

Minutes**CITY OF BASEHOR
City Council Meeting
February 6, 2006
6:00 p.m.
Basehor City Hall****Official Presiding: Mayor Chris Garcia****Members Present: Pres. John Bonee, Iris Dysart, Bill Hooker, Keith Sifford,
Terry Thomas****Staff Present: Mary Mogle, Gene Myracle, Terry Horner, John Thompson,
Joe McAfee, Donald Wilson, Traci Myracle**

WORK SESSION (6:00 p.m.)**1) *Introduction of new police and public works employees.***

Chief Horner introduced Chris King (patrol officer) and Elmer Stewart (Drug Trafficking Officer/HIDTA) as the new full-time police office.

**2) *Fact Finding Discussion Regarding Agenda Items with Department Supervisors
(no action to be taken during this session)******Atmos Energy Contract:***

City superintendent Gene Myracle reported a property owner on 147th Street has declined to give right-of-way so that 147th Street may be widened. Council discussed the width of the street. Councilmember Dysart stated she was not comfortable paying Atmos Energy \$11,000 before easements were obtained. The city superintendent stated Atmos Energy would not start the job until all easements were obtained.

Lab and UV Equipment:

The city superintendent presented a cost of \$47,000 for UV equipment. He did not recommend purchasing the lab equipment at this time. He noted his staff would provide the labor to remove the concrete walls which would require an additional \$1,000 to rent a jackhammer. Council felt the contract should specify that city staff was only responsible for removing concrete. In order to save money, the city superintendent recommended purchasing the equipment from three separate vendors.

Purchase of Computer for Public Works Dept.:

The city superintendent request permission to purchase a laptop computer (\$1548.99) that he could utilize in the field. He explained it would allow him to have information available at job sites, as well as, input information quicker.

Racial Profiling Policy:

Chief Horner explained State law now requires law enforcement agencies to adopt a racial profiling policy. Senate Bill 77 only requires a policy, not an ordinance. The policy was emulated after a sample provided by the State of Kansas. The police officer's would be required to take annual classes.

Purchase of Computer Equipment & Copier for Police Dept.:

The police-court clerk presented a request to purchase three computer systems, a file server, upgrade three current systems to Windows XP, and replace the copier in the police department. The system would have off-site backup located at the Public Works building. Total cost requested for computer - \$10,821.51. Color Copier Cost - \$5,508.00.

Work Session adjourned at 6:57 p.m.

REGULAR MEETING (7:00 p.m.)**ROLL CALL AND PLEDGE OF ALLEGIANCE**

Mayor Garcia called the regular meeting to order with all members present including the city attorney John Thompson. 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 of the Council Meeting of:
 1. January 9, 2006 Work Session (Matter of Record)
 2. January 10, 2006 Special Meeting
 3. January 19, 2006 Regular Meeting
- b. Approve Treasurer's Report & Vendor Payments
- c. Approve Investment Recommendations
- d. Approve Calendar of Events

Councilmember Dysart stated the check for Leavenworth Area Development should have been \$4729.00 rather than \$5128.00 listed in the report. The city clerk confirmed the minutes of July 2005 which stated Council agreed to pay \$4729.00.

A motion was made by Councilmember Hooker and seconded by Councilmember Sifford to approve the Consent agenda as written. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

(Note: Leavenworth Area Development was contacted on 2/7/06 regarding the billing error. They evidently billed all the cities incorrectly and would refund the difference to the City of Basehor.)

Councilmember Thomas asked that the department supervisors take a serious look at their budgets and stay on track.

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. *Victor Dietz and Antoaneta Iovkova*

Re: Ordinance clarification of 2-109(c) in regard to keeping chickens as household pets.

