Minutes

BASEHOR CITY COUNCIL
November 19, 2007
6:00 p.m.
Basehor City Hall

Official Presiding: President Terry Thomas (Work Session)
Mayor Chris Garcia (Regular Meeting)

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

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

Newspaper: Lara Hastings, *Basehor Sentinel*

WORK SESSION – 6:00 p.m

The work session was called to order by President Terry Thomas. All members were present with the exception of Mayor Garcia and Councilmember Washington. The city attorney was in attendance.

Discussion regarding agenda items.

1. Consider approval of personnel manual

(Councilmember Washington arrived at 6:02 p.m.)

City Administrator Carl Slaugh explained the process that had occurred to this point in reviewing the proposed Personnel Policy manual to include review and further recommendations by the city attorney. Mr. Slaugh stated it was his hope that the manual would be approved and go into effect January 1, 2008.

- A1E was moved to C1 – It was the consensus of the Council to remove this paragraph and consider all employee's "at-will". The city attorney stated he would amend Charter Ordinance No. 5 that addressed certain positions. He noted it would take a 60 day protest period to before the amendment would become law.

- C-1E – remove paying reserve officer's $1 per year. Work Compensation now covers volunteers.

- C-6 – remove date since it was irrelevant at this time.

- D-1 Pay Plan – remove "the provisions outlined in Section D-3" and replace with "performance evaluations, supervisory recommendations and city administrator or governing body approval.

- D-5 Overtime Work. FLSA recommends 480; however, he was recommending 80 hours. Consensus was to change from 480 hrs to 80 hours and pay out at the end of each year so a zero balance would be carried forward.

- D-6 Call-Out/On-Call Policy. The city administrator recommended removing the Emergency Meal Plan. Consensus was to leave the policy as written.

- E-2 – consensus was to remove the wording "unless called out".

- E-4(a) - all employees would be allowed to carry over one year of vacation from one year to the next.

- E-5(a) – consensus was to reduce sick leave benefits from 1200 hours to 1040 hours. Add wording "No compensation will be paid for accumulated sick leave upon termination".

- E-8(c) Workers Compensation. Council discussed if an employee should receive the difference between work compensation benefits and their regular wages. Councilmember Hill stated it would need to be calculated so the employee did not receive more on work compensation than he normally would working.

- E-5(d) Sifford asked for clarification. Mr. Slaugh stated the distinction was if the City would put someone back to work, they may not be able to work their normal job, they can require a physical to see if they can work. Mr. Reavey stated the language is to comply with Americans with Disabilities Act and the City would have a "good faith belief" that the employee could not perform the duties. Council discussed examples of returning employees back to work.

Five-minute break (6:47 p.m.)

REGULAR MEETING – 7:00 p.m.

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

Roll call taken by President Thomas. All members present with the exception of Mayor Garcia. 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. November 5, 2007 Work Session and Regular Meeting
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

Councilmember Dysart reported "g" (page 9) was duplicated under Business items. The second "g" should, in fact, be "h".

Councilmember Washington requested KERA (page 7) be amended to read CURB, Citizen Utility Rate Board.

President Thomas asked that an explanation be provided explaining the change in revenues for the Sewer Fund. City Administrator Carl Slaugh reported he would be providing an amended budget proposal at the December 3 meeting and would have the city treasurer research the matter.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to approve the Consent Agenda with (the aforementioned) corrections. A roll call vote was taken with all members voting in favor. Motion carried 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. Debbie Breuer, Falcon Lakes Homes Association
Re: Installation of "No Trucks Allowed" sign on Donahoo Road

Mrs. Breuer, appeared on behalf of the Falcon Lakes Homes Association, to request a "No Trucks Allowed" sign be installed on the north side of Donahoo. She noted that since both Leavenworth County and City of Basehor have responsibility for the road, it may take a decision from both jurisdictions.

President Thomas suggested placing a sign at the entrance of K-7 and Donahoo.

Councilmember Washington *(Tape 1, Side B)* asked if the sign should have a gross weight limitation. The city attorney reported State statutes govern the different vehicle weights.

City Superintendent Gene Myracle reported the issue he had prior to now, was that farmers were unable to access their fields. President Thomas said he thought there was a way to word the ordinance that would not restrict certain farmer's needing access to their properties.

b. Citizen Comments Regarding Agenda Items

Dennis Mertz (2905 N. 155th St.) commented on Action Item "e" suggested the City look into a way to stop developers from filing bankruptcy prior to finishing their developments and leaving Basehor taxpayers to pay their bills.

Mr. Mertz commented the proposed Personnel Policy, article D-5 Overtime, should be reworded to include FLSA regulations where all police officers are considered non-exempt employees and should receive overtime pay, including the police chief.

