

**Minutes**

**BASEHOR CITY COUNCIL**

**May 4, 2009**

**6:00 p.m.**

**Basehor City Hall**

**Official Presiding: Mayor Terry L. Hill**

**Members Present: Pres. Jim Washington, Iris Dysart, David Breuer, Dennis Mertz,  
and Bill Moyer**

**Members Absent: none**

**Staff Present: Carl Slaugh, Lloyd Martley, Mary Mogle, Gene Myracle,  
Dustin Smith, Joe McAfee, and Patrick Reavey**

**Newspaper: Kaitlyn Syring, *Basehor Sentinel***

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

The work session was called to order by Mayor Hill. All members were present including the city attorney.

**Discussion of agenda items**

- c. Consider recommendations from the Planning Commission to adopt an ordinance amending Article 1 of Chapter XVI of the Basehor Municipal Code, incorporating revised Zoning Regulations and adopt the proposed Zoning Regulations.***

Planning Director Dustin Smith entertained questions from the Governing Body.

Councilmember Mertz pointed out there were some inconsistencies between the zoning and subdivision regulations and suggested having a committee work with Mr. Smith.

Mr. Smith suggested hiring a consulting firm since the planning commission review the documents eight times and brought before the council three times. Mr. Smith noted he tried a committee at first and had one diligent participant, developer/builder Jeff Scherer. Planning Commission member Ed Bush concurred with Mr. Smith noting Jeff Scherer was the only developer that really came to the meetings and as a board member did not want to review the documents again. Various topics discussed were utility location, language inconsistencies, and errors within the document.

City Attorney Patrick Reavey informed Council they could not adopt the document without designating in their motion what needed to be changed. Mr. Slaugh stated he would like some feedback on 1) reducing zoning categories, 2) adopting point system, and 3) consider changes in permitted conditional uses. President Washington was in favor of Councilmember Mertz and a planning commission member reviewing the documents with Mr. Smith and then present their recommendations to the city council. Councilmember Moyer asked that changes be highlighted so it would be easier for him to comprehend the items being addressed.

President Washington stated his position has generally been to approve the Planning Commissions work and thought the proposed changes (i.e. point system, zoning categories, permitted conditional uses) were worth trying. Mr. Bush stated the Planning Commission would be addressing a new development at their meeting tomorrow [May 5, 2009] night under the new point system.

Mr. Reavey asked Mr. Smith what he would do with the applicant if the new regulations were not adopted. Mr. Smith stated the developer would have to wait until the new regulations were adopted or resubmit a plan under current guidelines. Mr. Reavey noted *if Council wanted to adopt the document at this meeting, they could include those changes in their motion and then have a text amendment change at a future meeting.* Zoning and Subdivision regulations are living documents and there are circumstances that cannot be anticipated, so it was not a huge issue to adopt the document tonight and then bring a text amendment at a later date.

Councilmember Moyer stated he would take it on faith that the planning director, planning commission, and city administrator took a lot of time to put together the proposed documents and did not feel it was necessary for staff to take time producing additional documents just for his benefit.

***d. Consider Planning Commission recommendation to adopt an ordinance amending Article 2 of Chapter XVI of the Basehor Municipal Code, incorporating revised Subdivision Regulations.***

Council concurred that the Subdivision Regulation changes would be tabled for review via committee.

***Consider Port Authority Agreement pertaining to Miles Industrial property.***

The city administrator presented Council with an agreement between the City of Basehor and Leavenworth County Port Authority for a shared cost to perform a feasibility study on the Miles Industrial property. Mr. Slaugh explained his just received the document and would need to be added to the agenda.

The city attorney reported he had reviewed the document and did not have any legal issues with it. Council agreed to add to Business agenda during the regular meeting.

a. ***WWTP progress update and pay request #6 from CAS Construction.***

Councilmember Dysart asked if Change Order No. 1 would be included in pay request No. 5 and if Change Order No. 2 would show up on Pay Request No. 6. Mr. Slauch noted the contractor has not made the necessary adjustments to the contract.

