Minutes

BASEHOR CITY COUNCIL
January 5, 2009
6:00 p.m.
Basehor City Hall

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Iris Dysart, Terry Hill, Roger McDowell, Keith Sifford, and Jim Washington
Members Absent: None

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

Newspaper: Kaitlyn Syring, *Basehor Sentinel*

WORK SESSION - 6:00 p.m.

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

Discuss the Transportation Development District for Wolf Creek Junction, projected revenues and funding for the proposed street projects.

City Administrator Carl Slaugh reported Greg Vahrenberg, Piper Jaffray, would go over financial status of Wolf Creek Junction, David Gurss and Jim Pickett with KDOT were present to answer any questions council may have regarding the 150th Street intersection project, and Christine Bushyhead, legal counsel for Benchmark Management was present to answer questions regarding the proposed amendments. Mr. Slaugh reported he would also like to go over projected revenues and funding for the combined 150th Street and Wolf Creek Parkway project.

Mr. Vahrenberg, advisor to the City on bond issues, pointed out that he would not be able to speak of specific details pertaining to the project explaining there are several options available to the City such as Tax Increment Financing (TIF), Transportation Development District (TDD), KDOT low interest loans, and General Obligation bonds. He explained by using General Obligation bonds, the debt becomes the sole responsibility of the City to pay back through taxes. KDOT loans may carry a broader pledge than loan amount. The TDD revenue bonds are paid solely from revenue generated within the development and carry a higher risk than General Obligation bonds

and are also difficult to sell to investors. Mr. Vahrenberg said his job was to look at the revenue stream by looking at projections provided by the developer through a company that performed feasibility studies. If there is a short fall within the TDD District, the City would be liable for any deficiency associated with the TDD.

Councilmember Washington asked if the TDD goes into default, would that reflect in the City's credit rating and who would be the issuer of the bonds. Mr. Vahrenberg noted the City was not obligated to use tax dollars to pay the deficiency and although the City would be the issuer, the City would collect revenue within the TDD district. Councilmember Washington asked if TDD Bonds were marketable. Mr. Vahrenberg noted it was difficult to receive funding due to today's economy environment.

Mr. Vahrenberg reported the City currently did not have a rating; however, the City did have a bond issuance that required the City to obtain insurance and received an +Aaa rating. If the project defaulted, it could have an impact on the City receiving amiable bids from investors. Councilmember Washington noted the City has the possibility of $20-24 million debt and questioned how that amount of debt would affect the City's debt ratio. Mr. Vahrenberg reported while marketing a bond, they would show the debt ratio and gross amount of debt.

Councilmember Hill asked about the difference between a TIF and General Obligation bond. Mr. Vahrenberg reported it helps to lower borrowing costs and assists with improving chances in selling the bonds at a lower rate.

Mr. Slaugh noted it was not legal to have a TDD in conjunction with a benefit district. Mr. Vahrenberg concurred with the city administrator.

Mr. Vahrenberg explained the coverage ratio shown on the feasibility study provided by Basehor Properties used a 1.2 rather than the customary 1.4. Mr. Slaugh asked if the City should require more financial information on the developer. Mr. Vahrenberg stated it was his opinion if the City was taking risk on the project they may want to have a feasibility study or some type of disclosure provided.

Christine Bushyhead, legal counsel with White Goss Law Firm,, representing Basehor Properties and Benchmark Management, reported the study was compiled in 2006 at which time it was customary to use the lower ratio of 1.2 and suggested the City use the State Revolving Loan in order to pay off the TDD earlier.

Councilmember Washington noted Mrs. Bushyhead would issue bonds at a later date but what source of funding would be in place later. Mrs. Bushyhead noted the realignment of 150th Street and construction of Wolf Creek Parkway came in to play and needed that issue settled before funding could be finalized.

Mr. Slaugh noted initially the developer was going to fund the street projects up front and at a later date, it was decided to use a KDOT loan funded through TDD revenue.

