

**Minutes**

**BASEHOR CITY COUNCIL**

**February 17, 2009**

**6:00 p.m.**

**Basehor City Hall**

**Official Presiding: Mayor Chris Garcia**

**Members Present: Pres. Iris Dysart, Terry Hill, Roger McDowell, Keith Sifford,  
Jim Washington**

**Members Absent: None**

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

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

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

Mayor Garcia called the work session to order at 6:04 p.m. with all members present. The city attorney was in attendance.

**Discussion of agenda items.**

***a. Consider ordinance annexing Cedar Lakes Estates subdivision.***

Mr. Slaugh reported the Cedar Lake Estates public hearing was held on the 9<sup>th</sup> of February and that all 16 items required by State Statute were presented. He explained a couple of items were still pending, garbage pickup and address changes. Councilmember Hill asked if tax deferment was a possibility. Mr. Reavey suggested talking about it in Executive Session under attorney-client privilege. Mr. Slaugh reported the City does have a provision for tax abatement under the Neighborhood Revitalization Plan; however, there is not a statutory requirement allowing for tax deferments. Councilmember Washington stated it was his understanding that Olathe did a five-year tax deferment. Mr. Slaugh stated Olathe had a plan that involved unplatted land. Councilmember Washington thought it occurred in platted area.

Councilmember Washington asked if everyone read the email he sent out earlier in the week. Mayor Garcia suggested talking about it in Executive Session. Mr. Slaugh reported if the Council voted to adopt the annexation ordinance, the ordinance would not become effective until April 8 due to the election. The effective date for property tax

would be the first of April and placed on the tax rolls December 2010. That provision is set by statute. The City would have liability for maintenance of the subdivision two years prior to receiving taxes.

Councilmember Washington asked if any further work had been done regarding pending legislation. Mr. Slaugh stated he had not been given any indication that any or all of the House Bills would pass and did not feel they would not have any effect on this annexation. Council discussed the pending House Bills.

Mr. Slaugh suggested discussing two issues: 1) garbage collection; and 2) address changes.

Councilmember Washington stated it was his understanding that the current contract with Deffenbaugh did not obligate the City to immediately roll newly annexed areas into the City contract. He felt the City should grandfather CLE (Cedar Lake Estates) for a period of time and then roll them into the City's contract. Those that do not have any service should be made to obtain a private hauler's permit. Mr. Slaugh reported Deffenbaugh's contract expires December 2010.

Mr. Slaugh did not feel it would be an issue at this time to leave the addresses alone. He directed the planning director to work with the County to make sure addressing errors do not occur in the future.

Councilmember Hill asked how utility billing would work if CLE continued to use another provider. Councilmember's McDowell and Washington stated CLE would continue to pay their own providers directly until they went on a city route in 2010.

Council discussed the pros and cons of leaving the addresses the same (i.e. police and fire protection, etc.). It seemed to be an unnecessary hardship for the CLE property owner to change their addresses on their homes and change their paperwork. Planning Director Dustin Smith urged Council to change the addresses now rather than later, especially the twenty homes along the north/south streets.

### ***Transportation Enhancement Projects***

Mr. Slaugh reported KDOT has set a deadline date of Feb. 27, 2009 at 5:00 p.m. to submit Transportation Enhancement Projects (TEP). One of the requirements would be that the City would have to commit to funding their share by June 2010. He felt two trail projects would meet the criteria if funding were available. Discussion to continue during City Administrator Report.

Break – 6:43 p.m.

**REGULAR MEETING – 7:00 p.m.****ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE**

Mayor Garcia called the work session to order 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. February 2, 2009 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 Councilmember Hill to approve the Consent Agenda as presented. President Dysart questioned the check issued for purchase of the triangle piece of property on 150<sup>th</sup> Street. She reported on February 2, 2009 where Council approved the purchase price of \$122,000 and the vendor report shows around \$135,000. Mr. Slaugh showed the breakdown provided to Council at a previous meeting included legal fees, taxes, and property (real estate commission were not assessed) for a total of \$135,837.38. A show of hands was taken with all members voting in favor. Motion passed 5-0.

Councilmember Washington asked if council members were supposed to attend the joint meeting being held on February 24<sup>th</sup> regarding Sewer District No. 3, Glenwood Estates. Mr. Slaugh explained the Sewer District No. 3 Board would be meeting with residents of Glenwood Estates and council members were welcome to attend.

