ORIGINAL

Minutes

BASEHOR CITY COUNCIL MEETING
June 4, 2007
6:00 p.m.
Basehor City Hall

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Terry Thomas, Iris Dysart, Terry Hill, Jim Washington
Members Absent: Keith Sifford

Staff Present: Carl Slaugh, Mary Mogle, Gene Myracle, Terry Horner, and Dustin Smith

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WORK SESSION – 6:00 p.m.

The work session was called to order with all members present with the exception of Councilmember Sifford. The city attorney was not in attendance.

1. Discussion regarding agenda items.

a. Consider request for temporary occupancy permit at 2722 N. 155th St., as requested by Dennis Mertz, J.E.D. Installation

Planning Director Dustin Smith reported Dennis Mertz, J.E.D Installation would like to house his business office in the old Casey's building located at 2722 N. 155th Street. He reported the current zoning of CP-1 Neighborhood Business did not list a specific use that would apply to Mr. Mertz and felt the closest regulation that fit his type of business application was listed in the CP-2 District "Construction Contractor". Since the building has been vacant for some time, Mr. Smith suggested Mr. Mertz file for a Conditional Use Permit or rezone the property, both require public hearings which take about sixty days to complete the process. Mr. Mertz needs to be out of his current location by July 1 and was requesting a temporary occupancy so he could start the renovation process June 1. Mr. Smith noted this was not a typical process; however, the property owner requested a hearing before the governing body.

President Thomas asked what the process should be. Mr. Smith explained it would be to pursue the Conditional Use Permit. This was a case where the normal process and regulations were not working for this particular individual.

Mr. Slaugh showed a list of permitted uses for CP-1 zoning. Mr. Smith felt number 16 "Professional Services" was listed in error because it was also listed in Conditional Uses.

Mr. Washington said he had a problem with circumventing the proper process, having Council overrule what the planning director recommended. He felt the planning director should review the list and perform a test to see if it fit the area. However, Mr. Washington felt it would fit under "#3. Business Not Elsewhere Listed" and noted the requested use significantly had less of an impact on the area than what was there previously (gas station and convenience store). Mr. Smith read what the intent of the district under the use and noted there were several key words "retail, local needs, and neighborhood business" and did not feel Mr. Mertz's business fit the criteria.

President Thomas said he wanted to fully understand the impact of the business on the neighborhood. Mr. Mertz reported there would be a few employee's and UPS deliveries, otherwise, there would not be any outside storage or walk-in traffic. He explained he did not have machinery coming in and out and would simply be used as an office space. He purchased the property a week ago and the planning director's issue was with storage, not with office use. He explained items would be shipped to him and possibly need to store for a week or two. The mayor and city administrator suggested he apply for a 60 day exception while he worked through the process. President Thomas said it did not meet the requirement and was concerned that the City would be setting precedent. Mr. Mertz said he was not trying to "put our thumbs at the city council"; it was strictly a matter of interpretation of the zoning regulations between him and the planning director.

Mayor Garcia said it was a win-win situation for both Mr. Mertz and the City and did not feel it would hurt. President Thomas said proper planning prevents emergency city council decision and did not like being put into this type position.

Mr. Slaugh said, based on what Mr. Mertz was proposing the use would fit into a CP-2 classification. Normally when there is a change of occupancy, the fire department and building inspector would inspect to make sure it would meet codes. By giving temporary occupancy, this would allow this process to move forward.

President Thomas asked how much storage space was necessary. Mr. Mertz said he would need 200-300 sq. ft. of storage space. He welcomed the city codes person to attend when he made arrangements to have the power turned on in the building.

Councilmember Washington asked if there would be outside storage. Mr. Mertz reported there would most likely be a work vehicle. He also planned to tear down the canopy and improve the outside of the building. President Thomas said he was in favor of improving the outside of the property.

Councilmember Hill asked if the Council had the authority to step outside the rules by issuing a temporary occupancy. Mr. Slaugh reported, in his opinion, the Council had the authority to issue the temporary occupancy. Councilmember Hill asked if every time the planning director brings in a request for a temporary occupancy, would the

Council have to approve based on past decisions. President Thomas stated no, as long as the Council was not being capricious in Council's judgment. Mr. Mertz stated the Council already issued temporary permits for fireworks stands.

