Minutes

BASEHOR CITY COUNCIL
July 6, 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
Members Absent: Bill Moyer

Staff Present: Lloyd Martley, Mary Mogle, Gene Myracle, Joe McAfee, Patrick Reavey

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

WORK SESSION - 6:00 p.m.

The work session was called to order with all members present with the exception of Councilmember Moyer. The city attorney was in attendance.

a. Discuss 150th Street right of way acquisition

Mayor Hill explained when the City met with KDOT they agreed to reimburse the City for purchase of a triangle piece of property and to date, the City had not received reimbursement because the property was not in the City of Basehor's name.

John Bell, 18400 175th St., part owner in Basehor Properties, asked if the City was waiting for Basehor Properties to sign over right of way (ROW). President Washington stated his interpretation of the agreement was that KDOT required the entire piece of property to be deeded to the City, not just the right of way. Once the property was deeded to the City, the City would extract the ROW and deed the remaining property back to Basehor Properties with a clean title once the property was platted and vowed to vote against payments to contractors until the loan (TRF 0125) was signed and the property deeded back to the City. Mr. Bell was concern that the City would not give the old ROW back to the Basehor Properties.

Councilmember Breuer asked if the State would release the money if just the ROW was deeded to the City. President Washington said his understanding of the agreement was the entire property needed to be deeded to the City.

Mr. McIntosh stated he was willing to do whatever it took to work with the City but wanted to make sure his interest was protected as well and wanted to know what

guarantee he had that he would get his property back. City attorney Patrick Reavey stated the City would have to go through the process of vacating the old ROW to Basehor Properties and that State statues state if it is designated ROW, it is considered to be held in trust and described in KSA 12-504.

Mayor Hill said he was trying to understand why the ROW had not been titled back to the City so they could get the funds released from KDOT that had already been paid out for a piece of property that they do not have ownership. Mr. McIntosh stated he was still moving forward and read Section d of the agreement explaining it was his interpretation that the City had to agree to the TRF 0126 loan first. Mr. Reavey explained the original agreement was drafted based on the fact that the City had the intention of moving forward with both loans; TRF 0125 and TRF 0126 loan. Mr. McIntosh stated his concern was that the City may not improve 150th Street [intersection]. Mr. Reavey noted there was no obligation on the City's part to pay outstanding invoices until the property was acquired.

Mr. McIntosh stated the former city administrator was told by KDOT that the money would be released when bills were submitted. Mr. Reavey explained the City would loose immunity if they did not own both pieces of property.

President Washington reported, in a previous meeting, the Council voted to go with both loans. Mayor Hill explained there was a timetable to close the loan so the City needed to move forward as well. Mr. Bell stated he would speak with his attorney Christine Bushyhead to see if there is a way to work out a solution that would be fair to both City and Basehor Properties.

Mr. McAfee stated there was a $325,000 grant that would pay for engineering of 150th St but would not pay for ROW until the City owned it. He suggested striking a joint agreement that Ed [Basehor Properties] give ROW and the City gives Basehor Properties the deed to the old 150th Street ROW.

Mr. Martley reported the $325,000 was ready to be released and TRF 0125 would close in a week or so.

Mr. McIntosh explained the next step was to finalize design work, get funding in place, and obtain a commitment to build from the City.

Mayor Hill stated KDOT representatives said there was no connection between the grant and the TRF 0126. Mr. McIntosh stated once he gets assurance the City is going to build the 150th St. intersection; then he would deed the ROW. KDOT would not have plans ready for about 60 days. Mr. Reavey stated if Council committed to building 150th Street everything would be in place, but that had not happened yet. Mr. Reavey suggested discussing the matter in Executive Session.

b. Discuss agenda items

b. Consider payments for work completed on Wolf Creek Parkway

Councilmember Mertz asked why H. E. Miller billed $96,000 for work performed when the contract was issued to Blacktop Paving and why two years of interest was charged by Mac's Fence for concrete pillars. Mr. McAfee reported the City was aware that H. E. Miller was performing work. Mr. Bell stated interest should not have been billed and would see that the invoice was corrected and suggested including that in the motion if bills were authorized for payment at this meeting.

