

**Minutes**

**BASEHOR CITY COUNCIL**

**June 1, 2009**

**6:00 p.m.**

**Basehor City Hall**

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

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

**Members Absent: none**

**Staff Present: Lloyd Martley, Mary Mogle, Gene Myracle, Dustin Smith,  
Joe McAfee**

**Newspaper: Kaitlyn Syring, *Basehor Sentinel* (regular meeting only)**

---

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

The work session was called to order by Mayor Hill. All members were present with exception of President Washington and Councilmember Breuer. The city attorney was not in attendance.

**Scheduled discussion items.**

***b. Honey Creek Mowing Issues:***

Interim City Administrator Lloyd Martley reported lack of mowing on vacant lots has been an ongoing issue in Honey Creek Farms subdivision. Mr. Martley explained there has been some debate whether it took Council action to hire a contractor or if staff had the authority to make that decision. He did not feel the building inspector should have the right to make the decision to hire whom ever he wanted to and thought bid had already been let for mowing. It was reported, in the past, Pinehurst South had been mowed by the City's public works department and charged back to the property owner. Mayor Hill reported he looked at Honey Creek and it appeared that the majority of the vacant ground was being baled. Council discussed whether it would be more advantageous to use a contractor or use public works department for mowing purposed. *(President Washington arrived at 6:07 p.m.)*

Honey Creek resident reported he was cutting grass on the lot behind him, and although he did not mind, he did not want to continue mowing someone else's property. Mr.

Martley reported there were a few foreclosed homes in Honey Creek that were not being maintained. Another Honey Creek resident reported he spoke with the farmer that baled the property in the past and was informed he would not bale it again due to the poor quality of hay.

Councilmember Dysart noted the property was zoned CP-2 and should not be used as an agricultural use. Mr. McAfee stated many developers leave property in agriculture so they do not have to pay residential taxes. She thought that should be researched to see if it was within the law.

President Washington felt the City should have a staff member decide who the appropriate property was for each lot or tract of land; then notify them that the issue was not abated, the City would mow and place the cost on their property taxes. There were questions as to who would be responsible for maintaining the retention pond. Mr. McAfee noted the City did not have a right to arbitrarily mow without proper notice since the land was not deeded to the City. Mr. Smith reported if the City mowed the retention pond, the charges would be assessed to everybody in the subdivision. *(Councilmember Breuer arrived at 6:19 p.m.)*

Mr. Martley recommended that a contractor be awarded a bid for the duration of this years mowing season. President Washington commended residents of Honey Creek for pulling together to fight the zoning issue and also suggested they form a Homes Association. A Honey Creek resident reported the residents were opposed to a Homes Association.

Mr. Smith stated he wanted to make it clear that different types of grass would be treated in different ways. Mayor Hill stated that was understood.

***c. Revisions to meet format***

Mayor Hill explained he thought the Call to Public could be married in with Scheduled Discussion Items as long as the meeting moved forward.

Councilmember Breuer thought it allowed for good dialogue with the public. President Washington suggested clearing it with the city attorney and felt the speaker's name and address should be recorded when addressing the Governing Body rather than arbitrarily speaking.

Resident George Smith stated as a spectator he would appreciate speaking after Council had discussed the item and before formal action was taken on an issue.

Carole Washington would like to get more people involved in meetings and suggested holding Town Hall meetings.

Mr. Martley reported in the past the city administrator used the laptop during the meeting and asked if they would like to continue that practice. President Washington felt the visual aid was effective for the citizens.

Mr. Martley asked if Council would prefer department heads give a verbal staff report at the end of each regular meeting or continue to provide written weekly reports. The mayor reported by giving verbal reports, it would allow department heads to recap what they were working on both present and future.

***d. Tax Rebate Program***

Mr. Martley reported the building inspector prepared an ordinance regarding the proposed Tax Rebate program. Fairmount Township Fire Department and Basehor-Linwood USD #458 School Board would be meeting in the next couple of weeks to discuss the proposed tax rebate program. Councilmember Breuer did not feel the City was ready to pass an ordinance and felt additional discussion was necessary.

President Washington attended the Board of County Commissioners meeting where they discussed the Tax Rebate program. No decisions were made at the meeting. Councilmember Breuer reported other communities have successfully run programs similar to the program proposed by Basehor.

Mr. Flower reported the county commissioners had two concerns 1) statutory authority; and 2) how to structure the program. President Washington reported the school district reported they would lose approximately \$145 per student if the program were implemented; however, they felt they would recoup their losses back in time by spurring the housing market.