Mr. Mertz noted employee's have the option to buy accident insurance through AFLAC; therefore, the City should not pay 33% difference in wages and Worker Compensation pay. He requested Council table adopting the proposed Personnel Policy since he felt the document was incomplete.

John Flower (15515 Cedar Lane) asked if the agenda were going to be open for discussion from the public. President Thomas said he would allow brief comments from the audience on agenda items.

SCHEDULED DISCUSSION ITEMS

a. Memorial for firefighters in Basehor Park

Mr. Slaugh reported he received a request from the fire department to pursue a memorial for fallen firefighters at the south side of the Basehor park. Councilmember Washington asked if the park board had addressed the request. Mr. Myracle stated the park board does not have an issue with meeting with them to designate an area. Councilmember Washington suggested having the park board make a recommendation to the Council at a future meeting.

b. Discuss sewer upsize fees – review policy and implementation procedures

Mr. Slaugh said the question was who should pay upsize fees south of 24/40 Highway. He noted the information in the Council packet gave cost calculations for Sewer District

No. 7 (12/7/04). Subdivisions south of 24/40 Highway, Honey Creek, Pinehurst, and Cedar Lakes Phase V were excluded from the benefit district.

Mr. McAfee reported in 2004 the County was having issues with Cedar Lakes subdivision wastewater. When Pinehurst brought their plans in, the City asked his firm to calculate the flows that would come into the Pinehurst lift station. He reported they reported 100 gallons per minute of additional flow above and beyond the Pinehurst flow. He went on to explain anyone else who sends sewer into the lift station, an upsize fee was to be paid so the City could recoup their costs. Mr. Haley (Briarwood Subdivision) should pay an upsize fee.

Councilmember Washington asked if Cedar Lakes V should pay an upsize fee as well. Mr. McAfee stated they should pay an upsize fee. Mr. McAfee noted he did not think an agreement had been drafted.

Mr. McAfee reported Larkin Excavating was paid to install the sewer line in Pinehurst . Explaining that Larkin Excavating did all the work to get the sewer line to the 24/40 Interceptor.

Councilmember Dysart reported Pinehurst paid $306,976 for installation of the lift station and was not sure why they would pay the entire amount. Mr. McAfee reported the Pinehurst Benefit District paid the majority of the money and the City paid $46,815. Originally the 1200 acres south of 24/40 were going to help fund the 24/40 Interceptor; however, when the final document was adopted, the City excluded the land south of 24/40 from the benefit district

Mr. McAfee made a recommendation that any future connections into the Pinehurst lift station pay an upsize fee of $468 ***per (amended 12/03/07)*** gallons per minute of flow. The city attorney suggested creating an ordinance to that effect.

Mayor Garcia arrived at 7:38 p.m. President Thomas passed the gavel back to Mayor Garcia.

Mr. Flower (15515 Cedar Lane) stated he was glad to see that none of the property south would be included in the 24/40 Interceptor benefit district. He brought to the Council's attention Cedar Lakes paid $18,307 in upsize fees in accordance with an agreement with KDHE. However, Leavenworth County showed over $27,000 was paid to Leavenworth County from KDHE State Revolving Loan funds. He noted he would work with Leavenworth County to rectify the difference.

c. Wolfcreek Market Place – 24-40 Corridor access issues

Mr. Slaugh reported to date, there has not been a resolution to the proposed 153rd Street right-in-/right-out access for Wolfcreek Market Place area. Kansas Department of Transportation (KDOT) informed him there are some funds available for improvements; however, restrictions have not been finalized.

Ed McIntosh reported nothing has changed since the work session other than KDOT has requested a joint work session including other affected property owners. Council agreed to add this topic on the December 10th work session.

BUSINESS

a. Consider approval of ordinance to proceed with condemnation of right-of-way on Baker property.

A motion was made by Councilmember Dysart and seconded by President Thomas to table and discuss in executive session under attorney-client privilege. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

Mr. Baker was present and asked what was taking place at this meeting. Mr. Slaugh explained when a developer west of the City limits came with a request to develop his property the City felt a second access should be required. Therefore, causing the need to acquire additional road right-of-way.

b. Consider approval of Pebblebrook Phase II final development plan

Mr. Smith explained the project noting the existing pond was not built to APWA standards. Construction plans were ready and a construction meeting would be scheduled in the near future.

President Thomas asked how the City would accept a street that had been there for several years. Mr. Smith reported the developer has requested the City take over the streets in Phase I and II and accepted as public right-of-way. Mr. Smith reported an inspection of streets would be made by the City prior to acceptance. The pond outlet was modified at the cities request since the sewer line crossed the creek just after the outlet point and was in danger of being eroded away.

