

Minutes

BASEHOR CITY COUNCIL

August 6, 2007

6:00 p.m.

Basehor City Hall

Official Presiding: Mayor Chris Garcia

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

Members Absent: none

**Staff Present: Carl Slaugh, Mary Mogle, Terry Horner, Dustin Smith,
and Patrick Reavey**

Newspaper: Lara Hasting, *Basehor Sentinel*

WORK SESSION – 6:00 p.m

The work session was called to order at 6:00 p.m. by Mayor Garcia. All members were present including the city attorney Patrick Reavey.

1. Discussion regarding agenda items.

2008 Proposed Budget

City Administrator Carl Slaugh gave a summary of the proposed budget noting the overall budget was \$11.5 million, and included in that figure, \$4.85 million worth of expenditures within the Sewer Fund to cover expected expansion of the wastewater treatment facility.

He noted there were still some questions raised regarding development policies, Cedar Lakes and Cedar Falls connection and user fees which still needed to be answered; however, those should not hold up the budget process. One question was if Cedar Falls should be charged 125% or 150% on sewer connection and monthly user fees.

President Thomas asked how impact fees and excise taxes are accounted for in the budget. He was concerned that they would be co-mingled in with others funds. The city administrator reported the fees are listed in the revenue side of the General Fund, Permits & Fees. The city clerk reported excise tax and impact fees are tracked individually through the general ledger by the city treasurer.

Councilmember Washington asked why the Ad Valorem Tax line item was X'ed out. Mr. Slaugh reported it was a State form. The clerk reported the County would provide the final amount after the budget was submitted. He also questioned what would happen if the City did not spend all the funds at the end of the year. Mr. Slaugh explained the City was allowed to carry over a reserve in certain funds.

Councilmember Dysart asked (page 5) why \$215,000 was not show as a General Fund Transfer but was shown on the Transfer sheet. Mr. Slaugh stated he would see that it was corrected.

f. Consider approval for payment request #1 from Holland Corporation for asphalt overlay on Hollingsworth Road and approval of substantial completion.

Mr. Slaugh explained the project was completed on July 19. The original amount of the bid was \$123,500. Since the project was completed, Holland Corporation has requested payment, less the 10% retainage.

President Thomas asked why 30 ft. of the road was not completed. Mr. Slaugh stated he has spoke with KDOT about completing that area; however, at this time KDOT has not agreed to pay for the work. They informed him they would review the matter and report back to him at a later date.

g. Consider Change Order No. 1 in the amount of \$1,878 for the 147th and Parallel Road project, addition of larger drain pipe.

Mr. Slaugh explained the Council agreed, at a previous meeting, to extend the length of the drainage pipe that went under 147th Street. When the engineer reviewed the plan, he recommended increasing the pipe from 42" to 48". He explained since the item was under \$2500, he approved it since it was within his authority. Normally, he would wait to receive Council approval for any change order but, in this case, he did not want to stop the project to wait for a regular council meeting.

President Thomas asked where Consolidated District No. 1 was relocating the water line. Mr. Slaugh explained the line on the west side of the road north of Parallel Lane would be moved out of the right-of-way.

Councilmember Washington said he supported giving the city administrator the authority to make decisions if the amount needed was within his scope of purchasing (\$2,500). Mr. Slaugh stated he did receive support from the majority of the council via email prior to making the decision; however, he was concerned about breaking the Open Meetings Act which was the reason for placing the matter on the agenda for formal Council action.

President Thomas stated he thought there should be a policy set allowing the city administrator to make change orders up to 5% of the contract amount.

i. Consider voluntary annexation of Mussett Property and Rix Property in conjunction with the Basehor city Center Development, located in Section 35, Township 10S, Range 22E.

Planning Director Dustin Smith reported the annexation being requested was voluntary and unilateral and that a public hearing was required by state statute. He noted there was a correction to the state statute noted in the ordinance. The statute should be K.S.A 12-520, not 12-520c. The draft ordinance provides a legal description of the perimeter boundary of the property to be annexed; however, it omits a portion of the property where the Mussett's home is located. He recommended approval of the annexation with a stipulation that this property be annexed also. He cautioned council by not annexing this particular piece of property it would create an "island" surrounded entirely by the City of Basehor.

President Thomas asked why the Mussett property was being omitted. Mr. Smith stated he thought the landowner did not want to pay additional city taxes once they were inside the city limits.

