Minutes

BASEHOR CITY COUNCIL
September 17, 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, Gene Myracle, Dustin Smith

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WORK SESSION – 6:00 p.m.

Mayor Garcia called the work session to order at 6:00 p.m. with all members present. The city attorney was not in attendance. Mayor Garcia requested that all cell phones be turned off since they interfere with the recording system.

The city administrator introduced intern Jared Cobb. Mr. Cobb will be assisting the city administrator with special projects.

Discussion regarding Agenda Items

a. Consider approval for Wolfcreek Market Place Final Development Plan

Planning Director Dustin Smith provided a revised narrative sheet that addressed only the Final Development Plan.

Change on Staff Report, Page 2, paragraph indicated "it was rezoned as Wolf Creek Junction Phase II" and the property had already been rezoned CP-1 as part Wolf Creek Junction Phase I of March 28, 2005.

The Development Plan is 6.1 acres located on the northeast corner of Wolf Creek Parkway also referred to as Lot 3. The proposed grocery store is 43,000 plus square feet. A site plan and building elevation was provided for Council review. Mr. Smith reported the phasing scheduling presented was reviewed by and agreed upon by the city engineer last week, noting the only condition he added was condition #8 because he felt there was a safety issue. He felt signalization was necessary based on traffic count. According to KDOT, they indicated they would not approve a signal at 150th Street.

Council discussed KDOT's plans to signalize various intersections on 24/40 Hwy within the city limits. Mr. Smith stated KDOT was expecting Basehor to provide a list of intersections to be signalized and did not think KDOT would approve the intersection to be fully directional.

Developer Ed McIntosh addressed the right-of-way issues and asked for city support with obtaining a right-of-way from KDOT. Mr. Smith stated if KDOT did not grant the right-of-way, he would still support approval. Councilmember Washington stated it may be necessary to revise recommendation #1 if KDOT does not approve the right-of-way. The city administrator reported the 24/40 Hwy Corridor plan would be forwarded to KDOT's legal staff and then forwarded to each city for final approval. He estimated 30-60 days before the plan would be brought back to the City for final approval.

b. Consider approval of Wolfcreek Junction Phase 2 Final Plat and Subdivision Improvement Plan

Mr. Smith went over the map that showed the different zonings of Wolfcreek Junction subdivision explaining there was some confusion as to how Wolfcreek Junction had been referenced in the past and that the plat and zoning phases do not coincide. The construction documents are nearing approval with the city engineer. The Subdivision Improvement Agreement lists the excise tax for Phase I and II. Phase I excise tax ($109,772.86) was paid when first platted; however, Phase II would still be due based on 13.97 acres of land at .09 cents per square foot (approx. $54,767.98). Mr. McIntosh stated he had no problem paying the excise tax; however, he opposed paying excise tax on right-of-way and flood ground and requested the same consideration be granted him as past developers. Mr. McIntosh explained the developer for Prairie Lakes did not pay excise tax on the lake area, flood area, or right-of-way. Mr. Smith reported that he found documentation in the files that indicated Basehor Plaza excluded right-of-way when calculating their excise tax.

Councilmember Washington said there were two different owners registered at the courthouse for Wolfcreek Junction and felt that should be rectified prior to moving forward with the development. Mr. McIntosh stated the two owners jointly own both properties. Mr. Smith stated the two owners could sign the agreement as Benchmark Enterprises. Mr. McIntosh agreed.

c. Review draft personnel manual (Article K-Z)

Mr. Slaugh reported intern Jared Cobb worked on data pertaining to the wage plan and passed out a report for review. He explained it was raw data and still needed to be analyzed.

Article K. Work Place Safety

K-3(c) Substance Abuse - Council discussed the necessity of adding an additional statement to this article that if the employee refuses drug testing, they could be dismissed. It was decided the following statement should be added:

"In the event an employee refuses to have a drug test, it may lead to dismissal."

President Thomas suggested changing "(10) days" to read "the next scheduled work session". Councilmember Washington felt a special meeting, including an executive session, could be held sooner. After discussion, Council chose to leave the policy as written.

Article L. Telecommunications

No changes were made to this policy.