Developer John Bonee (14123 Belrieve Circle) thought all he needed was to verify the design and capacity of the pond and was not aware the city engineer was requiring freeboarding in one location by the overflow part of the dam. He asked the Council to approve the pond as presented. Mr. McAfee reported the developer's engineer provided the calculations for a 100 year flood and as long as Level 4 Engineering was comfortable with certifying the calculations, he would agree to a 4" freeboard. He noted the City did not have a policy requiring a 2 or 3 ft. freeboard requirement.

Brett Napier, Level 4 Engineering, noted the only area in question was the sidewalk area leading down to the bridge.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to approve the recommendations of the Planning Commission. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

c. Consider approval of Final Plat and Subdivision Improvements Agreement for Pebblebrook, Phase II

A motion was made by Councilmember Sifford and seconded by President Thomas to approve the Final Plat and Subdivision Improvements Agreement for Pebblebrook, Phase II as present. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

d. Consider approval of pay request #3 to H.E. Miller Construction, change order #4 and acceptance of completion certificate for 147th and Parallel Street project.

Mr. Slaugh requested action be deferred to December 3rd meeting.

A motion was made by Councilmember Washington and seconded by President Thomas to table action until December 3 meeting. Discussion followed. Councilmember Washington asked if anything was going to be done with the drainage ditch elevations since the last storm caused a great deal of erosion. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

e. Consider authorizing administrative staff to write-off delinquent account for Gary Wells, Cedar Falls due to bankruptcy order.

President Thomas asked who actually owed the money. Mr. Slaugh noted Best Development, LLC actually owes the money and when the company declared bankruptcy, the City was not awarded a settlement by the court. Mr. Reavey reported the Bankruptcy Trustee has the final say and was little the City could do unless they get the money up front. The City had no choice but to write the debt off.

Councilmember Washington stated the bills go back to 2002 and felt there should be something put in place to collect before issuing building permits. Mr. Slaugh reported the City's current policy states that building permits are not to be issued until all bills are paid in full. However, with this particular account, Mr. Wells declared bankruptcy prior to issuance of building permits.

A motion was made by Councilmember Washington and seconded by President Thomas to approve writing off the outstanding balance of $15,766.61. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

f. Consider options for analysis of the municipal portion of the Basehor Town Center project and letter of engagement with Springsted for economic development services.

President Thomas asked why Piper Jaffrary had not been contacted about providing an analysis. Mr. Slaugh stated Piper Jaffrary would not provide the same information that Springsted would. Springsted would provide a financial status of the developer and provide additional research on the project. He reported Springsted recommended a development plan be drafted prior to committing to the municipal facilities.

Councilmember Washington felt that Piper Jaffray should perform the analysis on the project and felt the City should have an offer on the table before the City pays out the money. Mr. Slaugh stated he would contact Piper Jaffray to see if they performed the same type of work.

A motion was made by Councilmember Washington and seconded by Councilmember Dysart to deny further usage of the consultant until which time a proposal could be obtained from Piper Jaffrary. A roll call vote was taken with members Washington Dysart, and Thomas voting in favor. Members Sifford and Hill voted no. Motion passed 3-2.

g. *Consider approval of Approve funds for Police Fleet Replacement Plan A and its contents provided to the council.*

Mr. Slaugh reported the police chief was requesting a plan to purchase vehicles with less mileage. The City purchased vehicles in 2006 and 2007. The 2008 budget calls for the purchase of a new vehicle. The 2003 police car has a blown engine, so a decision needed to be made to repair the engine or replace the vehicle.

Mr. Slaugh reported repair costs have totaled nearly $19,000 in 2007. He has proposed to transfer reserve money into the capital improvement fund at the end of the year; however, the City could take some of the part-time personnel fund (01-004-702) to purchase a vehicle this year and still purchase another car next year.

President Thomas referred to Chief Horner's report that recommended replacing the car with the blown engineer next year; however, he felt it should be replaced first.

Mr. Slaugh stated the question was to purchase two vehicles now and transfer money in December or delay purchases until 2008.

Councilmember Washington thought past discussion was to replace vehicles with a mileage of over 125,000. He supported purchasing two vehicles now and one in 2008 and asked why the Chief was not proposing the purchase of Impala's. Chief Horner reported the Impala would cost more because none of the equipment from the Crown Vic would transfer to the Impala. He explained officers must receive certification on particular vehicles; currently they receive certification on Crown Victoria's.

Councilmember Sifford suggested purchasing a different make of vehicle since engines on the Crown Victoria's have been going out at 142,000 milles. Chief Horner noted it was proven that Impala's do not hold up as well as a Crown Vic. Councilmember Washington reported he read an article stating that Ford Motor Company was not going to manufacture Crown Victoria's after next year.

