

**Minutes**

**BASEHOR CITY COUNCIL**

**July 20, 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,  
and Bill Moyer**

**Members Absent: none**

**Staff Present: Lloyd Martley, Mary Mogle, Gene Myracle, Matt Henderson**

**Other Dignitaries Present: John Flower, J. C. Tellefson, Clyde Graeber, BOCC**

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

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

The work session was called to order with all members present. The city attorney was in attendance.

**Scheduled discussion items.**

***a. MKEC Engineering – Update on Wolf Creek Parkway project***

Mr. Martley reported MKEC representative was unable to attend but provided a summary report of the Wolf Creek Junction and 150<sup>th</sup> Street & 24/40 projects:

*(extracted from summary report dated 7/20/09)*

- 24/40 & 150<sup>th</sup> St Intersection
  - Field Check Plans are being posted on KDOT's FTP site today.
  - KDOT will review these plans.
  - Following their review they will issue right of way plans (utilized in obtaining additional right of way) as necessary
  - Construction plans will follow.
- Wolf Creek Junction
  - Construction is underway to construct the originally approved set of plans.

- Construction has been completed through the eastern most entrance to Wolf Creek Marketplace.
- Construction will continue east to Station 23+40.
- Realigned Wolf Creek Junction
  - Construction plans for the realigned section of Wolf Creek Parkway have been submitted to the City on March 3, 2009.
  - The City's engineer (MHS) will produce a full review of the 150<sup>th</sup> Street section of the plans while KDOT reviews the field check plans.
  - Once approved Wolf Creek Parkway will be constructed to 150<sup>th</sup> Street.

***b. Matt Henderson, MHS Engineering – Review of life cycle study for Sewer District No. 3 extension***

Mr. Henderson provided Council with three maps showing the boundaries of Sewer District No. 3, Option A, and Option B. He explained the maps in detail noting that back on June 26<sup>th</sup> a feasibility study was provided. A life cycle study was in the works but needed additional time to finalize the report.

President Washington noted he had issues with a conflict of interest with MHS Engineering working for both the city and county and felt this concern should be discussed in Executive Session when Mr. McAfee was available. He thought in terms of mitigating costs for residents of Glenwood should also be discussed at a later date and asked if Council took action on August 3, would the school district meet their opening date.

Mr. Henderson reported with Option A, the opening date may need to be extended. Councilmember Mertz reported he had met with county officials and engineering staff and felt a long term solution would be to creating an interlocal agreement between the City and school district. If both entities provide \$200,000 each in conjunction with the special assessment already being assessed to the Glenwood residents, this would allow Option A to be constructed which was a better solution for everyone involved. This would be contingent on voluntary annexation and the county maintaining the roads for another five years.

Mayor Hill said he had a need for an accounting decision and wanted to know what was more cost effective for all involved. President Washington suggested providing a 20-25 year life cycle report rather than a 30-year report. Commissioner Flower pointed out under Plan B the sewer district would remain the current size with the addition of the school. People that could be served, would basically be those that were on it, and Plan A would allow for more to be serviced and the City and School district to recoup costs. If Plan B were chosen, the City would not be allowed to recover any costs.

Commissioner Tellefson did not feel there would be any dispute that Plan A was a better plan for Basehor and the community overall; however, the land has not been purchased yet and there would be a time issue in acquiring the necessary easements. He felt a \$2,000 cost per household was insurmountable.

Councilmember Breuer pointed out the City would be going against the City's long term plan if they voted to go against Plan B and pointed out the Glenwood lagoons should not have been built on top of a hill. Commissioner Flower said he thought it was imperative that the City enter into cost negotiations and requested they charge an individual from the Council to negotiate incentives to be offered. Councilmember Moyer said he thought there were four options, Option A, Option B, with annexation or without annexation. He wanted to look at one set of data and decision matrix. President Washington noted the data would need to come from two places 1) engineering (life cycle work); and designating up to two council members and interim city administrator to work with all the entities (residents, school district, and county) involved.

