORD 545 – AN ORDINANCE ESTABLISHING THE RATE FOR PAYMENTS IN LIEU OF CONSTRUCTION (PILOC) RELATING TO THE CONSTRUCTION OF SIDEWALKS ASSOCIATED WITH DEVELOPMENT APPROVALS ON PROPERTY ADJACENT TO NON-CURB AND NON-GUTTERED STREETS IN THE CITY OF BASEHOR.

d. Consider amendment to Substance Abuse Policy.

Mr. Slaugh reported the policy was revised based on Attorney General's Opinion that restricted random drug testing to safety sensitive positions. Mr. Reavey reported this regulation applied to governmental entities. It has been deemed a Fourth Amendment violation of non-safety sensitive employees to be included in random drug testing.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the proposed amendments to the Substance Abuse Policy. A show of hands was taken with all members voting in favor. Motion passed 5-0.

e. Consider adoption of Standard Operations & Procedures policies for payroll, utility billing, accounts payable, and agenda preparation.

Councilmember Washington stated he did not have a problem with the payroll, utility billing, and accounts payable (Goods and Purchasing) procedures, but had issues with the agenda preparation policy.

A motion was made by Councilmember Washington and seconded by President Dysart to approve all Standard Operations & Procedures policy as written with the exception of the preparation of the agenda. Councilmember Washington did not feel it was necessary to set a policy since the mayor sets the agenda and a standard had already been set in the past. The city clerk reported she proposed the policy because she had fielded numerous questions in the past from newly elected council members and there would be new members coming on board next April. Mr. Reavey stated the policy was consistent with general practices among other cities. A show of hands was taken with all members voting in favor. Motion passed 5-0.

Councilmember Washington had a problem with the "Call to Public" section and felt it should be deleted and the compilation of the council packet should delete all wording past the word "Wednesday". He felt the clause allowed the city administrator some flexibility to get the packet out after Tuesday. President Dysart stated she understood there may be times when the packet could not be delivered on Tuesday; however, she did not feel she had ample time to review the packet when it was delivered on Wednesday or Thursday. Mr. Slaugh stated it was difficult to prepare packet information, especially when there were numerous agenda items.

A motion was made by Councilmember Washington and seconded by Councilmember Hill to delete Section 3 [Citizens] and remove all wording past Section 3 within Compilation of Agenda and Council Packet. A show of hands was taken with all members voting in favor with the exception of Councilmember Hill. Motion passed 4-1.

A motion was made by Councilmember Washington and seconded by President Dysart to approve the Agenda Preparation policy as amended. Motion passed 5-0.

f. Consider approval of payment request #1, including change order #1, to Holland Construction for 2008 Street Overlay program.

President Dysart asked for clarification for the additional \$14,508.73. Mr. Slauch reported retainage amounts change from project to project. Mr. Myracle gave an update on the project reporting it was near completion. He reported Holland Construction did an excellent job.

A motion was made by Councilmember Sifford and seconded by President Dysart to approve payment request #1, including change order #1, in the amount of \$130,578.53 to Holland Construction for 2008 Street Overlay program. A show of hands was taken with all members voting in favor. Motion passed 5-0.

g. Consider funding for repair of drainage issue on 155th Terrace.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve funding for repair of drainage issues on 155th Terrace not to exceed \$3,225.00. A show of hands was taken with all members voting in favor. Motion passed 5-0.

h. Consider TDD projects.

A motion was made by Councilmember Hill and seconded by Councilmember Sifford to add Business Item "h" to the agenda and subject of the TDD projects to be added to tonight's agenda. A show of hands was taken with council members Hill, Sifford, and McDowell voting in favor. Council members Washington and Dysart cast a dissenting vote. Motion passed 3-2.