Council discussed the fact that there were several amounts listed on the reports; however, supporting voices were missing. Mr. McAfee reported the engineer and contractors were working on providing the documentation.

Councilmember Dysart asked why bills were being submitted that were four years old and asked if they were retroactive. Mr. McAfee stated the bills have been paid by Benchmark and once the TDD was approved, Mr. McIntosh was within his rights to apply for reimbursement. Mr. Reavey reported the amendment to the TDD allowed for reimbursement. She felt the loan would be short funds. Mr. McAfee reported the retaining walls and landscaping would be at the developer's expense if the loan exceeded $1.5 million.

Mayor Hill restated the City would be pay vendors direct as well as reimburse Benchmark for their costs associated with the TDD once the triangle property was deeded over to the City and KDOT closed the TRF 0125 loan.

Five-minute recess (7:04 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 7:12 p.m. by Mayor Hill with all members present with the exception of Councilmember Moyer. 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. June 8, 2008 Work Session
   2. June 15, 2009 Regular Meeting
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

Councilmember Mertz asked that paragraph 4, page 5 of 6 of the June 15, 2009 minutes should read *"Item "f" was acted on during the regular meeting and after the public hearing."*

A motion was made by Councilmember Dysart and seconded by Councilmember Mertz to approve the Consent Agenda with the aforementioned corrections. President Washington abstained explaining he was out of town and did not attend the meeting. Motion passed 3-0. (Note abstention counts toward the prevailing side.)

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. 141st Ct.) reported the grocery store was anticipated to open next Wednesday (June 15). They are in the process of bringing in dry groceries and training 108 employees.

Gene Tate (16905 Tucker Ct) reported on the uncut weeds and grass in Honey Creek subdivision. Mr. Tate announced some work was performed; however, there was a lot of debris that was not picked up by the contractor. Currently there are 47" thistles on the property adjoining his property and did not feel the property owner had intentions of baling the property as promised. Mr. Tate noted he had to fumigate his home on several occasions due to mice and insects. The city code calls for weeds to be cut when they reach 12" or higher and encouraged the police department to issue citations to the property owners. The problem was a serious violation of code and should be eradicated.

Mr. Martley reported a contract was in place and he would get with the contractor to mow. Mr. Smith reported it was not that simple because there were other properties with prairie grass and were allowed to bale rather than mow and cited the Mussett property as an example. However, if there was a lot located between two homes the City required the property be mowed.

Councilmember Breuer reported Mr. Mussett's property was not platted so that would be a difference. Councilmember Dysart stated she did not understand why the City would allow the ground to be baled if it was platted and zoned something other than agricultural.

Public portion of meeting closed.

BUSINESS

A motion was made by President Washington and seconded by Councilmember Mertz to add item "f." Consider modification of certain job classes in city wage matrix. Motion passed 4-0.

A motion was made by President Washington and seconded by Councilmember Breuer to go into Executive Session between items "a" & "b" to discuss attorney-client privilege matters not to exceed 15 minutes. The city attorney requested 20 minutes. President Washington modified his motion to 20 minutes. Motion passed 4-0.

Councilmember Breuer asked that Sewer District No. 3 be discussed during his report.

Mr. Smith reported he had a document that required Council approval allowing the City to use a consultant to write the City's portion of the Hazardous Mitigation Plan for the County.

A motion was made by President Washington and seconded by Councilmember Dysart to add item "g". Consider Hazard Mitigation Plan authorization for consulting work. Motion passed 4-0.

a. Consider payment to CAS Construction for work performed on wastewater treatment facility plant expansion, KDHE Loan C20-1767-01

Jeff Keller, Burns & McDonnell, gave an update on the project via PowerPoint presentation. He advised the Council the project was around $51,000 under original contract price and change order #3 would be presented soon as another deduction was made. The project is approximately 26 days ahead of schedule; however, with the change in the building,, the contractor may request that the contract be extended. Mr. Keller ended his presentation noting that both change orders were included in the pay request and the equipment was a large amount of the pay request.