Councilmember Mertz reported Plan A included land costs. Mr. Henderson stated he would have all the necessary information at the August 3 meeting. Councilmember Moyer wanted to make sure everyone did not leave the meeting thinking the City was committed to promise \$200,000 to the plan.

David Freeman, Glenwood HOA president, reported he had a meeting tomorrow night and would like to have something tangible to present to the property owners. Mr. Evans property was to benefit the greatest and understood how much revenue the City would receive due to future development. Councilmember Mertz suggested the Glenwood residents come in with a bargaining plan and explained by annexing now, the residents would save money on connection and monthly sewer maintenance fees. Commissioner Flower suggested Mr. Freeman compile a wish list from the residents.

***c. Ken Massingill, Basehor Historical Society – Donation***

Mr. Massingill, President of Basehor Historical Society, requested the City include in their 2010 budget a donation in the amount of \$7,400. The money would be used for operating expenses as well as having a survey performed to locate the property lines. He explained the society was an effort to preserve the history of the Basehor community, bring people to the down town area, and help advertise the City of Basehor.

Councilmember Breuer asked if the Historical Society had fund raisers. Mr. Massingill explained they have items at the museum for sell, buy-a-brick program, garage sales, recycling program, memorial donations, and membership fees.

Councilmember Moyer asked if this would be a one-time grant or would the city need to budget in years to come. Mr. Massingill stated he thought some day they would need to be funded by the City. Director Carla Crawford reported several cities fund their museums.

President Washington complimented Mr. Massingill and Mrs. Crawford for their work and felt that it was a valuable community asset and could be considered a destination site. Mayor Hill thought the museum gave the area a home town feeling.

Councilmember Moyer asked what would happen if they did not receive a donation. Mr. Massingill reported they received a large donation to build a museum at 158<sup>th</sup> Street, but they were slowly using the reserve funds. Mrs. Crawford reported they would also have to cut down on museum artifacts and open hours.

***d. Chuck Wilderson, PRIDE – Fireworks donation***

George Smith represented PRIDE in Mr. Wilderson's place. He offered his voice of support for the museum. PRIDE requested a donation of \$4,000 for fireworks for year 2010 due to the increase in price of fireworks.

Ten-minute recess (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 7:10 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. July 6, 2009 work session and regular meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve investment recommendations
- d. Approve calendar of events

Councilmember Mertz asked if the voucher in the amount of \$600 issued to municipal judge William Pray for one or two months of service. The city clerk reported Mr. Pray was being paid for May and June.

A motion was made by Councilmember Mertz and seconded by President Washington to approve the Consent Agenda as presented. Motion passed 5-0.

**CAL 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).

***a. Crystal Swann Blackdeer, Leavenworth County Humane Society  
(17801 Tonganoxie, KS) – Spay/Neuter Transport program***

Mrs. Blackdeer informed the City Council of events she participated in throughout the county and then went on to explain Leavenworth County Humane Society was holding meetings throughout the County in an effort to educate people on how to avoid dog bites, dealing with strays, and taking care of your animal. The organization was in the process of looking for a space to host a meeting on August 3. Ed Bush, VFW, offered their building for the meeting. The program would allow people who cannot afford to have their animals spayed and neutered an opportunity to do so at a reduced cost.

Mayor Hill asked if there was anyone else who wished to speak regarding an agenda item, there being none, he called the public portion of the meeting closed.

### **SCHEDULED DISCUSSION ITEMS**

- a. MKEC Engineering – Update on Wolf Creek Parkway project***
- b. Matt Henderson, MHS Engineering – Review of life cycle study for Sewer District No. 3 extension***
- c. Ken Massingill, Basehor Historical Society - Donation***
- d. Chuck Wilderson, PRIDE – Fireworks donation***

Items “a” through “d” were discussed during the work session.

### **BUSINESS**

- a. Consider KDOT TRF-0126 Loan Agreement for 150<sup>th</sup> Street & 24/40 Improvements.***

Mr. Martley reported items “a” and “b” were tied together. The city attorney drafted a cooperative agreement between the City and Basehor Properties that agreed if the City committed to the TR 0126 loan, and then Basehor Properties would agree to deed over the triangle piece of property to the City. The City would have the necessary right of way deeded to them and then the remaining property would be deeded back to Basehor Properties.

