

Minutes**BASEHOR CITY COUNCIL****April 6, 2009****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, Mary Mogle, Gene Myracle, Lloyd Martley, Dustin
Smith, Matt Henderson, Patrick Reavey.****Newspaper: Kaitlyn Syring, *Basehor Sentinel (arrived for regular meeting)***

WORK SESSION - 6:00 p.m.

The work session was called to order by Mayor Garcia. All members were present. The city attorney arrived at 6:08 p.m.

Discussion of agenda items.

- a. ***Consider approval of pay application #5 from CAS Construction for the Wastewater Treatment plant expansion in the amount of \$590,887.57.***
- b. ***Consider approval of change order #2 for the WWTP expansion.***

Jeff Keller, Burns & McDonnell and Mike Hafling, CAS Construction gave a PowerPoint presentation regarding the wastewater treatment plant expansion progress. The project is about halfway complete and on schedule and anticipate meeting the October 30, 2009 completion date. Majority of materials and equipment are on site. They discussed the proposed change order to include the basket relocation (\$15,136.02), chemical feed deletion (\$37,793.82) and electrical changes (price pending) totaling \$52,929.84. (*Patrick Reavey arrived at 6:08 p.m.*) Resident inspector has only used 32% of the allowable hours and the project was currently under budget.

Councilmember Washington expressed concerns about changing the chemical feed since it might be needed in the near future. Mr. Keller said they looked at reducing it by half and did not constitute much of a cost savings as stipulated in his letter sent to the Council on the 17th of March regarding the proposed change order. President Dysart asked for a time frame when it would be necessary. Mr. Keller said it was impossible to answer,

could be as soon as 16-18 months or may never be needed. Councilmember Washington said it would cost more later down the road to construct. President Dysart agreed with Councilmember Washington. Mr. Slaugh explained the flow was not the concern it was the stagnant flow that would create an odor. Councilmember Hill stated initially the engineers thought it was a good idea when they designed the plant; however, since then flow calculations have changed. Councilmember Sifford stated Burns & McDonnell were the experts and he would listen to their recommendation. Councilmember McDowell asked Mr. Keller for his expert opinion. Mr. Keller said the risk was that the City would need it at some point, but did not feel the City would need it in the near future. Initially when the plant was designed, the flow was 50% greater, since then, flow has been redirected. City superintendent Gene Myracle explained his reasoning for recommending the elimination of the chemical feed equipment.

c. Consider award of bids on the Wolf Creek Parkway street construction project.

Mr. Slaugh reported ten companies submitted bids. It was bid in sections (1) earth work; (2) paving; (3) sanitary sewer; (4) landscape; and (5) walls. After reviewing the bids, it was decided to remove the landscaping and walls from the bid. Blacktop Paving came in as low bidder. Questions have been raised about the Transportation Revolving Loan; three agencies will need to review the application. He explained, Evelyn Fitzpatrick, KDOT loan manager, reported to date loan applications have been approved unless they were for chip and seal projects. The State has until April 20th to finalize their review and explained the KDOT process. If the loan is not approved, the developer would have to apply for a private loan. The only drawback to delaying action would be delay in construction of the road. Mr. Reavey stated because of the cash basis law, the council would need to place a contingency on the award. Mr. Slaugh stated the \$500,000 KDOT grant was not contingent on the loan. Councilmember Washington said the matter should be tabled with the developer presenting a backup plan at the next meeting. Mr. Reavey stated it could be approved at this meeting with a condition that the funding be put in place before signing the documents.

Mr. McIntosh stated the bidder did not have a problem with a contingency approval on the award. He also spoke with the State and they thought approval would be given tomorrow, April 7. The owner of Blacktop Paving was in the audience and stated he would be willing to receive the award with a contingency. President Dysart asked what happens if the next Council did not approve the KDOT loan. Mr. Reavey said the next Council could not bind future Council's to anything; however, it would be very awkward for the next council not to approve the loan. President Dysart said she was opposed to approving this item until KDOT gave approval and cautioned the current Council that the next Council may deny the loan. Mayor Garcia pointed out Council turned down two loans prior to this, and hope this was not the case again.