Mrs. Bushyhead noted the projections also included other retail businesses and reported she had a second market study that showed projected revenues to be about $9.5 million.

Councilmember Washington noted if the City was the borrower of record, how would it impact if the developers tax increment stream was what paid the loan back, Mr. Vahrenberg noted KDOT may have a broader pledge than regular bonds and reiterated the City could not use taxes to pay off the bonds.

Mrs. Bushyhead stated the research performed on the market place now, verses 2006, showed they would receive a possible revenue of $19,250 per month. The City would also receive 1% city sales tax revenue which was a potential $299,256 per year. The City and the developer could partner by loaning the district sales tax.

President Dysart asked Mrs. Bushyhead if sales were still estimated at $12 million. Mrs. Bushyhead noted that was the initial amount but after the recent study, it was estimated $19,250 per month which should bring in ample revenue to make TDD payments. President Dysart reported a past study showed the area would not support a grocery store. Mrs. Bushyhead said the recent study showed the area would support the store.

Break – 6:54 p.m.

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

The regular meeting was called to order at 7:04 p.m. with all members present. The city attorney was in attendance.

EXECUTIVE SESSION

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to convene into Executive Session for up to five-minutes to discuss attorney-client privileged matter and invited the city attorney, city administrator and planning director into the session. A show of hands was taken with all members voting in favor. Motion passed 5-0. (7:06 p.m.)

At 7:10 p.m., the regular meeting was called back to order.

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. December 8, 2008 Work Session
   2. December 15, 2008 Work Session & Regular Meeting
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

A motion was made by Councilmember Sifford and seconded by President Dysart to approve the Consent Agenda as printed. A show of hands was taken with all members voting in favor. Motion passed 5-0.

PUBLIC HEARING

Amendment to the Transportation Development District for Wolf Creek Junction

Mayor Garcia advised members of the audience that they would be given five minutes to present comments regarding the amendment to the Transportation Development District for Wolf Creek Junction.

Staff Report
Mr. Slaugh reported it was necessary to adopt an amendment to the Wolf Creek Junction Transportation Development District (TDD) in order to add the 150th Street intersection improvements to the TDD District. Exhibit B showed project costs totaling $3,773,868 would be updated once the amendment was passed by Council.

Christine Bushyhead (White Goss Law Firm) legal counsel for Basehor Properties, LLC and Benchmark Management provided an additional report that explained the project changes in detail. If additional funds were available, improvements to 155th Street would be made as well. The original ordinance stated a maximum cost of $3,594,160 with a 5% administration cost ($179,708) totaling $3,773,868. This amount did not include bond issuance and interest costs.

Public Comments
Walter Heimbaugh (15101 Sweetbriar, Basehor, KS) reported he was concerned with the realignment of 150th Street. He explained children were picked up for school on 150th Street and did not understand why KDOT made previous alignment changes and now wanted to change the alignment again. Additional commuting time would be a hardship to the residents south of 24/40 Hwy and encouraged Council to have a traffic study done to support the realignment. Briarwood residents want to maintain the turn at 150th Street.

Martha Heimbaugh (15101 Sweetbriar, Basehor, KS) noted the 150th Street realignment project seemed to be "detached" from the human element and provided calculations for additional travel time for each home owner in Briarwood. She commented the map shown on the letter gave the impression that residents south of 24-40 Hwy would continue to use 150th Street for access onto 24/40 Hwy and suggested using a break in the line so residents would understand the proposed plan. Local streets have no sidewalks

and were not built to handle primary collector traffic. About twenty years ago, KDOT deemed that 150th Street intersection was not safe; however, after the last realignment, the intersection had been certified safe. If changed again, the speed limit would be at an unsafe speed as well.