***e. MARCIT Contract Agreement***

Mr. Martley reported according to MARCIT bylaws, the City had to give a 90-day cancellation notice (April 1<sup>st</sup>) in order to change dental insurance providers. If proper notice was not given, the City would be required to pay a 25% premium penalty from July 1, 2009 through April 1, 2010. He explained MARCIT performed an analysis comparing BCBS and MARCIT benefits and submitted a bid that was twenty-seven cents lower than BCBS; however, it did not include braces and would reduce the lifetime benefit to \$750. The current MARCIT plan included braces and the premium did not increase for 2009-2010 coverage year.

Council thought staying with the current MARCIT plan would be better for those employees who were on the family plan based on the cost of braces.

***f. Relocation of Suburban water line and City sewer force main at the junction of Wolf Creek Parkway and 150<sup>th</sup> Street.***

Mr. Martley reported Wolf Creek Junction needed the water line moved before they could open. Mike Breuer, Suburban Water, asked for a drawing of where the lines need to go and receipt of a signed contract. The city engineer explained the relocation of lines was discussed earlier in the year; however, no decision could be made since there was no

way of knowing where the street would shift to the north. When 150<sup>th</sup> becomes realigned, the water line on the west side of 150<sup>th</sup> Street would need to be relocated at that point. MKEC has been asked to put together a plan and cost estimate. Mr. Martley explained the city was reluctant to sign a contract until bids were let. Mike Breuer, Suburban Water, stated he would like to get a letter giving authorizing for them to move ahead with design work. Mr. McAfee reported the project would have to be bid since it would be paid from the KDOT loan project. He informed Council to expect a change order for the water line relocation.

Five-minute break (7:00 p.m.)

### **REGULAR MEETING – 7:00 p.m.**

#### **ROLL CALL BY MAYOR TERRY HILL AND PLEDGE OF ALLEGIANCE**

The regular meeting was called to order at 7:09 p.m. with all members present. The city attorney was not in attendance.

Presentation – City Clerk and Municipal Finance Officer (CCMFOA) Region VII Chairperson, Lana McPherson, presented city clerk Mary Mogle with a certificate and pin from General Code of New York for her participation and work at the local, regional, and State level.

#### **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. May 18, 2009 Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events
- e. Approve city administrator's resignation and severance agreement

A motion was made by Councilmember Dysart and seconded by Councilmember Moyer to approve the Consent Agenda as printed. 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).

**Kevin Barclay (4301 N. 141<sup>st</sup> Ct)** reported the [Wolf Creek Marketplace] store should open in about three weeks. Over 400 employment applications have been received and anticipate hiring approximately 94 people. They hope to start setting up non-perishable groceries in approximately two weeks and perishable items would be delivered the day before the store opening. The parking lot was currently under construction.

**Ed McIntosh (15395 Briar Rd)** explained Blacktop Paving provided a bid for the sewer line; however, water line issues still needed to be resolved. Mr. McIntosh reported the street project was moving forward and that the west part of the project would be ready when the grocery store opens; however, the east side would not be ready for about two weeks after the store opens. He explained his development included two water companies, Rural Water District No. 1 and Suburban Water which had been a challenge.

**Sandra Grimes (15402 Crimson, Pinehurst South)** reported there are several bankruptcy properties in Pinehurst Estates. Some property owners have graciously mowed around the detention pond. She felt the residents of Honey Creek would have to unite in creating a Homes Association in order to take care of some their problems.

Closed public portion of meeting.

A motion was made by President Washington and seconded by Councilmember Moyer to amend the agenda as follows:

*“a(1).” Consider confirmation of mayor’s appointment of planning commission member.*

*“f.” Consider contract with KiAnn McBratney for city prosecutor services.*

*“g”. Consider changing dental insurance provider from BCBS to MARCIT.*

*“h.” Consider bid from Consolidated Rural Water District No. 1 to install water lines in Wolf Creek Phase II and be paid from TRF-0125 Loan funding.*

*“i” Consider CAS Construction payment request no. 8.*

Motion passed 5-0.

## **SCHEDULED DISCUSSION ITEMS**

### ***a. LCDC Quarterly Report***

Steve Jack, LCDC Executive Director, gave a quarterly update via PowerPoint. LCDC work with federal and state legislators for funding, area Chamber of Commerce, and other economic development organizations to promote Leavenworth County cities. Mr. Jack explained the projects they were working on and upcoming events.