Five-minute break. (6:57 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 at 7:03 p.m. with 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. March 2, 2009 Regular Meeting
 2. March 9, 2009 Work Session
 3. March 16, 2009 Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events
- e. Proclamation recognizing Basehor-Linwood High School Boys Basketball teams for winning Class 4A Champions
- f. Proclamation recognizing Basehor-Linwood High School Girls Power Lifting Team for winning the State Championship.
- g. Proclamation recognizing Basehor-Linwood High School Boys Power Lifting Team for taking second place in the State Championship.
- h. National Library Week Proclamation, April 12 – 17, 2009
- i. National Volunteer Week Proclamation, April 25 – May 2, 2009
- j. Resolution pledging support, endorsement, and cooperation for the 2009-2010 PRIDE program.
- k. Arbor Day Proclamation, April 24, 2009

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the Consent Agenda as presented. Discussion. President Dysart and Councilmember Washington asked that the following items be amended in the minutes of March 16th.

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A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve the final plat as recommended by the staff and Planning Commission. President Dysart did not feel the final plat should be approved since the City did not have construction plans, Subdivision Improvements Agreement, Development Plan, and sewer drawings. ***Mr. Smith shook his head in agreement.***

(amended 4/06/09) She felt approval would be in conflict with the City's regulations. Mr. Smith explained *the Development Plan (amended 4/06/09)* was not required at this point and the Subdivision Improvements Agreement could not be drafted until the Council made a decision regarding the benefit district. President Dysart asked if the Planning Commission addressed the variance. Mr. Smith stated the variance was ~~not sent to~~ *reviewed by (amended 4/06/09)* the Planning Commission. He also noted, based on previous discussion, it was his understanding the final plat was to move forward. Councilmember Washington asked the city attorney *engineer (amended 4/06/09)* if the City would give away their right to approve the Subdivision Improvements Agreement if they approve the Final Plat. Mr. McAfee said MHS Engineers would agree with approval of the Final Plat as long as city staff reviewed and approved the construction drawings and that the final plat not be filed until all documents were approved by staff.

Page 2, Paragraph 2 –

Councilmember Washington stated he ~~did not feel that~~ *felt that (amended 4/06/09)* staff should recommend approval without changes.

A show of hands was taken with all members voting in favor. Motion passed 5-0.
5-0.

Mayor Garcia presented proclamations to the Basehor-Linwood Boys Basketball team and Girls and Boys Powerlifting teams for placing first and second in the State Championship. He proclaimed the 6th day of April as Basehor-Linwood Bobcat Day.

Mayor Garcia presented a proclamation to library director Carla Kaiser proclaiming week of April 12-17 as National Library Week.

Mayor Garcia proclaimed April 25-May 2, 2009 as Volunteer Recognition Week.

Mayor Garcia proclaimed April 24, 2009 as National Arbor Day.

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).

Citizen Comments regarding agenda items.

Ed McIntosh (15395 Briar Rd) addressed Business item "c". He presented a letter from MKEC Engineering recommending award to Blacktop Paving. Mr. McIntosh addressed President Dysart's comments regarding the delay in submitting construction drawings. The drawings are ready and pending with the State. President Dysart asked if the sewer plans were changed after the last meeting. Mr. McIntosh stated the sewer plans are not

complete because he is still waiting to get an answer from the City before he can have sewers designed. If the City did not want to give approval, he would move forward with his own line and not worry about bringing on other properties.

Dennis Mertz (2910 N. 155th St.) wanted to make sure on Business item “c” that council did not jeopardize taxpayer’s money by approving this item without including a contingency as recommended by the city attorney. Mr. McIntosh has not provided the additional money required for excise taxes and exemptions could be addressed at a later date. He also asked that a time line for excise tax payment be a second contingency.

Item “d” – Prior to this meeting, Mr. Mertz asked if a maintenance bond would be provided and also suggested a 5% retainage fee be added into the motion.

Bob Yates (15415 Crimson, Pinehurst South) was present to comment on the abandoned foundations [Business item “i”]. He noted they are a safety hazard and devalued area properties.

Kevin Barclay (15395 Briar Rd) stated they have a letter dated February 4 where they requested the excise tax deferment matter be added to the agenda. The item was never placed on the agenda.

Public portion of the meeting closed.