Mr. Dietz (15420 Parallel) reported he currently houses a chicken and a rooster at his residence noting he, along with his girlfriend and daughter, have raised the fowl since they were born. He explained the notice he was given by the police department (Ord. 185, Sec. 2-109, Item 9) states “*The following animals are prohibited within the city limits; poultry, dangerous animals, horses or livestock*”; however, in Article 2-109(c) of the current ordinance he obtained from City Hall states “*Provisions shall not apply to: ... The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;*”. He explained the animals are their pets just like a dog or cat would be to someone else and asked for clarification of the ordinance.

Councilmember Thomas questioned if the police department had received any complaints from Mr. Dietz's neighbors. Chief Horner said there have been no complaints. Mr. Dietz read a letter of support from his neighbor that lives in the adjoining side of the duplex.

Councilmember Thomas asked Chief Horner how the police department discovered that Mr. Dietz had chickens. Chief Horner explained he witnessed the chickens being chased by a black lab.

Councilmember Hooker commented a letter from the police chief states the chickens belong to his daughter. Mr. Dietz explained he was divorced and they were purchased as a gift for his daughter so she could have a pet when she came for her weekly visits.

The city attorney John Thompson stated the ordinance was "intended" to prohibit poultry from being housed within the city limits and felt the ordinance should be redrafted to state that "no" poultry or fowl were allowed. He reported the Council could state they interpret the ordinance to say it was not legal, he would then file a complaint in municipal court where the judge would rule on the matter.

Mr. Dietz stated "poultry" are meant to be eaten and raised in quantity. He harvests only one egg per day and has a pen in the garage that he cleans on a routine basis. He stated when the chickens die they would not be eaten, but would receive a burial.

President Bonee stated since fowl or poultry could not be vaccinated, the City had to protect their liability and the health and welfare of others that may come in contact with the animals.

The consensus of the governing body was to enforce the ordinance as intended and allow the couple to keep the chicken and rooster in their possession until the court hearing.

b. Dennis Mertz

Re: Concerns with Basehor Police Department

Mr. Mertz reported he owns a home at 2905 N. 155th St. and maintains a business at 14500 Parallel, Suite G. Two weeks ago, Mr. Mertz's company trailer was broken into and he lost over \$5,000 worth of tools. He noted the detective's performing double duties and does not have the time to work on solving crimes. He wanted the police department to do "business checks" and limit running stationary radar. He felt generating revenue should be secondary. Mr. Mertz wants to see at least two police officers on duty at night noting everyone knows the location of the police officers and

there are times when the City is left unprotected if the on-duty officer has to take a prisoner to jail or out-of-district on another call.

Chief Horner was asked about the officer's schedule. He declined to comment in public but did state there was only one officer on duty the night Casey's was robbed.

Mayor Garcia stated the Council could not answer his questions at this meeting and did not feel it would be feasible to employ enough officers to cover the entire city at the same time. It was his opinion that even if there were two or more officers on at a time, something would still happen.

Mr. Mertz reported he had a discussion with the city superintendent and concurred with Mr. Myracle about purchasing lab equipment from more than one vendor. If the City purchases the lab equipment from state approved vendors, the City could use KDHE funds toward the purchase of equipment.

c. Citizen Comments Regarding Agenda Items

Sandy Grimes (15906 Prairie Way) chastised the governing body and audience for laughing during the previous discussion regarding the chickens. She noted the residence were sincere and should have been treated with more respect. She went on to say she supported the police department and realizes there are infrastructure problems.

SCHEDULED DISCUSSION ITEMS

There were no discussion items at this time.

BUSINESS

a. Consider purchase of lab equipment and UV equipment for Wastewater Treatment Facility.

A motion was made by Pres. Bonee and seconded by Councilmember Sifford to authorize the city superintendent to purchase UV equipment not to exceed \$47,000. Roll call vote was taken with all members voting in favor. Motion carried 5-0.

b. Consider purchase of computer equipment for Public Works Dept.

A motion was made by President Bonee and seconded by Councilmember Dysart to authorize the purchase of a laptop computer for the Public Works Department not to exceed \$1600.00. Roll call vote was taken with all members voting in favor. Motion carried 5-0.

c. Consider contract with Atmos Energy for relocation of gas line on 147th Street.

