

Minutes

CITY OF BASEHOR
City Council Meeting
March 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 and Terry Thomas

Staff Present: Mary Mogle, Gene Myracle (6:15 p.m.), Traci Myracle, Terry Horner, John Thompson, and Joe McAfee

WORK SESSION (6:00 P.M.)

Mayor Garcia called the work session to order at 6:00 p.m. with all members present including the city attorney.

Item #1. *Shaffer, Kline & Warren*
Present Comprehensive Plan draft and planning commission comments.

Mike Duffy and Jackie Carlson, Shaffer, Kline & Warren, presented final draft copies of the proposed Master Comprehensive Plan. Ms. Carlson explained they added an Executive Summary, colored maps, completed the utility section, prioritized projects with a time table and changed Donohoo road to a collector street. She noted the priority list showed the school as the lowest priority, only because the City has the least control over school infrastructure.

Councilmember Thomas noted there were several blanks included in the draft. Mr. Duffy explained the blanks would be filled in before the hearing. A resolution was presented that would be adopted at the public hearing by the Planning Commission.

Item #2. *Fact Finding Discussion Regarding Agenda Items with Department Supervisors*
(no action to be taken during this session)

Joe McAfee, City Engineer

1. Presented a draft letter to KDHE expressing City support for ingress/egress onto 24-40 Hwy for Pinehurst Subdivision. The letter does not commit the City to any financial contributions, only shows support for the project.
2. Presented a report showing expenses borne by Pinehurst Development to upsize sewer main for future expansion. If the City chose to credit Pinehurst the costs of upsizing against their 24-40 Sanitary Sewer assessment, Pinehurst would be assessed \$116,560.22.

SCANNED

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Council discussed the logic and fairness behind treating Pinehurst and Honey Creek Farms different than other property owners by allowing them a credit toward their assessment. Mr. McAfee reported KDHE requires a developer to pay for upsizing “up stream”, but the City of Basehor required these developers to upsize “down stream”.

The city engineer presented spreadsheets with updated sewer assessments. The two documents showed allocations including and excluding Pinehurst from the benefit district. A revised map showed the Trowbridge, Miller, and Albertson properties shaded in green. These properties would have a deferred payment (due at time of platting or development) even though they were located in the city limits and were initially located in the blue area. The revisions, as requested by the Council from the previous meeting, would shift the City-at-large share up from 20% to approximately 40% of the project cost.

3. Reported the cost estimate was ready for addressing the drainage problems on Leavenworth Road, west of 157th Street. Councilmember Dysart suggested having a work session and include the affected property owners in the discussion.
4. Final Plat for Falcon Lakes, Phase III. Councilmember Thomas questioned why the Planning Commission allowed lot 105 to be a “flag” type lot.

Project Manager Mike Hooper explained the Planning Commission had some concerns about the flood plain and felt the large lot would allow the property owner to use the flood area for a driveway.

Councilmember Thomas noted the report states the city superintendent inspects grading and questioned how often this action was taken. Mr. Myracle stated he and his staff, as well as the building inspector, inspect problem areas periodically. Mr. McAfee stated if the contractor fails to repair erosion problems, they are reported to KDHE.

Council agreed they should move the 24-40 Sanitary Sewer Taxing District public hearing to the next meeting and directed Mr. McAfee to revise the allocations. Mayor Garcia announced to the audience Business Items “a” and “b” would not be voted on at this meeting and Council would take formal action during the regular meeting to reschedule the public hearing.

Police Department

1. Council discussed the bids presented for file server, three computers, and a copier for the police department.

The work session closed at 6:55 p.m.

PUBLIC HEARING (7:00 p.m.)**Continuation of 24-40 Sanitary Sewer Taxing District Public Hearing**

Mayor Garcia called the public hearing to order. He announced Council required more time to research the assessments and requested a motion to continue the public hearing until March 20, 2006.

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to continue the public hearing until March 20, 2006 at 7:00 p.m. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

REGULAR MEETING (7:02 p.m.)**ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE**

Mayor Garcia called the regular meeting to order at 7:02 p.m. with all members present including city attorney John Thompson. Pledge of Allegiance was recited.

EXECUTIVE SESSION

Mayor Garcia moved the executive session up requesting a motion to convene in executive session for thirty-minutes to discuss attorney-client privileged exception.

A motion was made by President Bonee and seconded by Councilmember Sifford to convene into executive session for thirty-minutes to discuss attorney-client privileged matters. Roll call vote was taken with all members voting in favor. Motion passed 5-0. Attorney Mike Seck was invited into the executive session. At 7:25 p.m. Mr. Seck left the executive session.

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. February 13, 2006 Work Session
 2. February 20, 2006 24-40 Taxing District Work Session
- b. Approve Treasurer's Report & Vendor Payments***
- c. Approve Investment Recommendations***
- d. Approve Calendar of Events***

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

EXECUTIVE SESSION (Attorney-Client Privilege Exception)

Refer to Page 2.

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. Ed McIntosh, Benchmark Management

Re: Request Council decision on annexation and accepting sewage for up to 14 lots in Cedar Lakes (Roy Linehardt, owner)

Ed McIntosh, representative for owner Roy Linehardt, requested Council take formal action to either accept or deny annexation and access to sanitary sewers for Phase V of Cedar Lakes Subdivision. Mr. McIntosh reported Leavenworth County directed him to obtain permission from the City before they would address platting options. The 8.6 acre tract would be subdivided into approximately fourteen lots served by grinder pumps. Tapp fees would be paid to the City of Basehor at the current rate.