Chief Horner reported with the shortage of employees, it has created extra funds in his personnel line item which would assist in purchasing a new vehicle.

Lt. Martley reported the department was requesting the City purchase two vehicles now because one had 170,000 miles and the other had a blown engine. He suggested introducing the Impala into the fleet next year to see how they work.

Mr. Slaugh did not feel the existing budget would support purchasing two vehicles at this time. If the engine in the 2003 was repaired, the police department could use it as an administrative vehicle.

Mayor Garcia stated he realized the City was playing catch up, but suggested including in future budget for purchase of vehicles.

A motion was made by President Thomas and seconded by Councilmember Washington to authorize staff to purchase a police car in 2007 and additional one in 2008. The police chief was directed to provide for the December 3 meeting, a comparison between the Chevrolet Impala and the Crown Victoria. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

h. Consider approval of Cereal Malt Beverage License for Casey's General Store.

A motion was made by President Thomas and seconded by Councilmember Washington to approve renewal of Cereal Malt Beverage license for Casey's General Store. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

i. Consider approval of personnel manual.

A motion was made by President Thomas and seconded by Councilmember Sifford to table action for further review. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

j. Consider bids for televising and cleaning sewer lines.

A motion was made by President Thomas and seconded by Councilmember Sifford to approve the bid for televising and cleaning sewer lines as presented ($1.29/ ft x 25,000 ft.). A roll call vote was taken with all members voting in favor. Motion passed 5-0.

President Thomas suggested repairing the lines as soon as possible.

g. Consider a proposal for an extension of the trail in Basehor Park to the new gazebo and maintenance of existing trails.

A motion was made by President Thomas and seconded by Councilmember Hill to approve the proposal for an extension of the trail in the Basehor Park to the new gazebo and maintenance of existing trails. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

CITY ADMINISTRATOR REPORT

- December 7 - Annual LCDC meeting will be held at Saint Mary's.

- December 13 - Annual Chamber of Commerce Meeting will be held at Reece Nichols.

- November 28 – Joint work session with Bonner Springs at KDOT office in Bonner Springs. The agenda will include discussion on annexation, boundary issues, storm and sanitary sewers, and trails. Color copies of the map are to be distributed to Council. County representatives will be present.

- City Engineer Joe McAfee requested permission to contract with HTK Architects. Mr. McAfee explained the company has asked that his firm act as the civil engineer for site work for the new school facilities. He explained he would not be inspecting any public improvement work.

  The city attorney stated if, at any time, Mr. McAfee was asked to step out of the role of on-site engineer or the position became a conflict in any way, he would need to recues *recuse (amended spelling 12/03/07)* himself from the project. Mr. McAfee agreed to do so.

- Requested a fifteen minute Executive Session to discuss non-elected personnel and attorney-client privilege to include the city attorney.

MAYOR'S REPORT

None

COUNCIL MEMBER REPORTS

Terry Thomas

President Thomas announced he enjoyed the Wolf Creek Junction ground breaking ceremony.

Terry Hill

Councilmember Hill reported that was his first ground breaking ceremony and appreciated the invitation.

Iris Dysart

- Reported a letter was written by the city administrator to Jim Picket on September 19th requesting payment on the change order. Mr. Slaugh stated he has not received a response on the remaining balance.

- Request status of Casey's bill. Mr. Slaugh stated because of high priorities he has not taken time to send a letter.

EXECUTIVE SESSION

A motion was made by Councilmember Washington and seconded by President Thomas to convene into Executive Session for up to forty-five minutes to discuss non-elected personnel and attorney-client privilege matters regarding land purchase. A roll call vote was taken with all members voting in favor. Motion passed 5-0. The city attorney and city administrator were included in the Executive Session. (8:58 p.m.)

A 9:40 p.m., Mayor Garcia called the regular meeting back to order with all members present.

The following action was taken based on discussion:

a. Consider approval of ordinance to proceed with condemnation of right-of-way on Baker property.

A motion was made by President Thomas and seconded by Councilmember Washington to table Business Item "a" for further investigation by city attorney and city administrator. A roll call vote was taken with all members voting in favor. Motion passed 5-0.

ADJOURNMENT

A motion was made by President Thomas and seconded by Councilmember Sifford to adjourn the November 19, 2007 Council meeting. A roll call vote was taken with all members voting in favor. Motion carried 5-0.

Submitted for Council approval with/without corrections this 3rd day of December, 2007.

Mayor Chris Garcia

Attest:

Mary A. Mogle, CMC, City Clerk

(2 audio tapes)