Councilmember Washington asked Mrs. Heimbaugh her opinion if 150th Street would be realigned and fully signalized. Mrs. Heimbaugh stated if the City was not going to build the reverse frontage road, but added turn lanes, the City would be moving in the right direction; however, without looking at a traffic study she would not be able to give a professional opinion at this time. She felt additional acceleration/deceleration lanes should be considered as well and encouraged Council to think about the impact on the residents south of 24/40 Hwy.

Victoria Willits (15235 Bradfort Ct) stated the City of Basehor needed a grocery store, a hardware store, and other retail stores in order to grow in a positive manner and supported the amendment.

David They (14829 Rolling Hills Rd) asked if the exit would still exist off 150th Street. There should be turn lanes on the north side of 24/40 Hwy and Miles Excavating needed acceleration lanes so trucks could pick up speed before they access 24/40 Hwy. He asked if a frontage road would be built on the south side of 24-40 Hwy.

Councilmember Sifford asked if the KDOT representatives would address the residents questions regarding the stop light. KDOT made not comments at this time.

Joe McArdle (804 154th Pl) supported the project and commented if 150th Street access were to be removed it would cripple the development. Normally, commercial developments have three to seven access points.

Councilmember Washington noted the amendment does not limit the project to the north side of 24/40 Hwy. Mrs. Bushyhead said the language could be limited if that was the Council's wishes. Councilmember Washington was comfortable with the current language.

Councilmember Hill asked how low sales would need to go before the City would have to make up the difference of proceeds. Mr. Vahrenberg reported if the revenue was less than the bonds, and there was nowhere else to turn; then the bonds would go into default. Mrs. Bushyhead noted a cushion was normally built into the projections to cover shortfalls.

Dennis Mertz (2910 N. 155th St.) asked if the "return on investment" (ROI) would be paid before the "Transportation Revolving Fund" (TRF). Mr. McIntosh said the development would have to experience a $9 million loss in order to default. Councilmember Washington reported the ROI would be paid first. Mr. Mertz commented the project would not go against the City's bond indebtedness, but there was risk for the City. He also suggested requiring a specification sheet that would give details

of the project (i.e. boundary lines) and asked if the City would receive a credit for engineering fees. Mr. McIntosh stated he paid the engineering fees, not the City.

Luke Nevell, representing the development, reported it was crucial to the development to obtain the access point on the east end of the development for marketing purposes.

Mayor Garcia called the public hearing closed.

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).

Martha Heimbaugh (15101 Sweetbriar, Basehor, KS) commented although 24,000 cars traveling on 24/40 Hwy per day sounded like a lot; however, not everyone passing by would stop at the grocery store.

George Smith (14923 Parallel, Basehor, KS) stated Basehor was not a little spot on the map any longer. He supported the grocery store but did not feel it would make it without supporting businesses within the development. The south side of the highway was not being addressed and 150th Street south was inadequate and felt the Council should have a plan rather than approving something now.

John Flower (15510 Cedar Lane, Bonner Springs) spoke regarding Business Items "a" through "d". Mr. Flower reported the 24/40 Corridor Study was a plan for development along 150th Street and also addresses improvements to 150th Street. The plan provides for improvements to 150th Street and a plus was that KDOT was helping with funding.

Walter Heimbaugh (15101 Sweetbriar) did not think funding was in place to fix 150th Street south of 24/40 Hwy. Until funding was identified, no improvements should be addressed. He volunteered to put together a package and meet with Senator Roberts in an effort to acquire funding.

Donald Dyster (2207 N. 155th Terr.) explained the more businesses that came to the City, the better the tax base revenue would be.

Public portion of the meeting closed.

SCHEDULED DISCUSSION ITEMS

a. Paul Howe, Deffenbaugh Disposal – Update on services and future needs

Mr. Howe asked if there were any issues that needed to be addressed concerning Deffenbaugh's services.

President Dysart asked if there was a contact number for residents to contact Deffenbaugh direct since their telephone system was not user friendly. Mr. Howe stated he would email the city clerk a direct line to his administrative assistant. President Dysart commended Deffenbaugh representative Joe Stagner noting he was very police and helpful.