Also present was LCDC president Chuck Peterson and Economic Development Coordinator Victoria Rowley.

Councilmember Breuer asked how many businesses located in Basehor that derived from contacts made by LCDC. Mr. Jack reported Lawrence Hydraulic located in Basehor. Councilmember Moyer reported he would be meeting with the owners of Snap Fitness about locating to Basehor and invited LCDC to attend.. He thought LCDC could possibly assist in the companies needs.

- b. *Honey Creek Mowing Issues***
- c. *Revision to meeting format***
- d. *Tax Rebate Program***
- e. *MARCIT Contract agreement***
- f. *Relocation of Suburban water line and City sewer force main at the junction of Wolf Creek Parkway and 150<sup>th</sup> Street.***

Items “b” through “f” were discussed during the work session.

## **BUSINESS**

- a. *Consider increase in pay for KU MPA intern***

The recommendation was to increase the intern pay to \$13.00 per hour. Interviews for the next intern would be held later in the week.

A motion was made by President Washington and seconded by Councilmember Mertz to increase the intern hourly rate from \$11.00 to \$13.00 per hour. Motion passed 5-0.

- a(1) *Consider confirmation of mayor’s appointment of planning commission member.***

Mayor Hill submitted the name of Russell “Rusty” Jacobson to fill the vacant position of Jason Logsdon who would officially resign effective June 3, 2009.

Mr. Jacobson gave a summary of his background and expressed his desire to serve the community as a planning commission member.

A motion was made by Councilmember Breuer and seconded by Councilmember Dysart to confirm the mayor’s appointment of Russell “Rusty” Jacobson to fill the vacant term of Jason Logsdon. Motion passed 5-0.

- b. *Consider authorizing mayor to sign contract with LKM and authorize funds in accordance with Part III of proposed contract for city administrator search.***

Mr. Martley pointed out that advertising costs were not included in Part III of the contract. That spurred him to contact LKM for an estimated cost and was advised it normally averaged around \$2,000.

A motion was made by Councilmember Mertz and seconded by President Washington to authorize the mayor to sign contract with LKM and authorize funds in accordance with Part III of the contract. Motion passed 5-0.

***c. Change of Zoning and Preliminary Development Plan for Creek Ridge, Phase IV (Tract D), as requested by Jeff Scherer.***

Planning Director Dustin Smith gave a general overview of the Creek Ridge, Phase IV project. The zoning request was to change from R-3 Multi-Family Residential to PR Planned Residential. It was the developer's intent to build apartments on approximately 4.4 acres. Mr. Smith reported the Development Plan met current regulations. He explained earlier the Development Plan was drafted under the proposed point system; however, the point system had yet to be adopted.

Councilmember Moyer asked if this plan would affect the trail on Miles property. Mr. Smith stated negotiations started early with Mr. Scherer to run a trail on his property in case negotiations failed with Mr. Miles. Mr. McAfee stated the trail might not be workable on the Miles property so this would provide the City with an additional option. Mayor Hill asked if the City would incur any expense with this synopsis. Mr. Smith stated the only expense would be the construction of the trail; however, if the City chose not to build the trail on Mr. Scherer's property, no cost would be incurred. Mr. McAfee reported the City was not going to lose anything by having easements on both properties since the Miles property still had to address detention basins issues.

President Washington pointed out a provision in the Development Plan that read the City would waive park fees in exchange for the trail easement and expressed his reluctance to vote for the project due to the lack of parking. Mr. Smith reported 98 parking spaces were proposed and regulations only require 96 spaces for 64 units. President Washington noted the regulations should be amended before approving another development.

Councilmember Moyer asked Mr. Scherer if the [renter's] lease had language regarding parking spaces. Mr. Scherer reported currently there was no regulation unless they wanted a covered parking space.

Mr. McAfee noted it would be difficult to deny the request since it met code and suggested updating the regulations.

Councilmember Mertz pointed out the density would allow for 688 sq. ft. apartments which would be a variance from the current code. Mr. Smith agreed.

Developer Jeff Scherer (1706 N. 150<sup>th</sup> St.) reported the park fees he would normally pay to the City would be used to build a park area within the development. It was pointed out that park fees are used for public parks and that Creek Ridge was a private development.

Councilmember Mertz asked if Mr. Scherer would be willing to give the City right-of-way in lieu of waiving park fees. Mr. Scherer reported his discussion with the previous city administrator was that money was available to purchase right-of-way for trails as option 2. Mr. Scherer noted he was not willing to give ROW.