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

**REGULAR MEETING – 7:00 p.m.**

**ROLL CALL BY MAYOR TERRY L. HILL AND PLEDGE OF ALLEGIANCE**

The regular meeting was called to order by Mayor Hill. All members were 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. April 20, 2009 Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events
- e. Proclamation - National Police Week May 10-16 & May 15 as Peace Officer's Memorial Day

A motion was made by President Washington and seconded by Councilmember Moyer that Agenda Item 5 Appointments be broke down into categories as stated and add Business Item "k" Consider agreement with Leavenworth County Port Authority:

- 5a City Clerk
- 5b City Attorney
- 5c Chief of Police
- 5d All Full-time Commissioned Police Officers
- 5e Municipal Court Judge
- 5f City Engineer
- 5g City Treasurer
- 5h Municipal Court Clerk (affirm judges appointment)

Motion passed 5-0.

President Washington pointed out a sentence was not complete in the first paragraph of Scheduled Discussion Item "a". The sentence was amended to read "*If not, he would place the KDOT TRF Loan on the next available agenda*". He also pointed out the city

attorney's name was misspelled under Business Item 6(f). (Note: The city clerk researched following the meeting and found that the representative for Blacktop paving was "Zarda" not "Raevie". The April 20<sup>th</sup> minutes have been amended accordingly.)

A motion was made by President Washington and seconded by Councilmember Dysart to approve the Consent with changes as mentioned. 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).

*Dan Lynch (19751 119<sup>th</sup> St.)* appeared on behalf of one of his clients. Mr. Lynch explained the Planning Commission changed regulations prohibiting livestock and was causing his client some issues since they were trying to sell their home. His client built a horse barn and arena and was now requesting that the properties be grandfather in allowing new owners to own horses.

President Washington asked the planning director if there was anything in the zoning regulations that would allow livestock on a certain amount of property. Mr. Smith stated the planning commission did not feel that livestock should be allowed within the city limit any longer. If the property owner discontinued use or the structure was torn down, a new building could not be rebuilt. The city attorney reported it was a typical way of eliminating non-conforming uses. President Washington suggested Mr. Smith review the Overland Park code since they allow livestock.

Mr. Lynch expressed his concern that the new property owner could possibly lose the horse building in a tornado, and according to the current regulations, the building could not be rebuilt. Mr. Smith cautioned council that horses could not be singled out. Mr. Reavey stated statutes prohibit the City from not allowing agriculture uses within the city limits.

Public portion of meeting closed.

### **SCHEDULED DISCUSSION ITEMS**

#### ***a. 2008 Financial Audit report by Lowenthal, Singleton, Webb and Wilson***

Audrey Oderman, Lowenthal, Singleton, Webb and Wilson, went over the prepared 2008 audit.

Councilmember Mertz asked why the City had a violation in the Sewer Fund (page 26, item b). Mrs. Oderman thought the reason for the deficit was due to the amount of draws

taken and the time take. She noted it was not a major issue but should be watched closer in the future.

Mrs. Oderman commended staff noting they worked very hard to implement internal controls and produced necessary paperwork. A building permit log had been implemented within the planning department; however, it had not been reconciled within the general ledger. The city treasurer has now added a column to the log and would be tested during the next audit.

The second recommendation was that bids remain with the city clerk. Mrs. Oderman explained the police car was purchased through a State bid; however, that paperwork was not readily available to the city clerk at the time of audit.

President Washington noted the 2008 audit did not show the new KDHE loan since there were no draws and asked Mrs. Oderman to give her opinion about the City's debt limit. Mrs. Oderman noted it was a high debt and suggested creating a debt management policy. She explained growing city like Basehor would always have a higher debt limit. She would put together some information and forward back to the city administrator for distribution to Council.

#### **ANNUAL APPOINTMENT TO CITY OFFICES**

Mayor Terry Hill made the following appointments:

***a. City Clerk***

A motion was made by President Washington and seconded by Councilmember Dysart to approve the appointment of Mary Mogle as city clerk. Motion passed 5-0.

***b. City Attorney***

A motion was made by President Washington and seconded by Councilmember Mertz to approve the appointment of Patrick Reavey as city attorney. Motion passed 5-0.

***c. Police Chief***

A motion was made by President Washington and seconded by Councilmember Moyer to approve the appointment of Lloyd Martley as police chief. Motion passed 5-0.

***d. All Full-time Commissioned Police Officers***

A motion was made by President Washington and seconded by Councilmember Mertz to approve the appointment of all commissioned full-time police officers. Motion passed 5-0.