BUSINESS

a. Consider approval of an amendment to the Wolf Creek Junction Transportation Development District (TDD) to add the 150th Intersection project as an eligible expense.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the amendment to the Wolf creek Junction Transportation Development District (TDD) to add the 150th Intersection project as an eligible expense. President Dysart asked if this item was approved; how could items b and c not be approved since they are connected. Mr. Slaugh reported b and c deal with KDOT funding and not the amendment. President Dysart thought the agreements should be approved before approving the amendment. Mr. Reavey clarified that money was coming from the existing TDD and would allow funds to be used for 150th Street. The amendment would not obligate the City to fund the expense.

Councilmember Washington noted he did not have a final copy of Exhibit B. Mr. Reavey noted Exhibit B, was in the packet. Mrs. Bushyhead stated the City has a copy of the legal resolution and exhibit on file. Mr. Reavey noted the City's bond counsel, as well as himself, reviewed the Exhibit. President Dysart asked if the legal description changed in the new document; which did not include the 2 ½ acres. Mrs. Bushyhead noted that has been negotiated in the agreement [224-08]. She went over the agreements that have been approved at previous meetings.

Councilmember Washington noted the amendment does not take into account the alignment of 150th Street and asked if Mrs. Bushyhead's client would provide a written agreement that the area would be included in the TDD District. Mrs. Bushyhead explained they could not do that until an engineer began preliminary design.

A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion passed 4-1.

b. Consider approval of an agreement with the Kansas Department of Transportation for construction of Wolf Creek Parkway.

Mr. Slaugh reported this agreement was necessary for receiving $500,000 matching funds from KDOT for the construction of Wolf Creek Parkway. He explained there was some confusion about whether the document had been adopted last October. He explained

when the document was presented in October it was in draft form and at the request of KDOT, they requested the document in final form be adopted.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the agreement with Kansas Department of Transportation for construction of Wolf Creek Parkway. A show of hands was taken with all members voting in favor with the exception of council member's Washington and Dysart. Motion passed 3-2.

c. Consider approval of an agreement with the Kansas Department of Transportation for construction of 150th Street at the intersection of U.S. Highway 24-40.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the agreement with Kansas Department of Transportation for construction of 150th Street at the intersection of U.S. Highway 24/40 Hwy. David Gurss clarified the agreement addressed the $325,000 for right of way acquisition and engineering as agreed earlier. Mr. Reavey noted the agreement was approved and this was an Exhibit to the original agreement. A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion passed 4-1.

d. Consider an offer by Steve Miles, Miles Excavating Inc., for acquiring the right-of-way on the south side of U.S. Highway 24-40 required to extend 150th Street to the south.

Mr. Slaugh reported he received a proposal from Steve Miles which required action prior to the next Council meeting. The proposal includes dedication of right of way and payment for an easement. Mr. Miles has provided estimates that have been reviewed by KDOT. Mr. Slaugh suggested hiring an appraiser to get a price of what the land was worth.

Steve Miles (19661 171st Street) stated he supported Mr. Slaugh's recommendation to hire an appraiser and would be willing to extend the deadline. Mr. Miles reported in his letter he also requested full access to 147th Street.

Councilmember Sifford clarified that Mr. Miles was willing to give an extension. Mr. Miles stated he was willing to grant an extension to the second meeting in February.

David Gurss noted the Corridor committee would meet in February and could discuss the matter. Mr. Miles requested he and City representatives attend the meeting as well. Mayor Garcia reported he recalled a meeting where it was agreed that 147th Street remain as a full access intersection. Mr. Jim Pickett reported the Corridor agreement was not changed and would not be changed to a right-in/right-out intersection. Councilmember Hill asked if the language was removed, wouldn't KDOT have the right to change it if there became a safety issue. Mr. Pickett reported the committee understood the goals, but now that it is in place, it would be time to see if it was working.