Mr. Slauch stated he thought the Council should not take action at this meeting since the ordinance did not reflect the correct legal description. City Attorney Patrick Reavey stated the Council must have before them the correct legal description before taking formal action.

The petitioner noted the correct legal description, including the Musett's home, had been emailed to him last week. Council directed the planning director to check his records during the intermission.

a. Consider a change to the Municipal Code to allow Sunday sales of alcoholic liquor.

Mayor Garcia reported the past Council had made a motion to never address this issue again; however, since this was a new Council he felt they should have the opportunity to revisit the request. No further discussion at this time.

c. Consider proposed changes to the Basehor Municipal Code to add the position of City Prosecutor.

Mayor Garcia reported the city attorney reviewed and drafted an ordinance allowing the city prosecutor to be a separate position from that of the city attorney.

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Mr. Reavey explained he spent time with the police chief, police-court clerk, and Mr. Thompson and felt comfortable leaving Mr. Thompson as city prosecutor.

Councilmember Washington was not in favor of 1-312(g) where it stated "...in the event the *Mayor* determines it is advisable to appoint a City Prosecutor" explaining that he felt it should be the Council who makes that determination. Mr. Reavey stated the language was drafted from state statute. Councilmember Washington stated he felt the Council should establish the office first and then have the Mayor make the appointment with Council consent. He also recommended changing (g) to a separate section of the ordinance and not under the area of City Attorney.

Councilmember Hill asked what other positions are created by the Mayor in this manor. Mr. Reavey read the various offices from the state statute.

Work Session closed at 6:50 p.m.

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

All members were in attendance including the city attorney Patrick Reavey.

PUBLIC HEARING FOR PROPOSED 2008 BUDGET

Staff Comments

City Administrator Carl Slaugh gave the following staff report (*excerpt from Agenda Item Information Form*):

"The \$11.5 million overall budget includes projected expenditures in the Sewer Fund of \$4.85 million to cover expected expansion of the wastewater treatment facility.

The city is projecting a cost of \$4.0 million for the plant expansion, \$400,000 for sewer line rehabilitation, and \$450,000 in engineering expenses in 2008. The expenditures in the sewer department do not impact the mill levy since that fund is an enterprise fund with revenues from utility fees.

The mill levy with the proposed budget will remain constant at approximately 28.5 mills.

Increased revenue from a 15% increase in sales tax from 2005 to 2006 (\$263,028 to \$310,585) and 11% increase in property valuation from 2005 to 2006 (\$32,041,578 to \$35,473,155) will go towards a 26% increase in medical insurance, 7.5% increase in dental insurance, and proposed pay increases. There will also be \$588,700 in Special

Highway funds, \$225,000 for Municipal Equipment Reserve and \$375,000 for Capital Improvement funds.

Changes may be made in the proposed budget presented at the public hearing, but may only be adjusted down from the proposed mill levy of 28.5.

All council members present at the hearing are required to sign the budget documents.”

Public Comment

There were no comments from the public. *(Tape 1, Side B)*

City Council Comment

There were no comments from the City Council.

A motion was made by Councilmember Washington and seconded by President Thomas to approve the proposed 2008 Budget as presented. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Mayor Garcia then closed the public hearing.

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 9, 2007 Work Session
 - 2. July 16, 2007 Work Session & Regular Meeting
- b. Approve Treasurer’s Report & Vendor Payments
- c. Approve investment recommendations (none at this time)
- d. Approve calendar of events

A motion was made by President Thomas and seconded by Councilmember Sifford to approve the Consent Agenda as presented. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

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

Fred Box, Commander of VFW Post 11499, requested Council waive sewer and solid waste fees for their new post located at 2806 N. 155th Street. Mr. Box reported the building where they held their meetings had been condemned which caused them to move to the new location and the organization was strapped for funds. He reported all funds raised by the organization go back into the community. He noted the City of Tonganoxie pays the utility fees for their local VFW post.

David Burkemper, Manager for Shorty's Liquor (1172 Bury St, Tonganoxie, KS), asked the Council include Labor Day, Memorial Day, and Independence Day in the proposed ordinance. He noted those holidays were the liquor stores busiest times.

Councilmember Dysart asked if Shorty's Liquor was planning on opening on Sunday's. Mr. Burkemper noted at this time they did not have the staff to open on Sunday's; however, they may consider Sunday sales next year.