***e. Municipal Judge***

A motion was made by Councilmember Dysart and seconded by President Washington to approve the appointment of William "Bill" Pray as municipal judge. Motion passed 5-0.

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to increase the municipal judge's pay from \$250 per session to \$300. Motion passed 5-0.

***g. City Engineer***

A motion was made by President Dysart and seconded by Councilmember Moyer to approve the appointment of Joe McAfee, MHS Engineer as city engineer. Motion passed 5-0.

***h. City Treasurer***

A motion was made by Councilmember Moyer and seconded by President Washington to approve the appointment of Susan Adams as city treasurer. Motion passed 5-0.

***i. Municipal Court Clerk***

A motion was made by President Washington and seconded by Councilmember Dysart to affirm the judges' appointment of Traci Dockery as municipal court clerk. Motion passed 5-0.

***j. Public Defender***

A motion was made by President Washington and seconded by Councilmember Dysart to add the appointment of public defender to the agenda. Motion passed 5-0.

A motion was made by President Washington and seconded by Councilmember Moyer to appoint Jeff Sonntag as public defender. Motion passed 5-0.

***City Prosecutor- deferred to 5/18/09***

***City Administrator – deferred to 5/18/09***

**BUSINESS*****a. WWTP progress update and pay request #6 from CAS Construction.***

Mr. Slauch reported the wastewater treatment plant project was on schedule and thought the project would be completed as bid. Mr. Myracle reported the concrete projects were ahead of schedule and that both clarifiers past leak testing.

A motion was made by President Washington and seconded by Councilmember Moyer to approve Pay Request #6 from CAS Construction LLC in the amount of \$355,944.42 and authorize the mayor or city staff to sign the necessary documents. Motion passed 5-0.

***b. Consider award of bid on the 150<sup>th</sup> Street project.***

Mr. Slaugh reported twelve contractors bid on the 150<sup>th</sup> Street project. The city engineer has reviewed the contractor's "track record", bid, bonds and recommended the bid be awarded [to low bidder Larkin Excavating, Inc.]. An add alternate was bid for trees; however, the difference between separate bids from tree nurseries and Larkin Excavating was minimal so the engineer stayed with the original bidder, Larkin Excavating.

Mr. McAfee stated the two projects, 150<sup>th</sup> Street and Wolf Creek Parkway, would eventually overlap and thought area residents would experience some frustration due to construction. Council discussed utility work schedule, seeding process, and traffic impact to residents.

A motion was made by President Washington and seconded by Councilmember Breuer to approve a notice of award to Larkin Excavating, Inc. for the 150<sup>th</sup> Street project from Craig Road to Parallel Road in the amount of \$665,264.50 and authorize the city engineer to issue a notice to proceed after the required documents are obtained and recorded. Motion passed 5-0.

***c. Consider recommendations from the Planning Commission to adopt an ordinance amending Article 1 of Chapter XVI of the Basehor Municipal Code, incorporating revised Zoning Regulations and adopt the proposed Zoning Regulations.***

***d. Consider Planning Commission recommendation to adopt an ordinance amending Article 2 of Chapter XVI of the Basehor Municipal Code, incorporating revised Subdivision Regulations.***

A motion was made by President Washington and seconded by Councilmember Moyer to table items c & d until May 18 noting that during the work session time direction was given to city planner regarding text amendments. Motion passed 5-0.

***e. Acceptance of the 2008 financial audit report***

A motion was made by Councilmember Mertz and seconded by President Washington to approve the 2008 financial audit report as presented. Motion passed 5-0.

***f. MARC annual dues for 2009***

Mr. Slaugh explained membership to MARC had been controversial in the past; therefore, he felt it was necessary to bring it to Council for action. He commented staff support received from MARC was well worth \$217. Mr. Smith reported he attended numerous MARC training sessions at no charge.

President Washington noted this was a regional organization and felt there was so much in government funds available that may offer an opportunity for Basehor in the future and spoke about a MARC roundtable discussion he participated in at the request of MARC.

A motion was made by President Washington and seconded by Councilmember Moyer to approve the expenditure of \$818 for the MARC membership and training package. Moyer. Motion passed 5-0.

