

Minutes

BASEHOR CITY COUNCIL

October 19, 2009

7:00 p.m.

Basehor City Hall

Official Presiding: President Jim Washington

Members Present: David Breuer, Iris Dysart, Dennis Mertz, and Bill Moyer

Members Absent: Mayor Terry Hill

**Staff Present: Mark Loughry, Lloyd Martley, Mary Mogle, Gene Myracle,
Patrick Reavey, Matt Henderson**

Newspaper: Kaitlyn Syring, *Basehor Sentinel*

1. ROLL CALL BY MAYOR TERRY HILL AND PLEDGE OF ALLEGIANCE

In the absence of Mayor Hill, the meeting was called to order by council president Jim Washington with all council members present. The city attorney was in attendance.

President Washington announced the mayor had been in a traffic accident several days ago and broke his kneecap. He expected his return at the next meeting.

2. 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 – September 21, 2009
- b. Approve calendar of events-November 2009
- c. Treasurer's Report

President Washington reported the check register report no longer required Council approval and should have been placed in the city administrator's report in the packet. He asked the city administrator to make sure Council received a report of all checks issued between meetings.

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

3. 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).*

No comments at this time.

UNFINISHED BUSINESS
(None to review at this time)

NEW BUSINESS

4. LEAVENWORTH COUNTY AIRPORT FEASIBILITY STUDY: Consider study of Leavenworth County Airport Feasibility Study.

The city administrator reported in 2007 the Board of County Commissioners formed the Air and Business Park Committee and tasked them with the process of trying to get an airport in Leavenworth County. First phase of the process was to determine if an airport was needed and then perform a feasibility study. The Committee determined an airport was needed and in the summer of 2008 Coffman & Associates were hired to develop a feasibility study. Committee members Greg Kaer and Patrick Taylor were present to request continued support in the form of a resolution and funding of \$318.22 for the site selection phase.

Kaer
Mr. Kaer gave a brief history of area airports. The City of Leavenworth was in limbo as to whether they should continue leasing the airport at Sherman Army Airfield at Ft. Leavenworth and asked that the Board of County Commissioners get involved to see if there was interest in a regional airport. After review, the Committee determined a regional airport would be beneficial to the County.

Mr. Taylor gave a PowerPoint presentation that showed funding already provided by the Cities, Leavenworth County, and Port Authority. The report showed the next step was to perform a site selection study with Basehor's portion of the request to be in the amount of \$318.22. The detailed report of the study could be viewed on the County's website www.leavenworthcounty.airport.com. Mr. Taylor noted since airports were not popular, they would need continued support from all the "players" involved. The players would be determined once a site was selected. He reminded Council that construction would be about ten years down the road if approved.

Councilmember Moyer asked how the property would be acquired. Mr. Taylor responded by possible eminent domain. President Washington felt there was a market for

an airport in the area and would provide service for the Nascar race track. Councilmember Breuer asked if the Lawrence Airport had room for expansion. Mr. Taylor reported there was additional farm land surrounding the facility.

President Washington announced the additional funding request in the amount of \$318,220 was within the city administrators spending authority and requested a motion from the Council to adopt the resolution of support.

A motion was made by Councilmember Mertz and seconded by Councilmember Moyer to adopt Resolution 2009-19 approving and accepting the Leavenworth County Airport Feasibility Study. Motion passed 5-0.

5. WOLF CREEK PARKWAY CHANGE ORDERS: Consider change orders for Wolf Creek Parkway project.

Mr. Loughry reported work on Wolf Creek Parkway had commenced again and the contractor was making good progress. A meeting was held with everyone involved in the project to go over funding necessary to finalize the project. Prior to the meeting this evening, the project engineer informed him that the retaining wall and seeding needed to take place during the construction of the road. The retaining walls were estimated to cost about \$104,000.

Councilmember Mertz asked if the request for seeding tonight was included in the landscaping bid. Mr. Loughry said the seeding had to be done according to KDOT; however, landscaping could wait. MKEC Project Engineer, Aaron Hale, reported they thought the owner was going to pay for the retaining walls. Developer Ed McIntosh reported the retaining walls were in the original bid and when it appeared the project was going to go over the estimated amount, he volunteered to take the retaining wall out of the bid. He was not aware the walls needed to be installed in conjunction with the street. The intent was to put in the retaining wall and landscaping as lots were sold and informed the Council he did not have the money to complete the retaining walls and landscaping at this time.

Councilmember Moyer asked if the agreement addressed when the retaining walls and landscaping would take place. The city attorney reported as he recalled the agreement did not go into detail as to when installation of the retaining walls and landscaping would take place.

Mr. McIntosh noted the Transportation Development District (TDD) was set up that anything over \$3.75 million would be the responsibility of the developer to pay out of pocket. The TDD still had over \$2.2 million left in the fund and could be used for the retaining walls and landscaping.