Ed Bush (2606 N. 156th Terr.) urged Council to approve waiving sewer and solid waste funds for the VFW post.

Closed public portion of meeting.

SCHEDULED DISCUSSION ITEMS

None at this time.

BUSINESS***a. Consider a change to the Municipal Code to allow Sunday sales of alcoholic liquor.***

A motion was made by President Thomas and seconded by Councilmember Washington to approve the change to the Municipal Code to allow Sunday sales of alcoholic liquor as as presented. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 4-1.

ORD. 517 - AN ORDINANCE AMENDING SECTION 3-213 AND SECTION 3-304 OF CHAPTER III OF THE CITY CODE PERTAINING TO SALES OF CEREAL MALT BEVERAGES AND ALCOHOLIC LIQUOR WITHIN THE CITY OF BASEHOR

b. Consider waive of sewer and solid waste fees for 2806 N. 155th Street, requested by VFW Post 11499.

Mr. Slauch reported an estimated cost of fees (\$9.71 for sewer and \$9.70 for solid waste) had been provided by the city clerk. Although the fees are nominal, he was concerned

about setting precedent for future requests from religious institutions and other not-for-profit organizations.

Councilmember Washington noted he had the same concerns as presented by the city clerk and need to be careful setting precedent for future requests.

A motion was made by President Thomas and seconded by Councilmember Dysart to deny the request to waive sewer and solid waste fees for 2806 N. 155th Street. Discussion followed. President Thomas said he thought he and Councilmember Washington would be able to come up with some other means to help fund the fees. Councilmember Dysart thanked the VFW for infusing life into the downtown area. A roll call vote was taken with member's Thomas, Dysart, and Washington voting in favor. Member's Sifford and Hill voted against the denial. Motion passed 3-2.

c. Consider proposed changes to the Basehor Municipal Code to add the position of City Prosecutor.

Councilmember Washington stated he would like to see the city attorney separate paragraphs for the city attorney and city prosecutor's positions with the idea that the council will approve the position and the mayor make the appointment.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the proposed changes to the Basehor Municipal Code to add the position of the City Prosecutor as written. Discussion followed. President Thomas stated he agreed with Councilmember Washington since the city attorney did not want to supervise the prosecutor. A roll call vote was taken with member's Sifford, Hill voting in favor and member's Washington, Dysart, and Thomas voting against. The motion failed 2-3.

d. Consider appointment of city prosecutor.

A motion was made by President Thomas and seconded by Councilmember Washington to table action until at which time the proposed ordinance (in Business Item "c") could be revised. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 4-1.

e. Consider appointment of Kenneth Massingill to Board of Zoning Appeals.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to approve the appointment of Ken Massingill to the Board of Zoning Appeals. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Mr. Massingill will fill the vacant position of David Roe for a term of one year. (Mr. Massingill was present and received Oath of Office following the meeting.)

f. Consider approval for payment request #1 from Holland Corporation for asphalt overlay on Hollingsworth Road and approval of substantial completion.

Councilmember Washington asked if the Hollingsworth Road project was “substantially” completed. Mr. Slauch explained the request for payment was for the work performed by Holland Construction, not the entire project and noted there are other items still to be completed by the County.

A motion was made by Councilmember Washington and seconded by President Thomas to approve payment request #1 from Holland Corporation in the amount of \$122,844.38 for asphalt overlay on Hollingsworth Road and approval of substantial completion. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

g. Consider Change Order No. 1 in the amount of \$1,878 for the 147th and Parallel Road project, addition of larger drain pipe.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve Change Order No. 1 in the amount of \$1,878 for the 147th and Parallel Road project to cover the expense of a larger drain pipe. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

h. Consider a utility relocation expense in the amount of \$8,523 to Consolidated Water District #1 on the 147th and Parallel Road project.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve a utility relocation expense in the amount of \$8,523 to Consolidated Water District #1 on the 147th and Parallel Road project as presented. Discussion followed. Councilmember Washington asked why this change was not included in the engineers cost estimate initially. Mr. Slauch reported the engineer’s documents showed relocation of the hydrant and nothing for relocation of the water line since they did not know if the line needed to be moved at the time of bid. The utility company’s relocation expense exceeded the amount set by the engineer. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

i. Consider voluntary annexation of Mussett Property and Rix Property in conjunction with the Basehor city Center Development, located in Section 35, Township 10S, Range 22E.