A motion was made by Councilmember Hill and seconded by Councilmember Sifford to approve combination of 150th Street project with the construction of Wolf Creek Parkway to be funded by the KDOT State Revolving Loan and to be paid by TDD funds contingent on amendment to TDD. President Dysart did not feel it was fair to council to make an informative decision. Councilmember Washington noted the city attorney recommended having this item placed on a published agenda and had a problem with the city committing \$2 million and asked if the developer had paid the excise tax on the property. Mr. McIntosh stated the money would be paid when the planning director provides him with the calculation. Councilmember Washington stated according to the minutes of September 17th, the amount was \$54,767.98 (10.66 acres) at which time Mr. McIntosh stated he did not have a problem paying the excise tax on the 10.66 acres. Mr. McIntosh stated there were two retention areas and wanted to discuss with the council about removing those from the area. The planning director stated he thought those areas were figured in the calculation. Councilmember Washington noted financial statements had not been provided as previously discussed. Mr. McIntosh stated he would not be financing the project, the City would be, and asked if other developers had been required to provide financial statements. Mr. Reavey stated he did not know if the developer's attorney agreed with providing the information. Mr. McIntosh stated the City would own

the streets once he constructed them. President Dysart asked the city attorney if the motion bounds the TDD agreement. Councilmember Hill stated the motion stated it was contingent on the TDD being amended. Mr. Reavey noted the Council would still have to approve the amendment. President Dysart stated she did not want to approve the TDD until the excise tax was paid. McIntosh stated he did not have any problem paying the excise tax. Councilmember Hill stated the Council approved combining the projects earlier and the motion was just taking one more step in the project. A show of hands was taken with council members Hill, Sifford, and McDowell voting in favor. Council members Washington and Dysart cast a dissenting vote. Motion passed 3-2.

CITY ADMINISTRATOR REPORT

- Chamber of Commerce meeting will be held on Thursday, November 20 at Reece Nichols. An update on the upcoming casino in Kansas City, Kansas will be part of the program.
- LCDC Annual Meeting will be held on December 5th, 11:30 a.m., at the University of St. Mary. He requested the governing body notify the city clerk if they wish to attend so reservations could be made. The City would pay the \$30 registration fee for attending members.
- Basehor City Holiday Social will be held at the VFW Hall on December 6th starting at 6:00 p.m.
- LCDC VIP Event will be held on the 12th of December at Carnegie Hall.
- Due to a conflict with scheduling, the Legislative Breakfast has been moved to December 9, Lansing Community Center. Registration required.
- Budget Update –
Anticipate budget amendment for Cedar Lakes Fund for repairs and maintenance

The city treasurer gave a report on the revenue and expenditures to date for all funds. Mrs. Adams reported the general fund has received approximately 91% of projected revenues and expenditures are setting at 69% and gave percentages for all other funds. She stated over all the departments have cut down on expenditures in anticipation that revenues would possibly reduce due to the economy. Sales tax has stayed consistent throughout the year and felt the City fared better than other cities.

MAYOR'S REPORT

None

COUNCIL MEMBER REPORTS**Jim Washington**

In August a resident complained about digging occurring in easements and it was consensus of Council that the City would consider an ordinance addressing the situation and has not been addressed. Mr. Reavey stated he has not had time to research the matter. The city administrator reported an ordinance had recently been forwarded to the city attorney for review.

EXECUTIVE SESSION

None

OTHER BUSINESS**City Administrator**

Mr. Slaugh reported he received a call informing him that residents of Sewer District No. 3 had received tax notices from the county without being notified of a public hearing. That is now being addressed by the county commissioners.

City Superintendent

Mr. Myracle reported the temporary construction road to the wastewater treatment facility was completed last week. Pipes have been delivered; sewer lines located, and construction should start next week.

Flashing lights have been installed on 158th Street. Council budgeted \$7,000 for two lights; however, by changing the style of lighted sign, the city superintendent was able to purchase two signs for \$3,500.

Police Chief

Chief Martley reported the area continued to have burglary problems. He requested everyone watch out for their neighbors and call if they see anything suspicious.

ADJOURNMENT

There being no further business to discuss, Councilmember Sifford moved to adjourn the November 17th Council meeting. Councilmember McDowell seconded the motion. A show of hands was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 8:00 p.m.



Mayor Chris Garcia



Attest:



Mary A. Mogle, City Clerk