Mr. Miles said he thought a reverse frontage road may cause a stacking issue. The City would be required to maintain a frontage road but KDOT would be responsible for maintenance of 24/40 Hwy.

Councilmember Washington suggested using a "marginal frontage road" that would go across the front of the property rather than the back of the property. Mr. Miles did not understand why the City would want a frontage road because they would have to maintain it and felt the City should fight for the development of the Nick property since it was for sale.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to direct staff to hire an appraiser to appraise the value of the right of way that Miles has offered in trade for acceleration lanes and commit to Miles that Council will make a formal motion on February 19th. A show of hands was taken with all members voting in favor. Motion passed 5-0.

e. Consider approval of an application for a transportation revolving fund loan.

Mr. Slaugh requested formal approval from Council to complete and submit application for the City's financial obligation for construction of Wolf Creek Parkway.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve an application for a transportation revolving fund loan as presented. A show of hands was taken with all members voting in favor with the exception of council member's Washington and Dysart. Motion passed 3-2.

f. Consider approval of pay request #2 from CAS Construction LLC for the Wastewater Treatment Plant expansion in the amount of $170,911.80.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to approve pay request #2 from CAS Construction LLC for work performed on the wastewater treatment plant expansion project in the amount of $170,911.80. A show of hands was taken with all members voting in favor. Motion passed 5-0.

g. Consider an appointment to fill a vacancy on the planning commission.

Mayor Garcia nominated Joe McArdle to fill the vacant term of David Povilonis on the Planning Commission.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the appointment of Joe McArdle to fill the vacant term of former Planning Commission member David Povilonis. A show of hands was taken with all members voting in favor. Motion passed 5-0.

h. Consider approval of an interlocal agreement with Leavenworth County for Sewer District #3 Glenwood Estates dealing with decommissioning of the sewer lagoons.

Councilmember Washington stared the discussion by explaining he had an issue with section 15 of the agreement which states the connection fees given to the City would be solely for the purpose of paying off the State Revolving loan. He suggested the paragraph be rewritten that any excess amount be applied toward the loan amount. The county counselor commented to Councilmember Washington that he expected the City to counter back with revisions.

Mr. Slaugh reported an alternative was the County invoice the developer for the amount or bill Glenwood Estates residents excluding the undeveloped ground.

Mr. Slaugh pointed out Exhibit 2 shows the estimated construction costs for the connection of Sewer District No. 3. President Dysart thought the connection fees were incorrect. Mr. Slaugh stated the figures were based on 2008 connection fees rather than 2009 and he would see that the figures were updated. She noted the fees increased as of 1/01/09 and should be $4,800. She read from an article which stated the Glenwood Estates grinder pumps were failing at a rate higher than budgeted. Mr. Slaugh reported the current agreement includes the language; which allows for annual adjustments. Mayor Garcia felt it was redundant to add another section since the agreement refers to "facilities" and felt grinder pumps would be included in that description.

Councilmember Washington asked Mr. Flower if there was a separate agreement with the County for maintenance of Cedar Lake Estates grinder pumps. Mr. Flower noted the interlocal agreement relates to Glenwood Estates and how the City would interact and pay for the reconstruction of the sewer system and did not have any bearing on the "ongoing" maintenance. Sewer District No. 3 was the taxing entity and the county commissioners have no authority to set the budget, it is done by the Board of Directors. Sewer District No. 7 maintains grinder pumps and the county collects the money and turns it over to the City.

Mr. Slaugh reported funds should be used to maintain the wastewater treatment plant and future infrastructure.

Mr. McAfee said Glenwood Estates could go gravity flow; however, it would cost more, but it would help to eliminate the need for grinder pumps.

President Dysart reported the last sentence in section 11 read that the "new addition may not connect to the existing lagoon system an occupancy permit is contingent upon proper operation of the new sanitary sewer system'' however, KDHE has granted a temporary permit. Mr. McAfee said it would be up to the County to approve the permit since they were not annexed into the City. Mr. Slaugh noted the school district was waiting for the City to approve this agreement so they knew how to proceed. It would cost approximately $500,000 to open and close a lagoon.