Councilmember Breuer asked the city engineer if he reviewed the flood plain. Mr. McAfee reported staff members reviewed it on a preliminary basis only and explained the steps they have taken to this point. He pointed out that all detention was located on Miles property and none located on Creek Ridge due to the way the land laid.

A motion was made by President Washington and seconded by Councilmember Dysart to approve the change of zoning from R-3 Multi-Family to PR Planned Residential. Motion passed 5-0.

A motion was made by President Washington and seconded by Councilmember Moyer to approve the Development Plan subject to conditions placed by the Planning Commission. Motion passed 6-0 (mayor voted).

ORD. 555 -

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BASEHOR, KANSAS BY REZONING CERTAIN PROPERTY, AS DESCRIBED BELOW, IN THE CITY OF BASEHOR, KANSAS KNOWN AS TRACT D OF THE CREEK RIDGE SUBDIVISION FROM R-3, MULTI-FAMILY RESIDENTIAL TO PR, PLANNED RESIDENTIAL, AND A PRELIMINARY DEVELOPMENT PLAN, AS REQUESTED BY SCHERER CONSTRUCTION.

***d. Preliminary Plat for Creek Ridge, Phase IV (Tract D), as requested by Jeff Scherer.***

A motion was made by President Washington and seconded by Councilmember Moyer to approve the Planning Commission's recommended to accept the Preliminary Plat for Creek Ridge, Phase IV. Motion passed 5-0.

***e. Consider temporary agreement for interim city administrator position.***

The proposed temporary agreement would authorize the appointment of police chief Lloyd Martley as interim city administrator and grant certain level of authority, duties, and pay for that position.

A motion was made by Councilmember Mertz and seconded by President Washington to approve Resolution 2009-09 as written. Motion passed 5-0.

RES. 2009-09 -

***A RESOLUTION PROVIDING FOR PERFORMANCE OF CITY ADMINISTRATOR DUTIES UNTIL NEW CITY ADMINISTRATOR IS HIRED***

***f. Consider contract with KiAnn McBratney for city prosecutor services.***

Mr. Martley reported the proposed contract would pay city prosecutor KiAnn McBratney \$85.00 per hour and guarantee her a \$400 minimum salary during her one year appointment.

A motion was made by Councilmember Mertz and seconded by Councilmember Breuer to approve the contract with KiAnn McBratney for city prosecutor services as stipulated in the contract. Motion passed 5-0.

***g. Consider changing dental insurance provider from BCBS to MARCIT.***

A motion was made by Councilmember Dysart and seconded by President Washington to remain with the existing MARCIT plan and pay the rate of \$31.00 per employee. Motion passed 5-0.

***h. Consider bid from Consolidated Rural Water District No. 1 to install water lines in Wolf Creek Phase II and be paid from TRF-0125 Loan funding.***

Consolidated Rural Water District No. 1 submitted a bid in the amount of \$63,687.59 to install a water line in Wolf Creek Phase II development. The work would be paid from TRF-0125 KDOT loan proceeds. Motion passed 5-0.

***i. Consider CAS Construction payment request no. 8.***

Mr. Myracle reported the project was on schedule and gave an update on completed work to date.

Councilmember Dysart reported Mr. Keller informed her the City would end up with a \$53,000 credit and she asked why the City would pay over \$207,000 when there should be a credit. Mr. Myracle explained the change orders would show up on the paperwork; however, adjustments would not show up until the end of the project. It was suggested that Mr. Keller or a representative from CAS Construction attend a future work session.

A motion was made by President Washington and seconded by Councilmember Breuer to approve payment as listed in vendor listing [\$486,420.08]. Motion passed 5-0.

## **INTERIM CITY ADMINISTRATOR REPORT**

Mr. Martley thanked Council for their confidence and support as interim city administrator.

## **MAYOR'S REPORT**

Mayor Hill stated he would like to discuss modifying the council agenda format at a work session in the near future.

**COUNCIL MEMBER REPORTS****Dennis Mertz**

Councilmember Mertz thanked Mayor Hill and his wife Chris for their donation to the fifth grade class; which allowed them to take a field trip.

**Bill Moyer**

Councilmember Moyer asked if the severance agreement was open record. President Washington noted it was closed agreement in accordance with Kansas Open Records Act. Mayor Hill noted that was contrary to what the city attorney had told him. President Washington stated he disagreed and would address that with the city attorney if necessary.

