

**Minutes**

**BASEHOR CITY COUNCIL**

**November 3, 2008**

**6:00 p.m.**

**Basehor City Hall**

**Official Presiding: Mayor Chris Garcia**

**Members Present: Pres. Iris Dysart, Roger McDowell, Jim Washington**

**Members Absent: Terry Hill, Keith Sifford**

**Staff Present: Carl Slaugh, Mary Mogle, Gene Myracle, Dustin Smith,  
Lloyd Martley, Dave Lutgen, Patrick Reavey (Work Session only)**

**Newspaper: None**

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**WORK SESSION - 6:00 p.m.**

The work session was called to order at 6:12 p.m. with members Dysart, McDowell, and Washington in attendance. The city attorney was in attendance.

**Discussion of agenda items.**

***a. Consider options for funding the U.S. 24-40/150<sup>th</sup> Intersection and Wolf Creek Parkway projects.***

City Administrator Carl Slaugh reported the main decision to be made by Council was whether the City should move forward with improvements to the 150<sup>th</sup> Street intersection, how to deal with financing, and if necessary reschedule other proposed projects. If the City moves ahead with the 150<sup>th</sup> intersection project, the City could include the project with the Wolf Creek Parkway improvement and use Transportation Development District (TDD) funds. The State allows cities to use funds for projects outside the TDD area. The agreement would need to be amended with KDOT as well as the TDD ordinance. He felt those options were legal and viable. The \$500,000 already set aside for improvements to Wolf Creek Parkway could go toward the improvements to the intersection.

Mr. McIntosh noted his attorney informed him the ordinance would not need to be amended unless the terms of the agreement changed. Mr. McIntosh provided information regarding TDD projections but then stated he would meet with council in executive session regarding his financial statements and would only release information approved by his attorney and safe for his business.

Mr. Reavey reported unfortunately any financial information provided by Basehor Properties, LLC would be an open record. If for some reason the grocery store was not successful, the City would be “on the hook” [for payments].

Mr. Slaugh reported the 150<sup>th</sup> Street intersection was #5 on the priority list. President Dysart stated the Council bumped the Wolf Creek Parkway project up to #2 on the priority list of which the \$500,000 would go toward those improvements. Mr. McIntosh stated the City has not actually committed to use the \$500,000 on Wolf Creek Parkway. He noted the corridor funding could be used on the intersection and TDD funding used on Wolf Creek Parkway.

President Dysart said she felt Mr. McIntosh had been given money for an access break from KDOT; therefore, he should not receive additional funding. She reported the City was going to borrow \$3 million for an access that did not provide a safe access for the property owners on the south side of 24-40 Hwy and suggested the \$325,000 be used to knock the hill down at 150<sup>th</sup> & 24-40 Hwy and construct a right-turn lane. Mr. McIntosh stated that would work for now, but would not address future problems and informed President Dysart that he had not been paid for his [153<sup>rd</sup> Street] access.

Mr. Reavey said he thought the concern was that the money would not be available if the grocery store failed. He realized the land could be used as collateral.

Councilmember Washington felt the City was getting ahead of themselves noting the 150<sup>th</sup> Street intersection did not have to be done this year and suggested postponing the improvements until funding could be acquired. He also explained he previously worked companies regarding financial statements and thought it could be discussed under a proprietary exception. Mr. Reavey stated Mr. McIntosh needed to know that anything provided for an executive session could not be discussed outside the session. Councilmember Washington supported moving forward with using the \$500,000 on Wolf Creek Parkway, possibly use TDD funds toward the intersection improvements in the future, and purchase the easement now to ensure right-of-way for future development. Mr. Reavey suggested drafting a “trigger” agreement with Mr. McIntosh which would set a development timeline. He also recommended having the City’s financial attorney meet with Basehor Properties, LLC regarding the financial stability of the company and report back with the findings. Mr. McIntosh stated he would be willing to do that.

Mr. Slaugh explained if the 150<sup>th</sup> Street intersection project was delayed, the Council should set a timeline when the project would start so that it would not be pushed back. He explained by improving 150<sup>th</sup> Street it would open up property for development. Councilmember Washington said the 150<sup>th</sup> Street intersection was a key in the Corridor Plan.

Councilmember McDowell asked Mr. McIntosh if the City does not agree to make changes to 150<sup>th</sup> Street intersection, would Wolf Creek Parkway change locations. Mr. McIntosh stated engineering practices dictate the location of his main thoroughfare. Mr.

Reavey reiterated an agreement would require the city to make a decision on the intersection once certain things occur.

Five-minute break (7:56 p.m.)

### **REGULAR MEETING – 7:00 p.m.**

#### **ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE**

The work session was called to order with members Dysart, McDowell, and Washington in attendance. The city attorney was not 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. October 20, 2008 Work Session & Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events

Councilmember Washington questioned the Certificates of Deposit listed on the investment report and wanted to know why the City did not use local banks. The city clerk explained the city treasurer sends emails to the local banks requesting a bid; however, there are times when the bid is too high or a local bank chooses not to bid at all.