President Washington stated [past] minutes should reflect that the developer agreed to pay for the retaining wall and landscaping and did not recall the developer mentioning that he would complete the retaining walls and landscaping at a later date. He reminded

Council that he had made a motion that the project not be bid until the final design was complete. If staff had followed direction, the City would not be in this situation.

Councilmember Breuer asked Mr. Hale to clarify that retention plans could not be completed without the completion of the retaining walls. If that was the case, then why was the project bid without retaining walls. Mr. Hale reported it was the understanding that the wall would be built at the same time, but by someone else.

Councilmember Mertz asked what would hold up the project. Project Manager for Blacktop Paving explained the retaining walls would hold back water that overflowed from the retention ponds. They could build the entire road and come back later to build the retaining walls; however, if the City chose to do that, he would recommend installing some kind of fencing that would hold back water down by the culvert box which would allow the sidewalk to be closed off. The road could be completed if all change orders were approved; however, it would not be state certified until the retaining walls were completed. Councilmember Mertz asked if the bid would stand. Mr. Zarda said he had no problem holding the original price excluding for the cost of barriers.

President Washington stated he was not comfortable moving forward without the city attorney, city engineer, and city administrator going back the last ten months to see what had transpired. Councilmember Moyer asked the city administrator what it would take to finish the project. Mr. Loughry reported according to the updated cost sheet, it would take \$99,328 from the 24/40 Corridor Enhancement Grant to cover the overage. This amount did not include \$15,150 for the unused storm sewer line since that had yet to be resolved.

A motion was made by Councilmember Breuer and seconded by Councilmember Mertz to authorize additional expenditures on the Wolf Creek Parkway Project in an amount not to exceed \$122,900 and direct staff to take any amount over what is available in the TRF-125 [loan] from the Corridor Management Grant. Councilmember Dysart reported at one time it was proposed to place the \$500,000 Corridor Management Grant into an escrow account and use it to make payment for shortage or pay interest on loan. Now it is being proposed to draw from the grant to pay for the project. She felt the grant was being "piece milled". Mr. Loughry reported he was asking to use the grant to assist with completing the project. Councilmember Moyer felt the City was at a point where they needed to complete the project and unless there was some other funding option available, the grant would need to be used to finish the road. Councilmember Dysart stated she did not understand why MHS Engineering was not involved at the beginning of the project. Mr. McIntosh stated MHS was involved in the bid process and it was discussed with them about removing the walls and landscaping from the bid. MHS did not see a problem with that at the time. Mr. Henderson reported the previous city administrator was overseeing the project and only requested they assist with the bid and then to review invoices.

President Washington asked that Councilmember's Breuer and Mertz withdraw their original motion and someone make a new motion to convene into Executive Session.

Chief Martley asked how long could the City go without compromising the road. Mr. Hale stated if the slopes were constructed properly it could go on indefinitely until the detention ponds started to overflow.

Councilmember Breuer reported he was concerned that the plans did not show street lights along Wolf Creek Parkway which was a safety issue and an additional expense.

Council Members Breuer and Mertz withdrew their original motion.

A motion was made by Councilmember Breuer and seconded by Councilmember Mertz to convene into Executive Session not to exceed ten minutes to discuss attorney-client privilege matter. Motion passed 5-0 (8:15 p.m.) The city attorney attended the session.

President Washington called the regular meeting back to order at 8:25 p.m. announcing that no formal action had been taken during the Executive Session.

A motion was made by Councilmember Breuer and seconded by Councilmember Dysart to authorize an additional \$21,100 for grass seeding and \$101,800 for the other change orders and authorize staff to take the amount over TRF 0125 from the Corridor Management Grant. Motion died for lack of second.

Councilmember Breuer asked if he could talk to Mr. McIntosh in Executive Session. Mr. Reavey stated Mr. McIntosh could not be invited into Executive Session. Councilmember Breuer asked Mr. McIntosh if he would consider signing an agreement allowing the City to place a lien on the property tying the additional cost to the property. Mr. Reavey asked Mr. McIntosh if he would agree to sign an agreement or an alternate lien that when a lot was sold, the City would get the money. Mr. McIntosh stated the bank would have to agree to that since they have first option. He noted if he paid out of his pocket, he would still expect to be reimbursed by the TDD.

Councilmember Breuer asked if the City would get their money back from the TDD. Mr. Reavey said the City would eventually get the money back; however, he thought there was reluctance from Council to use the Corridor Management Grant. President Washington reported as of 9/30/09 the City had already funded \$544,407.91 and were pending reimbursement.