Article M. Travel

M-3 President Thomas asked that the word "prior" be added to the first sentence before approval.

M-4 President Thomas suggested reviewing this article in the future to see if it would be necessary to have employee's pay for additional insurance for car rental.

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

REGULAR MEETING – 7:00 p.m.

(Tape 1, Side B)

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

Mayor Garcia called the regular meeting to order at 7:00 p.m. with all members present. The city attorney was not in attendance. Pledge of Allegiance was recited.

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. September 6, 2007 Regular Meeting
2. September 10, 2007 Work Session (County minutes to follow)
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations (none)
d. Approve calendar of events

A motion was made by Councilmember Washington and seconded b y President Thomas to approve the Consent Agenda as presented with the exception of September 10 joint work session minutes. The September 10th minutes will be approved when the County provides a copy of their minutes. 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

John Flower (15515 Cedar Lane) acting in the capacity of chairman to the Planning Commission, addressed Items "a" and "b". Mr. Flower explained when the planning director brings conditions to the council recommended by the planning commission, the planning director has a duty to bring concerns he has as well. The Council as the decision making body has the opportunity to address the recommendations made by both the Planning Commission and staff.

Ed McIntosh (15319 McIntyre Road) was present to answer any questions the Council may have regarding Wolfcreek Junction action items. He requested the City assist him with obtaining the right-in/right-out access from KDOT noting the KDOT plan was a thirty-year plan with the majority of development taking place prior to that time.

Closed public portion of the meeting.

SCHEDULED DISCUSSION ITEMS (None)

BUSINESS

a. Consider approval for Wolfcreek Market Place Final Development Plan

Councilmember Washington reported the standard for bonding has been a period of two years and recommended increasing the time frame to five years. He explained a subdivision such as Wolfcreek would take more than two years to build out. Mr. Smith reported that bonding was addressed in Item "b", Subdivision Improvement Plan.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve Wolfcreek Market Place Final Development Plan as stated by the Planning Commission. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

b. Consider approval of Wolfcreek Junction Phase 2 Final Plat and Subdivision Improvement Plan

A motion was made by Councilmember Washington to approve amending the maintenance bond requirements from two years to five years. Discussion followed. The planning director stated he was not sure if it would affect financing. Mr. McIntosh reported Council requested Mr. Scherer to post a five year bond and the bonding company refused to bond past two years.

Councilmember Washington withdrew his motion. The city administrator stated a two-year period was statutory. President Thomas suggested having the developer film the sewer lines a month or two prior to the end of the two-year period. Mr. Slaugh stated he would research to see how other cities handle bonding requirements.

A motion was made by Councilmember Sifford and seconded by President Thomas to approve Wolfcreek Junction Phase II Final Plat and Subdivision Improvement Plan as written. Discussion followed. Mr. Smith asked for clarification as to what would trigger intersection modifications at 150th Street and US 24/40 (Item #7). Councilmember Washington felt the requirement to improve the intersection at 150th Street and US 24/40 were out of the developer's control and governed by KDOT. Mr. McIntosh reported his traffic study showed when improvements should be made and it was his intent to provide a traffic study with every permit submitted commenting he has set aside $3.7 million dollars for future improvements. President Thomas felt some of the language was ambiguous in the document. Mr. Smith suggested changing the language to read "evaluate and make a determination with each final development plan". President Thomas felt on page 3, paragraph E(2) that the document should specify how the city engineer would be notified. Mr. Smith reported typically the developer's engineer coordinates with the city's engineer by telephone. Council supported notification be performed by email or written notice. President Thomas addressed Section L. Building Permits on page 5 noting that the last sentence states that building permits would be issued when ***"all"*** seven conditioners were met and felt this was not consistent with past practice. Mr. Smith stated they have let builders put in foundations and footing walls prior to construction of waterlines. Council agreed to add another statement "other than foundation and wall footings". A roll call vote was taken with all members voting in favor. Motion passed 5-0.

c. Consider approval of payment #1 to H.E. Miller & Sons Construction for work on the 147th and Parallel Road project.