SCHEDULED DISCUSSION ITEMS

a. Bob Topping, President of Kansas Sampler Steering Committee - Update regarding the Leavenworth County Kansas Sampler Festival 2010 and 2011

Mr. Topping (2221 Arch St, Leavenworth, KS) updated Council on the Sampler Festival. To date, a steering committee had been formed, setup guidelines, selected a site, and developed a budget. He provided a brief report on the history of the Kansas Sampler festival to be held in Concordia the week of May 2, 2009. Normally, around 200 Kansas towns participate in the festival. It will be necessary to replace intern Nickie Lee on the committee since she will be leaving in May. He also asked for volunteers to man a booth at the Leavenworth County Courthouse the week of April 23rd and 24th. In the next 90 days they will be asking for corporate sponsors. On Saturday, May 2, a bus will be available for people who want to attend the festival in Concordia.

b. Presentation by Kim Bomberger, Kansas State Forester, on Tree City USA program.

Ms. Bomberger gave a PowerPoint presentation about the Tree City USA program. She explained about two years ago she conducted a tree assessment of Basehor and made some recommendations for a local tree program. She explained there are four criteria that must be met to become a Tree City USA city (1) Tree Board; (2) Community Tree Ordinance; (3) Community Forestry Budget of at least \$2 per capita, and (4) an Arbor Day Observance and mayoral proclamation. If the City met the criteria, she would

perform an inventory and write a management program. Ms. Bomberger is available for any questions and services are free and provided by the federal government.

c. Curb repair 154th & Poplar, street resurfacing for Pin Oak Subdivision, requested by Twila A. Heinen

Twila Heinen (3303 N. 154th Terr) provided pictures of streets throughout the Pin Oak Subdivision that were in need of repair. She asked if there was money in the budget that would allow the streets to be repaired based on the program designed last year.

Mayor Garcia stated MHS Engineer was currently working on the 2009 program and would be presented in May. Mrs. Heinen reported last year some work was performed and felt the existing problems would exist and remain until the City started making repairs and hoped the street in front of her residence would be on the list. Mr. Slaugh stated MHS Solutions has not started on the program so it may not be ready in May. Mr. Henderson stated he thought bid letting would occur in June and construction in July. Mr. Myracle stated he budgeted approximately \$170,000. Mrs. Heinen stated she was under the assumption that the study was going to be done earlier this year. Mr. Myracle said a list was provided last year but needs to be updated and then presented to the Council. Mr. Slaugh explained the indexing process and showed the existing list. Mrs. Heinen explained in one area a ledge was occurring where the street was settling and would need to be addressed as well.

BUSINESS

Mayor Garcia asked the city attorney if it had been appropriate to take action on the PRIDE Proclamation in the Consent Agenda. Mr. Reavey stated it was appropriate.

a. Consider approval of pay application #5 from CAS Construction for the Wastewater Treatment plant expansion in the amount of \$590,887.57.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve pay request #5 from CAS Construction LLC in the amount of \$590,887.57 and authorize the mayor or city staff to sign the necessary documentation. A show of hands was taken with all members voting in favor. Motion passed 5-0.

b. Consider approval of change order #2 for the WWTP expansion.

Mr. Slaugh provided a corrected change order that did not include the electrical changes, but addressed changes in the lift station screen vault remover and elimination of chemical feed.

A motion was made by Councilmember Washington and seconded by President Dysart to approve change order 2 as presented with the removal of item 4 [eliminate chemical feed system]. A show of hands was taken with members Washington and Dysart voting in favor and members Sifford, McDowell, and Hill casting a no vote. Motion failed 2-3.

A motion was made by Councilmember Hill and seconded by Councilmember McDowell to approve change order #2 for the WWTP expansion in the amount of net deduct of approximately \$53,147.45. A show of hands was taken with members Sifford, McDowell, and Hill voting in favor and members Dysart and Washington casting a no vote. Motion passed 3-2.

c. Consider award of bids on the Wolf Creek Parkway street construction project.