President Thomas asked what the chances of the Planning Commission turning down a rezoning request. Mr. Smith said if a temporary occupancy was granted, the Planning Commission would probably go along with the Council's decision. Mr. Mertz said it only had to do with storage area. President Thomas said it was a two-fold issue 1) storage, and 2) retail business. Mr. Smith said his issue was the use in general; there are certain places for these types of businesses. Mr. Mertz explained he sells strictly to the government and goes to the building location, rather than them coming to his office.

b. Consider contract for insurance risk management study as submitted by Charlesworth & Associates

Mr. Slaugh reported he received a quote from Charlesworth & Associates for an insurance risk management study. Councilmember Dysart stated she noticed as part of the study, the City would need to provide a copy of the personnel manual and asked if the update was ready. Mr. Slaugh stated the manual was ready for department head review and would be presented to the City Council after the department heads meet. President Thomas asked if the money would come out of the Insurance Fund. Mr. Slaugh noted yes or the money could also come out of the Professional Services fund. Councilmember Washington asked how the City came across the company. Mr. Slaugh reported he had inquired through our current insurance company EMC about this service. He asked why the City was spending money when it could be included in the next bid process and suggested going out for bid earlier in order to have a risk management study performed by the bidder.

c. Consider proposed rank structure and wages for Police Department.

Chief Horner explained the previous sergeant left employment and was never replaced. The money from the sergeant's position was still in the budget and requested the Council allow him create a sergeant and lieutenant position and distribute $10,800 between the two positions. He recommended promoting the detective to lieutenant and paying him 60% of the money and promoting the corporal to sergeant who would receive the remainder 40%.

Councilmember Washington noted in the sergeant's job description it does not show that the sergeant would report to the lieutenant. President Thomas reported the organizational chart shows the lieutenant only supervising two employees and should be corrected as well. Councilmember Washington said when he was first approached about the rank structure, it was explained to him there would be two sergeants, one for day shift and one for night. Chief Horner stated the lieutenant would also act as

detective. President Thomas said it was important to change the organizational chart so the police officers would clearly know who their direct supervisor was.

f. Consider policy on sewer user charges for subdivisions with swimming pools maintained by home owners associations.

Mr. Slaugh explained he was proposing a policy that would regulate home owners association swimming pools. The policy recommended charging different rates for when the pool was filled and when it was drained. President Thomas said a separate water meter should be placed on the restroom facility, rather than the pool itself. Council discussed the cost of water meters.

Mrs. Debbie Breuer asked if there was a way to meter the pool. Council discussed options. City Superintendent Gene Myracle reported staff discussed several options and tried to come up with a method that would pay a flat rate, 8 months at the vacant rate and 4 months of basic rate. President Thomas suggested dividing the total amount and paying an equal amount per month.

Five minute break. (6:55 p.m.)

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

The meeting was called to order with all members present except Councilmember Sifford. The city attorney was not in attendance.

SEWER AND SOLID WASTE DELINQUENT PUBLIC HEARING

The public hearing was called to order by Mayor Garcia.

Staff Report
City Clerk Mary Mogle reported State of Kansas gave cities the authority to place unpaid utility accounts onto property tax rolls and explained the annual process. (*Tape 1, Side B*) The delinquency was actually assessed to the property, not the property owner. She reported nine property owners paid since the last report was distributed and four have promised to pay on Friday, June 8. Councilmember Dysart asked if the list decreased when Council increased the administrative fee to $100. The city clerk reported this year's list was the most that had ever been reported.

Council Comments
Councilmember Washington asked for verification of the process, he noted one property

on the list had been sold during this process. Mrs. Mogle explained she had two property owners on the list that were involved in a similar circumstance with homes they purchased through foreclosures, one had paid and the other one was going to put a check in the drop box.

President Thomas asked how he could find out if a property had a delinquent account on a property. The city clerk noted that has been a problem and explained that her staff had gone as far as to send letters to the real estate companies asking that they contact city hall as part of their closing process. This action did not receive results.