Mr. Smith reported the document presented in Council’s packet and discussed during the work session was correct. The ordinance submitted had legal descriptions for each individual tracts being annexed as opposed for having a legal description for the all inclusive perimeter boundary. He noted he penciled in the Rix property on the map. All tracts being considered for annexation are shown on the map.

The numbers on the legal description did not correspond on the map and match up as followed:

Legal Description In Ordinance	Shown on Map
Tract 1	Tract 8
Tract 2	Tract 1
Tract 3	Tract 3
Tract 4	Tract 9 (old railroad right of way)
Tract 5	Rix property
Tract 6	Tract 2

A motion was made by Councilmember Washington and seconded by President Thomas to approve the ordinance as presented. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

ORD. 518 – AN ORDINANCE ANNEXING LAND TO BE KNOWN AS BASEHOR CITY CENTER INTO THE CITY OF BASEHOR, KANSAS.

CITY ADMINISTRATOR REPORT

1. Appoint representative for Regional Airport Committee.

Mr. Slaugh reported the City of Leavenworth and Leavenworth County Port Authority have compiled a committee to review a regional airport. He requested that he be appointed as the representative. Council concurred. He encouraged comments from the Council regarding location ideas. He reported a meeting was held last month to go over location, FFA requirements, and funding for a study.

Councilmember Washington did not feel that Sherman Airport would support the needs of the community and suggested a sight in the Stranger Creek basin. Mr. Slaugh stated he did not think the FFA would support a site in a flood plain because it was an issue with the current location.

2. Request for fifteen minute executive session regarding non-elected personnel.

MAYOR'S REPORT

There was no report at this time.

COUNCIL MEMBER REPORTS

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Councilmember Sifford thanked everyone for their calls and supports during his recovery from surgery.

Terry Thomas

President Thomas requested time in executive session to discuss personnel matters as well.

Jim Washington

Councilmember Washington stated he would like to see two items addressed in the future:

1. Governing Body should hold a meeting with County Commissioners with a firm agenda to discuss future wastewater needs and comprehensive plan.
2. Annex out to the limits of the Basehor growth area in accordance with the City's Comprehensive Plan.

Mr. Slaugh reported the Council will be meeting with the County Commissioners in September and asked Council to provide him with questions they would like to have addressed prior to meeting. Resolution of Cedar Lakes fees, Glenwood Estates wastewater, Cedar Falls would be discussed. County staff will also be available for questions and information.

Mr. Slaugh stated the League of Kansas Municipalities have provided a draft of the municipal code. He will schedule a series of meetings to discuss proposed changes.

Terry Hill

Councilmember Hill asked when J.E.D. Installation would remove the canopy at the old Casey's store. Mr. Smith stated he did not want to discuss it in open session since it would be discussed at the Planning Commission meeting tomorrow night.

Mr. Smith reported he and a sub-committee have been working on an annexation plan and should be ready in the near future.

Iris Dysart

Councilmember Dysart asked when the industrial site selection committee would make their choice for the next industrial site in Leavenworth County. Mr. Slaugh stated a committee was in the process of reviewing the submissions; however, he did not think a deadline had been set at this time.

Councilmember Dysart requested the employee being discussed attend the first portion of the meeting.

Mayor Garcia cautioned the Council about discussing personnel matters unless they know if the employee had followed the grievance policy.

EXECUTIVE SESSION

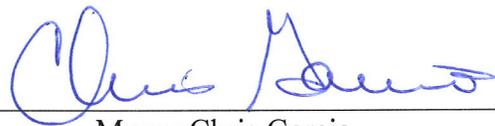
A motion was made by President Thomas and seconded by Councilmember Sifford to convene into Executive Session for fifteen minutes to discuss non-elected personnel matters. A roll call vote was taken with all members voting in favor. Motion passed 5-0. (7:45 p.m.) Police Chief Horner attended the first five minutes of the session.

At 8:02 p.m., Mayor Garcia called the regular meeting back to order.

ADJOURNMENT

There being no further business to discuss, a motion was made by President Thomas and seconded by Councilmember Sifford to adjourn the August 6, 2007 meeting. A roll call vote was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 8:03 p.m.

Submitted for Council approval with/without corrections or additions this 20th day of August, 2007.



Mayor Chris Garcia

Attest:



Mary A. Mogle, CMC, City Clerk