A motion was made by President Washington and seconded by Councilmember Dysart to table items a, b, and e until such time the triangle piece of property was deeded over to the City as discussed at a previous meeting. Discussion. The city attorney reported he worked with the Basehor Properties attorney to amend the agreement with Basehor Properties agreeing to deed the entire piece of triangle property in lieu of the City giving back the property excluding right of way. Mr. Martley reported KDOT legal counsel informed him today that once the property was deeded over to the City, the City would receive payment for the entire amount owed for the property. Councilmember Dysart wanted to make sure the additional \$13,000 [for back taxes and closing costs] would be paid. Mr. Martley reported that amount would also be reimbursed. Councilmember

Mertz wanted to make sure the City would be able to give the property back to Basehor Properties without problems from KDOT. Mr. Reavey said the Council could revise the original motion with a condition that the deed be provided. President Washington and Councilmember Dysart voted in favor. Councilmember's Breuer, Moyer, and Mertz voted against the motion. Motion failed 2-3.

Mayor Hill asked that the deed be provided to the attorney for review.

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to change Business items a, b, and e to i, j, and k. Motion passed 5-0.

Refer to Business Item "j".

***b. Consider awarding bid for 2009 Pavement Management Plan***

Mr. Henderson reported Little Joe's asphalt was low bid in the amount of \$131,882.36 to include Alternate 1 and 2. Bids came in lower than the Engineer's Estimate which allowed the additional work to be included in the 2009 Pavement Management Plan. A motion was made by Councilmember Breuer and seconded by Councilmember Moyer to accept Little Joe's Asphalt for the Base Bid, Alternate 1 and Alternate 2 for a total amount of \$131, 822.36 and authorize notice of award. Motion passed 5-0.

Mr. Henderson anticipated the work to commence in approximately two weeks weather permitting.

***d. Consider approval for plan "A" or "B" for Sewer District No. 3 extension***

A motion was made by President Washington and seconded by Councilmember Moyer to table action until the August 3 meeting. Councilmember Breuer questioned if the motion should include the appointment of two council members and authorization to enter into negotiations. President Washington and Councilmember Moyer withdrew their motions.

A motion was made by President Washington and seconded by Councilmember Moyer to table action until the August 3<sup>rd</sup> meeting and designated councilmember's Breuer and Mertz to enter into negotiations with instructions to work out a plan with school district and council. Motion passed 5-0.

***e. Consider contractor payments for Wolf Creek Parkway project, TRF 0125 loan***

Refer to Business Item "k" and "n".

***f. Consider setting 2010 Budget public hearing date (August 3, 7:00 p.m.)***

Councilmember Mertz asked if money was allocated in the 2010 Budget for Field of Dreams. Mr. Martley reported Field of Dreams had a debt of approximately \$300,000-

\$400,000. The City could purchase the land and buildings from the Capital Improvement Fund and amend the budget later in the year. Another option would be to create a Park and Recreation Commission that would be supported from taxes throughout the school district, rather than just the City. Councilmember Mertz stated it was not his intent to pay off the loan, but to assist with paying down their loan. President Washington said he thought the City could provide \$10,000-\$15,000 seed money. Councilmember Mertz reported that he and staff members were scheduled to attend a Basehor Athletic Association meeting and hoped to have more information following the meeting.

A motion was made by Councilmember Moyer and seconded by Councilmember Dysart to the set the public hearing for Aug 3 at 7:00 p.m. Motion passed 5-0.

***g. Consider donation to Basehor Historical Society in year 2010***

Died for lack of motion

***h. Consider donation to Basehor PRIDE for 2010 Fireworks Display***

Died for lack of motion.

Mayor Hill announced the direction of the Council was to create a proactive program to assist community organizations and not a denial.