Property Owner Comments
Brian Barber (1308 N. 159 St.) reported he purchased his home in August of 2006. The previous owner, Duane and Florence Seaba, did not pay in the past and left a delinquent utility bill. He filed a claim with the Title Company and was told he would not receive reimbursement since the amount was not shown during title search. His question was how he as a home owner could be protected. The previous owner still lives in Basehor and felt they would "get taken again" where they currently live.

President Thomas asked the city clerk from a procedural standpoint how does the City make the current homeowner not liable for the cost but the previous owner. The city clerk reported she did not think the City could since the assessment was against the property, not the property owner.

Mr. Slaugh said the City could go through the lien process, rather then through property taxes.

Elizabeth Zumwalt (1320 N. 158 Terr.) purchased her property in February 2007 and had a similar situation as Mr. Barber. She explained she has had to do extensive remodeling and to find out she owed another $300 for a bill she did not create was unfair. She reported the previous owner also resides in Basehor as well.

Debbie Breuer (14121 Belrive Circle) suggested filing on a more frequent basis.

John Flower (15515 Cedar Lane) stated collecting through taxes or a lien process is similar, both are assessed on taxes; however, lien's could be more costly due to filing fees.

Mike Chumley, representing a real estate company explained there was a list his agents are required to use when closing on a property; however, he felt the City should not count on real estate agents contacting the utility companies to see if there were unpaid accounts. He asked that a copy of the State Statute be provided to the property owners.

A motion was made by President Thomas and seconded by Councilmember Washington to table to June 18, 2007 and authorize the city clerk to explore other options. Discussion followed. The city administrator said another option was to work with the water department to have water shut off. The city superintendent noted that avenue had already been researched to no avail. President Thomas said if other property owners with similar situations could not make it to the meeting, they should be given the same consideration as those who attended tonight's meeting. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

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. May 14, 2007 Regular Meeting
   2. May 21, 2007 Work Session
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

A motion was made by President Thomas and seconded by Councilmember Hill to approve the Consent Agenda as presented. Discussion followed. Councilmember Washington noted the 24-40 public hearing was still showing on the June calendar and should be listed on the July calendar. Mr. Slaugh reported the meeting listed on the calendar was an advisory meeting, not a public hearing.

President Thomas asked where interest on investment funds goes when received. The city clerk reported the interested is assessed to different funds according to the percentage of money in the account. Mayor Garcia noted the work session minutes showed that Councilmember Hill arrived at 7:06 p.m. and should be 6:06 p.m. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

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).

a. Citizen Comments Regarding Agenda Items

John Bonee (14123 Belrive Circle) spoke in favor of approving the temporary occupancy permit for J.E.D. Installation noting he felt it was a good fit for the area.

He also spoke regarding the proposed policy for home owners association swimming pools and suggested a flat rate of $15 per month.

Debbie Breuer (14127 Belrive Circle) wanted to see the rate for swimming pools stay at the minimum amount.

Bob Moore (2636 156 St) reported Casey's General Stores has strict restrictions for the store and supported Mr. Mertz moving into the building.

SCHEDULED DISCUSSION ITEMS

a. Steve Jack, Executive Director, Leavenworth County Development Corporation Re: LCDC Quarterly Update

Tony Kramer, Chairman of LCDC and Steve Jack, LCDC Executive Director gave a quarterly update to include upcoming events and proposed levels of funding request for 2008. (Estimated funding rate for 2008 will be $6,154.) Mr. Jack reported on the process LCDC was going through to find available buildings and land for future industrial parks. Some businesses are requesting reduced land costs and other incentives if the company promises to bring in and maintain a certain level of employees.

b. Consider options for dealing with delinquent accounts receivable accounts.

Mr. Slaugh said he was looking for comments from the City Council on collection of delinquent accounts receivable accounts. He sent out a notice to property owners that this matter would be discussed at this meeting and received responses from some. One account in question was the placement of a culvert on 155th, near Hickory Street. Mr. Slaugh explained the transaction was a gentleman's agreement between the property owner and a previous mayor; therefore, no written agreement was in the file.

Mayor Garcia stated the ordinance gives the option to file against the property owner in small claims court as a means of collection. Councilmember Washington stated the ordinance was clear giving administration the authority to do whatever it took to collect delinquent monies owed.