A motion was made by President Washington and seconded by Councilmember Dysart to approve payment to CAS Construction in the amount of $494,760.23. Motion passed 4-0.

EXECUTIVE SESSION

President Washington reported a motion to go into Executive Session was preapproved earlier in the meeting. Council convened into Executive Session at 7:39 p.m. Mayor Hill announced Council would return at 7:59 p.m. The city attorney attended the session.

Mayor Hill called the regular meeting back to order at 7:59 p.m.

President Washington announced the city attorney has requested additional time in Executive Session. A motion was made by President Washington and seconded by Councilmember Dysart to convene back into Executive Session to discuss attorney-client privileged matter not to exceed 15 minutes. Motion passed 4-0. Mayor Hill announced the regular meeting would reconvene at 8:20 p.m. The city attorney attended the session.

At 8:15 p.m., the regular meeting was called back to order.

b. Consider payments for work completed on Wolf Creek Parkway project, TRF 0125 Loan

A motion was made by President Washington and seconded by Councilmember Dysart to authorize staff and mayor to pay Blacktop Paving for Item b only upon receipt of proper AIA forms approved by the city engineer. Motion passed 4-0.

A motion was made by President Washington and seconded by Councilmember Dysart moved that the city attorney be directed to meet and negotiate with attorneys with related companies of Basehor Properties, Wolf Creek Marketplace to acquire clear title to ROW property. Motion passed 4-0.

c. Consider payment for Triangle Land Acquisition and Engineering Fees, KDOT Agreement 331-08

A motion was made by President Washington and seconded by Councilmember Mertz to table item "c" pending report back from city attorney. Motion passed 4-0.

d. Consider payment to Blacktop Paving & Construction for work on Wolf Creek Parkway project. TRF 0125. (invoice submitted separate from Business Item "b")

A motion was made by President Washington and seconded by Councilmember Breuer to authorize staff and mayor to pay invoice under item "d" upon receipt of completed AIA form approved by city engineer. Motion passed 4-0.

e. Consider 2009 Pavement Management Plan

Mr. McAfee reported that MHS Engineer had completed their inspection and modeling update. The streets not on the list are newer subdivisions and are in good shape. The number 1 street selected was originally ranked #27; however, Pebble Drive in the Iron Creek Subdivision had numerous work performed on it and still needed repaired properly. He explained costs could not be discussed since the project would go out for bid in a couple of weeks. Elm Street was the second street selected in an effort to correct the drainage issue and repair curbs in an effort to redirect water. 150th Terr. was not on the list; however, there were two significant trench settlement and was a safety situation.

1. Elm Street (Post Office – 155th St.)
2. Pebble Drive (155th Terr – 155th St.)
3. 158th Street (Willow – Hickory)
4. 150th Terrace (Lake Side – Craig St.)

2nd Group - If funds allowed:

1. 157th Terr.
2. 158th St
3. 158th Terr.
4. Pin Oak Drive
5. 157th Terr Ct.
6. Poplar from 155th – 154th

If Council agreed, Mr. McAfee would have plans ready for contractors to pick up Wednesday and have the bid opening on July 20th and provide bids at the meeting that evening. Council consensus was to move forward. No motion made at this time.

f. Consider amendment to pay matrix for city administrator position.

A motion was made by President Washington and seconded by Councilmember Breuer to amend the pay matrix for the city administrator start at current level and extend to $110,000 top level with the steps being equally distributed between the two limits. Motion passed 4-0.

g. Consider authorization to use a consultant to write Hazardous Mitigation Plan

A motion was made by President Washington and seconded by Councilmember Mertz to authorize the mayor to sign agreement allowing for a consultant to write the Hazardous Mitigation Plan. Motion passed 4-0.