***i. (formerly a) Consider KDOT TRF-0126 Loan Agreement for 150<sup>th</sup> Street & 24/40 Improvements. Refer to item "m"***

***l. (formerly b, j) Consider first amendment to cooperative agreement regarding Transportation Improvements at the intersection of 150<sup>th</sup> St and U.S. Highway 24/40, Basehor Properties***

Mr. Reavey informed Council items "a" and "b" should be switched based on the contents of the KDOT Loan agreement. The cooperative agreement commits the City to the KDOT TR 0126 loan. Mayor Hill reported the City has committed to the loan; however, since the City would not be able to meet the October deadline, it would be necessary to request an extension.

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to change item "j" to "l" and item "i" to "m". Motion passed 5-0.

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to moved item "k" to "n". Motion passed 5-0.

Mr. Reavey reported Basehor Properties LLC would commit to deed the property to City of Basehor with both partners signing the deed.

A motion was made by President Washington and seconded by Councilmember Mertz to authorize the mayor to sign the First Amendment to the Cooperative Agreement regarding Transportation Improvements at the intersection of 150<sup>th</sup> St and U.S. Highway 24/40, Basehor Properties as amended by the city attorney and upon the city attorney release to the mayor that all paperwork and title trails are to his approval.

Councilmember Dysart explained she voted against TR 0125 due to the extensive debt for the city. Councilmember Mertz called point of order and call for a vote. All members voted in favor with the exception of Councilmember Dysart. Motion passed 4-1.

Councilmember Dysart explained she was concerned the debt against the percentage of debt ratio. President Washington said it was a concern of his as well and that was why he voted to make sure everything was done in the proper order.

***m. (formerly a, i) Consider KDOT TRF-0126 Loan Agreement for 150<sup>th</sup> Street & 24/40 Improvements.***

Mr. Reavey announced it was not necessary for Council to take a vote on this item since it was tied to the previous action item.

***n. (formerly e and k) Consider contractor payments for Wolf Creek Parkway Project, TR 0125***

Mayor Hill asked the city attorney in the event that two different people were to be paid from one invoice, could both names be listed on the check. Mr. McIntosh reported some of the checks should be paid to Benchmark Management, Ed McIntosh, and John Bell. Mr. Reavey explained if an engineering firm did work and was not paid, the vendor must be paid direct. Councilmember Mertz stated he would like to have a lien release made out to the city as well. Mr. McIntosh agreed.

A motion was made by President Washington moved that bills submitted under TR 0125 to date, that the mayor be authorized to sign the checks once the entire document chain was established on each one to the satisfaction of the mayor and attorney and that all lien releases are provided. Request #94 to Benchmark Management is withheld until a new invoice was provided less the interest. Councilmember Mertz explained a correct invoice had been provided following the last meeting. President Washington withdrew his motion.

A motion was made by President Washington and seconded by Councilmember Dysart to table action until the Aug 3<sup>rd</sup> meeting. Mrs. Marcona reported the agreement was tied to payments being paid. President Washington stated he was not in favor of paying the bills without correct documentation. Mrs. Marcona stated the new cooperative agreement mimic's the earlier agreement. Mayor Hill asked if there was a way to craft a motion that would not be based on an exact amount. Mr. Reavey stated it would be acceptable to make a motion without an exact amount, but include that the bills be paid once reviewed and approved by that staff. President Washington voted in favor with

council members Breuer, Dysart, Moyer, and Mertz voting against the motion. Motion failed 1-4.

A motion was made by Councilmember Breuer and seconded by Councilmember Moyer to pay bills (#94 grouping) in the amount of \$157,089.16 as submitted by city engineer. Council member's Breuer, Moyer, and Mertz voted in favor with President Washington and Councilmember Dysart voting against. Motion passed 3-2.

The city attorney reiterated that it was appropriate to pay the Benchmark Management invoices with both owners names listed on the check.

Council agreed that #95 invoice grouping would be paid directly to vendors and not to Benchmark Management or Basehor Properties.

A motion was made by Councilmember Mertz and seconded by Councilmember Breuer to pay vendors directly that the city engineer has made a document with one correction that invoice 6009, Mac's Fence have a deduction of \$5986 for interest and that all lien releases are contingent on receiving a check from each vendor not to exceed \$220,000 total. Motion passed 5-0.

Mr. Reavey request a ten minute Executive Session to discuss attorney-client privilege matter and non-elected personnel.