Mr. Slaugh reported the payment request was based on 32% project completion based on the dollar value and that all the documents have been reviewed and approved by the city engineer.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve payment #1 in the amount of $76,667.85 to H.E. Miller & Sons Construction for work on the 147th and Parallel Road project. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

d. Consider proposal to adopt Kansas City area APWA (American Public Works Association) standards.

Mr. Slaugh reported the City currently follows standards set in the Subdivision Regulations. By adopting the American Public Works Association standards (APWA) and Section 5600 Storm Drainage Systems, it would allow the City to use the same storm drainage standards as most of the cities in the Kansas City area. President Thomas asked what was different from the building standards adopted last year. Mr. Smith reported the APWA standards cover Basehor

infrastructure and the building codes adopted last year cover aboveground improvements.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the proposal to adopt Kansas City area APWA (American Public Works Association) standards as presented. Discussion followed. Mr. Smith requested Council place an effective date in the motion. Councilmember Sifford amended his motion to approve the APWA standards as presented with an effective date of January 1, 2008. President Thomas questioned if a developer has received approval on his development but he did not start until next year, would he be required to follow the new standards. Mr. Slaugh stated he would have to go through another review and meet APWA requirements. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

e. Consider approval of AT&T Video Service Provider Agreement

Mr. Slaugh reported AT&T gave notice they were expanding their services to provide video service in the area. Effective October 1 they may have video service available near Pinehurst, northwest of town and the Hidden Ridge area.

Councilmember Washington thought the fiber optic line had also been installed in Prairie Gardens II. Councilmember Sifford asked why the company would install line in areas that were undeveloped. Mr. Slaugh stated he thought it was because they already have easements located in those areas and would install the new service to developing areas.

Councilmember Dysart felt the franchise fee should be 3% instead of 5% to be fair to the taxpayer. Councilmember Washington stated he would like to see some commitment from AT&T that other areas in the town would receive the same level of service. Mr. Slaugh stated he would be willing to schedule a meeting if Council wished.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve the agreement as presented. A roll call vote was taken with members Thomas, Sifford, and Hill voting in favor and members Dysart and Washington voting against the motion. Motion passed 3-2.

Councilmember Washington asked if the City was charging franchise fees to Sunflower on their Voice over IP lines based on their gross receipts, and if not, they should be. He requested the city administrator research the issue.

f. Consider approval of a credit card payment system for court fines.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the credit card payment system for court fines as presented. Discussion followed. President Thomas questioned how the system would work. Councilmember Dysart asked for clarification of when the court clerk would be notified of payment. She explained she would

receive an email immediately showing the defendants payment and explained the process. The court clerk reported Bonner Springs, Edwardsville, and Maize use this process and highly recommended the process. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

g. Consider appointment of city prosecutor.

Mayor Garcia submitted the name of Michael Mogenson as the city prosecutor.

A motion was made by President Thomas and seconded by Councilmember Washington to approve the appointment of Michael Mogenson to the position of city prosecutor. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

CITY ADMINISTRATOR REPORT

- Burns & McDonnell submitted application to KDHE on the wastewater treatment plant expansion. KDHE emailed Mr. Slaugh today giving him approval to move forward with the design. A written notice will be mailed in the future. EPA standards will be based on sewer utility bills and if they decide to make more stringent standards, they could raise the bill to 2% of medium household income. They will allow the city to meet the least restrictive requirements on phosphorus and nitrogen. The engineer will prepare a proposal for the next phase and have an estimate of fees in October.

- Sewer District No. 7 – Mr. Slaugh met with county officials last week regarding money still owed to the City of Basehor for sewer district #7 Cedar Lakes. County Commissioners will take formal action on Sept. 20. He explained the agreement signed January 18, 2005 was based on projected revenues for 2005; however, as of January 1, the account only had $22,000, and the $95,000 figure was estimated revenue for the whole year. Two issues remained for resolution: #1 Payment of $26,125 billed to Sewer District No. 7 for the May 2006 Sanitary Sewer Study of Southern Leavenworth County performed by Ponzer Youngquist and should have been billed to Sewer Districts 3 and 5. Issue #2 involved payment of $31,407.77 for decommissioning of sewer district #7 that should have been included in costs to be reimbursed under the KDHE revolving fund loan.