Councilmember Washington felt the agreement was geared toward annexation of property.

Councilmember Sifford agreed that he had issues with items 11 and 15 as well as item 14 that does address annexation. Mayor Garcia stated the agreement should state the City would be pursuing annexation of Glenwood Estates. Councilmember Sifford stated he regretted not making annexation mandatory in lieu of assessing a 125% connection and maintenance fees.

Mr. Reavey suggested including in the agreement that the property owners voluntarily annex. This would also reduce their connection fees.

A motion was made by Councilmember Washington and seconded by Councilmember Hill to table action until first meeting in February and authorize staff to address changes with the Board of County Commissioners. Mr. Slaugh asked for clarification of changes.

1. Add language addressing grinder pump maintenance
2. City would keep base connection fee and any excess amount would be applied toward the loan.

A show of hands was taken with all members voting in favor. Motion passed 5-0.

i. Consider approval of payment to Leavenworth County for the 158th Street turn lane completed in 2005.

A motion was made by Councilmember Hill and seconded by Councilmember Sifford to approve payment to Leavenworth County [in the amount of $79,743.98] for the 158th Street turn lane completed in 2005. Councilmember Washington said he had an issue with the accounting of the Pinehurst Benefit and asked if the benefit district should be reopened. The city engineer reported while researching this matter, he found some discrepancies which showed the City should have received around $201,000 in administrative fees rather than $283,000. Therefore, there should be funds from administrative fees to pay Leavenworth County. Mr. Slaugh reported it was clear that the project was not included in the initial benefit district and did not find where it was included in the final; however, it was clear the bill had never been paid and payment was due to the County.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve payment to Leavenworth County and take out of 2008 General Fund. A show of hands was taken with all members voting in favor. Motion passed 5-0.

j. Consider payment to Kansas Municipal Insurance Trust (KMIT) for Worker's Compensation insurance.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve payment [in the amount of $24,742] to Kansas Municipal Insurance Trust for 2009 Worker's Compensation insurance. A show of hands was taken with all members voting in favor. Motion passed 5-0.

k. Consider payment of membership dues to League of Kansas Municipalities and subscription to Kansas Government Journal to League of Kansas Municipalities.

A motion was made by Councilmember Washington and seconded by President Dysart to approve payment [in the amount of $2,182.79] for membership dues to League of Kansas Municipalities and renew (7) subscriptions to Kansas Government Journal for year 2009. A show of hands was taken with all members voting in favor. Motion passed 5-0.

l. Consider 2009 contract with Leavenworth County for probation services.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the 2009 contract with Leavenworth County for court services at the rate of $175 per case. A show of hands was taken with all members voting in favor. Motion passed 5-0.

CITY ADMINISTRATOR REPORT

Jan 12 - Work Session
Jan 19 - Holiday (no meeting)
Jan 22 - City Council Meeting
Jan 27 - Election Registration Deadline – Noon
Feb 9 - Cedar Lake Estates Public Hearing, Glenwood Ridge Elementary

MAYOR'S REPORT

Nothing to report at this time.

COUNCIL MEMBER REPORTS

Jim Washington

Councilmember Washington reported, at the request of MARC, he would be participating in a round table discussion on January 9, 2009.

EXECUTIVE SESSION

None

ADJOURNMENT

There being no further business to discuss, a motion was made by Councilmember Sifford and seconded by Councilmember McDowell to adjourn the January 5, 2009 regular meeting. A show of hands was taken with all members voting in favor. Motion passed 4-0.

Submitted for Council approval with/without corrections or additions this 22nd day of January, 2009.

Chris Garcia, Mayor

Attest:

CITY OF BASEHOR, KANSAS
CORPORATE SEAL

Mary A. Mogle, CMC, City Clerk