#### **CITY ADMINISTRATOR REPORT**

\*Mr. Martley reported Dean Widdem, Community National Bank wanted to reinstate the annexation request for Theno Estates and was in the process of acquiring property legal descriptions. Three properties are in negotiations regarding the annexation. Theno Estates would like to be included in the tax rebate program.

Councilmember Mertz reminded Council there was about \$40,000 that had not been paid yet and should be included in the annexation process.

\*Level-4 Engineering, Brett Napier (not present) provided a written update on the Basehor Town Center benefit district project.

\*Mr. Martley commended the city superintendent and public works crew for their work the past week. He noted they have gone out of their way to repair a sewer line at 155<sup>th</sup> St & Meyer Drive that was causing backup into residents basements, put fill dirt in a ditch along Pebblebrook that was holding stagnant water, and arranged for a handicap railing to be installed at city hall that allowed the building to be ADA compliant. (Note: Railing donated by Mac's Fence.)

#### **MAYOR'S REPORT**

Mayor Hill reported he had the pleasure of spending first Susan B Anthony dollar at the

new Wolf Creek Marketplace grocery store. After the opening, he received a number of calls from people around the city who have complained the prices were high at the store and hope to stem the perception that prices were to high. The information was passed onto the store and adjustments were made. He encouraged people to support the store.

## **COUNCIL MEMBER REPORTS**

### **Iris Dysart**

Councilmember Dysart reported she had a pleasant experience at the store as well and plan to do all her shopping there.

### **Jim Washington**

President Washington said he was pleased the way the store was set up, modern, wider aisles, and good staff. In order to have a successful store, it needs to continue to be competitive, attractive, great service and have good product select, and knowledgeable staff.

### **Bill Moyer**

Councilmember Moyer reported he visited store as well. The city has taken on a financial risk and some folks on the bench took on a political risk and reminded the owners that expectations were high.

Councilmember Moyer asked the city attorney for an update on the Cedar Lakes Annexation appeal. Mr. Reavey reported the information has been compiled and delivered to Cedar Lake Estates attorney Mr. Orr in late June. He has not heard from Mr. Orr regarding the review. The next step would be to deliver the record to the judge and then come up with a schedule to make a decision. Mr. Reavey anticipated it would be about 90 days once the record was submitted.

### **Dennis Mertz**

Councilmember Mertz reported he attended the store opening on Friday and was pleased with the presence from council and staff.

## **EXECUTIVE SESSION**

A motion was made by President Washington and seconded by Councilmember Dysart to convene into Executive Session to discuss attorney-client privilege for five minutes and fifty minutes for consideration of candidate (total of 55 minutes). Motion passed 5-0. Mayor Hill announced there would be a five minute recess prior to council convening into Executive Session. The city attorney attended the first five minutes of the session.

A 8:50 p.m. the regular meeting was called back to order by Mayor Hill.

A motion was made by President Washington and seconded by Councilmember Mertz to authorize the mayor to sign separation agreement with Dustin Smith. Motion passed 5-0.

Mayor Hill announced the Council reconvened into Executive Session for fifty minutes to interview a candidate and the regular meeting would reconvene at 9:45 p.m. The candidate attended the Executive Session. The city attorney was not in attendance and left the meeting at this time.

The regular meeting was called back to order at 9:51 p.m. by Mayor Hill.

A motion was made by Councilmember Breuer and seconded by President Washington to convene into Executive Session for ten minutes to discuss non-elected personnel. Motion passed 5-0.

The regular meeting was called back to order at 10:05 p.m. by Mayor Hill.

A motion was made by President Washington and seconded by Councilmember Dysart that a formal offer, based on formal document created by Patrick Reavey with Mr. Mark Loughry, be the basis for the formal offer contingent on drug test, clearing background check, and credit check. Motion passed 5-0.

**ADJOURNMENT**

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to adjourn the July 20, 2009 regular meeting. Motion carried 5-0. Meeting adjourned at 10:08 p.m.

Attest:



*Terry L. Hill* 8-7-09  
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Mayor Terry L. Hill

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