***g. Contractor licensing – ordinance to require contractor licensing within the City of Basehor.***

Contractor licensing would require contractors to be licensed before they could perform work within the city limits of Basehor.

Building Inspector Mark Lee opened the floor to questions. Councilmember Mertz asked if existing area builders were going to be grandfathered. President Washington noted that he thought everyone building in Basehor also built in Johnson County. Builder Jeff Scherer stated he was not licensed in Johnson County and did not support licensing.

Building Inspector Mark Lee reported Johnson County Board of County Commissioners adopted an extraterritorial agreement that would allow other cities to use licensing program. Mr. Lee stated Johnson County informed him he could submit a list of those who would be grandfathered. Council discussed the approval process.

Mr. Reavey reported state statute grants immunity to a City if they tried to make an effort to improve conditions and thought the licensing process would fill the gap that may help eliminate some liability for the City.

Mr. Lee reported this was not a revenue generating mechanism for Johnson County. For \$300, the licensee would receive training, books, and lunch. Mr. Reavey stated it was best that Johnson County provided the training and not the City.

President Washington reported the City was not large enough to perform in-house certification and thought it was a good idea to use Johnson County's program. Councilmember Dysart asked if someone needed work done, would they need to be a licensed contractor. Mr. Lee stated anyone performing services, other than the homeowner, would need to be licensed. Mr. Scherer stated he was not in favor of licensing because he thought it would hurt the "little guy". Councilmember's Breuer and Dysart did not agree with licensing since it would place an addition burden and possible increase in cost of services for residents.

A motion was made by President Washington and seconded by Councilmember Moyer to adopt Ordinance 552 implementing a requirement for contractor licensing within the City of Basehor to become effective July 1, 2009. Motion passed 3-2. Dysart, Breuer voted no.

- h. ~~Adopt annual updates to Uniform Public Offense Code and Standard Traffic Ordinance.~~ (although passed by the legislature the books will not be printed until July or August)***

A motion was made by President Washington and seconded by Councilmember Mertz to table Business Item "h" until the Standard Traffic Ordinance and Public Offense Code are printed after July 1. Motion passed 5-0.

- i. Consider cereal malt beverage license for Wolf Creek Marketplace grocery store, requested by John Bell and Kevin Barclay.***

A motion was made by Councilmember Mertz and seconded by Councilmember Breuer to approve a cereal malt beverage license for Wolf Creek Marketplace grocery store. Motion passed 5-0.

- j. KDOT TRF Loan application approval (pending receipt of application from KDOT) Deferred to May 18.***

Mr. Slauch reported loan papers have not been prepared by KDOT. He stated he has requested KDOT prepared the loans in two separate documents; however, it was questionable whether KDOT was willing to do so. KDOT's legal department was in the process of reviewing Mr. Slaugh's request. Consensus of the council was to use the latest start date possible for the loan, February 2011.

- k. Consider interlocal agreement between the City of Basehor and Leavenworth County Port Authority for a feasibility study on Miles industrial site.***

A motion was made by Councilmember Washington and seconded by Councilmember Mertz to authorize the mayor to sign an agreement between city of Basehor and Leavenworth County Port Authority for payment in the amount of \$11,448.50 for a feasibility study on the Miles industrial site. Motion passed 5-0.

#### **CITY ADMINISTRATOR REPORT**

- May 5 – KDOT will hold a presentation at Bonner Springs High School regarding the K-70/K-7 Interchange Project. A presentation will be held at 5:20 p.m. and 6:20 p.m.
- May 8-9 - Governing Body Institute (Hill, Moyer, and Mertz to attend)
- May 14 – Air and Business Park meeting will be held at the Lansing Community Center. The airport feasibility study would be discussed.
- May 11 Work Session – 2010 Budget and Neighborhood Revitalization Plan would be discussed.

**MAYOR'S REPORT**

Mayor Hill thanked staff for helping him through his first two weeks in office.

YouthFriends – Last week Mayor Hill gave a presentation before the YouthFriends organization at the high school. He encouraged others to become involved in the program.

Mini Planning Session – Mayor Hill asked the city council to check their schedules to see when would be the best time to meet for a mini planning session. This would give an opportunity to set guidelines for meetings and staff direction.