Jerry Mussett (15420 Hickory) explained the history of the delinquent bill. He reported he did not ask for the tube, it was not engineered correctly, and he did not feel like he owed the bill. He reported the property in question was for sale and felt the tube would most likely be torn out through development.

President Thomas stated that Mr. Mussett just said he initially agreed to pay the money and asked how the bill of $1500 increased to $2100. Mr. Slaugh stated the difference was late fees and finance charges.

Councilmember Washington suggested researching the delinquent accounts and any account that did not have documentation, should be removed and other accounts should be taken to collection.

A motion was made by President Thomas and seconded by Councilmember Washington to remove Jerry Mussett's delinquent account from the role. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

Mayor Garcia asked if the building inspector was to withhold future building permits from delinquent developers. Council agreed that permits should be withheld and no occupancy permits should be issued until the account is paid in full.

BUSINESS

a. Consider request for temporary occupancy permit at 2722 N. 155th St., as requested by Dennis Mertz, J.E.D. Installation.

A motion was made by President Thomas and seconded by Councilmember Dysart to approve a temporary occupancy for sixty days at 2722 N. 155 Street. Discussion followed. President Thomas pointed out that this decision was no reflection on the planning director's recommendation. Mr. Slaugh asked for a provision that the building inspector be allowed to inspect prior to occupancy. President Thomas stated that was understood. Councilmember Washington said he did have a problem intervening prior to the planning commission meeting. Councilmember Dysart asked when the matter would be before the planning commission. Mr. Smith reported the matter would be placed on the August Planning Commission meeting and come before the City Council in September. Councilmember Dysart asked if Council would consider giving ninety days. President Thomas said he would prefer Mr. Mertz come back and ask for another extension if needed. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

b. Consider contract for insurance risk management study as submitted by Charlesworth & Associates

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to deny the contract for an insurance risk management study as presented. A roll call vote was taken with council member's Thomas and Hill voting nay and council members Dysart and Washington voting in favor. Mayor Garcia broke the tie voting against the denial. Motion passed 2-3.

A motion was made by President Thomas and seconded by Councilmember Hill to approve the contract for insurance risk management study as presented. A roll call vote was taken with council member's Dysart and Washington voting against and council

member's Hill and Thomas voting in favor. Mayor Garcia cast the deciding vote in favor of the contract. Motion passed 3-2.

c. Consider proposed rank structure and wages for Police Department.

A motion was made by Councilmember Washington and seconded by Councilmember Hill to approve the proposed rank structure and wage recommendations as presented. Discussion followed. President Thomas asked if the wage adjustment was being taken into consideration for the 2008 budget. Mr. Slaugh stated yes. Councilmember Dysart asked if there was competitive testing process for the sergeant's position. Chief Horner stated yes. Councilmember Dysart asked if the supervisors would have hire-fire power and according to the flow chart provided, it appeared there would be four supervisors. Chief Horner reported the officers would not have hire-fire power. She also questioned if they would be non-exempt or exempt since they were supervisors. Councilmember Washington explained the Fair Labor Standards Act (FLSA) regarding employment status. Mr. Slaugh explained if they are considered field worker's they are non-exempt status even though they may supervise more than five employees. Councilmember Washington said as part of good practice, you would want to take line supervisors and make them part of the process, but not give them power to hire and fire. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

d. Consider medical insurance contract for year 2007-08.

Mr. Slaugh explained the current medical insurance coverage was through Blue Cross Blue Shield of Kansas; which increased by over 26%. The new rate was still lower than most cities in accordance with MARC benefit survey. President Thomas stated the City may need to look at different options for next year. *(Tape 2, Side A)*

A motion was made by President Thomas and seconded by Councilmember Hill to approve the contract with Blue Cross Blue Shield of Kansas for medical insurance coverage (July 1, 2007-June 30, 2008). A roll call vote was taken with all members voting in favor. Motion passed 4-0.

e. Consider policy on sewer user charges for subdivisions with swimming pools maintained by home owners associations.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to make a single charge per year equivalent to four times basic rate and 8 times vacant rate. Discussion followed. President Thomas suggested nine months at the vacant rate and three months (June, July August) at the basic rate since pools were only open from Memorial Day through Labor Day. A roll call vote was taken with members Thomas, Hill, and Dysart voting nay and member Washington voting in favor. Motion failed 1-3.