A motion was made by President Bonee and seconded by Councilmember Sifford to approve a contract with Atmos Energy not to exceed \$11,000 for the relocation of a gas line on 147th Street. Discussion followed. Councilmember Thomas would like to see Attachment "A" included as long as it did not add any risk or cost to the City.

President Bonee and Councilmember Sifford agreed to amend their original motion to approve the contract with Atmos Energy not to exceed \$11,000 for the relocation of a gas line on 147th Street as long as Attachment "A" was obtained and did not add risk or cost to the City. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

d. Consider adoption of "Racial Profiling Policy" in accordance with Senate Bill #77.

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to approve the "Racial Profiling Policy" as written. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

e. Consider purchase of computer equipment and software for police department.

Councilmember Thomas stated he felt the cost of the file server was too high and wanted to see a bid from Dell. He did not feel there was any common ground when all the systems were coming from different vendors.

A motion was made by Councilmember Thomas and seconded by Councilmember Dysart to table action in order to obtain another bid. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

f. Consider payment to Roger Horskys as court appointed attorney for years 2005 and 2006.

John Thompson reported the Council should not approve payment until Mr. Horskys provides an itemized bill. He stated before the City appoints a special defender terms should be discussed and agreed upon first.

Police-Court Clerk Traci Myracle reported Mr. Horskys was requesting \$3600 for last year and this year. The cost was not budgeted items and was never agreed to prior to Mr. Horskys submitting his bills.

Mr. Thompson explained on some criminal offenses the City is required to appoint a court appointed attorney. In the past, the defendant has been told to pay the

appointed attorney a certain amount based on their income; however, one of the problems was that some defendants never pay. He recommended tabling the payment until he had time to talk to some other attorney's and to Mr. Horsky about an itemized bill.

A motion was made by Councilmember Sifford and seconded by Councilmember Dysart to deny payment at this time. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

MAYOR'S REPORT

- a. February 20th Meeting will be held on February 23rd due to legal holiday.
- b. Met with Joe McAfee and Jerry Baker from MHS Engineering to discuss a Sewer Master Plan
- c. February 22 - Leavenworth County Planning Training
- d. February 8 -Mayor will attend Ingram's roundtable discussion at the Justice Center

The city clerk stated she had attended a Chamber of Commerce Ingram's planning meeting and there was a misunderstanding about the funds budgeted this year for the Chamber of Commerce. The Chamber members thought the entire \$2500 was for the Ingram's magazine article. The clerk explained the money was to be used for signage and the article. They were disappointed noting they would have to raise more funds.

President Bonee stated he would like to see the City budget more money for the Chamber of Commerce to use for marketing purposes.

COUNCIL MEMBER REPORTS

There were no Council Member Reports at this time.

EXECUTIVE SESSION

- a. Attorney-Client Privileged Exception
- b. Personnel Exception
- c. Confidential Data (trade secrets) Exception (not discussed during executive session)

A motion was made by Councilmember Thomas and seconded by President Bonee to convene into executive session for forty-five minutes to discuss personnel and 24-40 Public Hearing legal issues with the city attorney. Roll call vote was taken with all members voting in favor. Motion passed 5-0. The chief of police, city clerk, and city superintendent were invited into the session at various times. (8:23 p.m.)

At 9:03 p.m. the Council reconvened. At 9:07 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 Bonee and seconded by Councilmember Sifford to adjourn. Roll call vote was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 9:08 p.m.

WORKSESSION (directly following regular meeting)

At 9:15 p.m. Mayor Garcia called the work session to order with all members present.