Mr. McIntosh thought KDOT said it had to be earmarked for Wolf Creek Parkway or to make escrow payments. President Washington stated the grant was specifically designated for Wolf Creek Parkway (\$500,000) and 150th Street (\$100,000) Craig to Parallel.

A motion was made by Councilmember Breuer and seconded by Councilmember Mertz to authorize additional expenditures on the Wolf Creek Parkway Project in an amount not to exceed \$122,900 and direct staff to take any amount over what is available in the TRF 125 from the Corridor Management Grant. Council Member's Breuer, Mertz, and Moyer

voted in favor. President Washington and Councilmember Dysart voted no. Motion passed 3-2.

Mr. Reavey asked the city administrator that any acceptance should be with a condition prior to final acceptance. Mr. Loughry stated he thought the City should determine what and when improvements needed to be done. President Washington stated he thought it should be discussed at a work session and this matter should be deconflicted and make sure requirements could be legally enforced. Councilmember Dysart thought she could assist with paperwork if necessary.

Councilmember Moyer stated he would like to see an After Action report before he would vote on anything else.

6. INTERLOCAL AGREEMENT: Adopt changes to the Neighborhood Revitalization Plan to reflect the 5% Administrative Fee charged by Leavenworth County.

Mr. Loughry reported originally the plan stated the County would waive the 5% administrative fee; however, at the October 8th County Commission meeting the Interlocal Agreement extending the current Neighborhood Revitalization Plan (NRP) and authorizing the new NRP was adopted with one change. The County has asked to retain the 5% administrative fee for handling the tax rebates. Due to the change, it was necessary to take formal action adopting the same Interlocal Agreement. All other taxing entities have adopted the same version of the Interlocal Agreement as presented.

Commissioner Flower explained the original discussion was that the County would research to see what the impact would be if they waived the fee.

A motion was made by Commissioner Breuer and seconded by Commissioner Mertz to adopt the Interlocal Agreement with the approved change reflecting the 5% administrative fee. Councilmember Breuer thanked Commissioner Flower for being instrumental in presenting the Plan to the Board of County Commissioners. President Washington commended Council Members Breuer and Mertz, and building inspector Mark Lee for their involvement in getting the Plan adopted in such an expedient manner. Councilmember Dysart agreed with President Washington and felt the current Council was very involved which helped to move the City forward. Motion passed 5-0.

7. CITY ADMINISTRATOR REPORT

VFW Senior Dinner – In the absence of Mayor Hill, the city administrator reminded Council that their presence was requested to attend and/or assist with the VFW Senior dinner to be held on November 21.

NRP Promotions Committee – Following a discussion with Mayor Hill it was decided that a committee should be formed to help with promoting the Neighborhood Revitalization Plan. Commissioner Breuer reported he had an extensive conversation

with the Mayor and supported the formation of a committee. He suggested involving realtors, bankers, and builders to help promote the Plan and possible advertisement funding and suggested discussing this at a work session. The city administrator asked Council Members to send him recommendations as to whom they would like to see appointed to the committee.

Foundation Removal – Foundations in Pinehurst Subdivision have been removed and one still needed grade work.

8. MAYOR'S REPORT

- a. Council participation at VFW Thanksgiving Dinner, Nov. 21, 2009

Report given during the City Administrator's Report

9. COUNCIL MEMBER REPORTS

Dennis Mertz (none)

Bill Moyer

Councilmember Moyer reported he met with a Leavenworth County Humane Society board member regarding their program. Leavenworth County was in the process of researching to see if there was support for the construction of a no-kill animal shelter facility. The initial plan was to build the facility (appx. Year 2017) and then turn it over to the humane society to run. Councilmember Moyer explained the process the City currently uses for animal control noting if an animal was picked up and not claimed within four days, it was euthanized.

Iris Dysart (none)

David Breuer

Councilmember Moyer Breuer (*amended 11/16/09*) asked Councilmember Moyer how the research was going regarding organizational funding. Councilmember Moyer said he would be more active to finalize the project.

Jim Washington, President

President Washington asked for an update on the city engineer position. Mr. Loughry reported he had received some excellent applications and hoped to have someone in place by middle to late November.

Dennis Mertz

Councilmember Mertz pointed out the November calendar reflect that Council meetings start at 6:00 p.m. rather than 7:00 p.m.

10. EXECUTIVE SESSION (none needed)

11. ADJOURNMENT

There being no further business to discuss, a motion was made by Councilmember Breuer and seconded by Councilmember Moyer to adjourn the regular meeting. Motion passed 5-0. Meeting adjourned at 9:02 p.m.

Submitted for Council approval with/without corrections or additions this 16th day of November, 2009.



[Handwritten Signature] 11-17-09

Jerry Hill, Mayor

Attest:

[Handwritten Signature]

Mary A. Mogle, City Clerk