A motion was made by President Thomas and seconded by Councilmember Hill to approve home owners associations pay a vacant rate for nine months and a basic rate for three months (June, July, August). A roll call vote was taken with all members voting in favor. Motion passed 4-0.

h. Consider payment to District Court for condemnation proceedings pertaining to 147th and Parallel Street Improvement project.

Mr. Slaugh reported the court requires the City pay an estimated amount for appraisal fees and land cost to court prior to finalizing condemnation proceedings.

A motion was made by President Thomas and seconded by Councilmember Dysart to pay $5000 to the clerk of the District Court for condemnation proceedings pertaining to 147th and Parallel Street Improvement project. Discussion followed. Councilmember Dysart asked if the appraisal was more than had already been paid previously, would the City need to pay more to those property owners. Mr. Slaugh stated he would place the matter on the agenda as soon as he received the necessary information. Legally the City would not have to go back and pay more to the other property owners. Mr. Slaugh noted the other property owners were paid $5,000 per acre. Councilmember Washington said there was no legal requirement to go back and give more money and did not recommend doing so. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

i. Consider approval of Neighborhood Revitalization Application for property located at 2940 N. 155th St., as submitted by property owner Lonna Denning

A motion was made by Councilmember Washington and seconded by President Thomas to approve the Neighborhood Revitalization application as presented. Discussion followed. Councilmember Washington asked the city clerk if the application had met the criteria. She stated yes, the only problem was the builder failed to give the property owner the exact costs so the property owner was using a list provided to her by the bank. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

CITY ADMINISTRATOR REPORT

- Bid opening would be held on Friday, June 8 for asphalt work on Hollingsworth Road. Award bid to contractor on June 18th council meeting and project should be completed the first week in July.

- Joint work session scheduled with school board members on June 11. President Thomas commented he thought past discussion was to delay the meeting until the newly elected school board members came on board. Mr. Slaugh reported it took two months to organize this meeting and thought it would be easier to invite the new

members to attend the work session.

- Requested a ten-minute executive session to discuss a personnel issue.

MAYOR'S REPORT

- Mayor Garcia reported he thought Basehor Dairy Days was a successful event and thanks staff for their involvement.

- Update on 147th St. Project. Mayor Garcia asked the city superintendent, once money is figured out, how soon would contractor start work. Mr. Myracle reported a pre-construction meeting was held last week and there were some issues with utilities. Once those issues were resolved, the contractor felt he could start in a couple of weeks. Arrangements have been made with Leavenworth County to allow the trucks to travel north on 147th Street.

COUNCIL MEMBER REPORTS

Terry Thomas

President Thomas reported he thought Dairy Days was successful and thanked staff for their involvement.

Terry Hill

Councilmember Hill reported he and his wife worked Chris Cakes and felt it was a very successful event as well and gave the city clerk a special thanks for her involvement behind the scenes.

EXECUTIVE SESSION

A motion was made by President Thomas and seconded by Councilmember Dysart to convene into executive session for ten minutes to discuss personnel matters. A roll call vote was taken with all members voting in favor. Motion passed 4-0. (8:21 p.m.) The city administrator was in attendance.

Council reconvened at 8:30 p.m.

OTHER BUSINESS

Planning Director said the position for his department would primarily focus on code enforcement and advised Council they would probably receive calls at home when enforcement increased and asked for support.

ORIGINAL

President Thomas asked the city administrator when the sewer study would be ready. Mr. Slaugh stated a presentation would be given on July 16; however, a time had not been decided at this time.

ADJOURNMENT

A motion was made by President Thomas and seconded by Councilmember Dysart to adjourn the meeting. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

Submitted for Council approval with/without corrections or additions this 18th day of June, 2007.

Mayor Chris Garcia

SEAL OF THE CITY OF BASEHOR, KANSAS
CORPORATE SEAL

Attest:

Mary A. Mogle, CMC, City Clerk

(2 audio tapes)