A motion was made by Councilmember Washington and seconded by President Dysart to approve the Consent Agenda as written. A show of hands was taken with all members voting in favor. Motion passed 3-0.

#### **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.)

**George Smith (14923 Parallel)** commented on Business Item "a". Mr. Smith did not feel, based on the current state of the economy, the City should commit to another large debt. He felt it was responsible of the Council to obtain financial statements from Mr. McIntosh in order to make sure the project is secure. The project primarily benefits a developer and only those that travel 150<sup>th</sup> Street. He did not understand why KDOT did not line up the south side with the north side. He pointed out the taxpayers are going to

be paying for a new library, new school, wastewater treatment facility expansion, increase in street maintenance, personnel, and maintenance costs in general.

**Marsha McCowan (15201 Lakeview Dr.)** asked Council to look at the timing for the projects on 150<sup>th</sup> Street for local access. She asked if a stoplight would be put in at 150<sup>th</sup> Street and would residents be able to turn east. *(Tape A, Side B)* Mr. Slauch stated there would be an east access at some point.

**Joe Nick (14600 State Ave)** expressed concern about the increase in taxes for the residents of Basehor. He would like to see 147<sup>th</sup> Street go north to Falcon Lakes someday since it was a major street that extended into Lansing. He informed the Council that the Price Chopper on Johnson Drive closed and did not think people would support Mr. McIntosh's grocery store. He was also concerned that people not on sewers were going to pay for the expansion. President Dysart stated non-users would only be charged if user and connections fees could not make the State Revolving Loan payment. Mr. Nick did not feel it would not be fair to the residents on the south side of 24-40 Hwy if the full access intersection only served Miles Excavating.

Councilmember Washington reported the Price Chopper owners on Johnson Drive closed the store because they moved to a new location on Shawnee Mission Parkway.

**Twila Heinen (3303 154<sup>th</sup> Terr.)** encouraged Council not to vote on Business Item "a". She felt it was a "serious" debt that was going to be placed on the residents of Basehor. She asked if the \$500,000 promised by KDOT had a time limit. Councilmember Washington stated the agreement states the developer would have to start the project by June 1, and if not started by then the City would be given until July 1, 2009 to designate another project.

Mayor Garcia stated he had no problem using the \$500,000 in Basehor; otherwise, it would be reallocated to another project, possibly Johnson County.

Mrs. Heinen asked if the City's intent was to have the city employees participate in ING as well as KPERs. Mr. Slauch stated that would be discussed during this meeting. She opposed affiliation.

**Ed McIntosh (15395 Briar Rd)** suggested postponing action on Business Item "a" and recommended discussion take place at a future work session. He felt once the grocery store is built, other businesses would follow bringing in additional revenue.

**Dennis Mertz (2905 N. 155<sup>th</sup> St.)** asked Council if they received his emails regarding KPERs and 150<sup>th</sup> Street. All received with the exception of Councilmember McDowell. He asked if the mill levy would need to be adjusted. Mr. Slauch stated "no". He also felt Mr. McIntosh's development was risky but supported having engineering performed and work on the other issues at a later time. He did understand Mr. McIntosh did not want to give financials and supported the city attorney's recommendation to have the City's financial advisor put together a report.

*John Flower (15515 Cedar Lane)* wanted to clarify previous statements. He noted the intersection on the south side would not interfere with the closing of 147<sup>th</sup> Street. KDOT stated the road would not close until the properties on the south side had another access. The City has committed themselves to several projects that would cost the City money and the grocery store was the only project that had a possibility of producing revenue. The only way the City could be held liable is if the development totally collapsed. Mr. Flower questioned why Mr. McIntosh was required to provide financial information when the same requirement was not made of other developers. He asked that the misunderstandings be removed.

President Dysart stated if 147<sup>th</sup> Street was not going to be designated for a stop light, then it would become a dangerous intersection. She also took issue with Mr. Flower stating the TDD was the only revenue producing development and did not feel Council mislead the public in any way.

Public portion of the meeting closed.

## **SCHEDULED DISCUSSION ITEMS**

**None**

## **BUSINESS**

***a. Consider options for funding the U.S. 24-40/150<sup>th</sup> Intersection and Wolf Creek Parkway projects.***

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to table action, place the item on the November 10<sup>th</sup> work session agenda for discussion, and move the item to the November 17<sup>th</sup> agenda for action. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***b. Consider expenditure for a temporary construction road to the wastewater treatment plant.***

Mr. Slauch reported the estimate was revised earlier in the day. The city could continue to use Hickory Street (residential neighborhood and not construction traffic worthy) or put in a temporary construction road north of Parallel. The school agreed to allow the city to put a road through and felt they might use the road afterward to access sports fields. He explained the road would be constructed with 4" of AB3 and 2" of base rock. Estimated cost - \$20,084.75. Mr. Myracle explained the City would contract with Shawnee Rock, install security gates, city staff would perform some of the work, and hire out contractors to perform grading and compacting work.