  Councilmember Dysart reported the decommission fees were $85,000 and paid by the county and it appeared the City was charged for that and should not have. She went over a report provided by the County. Mr. Slaugh stated all decommissioning costs should have been paid by KDHE loan funds.

- John Haley – the request to waive sewer connection fees will be placed on the next available agenda. Councilmember Dysart questioned the location and wanted to know if the County had been questioned if they were in favor of the City annexing one lot out of a subdivision since they were included in a benefit district.

- Cedar Lakes Bond - Councilmember Washington commented on the letter received from Miles Excavating regarding the Cedar Lakes bonding. It was his opinion the bond should stay in place regardless of whether or not the development company had failed. Mr. Slaugh stated he checked with the local office in KC and South Dakota and was informed they had cancelled the bond at the request of Mr. Miles. He informed them the bond should not have been cancelled. He will write a letter to the bonding company to re-implement the bond.

  Councilmember Dysart felt the bonding company should provide documentation as to who cancelled the bond. Mr. Slaugh stated they will start the bond two years from the July 2, 2007 time the lift station went on line.

  Councilmember Washington supported some type of written documentation via email or mail on actions from staff and developers.

  Mr. Myracle explained Leavenworth County was supposed to notify the City and KDHE when they would be going online with Sewer District 7. When Steve Miles received a letter that he would not be paid by the (*Tape 2, Side A)* developer, he would not put the lift station online. The city superintendent explained someone should have notified the City that the maintenance bond should have been put into effect. The City required the bank, new owner of the property, to pay for an additional one-year warranty on the lift station.

- Councilmember Washington asked about the letter he received from the City of Bonner Springs regarding their intent to extend their growth area to 24/40 Highway. Mr. Smith stated at the Leavenworth County Comprehensive Plan meeting two weeks ago, Bonner Springs growth area was larger than it should be. Mr. Smith indicated he informed the City of Bonner Springs that Basehor's growth area would extend past I-70. Mr. Slaugh said he thought it was a border issue, if Bonner Springs wanted to provide services to areas in Leavenworth County, it would not give them authority to automatically annex.

  Mr. McIntosh stated "if you don't control your sewer, you don't control your boundaries" and explained a situation in Johnson County.

MAYOR'S REPORT

- Two sump pumps have been installed in the basement.

- 147th Street project was looking nice. Mr. Myracle reported approximately 65% of the project was complete. South end of Parallel has been excavated and should pour concrete on Thursday and finish paving next week. Thought project should be completed in two weeks.

- Buffalo Bill Century Ride would be taking place on September 23. City Hall was being used as SAG (stop and go) location.

COUNCIL MEMBER REPORTS

Iris Dysart

- Councilmember Dysart asked the city administrator if he wrote a letter to KDOT regarding the 35 ft. on Hollingsworth Road or a letter from the County Commissioners for a letter of support for the stop light at 155th Street. Mr. Slaugh reported he had not written the letters and would address the matter this week.

- Update on grant for frontage road between 155th and 158th Streets – Mr. Slaugh reported a KDOT committee comes out to review each location and there were projects totaling $60 million statewide. KDOT has $12 million to distribute. He commented the more the City invests, the more likely the City would be awarded a grant. She asked if the City asked for less, would they possibly qualify. Mr. Slaugh reported the State generally does not want to deal with a lot of small projects because it is difficult to administer. She noted this was the third time the City was turned down. Mr. Slaugh stated the City was awarded twice and the City turned down the grants twice. Mr. Myracle stated the KDOT representative commended the city administrator on his grant submittal and asked if the City would take less and Mr. Slaugh responded yes. Mr. Slaugh noted both the property owners and the City would have to pay more toward the project. He said it was difficult to know what figure KDOT would settle for.

EXECUTIVE SESSION (None)

ADJOURNMENT

There being no further business to discuss, a motion was made by President Thomas and seconded by Councilmember Washington to adjourn the September 17, 2007 meeting. A roll call vote was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 8:20 p.m.

Mayor Chris Garcia

SEAL OF THE CITY OF BASEHOR, KANSAS CORPORATE SEAL

Attest:

Mary A. Mogle, CMC, City Clerk

(2 audio tapes)