**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).

*Cathy Stueckemann, 15501 Cedar Lane*, thanked Commissioner McDowell and the rest of the commission for placing them at the first of the agenda. She asked how many members of the Board read all the testimonies. All but the mayor acknowledged they had read the testimonies. She wanted to remind the Council on the defects in the service plan; 1) the differences in the resolutions as far as the drafts that were attached of the

annexation area, and 2) methodology to identify how the City went about calculating costs and changes within the service plan and the lack of inclusion of some services such as garbage disposal. Mrs. Stueckemann also wanted to address Councilmember Washington's comments about participation in the Comprehensive Plan. They did not participate in the plan, but knew that her husband was going to participate in the County Comprehensive Plan regarding trails and felt they were trying to do their part as a County resident. She was aware the City's planning director participated in the County Comprehensive Plan. As homeowners, residents of CLE would like to see unilateral annexation abolished. She reported a comment was made on the news following the public hearing that CLE needed to pay their fair share and felt CLE paid more than their fair share and gave examples. She urged Council to vote no for this annexation issue.

Bob Workman, 18210 153<sup>rd</sup> Street, felt the plan was deceptive and asked if it was on purpose or if someone was not aware of the additional costs to the residents associated with annexation. He stated Mr. Slauch was aware that CLE was paying for KDHE State Revolving Loan, connection fees, and 25% more than city residents for monthly maintenance fees, and still Mr. Slauch continued to state CLE was not paying for their fair share. The annexation service plan did not mention franchise fees, additional 1% sales tax for purchase on new vehicle, and increase in property taxes.

Closed public portion of meeting.

#### **SCHEDULED DISCUSSION ITEMS (none)**

#### **BUSINESS**

#### **EXECUTIVE SESSION**

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to convene into Executive Session for up to thirty-minutes for attorney-client privileged matter. A show of hands was taken with all members voting in favor. Motion passed 5-0. The city attorney and city administrator attended the session. (7:20 p.m.)

Mayor Garcia called the regular meeting back to order at 7:49 p.m. with all members present.

#### ***a. Consider ordinance annexing Cedar Lakes Estates subdivision.***

Mr. Reavey reported the ordinance included the statutory criteria that are required to be considered by the Council, which criteria were included in the service plan prepared by MHS, and addressed at the public hearing. The legal description included as part of the notice in the Resolution inadvertently included Tract B that was not platted. Only platted property can be included in the area to be annexed. The legal description has been rewritten, excluding Tract B. The report prepared by MHS used 2007 mill levy figures rather than 2008. When MHS obtained the mill levy numbers from the County, the 2007

numbers were the only numbers available at that time. If the 2008 numbers had been used, the average difference in the mill levy [between Fairmount Township and City] would have been 19% instead of the 22% included in MHS's report. In other words, had the 2008 numbers been used, MHS's report would have reflected that the tax increase to CLE residents after annexation would have been less than the 22% reflected in the report.

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to approve Ordinance 548 annexing Cedar Lake Estates (CLE) effective April 8, 2009. Councilmember Hill commented he had reviewed the documents by MHS and the information provided at the public hearing before casting his vote. Councilmember Sifford reiterated that he also read the engineers review and public comments from the public hearing held on February 9, 2009. A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion passed 4-1.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to direct city staff to develop a plan to grandfather trash collection in CLE to their existing trash haulers with the requirement that every resident have an approved trash hauler or private hauler's permit issued by the city and staff be directed to leave the numbering system and street names in the subdivision as they are. Councilmember Sifford asked the city attorney if a motion needed to be made adding the item to the agenda. The city attorney advised Council to make a motion adding the item. Councilmember's Washington and McDowell withdraw their motion.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to add item to the agenda to direct staff for conditions to be applied to the Cedar Lake Estates annexation. Mr. Reavey asked if Councilmember Washington was adding conditions to the annexation. Councilmember Washington stated he was not adding conditions to the annexation only directing staff to deal with minor issues pertaining to Cedar Lake Estates. A show of hands was taken with all members voting in favor. Motion passed 5-0.

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to direct city staff to develop a plan allowing Cedar Lake Estates residents to maintain their current trash haulers until the time of negotiation of the Deffenbaugh contract renewal on December 31, 2010 with the requirement that every resident have an approved trash hauler or private hauler's permit issued by the city and staff be directed to leave the numbering system and street names in the subdivision as they are. A show of hands was taken with all members voting in favor. Motion passed 5-0.