A motion was made by Councilmember Washington and seconded by President Dysart to table action until April 20 contingent on excise tax being paid. A show of hands was taken with members Dysart and Washington voting in favor and members Sifford, McDowell, and Hill casting a no vote. Motion failed 2-3.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve contingent on approval from the State. Councilmember McDowell asked why the excise tax payment issue had gone on so long. Mr. Slauch reported staff did not follow up to make sure it was paid and should have been paid before the plat was filed. There were also disagreements on the amount and property that might be exempted from excise tax. The developer has thirty days to pay the amount owed or asked to be placed on the agenda requesting the exemption. Mr. Hill asked if there was a problem paying the money tomorrow. Mr. McIntosh said he could pay the excise tax; however, he was concerned that the City would not receive consideration for an exemption if he pays the money prior to Council addressing his request. He commented that other subdivision had received exemptions on detention ponds and other property that was not sellable and requested it be placed on the April 20th agenda. Councilmember Washington asked that the motion be amended. Councilmember Sifford said the motion stood as so stated and felt Mr. McIntosh would pay the excise tax. A show of hands was taken with members Sifford, McDowell, and Hill voting in favor and members Dysart and Washington casting a no vote. Motion passed 3-2.

d. Consider approval to solicit bids for 150th Street Project, Craig Road north to Parallel.

A motion was made by Councilmember Washington and seconded by Councilmember Hill to let the 150th Street project for bid with direction to staff to include a 5% retainage fee in the bid. A show of hands was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 4-1.

e. Ordinance to amend the Park Board duties to include serving as a Tree Board and appointments of two Tree Board members (Allison Theno, Douglas Conrad).

Councilmember Washington left the meeting at 8:30 p.m.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell. To approve the appointment of Allison Theno and Douglas Conrad to the

Tree Board and an ordinance taking measures to implement a tree board. Show of hands was taken with all members voting in favor. Motion passed 4-0.

f. Sewer rate increase proposal.

Mr. Slaugh explained this was an annual increase that was put into play several years ago and approved by KDHE. Council has followed the plan with the exception of year 2006 when an increase was not approved. He explained if growth continued with the issuance of 50 building permits per year, the City would avoid a deficit in the year 2017. The increase also includes a \$250 increase in connection fees. He did not anticipate issuing 50 building permits in year 2009. The 2.5% amounted to about \$1.00 increase to the base rate.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to adopt an ordinance implementing the individual 2.5% monthly wastewater treatment fee increase effective May 1, 2009. Councilmember Sifford said he understood the caveat down the road; however, what future council needed to be aware of if this was not addressed there would be bigger problems down the road. He hoped that growth occurred down the road so that increases would not be necessary later. Councilmember Hill noted if the City growth remained at 25 permits per year it would be a more devastating picture but he was confident the city would continue to grow. Mayor Garcia noted the city mill levy went up from 18 to 28 mills because the City had not been putting money aside [for plant expansion]. He reminded Council that KDHE has approved the plan. Mr. Slaugh pointed out the current loan is \$488,000 per year and in year 2016, the current payment would balloon. The new loan would be a flat payment. President Dysart stated the Larkin Study capped connection fees in year 2011 at \$3,500. Mr. Slaugh stated what was previous approved by Council in the municipal code was not capped and Basehor was still less than surrounding cities with the exception of Tonganoxie. A show of hands was taken with all members voting in favor. Motion passed 4-0.

g. Consider proposal for seal coating City Hall parking lot and restriping.

Mr. Myracle reported it was necessary to seal cost the parking lot since cracks and aggregate were starting to appear. Engineers estimate is \$5,028.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve staff's proposal for seal coating City Hall parking lot and restriping as presented. A show of hands was taken with all members voting in favor. Motion passed 4-0.

h. Purchase of four lift station communication dialers (out of capital outlay in 05 account).

Mr. Myracle explained the dialers would be the same as the one's installed about six months ago. This would allow the city to drop four landlines. Cost - \$4,780.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve the purchase of four lift station communication dialers as presented by staff. A show of hands was taken with all members voting in favor. Motion passed 4-0.

i. Resolution on foundations, measure to deal with abandoned or uncompleted residential foundations, one resolution for each foundation.

Building Inspector Mark Lee reported if approved, the builder would be given 45 days to build a structure on the existing foundations, fill in, or demolish the foundation.

A motion was made by Councilmember Sifford and seconded by President Dysart to approve a resolution regarding the unfinished foundation at 807 154th Terr as presented by staff. The city attorney asked that a copy of the resolutions be sent to the FDIC as well. A show of hands was taken with all members voting in favor. Motion passed 4-0.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve a resolution regarding the unfinished foundation at 604 154th Cir. A show of hands was taken with all members voting in favor. Motion passed 4-0.

j. Consider authorizing staff to start collection process for delinquent utility and miscellaneous accounts.