Item #1. To Discuss 24/40 Assessments

City Engineer, Joe McAfee reported he was questioned if the existing 6" force main could handle the designated area in "blue" (area within city limit). After performing calculations, it appears the line would handle approximately 133 acres. The current pumps are adequate to handle 133 acres (.95 cfs), but would need to be upsized if more development came on board. The engineer explained that when Honey Creek was being designed, the original line was to be 8". When Mr. Lacy and other property owners backed out the City had to allow the developers to decrease the line from 8" to 6". Once the 6" line reaches full capacity there would be enough property owners to fund a gravity line going down Hog Creek.

Mayor Garcia questioned where the sewer would go if the Schlagel property ever developed. Mr. McAfee stated the line would run 24-40 and tie into the interceptor behind Kelley's Restaurant or to the lift station at 166th St. (a/k/a Cammarata lift station).

The city attorney stated if the Council considered changing the boundaries to include the "white" area, it would increase the City-at-large share. Mr. McAfee stated if the City included the "white" area, it may increase the time and amount of money the City would recoup in the future.

Mary Ann Roper (Ramar Properties) stated the Lacy property could not qualify as residential property since a large portion was wasteland.

Mr. McAfee stated when he did the calculations, it was never considered to calculate residential different than commercial.

Mr. Thompson stated the purpose of the hearing was to obtain feedback from residents in the "blue" area regarding the assessments. Creating the red area was developed as a means for the City to plan for future development. He suggested creating an ordinance that would stipulate how the assessments in the "red" area would be paid back. However, before he does that, the Council needs to make a final decision

on how the assessments are to be listed in the ordinance.

Donald Dyster stated he would like to see a more fair solution to the assessments. He noted the City did not contribute money for the line running to Honey Creek and would like to see the City pay more than 20% toward the project and Honey Creek's assessment lowered. He noted he had a problem with residents in the "blue" area paying more per square foot than the residents in "red". He gave an example of the developer in Prairie Gardens getting ready to develop Phase III and would be paying less than if he were in the City. Mr. McAfee stated he had no authority to make the developers of Honey Creek increase the size of their sewer line when their partners backed out.

Councilmember Bonee stated he would support a payback system for developers who develop at a later date. Mr. Dyster stated he thought the "white" area would develop quicker than the "red" area.

Mr. Dyster stated the previous code administrator Mike Hooper promised more than what has actually happened. He wants to see the assessments equal in all areas and all properties located in the watershed be included. He noted he has forty acres that cannot be served by the system without changing out the impellers to the pump station. He felt his assessment should be re-evaluated.

Curtis Oroke reported, he and the other developers of Honey Creek, spent over \$625,000 for their own sewer line after the City and other partners backed out. He expressed dissatisfaction with being doubled assessed. The property owners in Honey Creek would pay this assessment as well as the City-at-large portion. He explained the development should only be assessed on the 112 ft. that was being utilized. Mr. Oroke stated Mr. Miles knew when he constructed the line it was going to be a benefit district and he shouldn't have a "beef".

Mary Ann Roper concurred with Mr. Dyster that the "red" area, or Mr. Breuer, (Prairie Gardens) being charged a lesser amount than the "blue" area. Ms. Roper noted the Lacy property is currently paying taxes on Sewer District 5. Mr. McAfee stated he was unaware of Sewer District 5 and would do some research. Ms. Roper stated 127 acres was included in the district, with 70 acres being excluded.

John Albertson reported he and his wife were retired school teachers and moved back to Basehor when the area they lived in was condemned for the race track. He commented he has a five acre tract of land. The house is located in the middle with a new septic system. He has no intentions of developing the property and would receive no benefit from the sewer line. He requested the Council consider assessing his property at a residential assessment similar to the quarter-acre lots across the street (Creek Ridge).

Council agreed to hold a special work session on February 20th at 6:00 p.m. to continue discussion.

There being no further business to discuss the work session was adjourned at 10:20 p.m.

Submitted for Council approval with/without corrections or additions this 23^d day of February, 2006.



Attest:


Mary A. Mogle, City Clerk


Chris Garcia, Mayor