*ORD. 548. AN ORDINANCE ANNEXING THE CEDAR LAKE ESTATES SUBDIVISION INTO THE CITY OF BASEHOR, KANSAS.*

*b. MARCIT bylaws agreement – forming new business entity to extend operating territory into Kansas*

Mr. Slauch clarified rather than adopting an ordinance, it would be necessary to adopt two resolutions incorporating an agreement that would allow MARCIT to extend their territory into Kansas. The current participating cities would have to withdraw from MARCIT so they could form a company known as Midwest Public Risk. Missouri has gone through the same process. This was to be presented last year; however, language needed to be changed at the request of cities Basehor, Bonner Springs, Edwardsville, Fairway, Gardner, Mission Hills, Spring Hill, Tonganoxie, De Soto and the County of Miami.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the resolution authorizing agreement of withdrawal and formation of Kansas Group Funded Pool. A show of hands was taken with all members voting in favor. Motion passed 5-0.

*RES. 2009-01. RESOLUTION AUTHORIZING AGREEMENT OF WITHDRAWAL AND FORMATION OF KANSAS GROUP FUNDED POOL.*

A motion was made by Councilmember Washington and seconded by Councilmember McDowell to approve the resolution authorizing procurement of program or service as presented. A show of hands was taken with all members voting in favor. Motion passed 5-0.

*RES. 2009-02. RESOLUTION AUTHORIZING PROCUREMENT OF PROGRAM OR SERVICE.*

***c. Consider Resolution adopting Identity Theft Policy***

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to approve the resolution adopting an Identity Theft Policy as presented. A show of hands was taken with all members voting in favor. Motion passed 5-0.

*RES. 2009-03. A RESOLUTION ADOPTING IDENTITY THEFT PREVENTION PROGRAM AS MANDATED BY FEDERAL TRADE COMMISSION.*

***d. Consider Ordinance to amend Chapter VII, Article 3, Fireworks***

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to approve an ordinance to amend Chapter VII, Article 3, Fireworks as presented. A show of hands was taken with all members voting in favor. Motion passed 5-0.

**CITY ADMINISTRATOR REPORT**

- Computer System Audit – Due to security sensitive data, copies of the CD containing the computer system audit would not be distributed. Kevin Staley, Integrated

Systems, would be at the ~~February-17<sup>th</sup>~~ <sup>March 2nd (CD)</sup> meeting to make a presentation and address any questions.

- Sewer District No. 3 – A joint meeting between Sewer District No. 3 Board and residents of Glenwood Estates would be held at 6:00 p.m. on Feb 24<sup>th</sup>, Glenwood Elementary School to discuss the decommission of the Glenwood lagoon. This would be one of two meetings required by KDHE in order to obtain a State Revolving Loan. Members of the governing body are welcome to attend.
- Strategic Planning Session is scheduled for Saturday, February 28 from 7:45 a.m. to noon.
- Transportation Enhancement Projects – These types of projects are not generally street projects, but focus more on trail or transportation systems.

The city engineer stated the project needs to meet criteria such as historic preservation, scenic environmental, and pedestrian and bicycle facilities (i.e. landscaping, recreational facilities, streetscape, or main street enhancement). He recommended turning the 155<sup>th</sup> Street & Parallel into a round-about with elaborate landscaping. Trails are easy to get approved because they score high. Several projects were discussed; however, it was decided to submit the railroad right of way trail and Tomahawk Valley Trail if necessary documents could be prepared within the next ten days.

## **MAYOR'S REPORT**

Mayor Garcia requested Council return the Strategic Planning survey back as soon as possible to give staff ample time to compile the data.

## **COUNCIL MEMBER REPORTS**

### **Iris Dysart**

President Dysart asked if Mr. Slaugh received anything back from KDOT regarding the Wolf Creek management construction procedures. Mr. Slaugh reported they were not ready but thought they would be on the March 2 agenda. The agreement regarding the \$500,000 for Wolf Creek Parkway was still in the works and would be presented in conjunction with the construction procedures.

## **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 February 17<sup>th</sup> meeting. Motion passed 5-0. Meeting adjourned at 8:20 p.m.



Chris Garcia, Mayor

Attest:



Mary A. Mogle, CMC, City Clerk