President Dysart stated she would like to have a copy of the contract and revised estimate. Mr. Myracle stated there were no contracts.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to approve construction of temporary access road for the temp access road for the wastewater treatment plant expansion project not to exceed \$25,000. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***c. Consider approval of replacement primary server for City Hall.***

Councilmember Washington stated he did not have a problem with replacing the server but wanted to see a complete technology audit before any purchases were made. He felt other equipment may need to be replaced as well. He felt an audit would cost about \$1500.

A motion was made by Councilmember Washington and seconded by President Dysart to table action and bring back for council approval after a technology audit was performed to include a complete management system structure. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***d. Consideration of fee for payments in lieu of construction as a means of dealing with subdivisions without completed sidewalks (planning).***

Mr. Smith explained this was related more toward single family developments than commercial. This proposal would provide the developer with the option to put money into an escrow fund for future sidewalks. Currently the developments affected would be Holy Angels church, First Baptist Church, Little Angles, Gorup Funeral Home, and the library. He reported it worked out to about \$4.60 per sq. ft. for sidewalk construction at current construction rates.

Councilmember Washington reported the subdivision agreement states sidewalks would be completed within a certain period of time. He supported setting a two year time limit to complete sidewalk construction. President Dysart asked if a clause would be retroactive to a development prior to a development that started two years prior. Mr. Smith stated "yes".

A motion was made by Councilmember Washington and seconded by President Dysart to direct staff to prepare an ordinance and investigate and include payment from subdivisions when they exceed a period required for construction [set out] in the Subdivision Improvement Agreement. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***e. Consider entering into agreement with Kansas Employees Public Retirement System (KPERS) for non-police qualified employees.***

Mr. Slauch reported the police officers are covered by Kansas Police and Fire with all other employees being covered by ING Deferred Compensation. KPERS covered the majority of cities, hospitals, and school systems in the State of Kansas. He explained

plan options if affiliated January 1, 2009 and January 1, 2010. As a KPERS requirement, they require the City buy back the employee's prior years of service. Mr. Slaugh explained the Council has the option to continue matching the KPF amount or reduce the amount to cover only the KPERS Employer contribution rate.

President Dysart asked what happens to the money paid into the employees ING accounts to date. Mr. Slaugh explained it was a private deferred compensation account and remained with the employee. She stated she could not in good conscious pay the money for previous years and felt it would be a windfall to the employees to provide both plans.

Councilmember Washington stated he did not have enough information to make a decision and agreed with President Dysart that it would be a significant windfall to the employees.

A motion was made by President Dysart and seconded by Councilmember Washington to deny the request to affiliate in the KPERS retirement program. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***f. Consider a resolution designating a representative to serve on a hazard mitigation planning committee in Leavenworth County as requested by Leavenworth County Emergency Management, Chuck Magaha.***

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to approve the resolution designating a representative [planning director] to serve on a hazard mitigation planning committee in Leavenworth County. A roll call vote was taken with all members voting in favor. Motion passed 3-0.

***g. Consider approval of a liquor license for Pastimes Bar & Grill, projected opening at 15510 State Avenue on Nov. 4, 2008.***

A motion was made by Councilmember Washington and seconded by President Dysart to approve the liquor license [drinking establishment] for Pastimes Bar & Grill at 15510 State Ave. A show of hands was taken with all members voting in favor. Motion passed 3-0.

***h. Consider Change Order 1 for the 2008 Street Maintenance project.***

Mr. Lutgen explained it was not necessary to have a change order at this time based on engineering changes.

## **CITY ADMINISTRATOR REPORT**

Cedar Lakes Annexation Report Update – Project Engineer Dave Lutgen stated there was more information that needed to be compiled and would be ready for discussion at the work session.

**MAYOR'S REPORT**

Mayor Garcia reported the Basehor Elementary third grade class would visit City Hall on November 6th to learn about government and roll of the mayor and council. A mock council meeting would be held as well.

**COUNCIL MEMBER REPORTS**

**Iris Dysart**

President Dysart asked for an update on the 155<sup>th</sup> Terrace drainage issue. Mayor Garcia reported the city superintendent had compiled the information and he would present the information at the next meeting.

**EXECUTIVE SESSION**

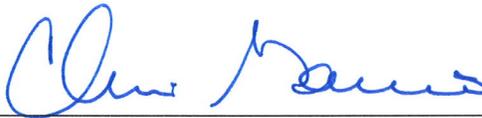
A motion was made by Councilmember Washington and seconded by Councilmember McDowell to go into Executive Session to discuss non-elected personnel for five minutes. The city administrator was asked to attend the session. A show of hands was taken with all members voting in favor. Motion passed 3-0. (8:17 p.m.)

At 8:20 p.m. the regular meeting was called back to order.

**ADJOURNMENT**

There being no further business to discuss, a motion was made by Councilmember Dysart and seconded by Councilmember McDowell to adjourn the meeting. Motion passed 3-0. Meeting adjourned at 8:21 p.m.

Submitted for Council approval with/without corrections or additions this 17<sup>th</sup> day of November 2008.

  
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Mayor Chris Garcia

Attest:



  
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Mary A. Mogle, CMC, City Clerk