**Jim Washington**

President Washington requested a fifteen-minute Executive Session to discuss land acquisition.

Storm Shelter - The school district applied to FEMA for a grant to build the Fitness Center. In order to use FEMA funding, the building would have to be used as an emergency storm shelter. Mr. Flower reported the grant was approved by FEMA.

Liaison to School District – President Washington informed assistant school superintendent David Howard that council members would be assuming duties as liaisons on certain project such as the proposed Tax Rebate program.

Annexation Laws – The governor vetoed the “midnight madness” law that was passed by legislature at 2:30 a.m. regarding changes to the annexation law.

Town Hall Meeting - Last Wednesday President Washington attended a town hall meeting hosted by Senator Roberts regarding the possibility of relocating Guantanamo Bay prisoners to Fort Leavenworth. He spoke in opposition on behalf on the City of Basehor.

**Iris Dysart**

Recycling Program – Councilmember Dysart asked the city clerk to give an update on the area recycling program. Mrs. Mogle reported the school district was very receptive to Deffenbaugh Disposal’s school recycling program. Special recycling dumpsters would be located at each school in the district with Deffenbaugh Disposal paying the school district \$12.50 for every ton of recycling material collected. The school district was very interested since they currently use the money they collect on recycling paper for extracurricular activities. The dumpsters would be available to residents 24 hours a day, seven days a week; which was a better solution than once a month as previously offered

by the County. If the City chose to mandate recycling to every household Deffenbaugh would charge \$2.50 per household and if the residents were billed individually and recycled voluntarily, the charge would be \$4.50.

Treff Property - Councilmember Dysart reported Mr. Treff called her and asked when the City was going to take care of his issues regarding the cul de sac and dirt pile. She reported she read to Mr. Treff, the city attorney's statement from previous minutes that it was not the City's responsibility. Mr. McAfee reported this was a developer issue and a civil matter between Mr. Treff and the developer.

Councilmember Mertz reported the city attorney was given a directive to write a letter to Mr. Treff. Mayor Hill reported Mr. Reavey would write the letter. Mr. McAfee reported Mr. Treff could take a small portion of the cul de sac out; however, the city would need to build wings so the fire trucks could turn around. She felt the City should do something to help Mr. Treff. Mayor Hill noted the City needed to be very careful how far the City went with the "good Samaritan" act.

### **David Breuer**

Councilmember Breuer addressed the tax rebate program and asked for council direction. Councilmember Mertz reported he met with the building inspector to go over the proposed rebate program and was under the impression that a revised plan was to set a number of lots rather than a time frame.

### **EXECUTIVE SESSION**

A motion was made by President Washington and seconded by Councilmember Mertz to convene into Executive Session for up to fifteen minutes to discuss land acquisition. Motion passed 5-0. (9:23 p.m.)

Back at 9:34 p.m.

Mr. Myracle reported he had a cost proposal from CAS Construction to connect the 10" sewer force main from the Basehor Town Center lift station into the existing 12" line. He questioned if the cost should be absorbed through the Basehor Town Center benefit district or charged to the school district. Approximate project cost would be around \$18,000. Contractors Ron Mears or CAS Construction could be used for the project. The need for relocation was not considered prior to Burns & McDonnell designing the wastewater plant expansion.

President Washington reported the cost was generated by the project and should be paid by the benefit district. Mr. Myracle thought Level-4 Engineering would want to design the line since they were the project engineers. The 10" sewer line comes across the road and will connect into the 12" line, then go into an 8" metering pit. Councilmember Breuer did not feel it was necessary to pay for design work. He also thought the City should consider the fact that if Level-4 Engineering and MHS Engineers both performed

the work, it would constitute double billing. He felt a survey for ROW should be done, but nothing else.

Councilmember Mertz reported he would like to hear an update of the 155<sup>th</sup> Street work from Level-4 Engineering or a the school district's project manager. Mayor Hill asked Mr. Martley to make the arrangements.

**ADJOURNMENT**

There being no further business to discuss, a motion was made by Councilmember Breuer and seconded by Councilmember Dysart to adjourn the June 1, 2009 regular meeting. Motion passed 5-0. Meeting adjourned at 9:40 p.m.

Submitted for Council approval with/without corrections or additions this 15<sup>th</sup> day of June, 2009.



Attest:

  
\_\_\_\_\_  
Terry L. Hill, Mayor

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