A motion was made by Councilmember Sifford and seconded by President Dysart to authorize administrative staff to start the collection process for delinquent utility and miscellaneous accounts. A show of hands was taken with all members voting in favor. Motion passed 4-0.

k. Consideration to approve replacement of police in-car VHS camera system with digital system.

Chief Martley reported last year he brought before the council to replace VHS cameras with digital systems and included the items in the 2009 budget. He explained if cameras and radios were installed at the same time, it would be a great savings to the city. The cameras have become a great defense mechanism in court. The current VHS system was also creating a storage issue.

A motion was made by Councilmember McDowell and seconded by Councilmember Sifford to approve the purchase and installation of digital cameras not to exceed \$20,000. A show of hands was taken with all members voting in favor. Motion passed 4-0.

i. South Side Village

Mayor Garcia requested action to add South Side Village to the Business agenda.

A motion was made by Councilmember Hill and seconded by Councilmember McDowell to add South Side Village to the agenda. A show of hands was taken with all members voting in favor. Motion passed 4-0.

Mr. McIntosh said he was requesting council consensus to create a benefit district for sewers and street improvements. He would pay for the design work up front and receive reimbursement from the benefit district. He needs to move forward with the street so the nursing home could be started in mid-summer. Mr. Slauch stated this was a preliminary step to get a feel from the Council. The next step would be to submit a petition to create the benefit district. Councilmember Sifford stated he thought previous discuss Council gave a consensus that it was a good idea to include the other properties in the benefit district.

President Dysart asked if there were four or five properties interested in the benefit district and if Mr. McIntosh was going to factor in repairing the street between his property lines. Mr. McIntosh stated there would be five properties including South Side Village and noted they are proposing the street as an option, but were looking at sanitary sewers first and then as an addition asphalt from Pinehurst Drive to where his development started. President Dysart asked to be provided with a preliminary design of Mr. McIntosh's property. Mr. Smith stated those are submitted every time. Mr. McIntosh stated the plat for Wolf Creek Junction was submitted to the Council. She noted the street alignment would be changing and that had not been provided. Mr. McIntosh stated KDOT was in the process of reviewing the street alignment and drainage of 150th Street & Wolf Creek Parkway.

CITY ADMINISTRATOR REPORT

- ARRA – 155th & Parallel intersection application was not awarded due to problems with easements and not considered shovel ready.
- KDOT Supplemental Agreement 331-08 was approved by the city attorney. The agreement would be forwarded to KDOT once mayor signs.
- Governing Body Institute will be held on May 8 and 9.
- Requested a 10 minute executive session to discuss non-elected personnel and land acquisition.

MAYOR'S REPORT

Mayor Garcia recommended new members attend the Governing Body Institute held in May.

COUNCIL MEMBER REPORTS

Iris Dysart

President Dysart asked for an update on demolition of the property located at 2805 N. 155th St. Mr. Slauch reported a contract was ready to be signed and should be down this

week depending on the contractors schedule. Mr. Reavey reported the property owners attorney called him asking if there was a chance the Council would allow the owner to use the building for storage. Mr. Reavey stated he went out on a limb and told him no.

Mr. Reavey requested an additional five minutes in executive session regarding land acquisition.

EXECUTIVE SESSION

A motion was made by Councilmember McDowell and seconded by Councilmember Sifford to convene into Executive Session not to exceed fifteen minutes to discuss non-elected personnel and land acquisition. A show of hands was taken with all members voting in favor. Motion passed 4-0. The city attorney and city administrator joined the session. (9:20 p.m.)

At 9:33 p.m. Mayor Garcia called the regular meeting back to order.

ADJOURNMENT

There being no further business to discuss, a motion was made by President Dysart and seconded by Councilmember McDowell to adjourn the April 6th regular meeting. A show of hands was taken with all members voting in favor. Motion passed 4-0.

Submitted for Council approval with/without corrections or additions this 20th day of April, 2009.



Mayor Chris Garcia

Attest:



Mary A. Mogle, City Clerk