Mr. Smith reported the consultant would be paid by Leavenworth County.

CITY ADMINISTRATOR REPORT

No report at this time.

MAYOR'S REPORT

Mayor Hill reported he participated in his first Fourth of July parade as mayor noting children lined the streets with bags waiting for candy to be tossed. The children were disappointed since it was not allowed and felt that should be rectified next year by doing a better job of distributing candy.

COUNCIL MEMBER REPORTS

David Breuer

Councilmember Breuer reported he met with the Board of County Commissioners (BOCC) to discuss Sewer District No. 3 for Glenwood Estates. He reported he was not aware of an interlocal agreement that was part of the school district's plan when they started building the middle school. It is anticipated to cost around $1.6 million to retire the lagoon.

Mr. Myracle reported there had been numerous discussions regarding the route the sanitary sewer were go in an effort to gravity flow the sewer. President Washington stated it was his understanding it was a done deal to run the line to the Pinehurst lift station.. Councilmember Breuer reported there was discussion to construct a force main down 158th Street to the lift station at 166th Street. He explained that would be about a $300,000 cost savings; however, there would be an additional cost to the residents of Glenwood.

Mr. McAfee thought the County was asking the City to reduce connection fees.

Mr. Flower reported the City chose gravity feed because it had an opportunity for future expansion and would cost about $1.7-$1.8 million. If annexed, that would increase the City's valuation by $28 million. He explained going down 158th Street it would service the schools and Glenwood, but not future development. That solution would not bring on the benefits of the gravity feed and would save the residents of Glenwood about $200 less a year per household.

Councilmember Mertz commented it would not cover the expanded part of Glenwood Estates.

Councilmember Breuer explained the developer would put gravity flow in at the time of development.

President Washington reported the consensus of the council was that connection would not be allowed without annexation and was not in favor of one-shot solutions because they were always more expensive in the long run.

Mr. Flower reported he thought staff and council would need direction that they were authorized to enter into those negations to use gravity feed and mitigate costs.

Councilmember Breuer reported the project costs would be a tremendous burden on the residents because of the developer and that the developer was made aware by KDHE that the lagoons were a temporary solution. Mr. Myracle reported the City looked at the cost of the bringing in property to the east.

Mr. Flower stated there was an option brought forward to the Ponzer-Youngquist study that had a price tag and was not considered. Other options need to be explored since the City received a KDHE loan on the basis they service the south side of 24/40. The City and County need to work together to mitigate the cost for the residents. Mayor Hill reported the City already decided the line should be gravity feed; however, he was open to ways to mitigate the cost to the homeowners.

Councilmember Breuer had an issue with building a line across the developer's land when he has access to connect if the line extended down 158th Street. The developer would be charged an impact fee at the time of connection that would go toward the loan amount.

Councilmember Breuer reported the school district has some options; however, they would cost over $250,000 and suggested discussion continue at the July 13th work session and requested the city attorney be present.

Dennis Mertz

Councilmember Mertz report he attended KOMA/KORA training put on by the Attorney General's office and thought it was very helpful. He also requested MKEC attend the next meeting to give an update on the Wolf Creek Parkway project.

EXECUTIVE SESSION

A motion was made by President Washington and seconded by Councilmember Dysart to convene into Executive Session not to exceed 30 minutes to discuss non-elected personnel issues. (9:00 p.m.) Mayor Hill announced the council would reconvene at 9:30 p.m. The city attorney did not attend the session.

Mayor Hill called the regular meeting back to order at 9:25 p.m.

No action taken

ADJOURNMENT

There being no further business to discuss, a motion was made by President Washington and seconded by Councilmember Mertz to adjourn the July 6, 2009 regular meeting. Motion passed 4-0. Meeting adjourned at 9:26 p.m.

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

SEAL OF THE CITY OF BASEHOR, KANSAS
CORPORATE SEAL

Terry L. Hill, Mayor

Attest:

Mary A. Mogle, City Clerk