**COUNCIL MEMBER REPORTS****David Breuer**

Glenwood Estates Update - Mr. Slaugh reported he met with the County officials last week. The County agreed to turn in the loan application; however, there was a question if design work could be funded through the KDHE loan. Mr. Slaugh thought the topic of Glenwood Estates and annexation would be brought up either May 8 or June 1 as a work session topic.

**Iris Dysart**

Update on High Point Downs – Mr. McAfee reported he met with Mr. Treff and his attorney Joe Perry. The developer and City were given a letter giving 30 days to rectify the cul-de-sac issues. Mr. Treff was advised by the city attorney that the drainage issue needed to be resolved; however, Mr. Treff did not want to pay any money. Dysart asked if the cul-de-sac issue could be resolved if the maintenance bond had not been released. Mr. McAfee reported one of the cul de sac's was not built on Mr. Treff's property. Mr. Smith reported he had been in contact with the developer with no results.

**Bill Moyer**

Work Session Meeting – Councilmember Moyer inquired as to the possibility of changing the regular work session to 5:30 p.m. He explained the school district would consider meeting thirty-minutes later if the Council met thirty-minutes earlier. This would allow a representative from the city council to attend the school board meetings. He volunteered to attend the meetings and felt it would promote a working relationship with the school district.

Wolf Creek Excise Tax – Councilmember Moyer asked if the Wolf Creek excise tax issue would be on the May 18<sup>th</sup> agenda. President Washington noted the engineer would wait to perform the calculations until the triangle piece of property was platted and approved by KDOT.

Cedar Lake Annexation Update - Mr. Reavey noted Cedar Lake Estates Homes Association filed an appeal so the next step would be to prepare the record. The city clerk will compile the documents; he will review, and then forward to Mr. Orr for his review. Once all documents have been approved by both the City and Mr. Orr, the documents would be forwarded to the court for consideration.

Police Patrol – Councilmember Moyer thanked the police department for their presence in Cedar Lake Estates. He noted since annexation took effect on April 8, police protection from Basehor had improved ten-fold over county service.

### **Dennis Mertz**

Councilmember Mertz reported he was asked by Mr. Johnson to speak in front of the high school Contemporary Issues class about council meetings and the City in general. He noted the students were amazed that there was so much about the city they did not realize.

Councilmember Mertz asked the planning director and building inspector if they had addressed his email from two months ago about continued sidewalk issues. Mr. Smith stated some of the issues are being addressed in the proposed sidewalk plan and subdivision regulations. Mr. Slauch stated he met with the [Pinehurst] homeowners association two weeks ago and told them he would prepare a proposal. Mr. Smith reported as part of the annexation proposal, the City agreed not to change what the County approved.

### **EXECUTIVE SESSION**

A motion was made by Councilmember Dysart and seconded by President Washington to convene into Executive Session for up to twenty-minutes to discuss attorney-client privilege. Motion passed 5-0. The city attorney attended the session. (9:00 p.m.)

A motion was made by President Washington and seconded by Councilmember Breuer to reconvene back into executive session for ten minutes to discuss attorney-client privileged matter and non-elected personnel. Motion passed 5-0. (9:22 p.m.)

Mayor Hill called the regular meeting back to order at 9:35 p.m.

A motion was made by Councilmember Breuer and seconded by President Washington to reconvene back into Executive Session until 9:50 p.m. to discuss personnel. Motion passed 5-0. (9:37 p.m.)

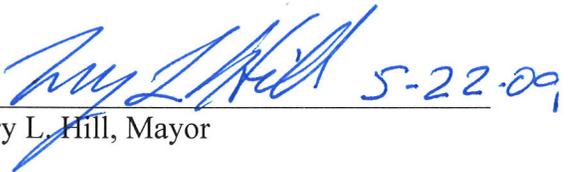
Mayor Hill called the regular meeting back to order at 9:50 p.m.

### **ADJOURNMENT**

A motion was made by President Washington and seconded by Councilmember Moyer to adjourn the May 4<sup>th</sup> Council meeting. Motion passed 5-0. Meeting adjourned at 9:51 p.m.

Submitted for Council approval with/without corrections or additions this 18<sup>th</sup> day of May, 2009.



 5-22-09  
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Terry L. Hill, Mayor

Attest:

  
\_\_\_\_\_  
Mary A. Mogle, City Clerk