President Bonee stated he thought the last time Mr. McIntosh came before the Council regarding this subdivision, they informed him the City would consider providing wastewater treatment only if the development was served by a centralized sewer system. Mr. McIntosh stated Ponzer-Youngquist Engineering firm said it would not be feasible and Leavenworth County stated it would not be economical. (Councilmember Hooker left at 7:45 p.m.)

Mayor Garcia stated it was his understanding the City did not want to take on any more grinder pumps. The city superintendent stated the only thing positive about taking on fourteen more grinder pumps was that they would be new. He reported he spent about \$10,000 in repairs in year 2005. He had 14 calls with 3-4 pumps needing replacement. President Bonee stated the longer the pumps are in, the more repairs would be necessary.

b. Citizen Comments Regarding Agenda Items

John Flowers, president of Cedar Lakes Homeowners Association, reported Cedar Lakes Subdivision supported adding the fourteen homes to their subdivision. He also thanked the community for passing the library bond issue.

Mike Hooper, represented MEI, Inc., in regards to the Tomahawk Valley final plat and the Miles Annexation Agreement. He also was present to answer any questions regarding the final plat for Falcon Lakes Phase 3.

Councilmember Thomas questioned why lot 105 in Falcon Lakes Phase 3 was not called out on the map. Mr. Hooper stated it was discussed and passed by the Planning Commission as presented.

Jim Washington (1901 160th St.) asked if it was the intent of the City Council to table Business Items “a” and “b”. Mayor Garcia confirmed those two items would be tabled.

Mayor Garcia asked twice if there was anyone else who wished to come before the governing body regarding an agenda item. No one came forward, he then called the public portion of the meeting closed.

SCHEDULED DISCUSSION ITEMS

- a.** Lynn McClure, Leavenworth Area Development
Re: Quarterly Update Report and 2007 Funding
and CoStar Real Estate Software

Lynn McClure, Executive Director, presented a packet that included items such as 2005 Annual Report, progress and activity report, and up coming events. He announced recently the organization was renamed from Leavenworth Area Development to Leavenworth County Development Corporation. He felt the new name showed that they represented the entire county. He requested \$5579.00 for next years funding contribution noting the amount was calculated by population and valuation. All communities were evaluated equally.

Mr. McClure invited the governing body and planning commission members to join them on the next economic development initiative scheduled for April 19th. The group would travel to Independence and Kansas City, Missouri.

- b.** *Roger Horsky*
Re: Public Defender Compensation

Mr. Horsky explained since the fall of 2004, he has acted as the public defender for the City of Basehor. Although the court orders the defendant to pay him a stipend for his services, he has only been able to collect around \$300. He requested the City pay him \$1800 for year 2005 and \$200 per month thereafter. He reported the American Bar Association recommends wages be paid up to 5% of the court services budget.

President Bonee asked if the defendant had some responsibility to pay some of the costs. Mr. Horsky explained most defendants do not have the money to pay fines let alone for defense services.

Council discussed other payment options and instructed the city attorney to research to see if a fee or fund could be created to set funds aside for defense costs.

- c.** *Discussion regarding collection of outstanding developer reimbursement fees.*

The city clerk reported she would like Council to consider some type of policy that gives her department and the building inspector authority to collect outstanding developer reimbursement fees.

President Bonee thought the City was charging \$2500 up front review fees and then 10% on any outstanding balance thereafter. The city clerk stated to her knowledge only one developer has

been charged the fee and it was her understanding the building inspector could not hold up issuing building permits if someone other than the developer applied for the building permit.

Council directed the city attorney to draft a policy and procedures for outstanding debts.

BUSINESS

- a. Consider Ordinance Creating 24-40 Sanitary Sewer Taxing District**
- b. Consider Ordinance articulating payment of City-at-large costs for 24-40 Sanitary Sewer Taxing District**

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to table Business Items "a" and "b". Roll call vote was taken with all members voting in favor. Motion passed 4-0.

- c. Consider purchase of computers, file server, and copier for Police Department**

Council discussed the difference in computer and copier bids and what funds would be effected by the purchase. Councilmember Thomas noted that although Dell was higher than Integrated Systems, the City needed continuity within the city offices.

A motion was made by Councilmember Thomas to table action (until it was determined what funds would be effected). Discussion followed. Councilmember Thomas withdrew his motion.

A motion was made by President Bonee to approve the purchase of the copier from Datamax and the file server and computers from Dell. Councilmember Thomas seconded the motion. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

- d. Consider authorizing Mayor to sign Wolf Creek Industrial Park Annexation Agreement (1/13/03)**

Councilmember Thomas requested the word "log" be amended to "lot" on page 2, section 3 of the agreement. Councilmember Dysart stated she still had a problem with forgiving \$32,000 in excise taxes. President Bonee explained the City would collect the tax if someone else buys the lot. Councilmember Thomas asked that the agreement stipulate "Lot 1" on page 2, section 1. Mr. Hooper stated they would not agree to any amendments to the agreement. Mr. Hooper explained it has yet to be determined how the lots would be platted.

A motion was made by Councilmember Sifford and seconded by Councilmember Thomas to approve the agreement with the change of "log" to "lot". Discussion followed with Councilmember Dysart stating she did not understand how the City of Basehor could make an exception to the original excise tax ordinance. Mayor Garcia explained because the decision was made by a consensus of the Council in year 2003. President Bonee agreed with the concept but not with the wording and felt it should be rewritten clarifying some areas. A roll call vote was taken with members Sifford and Thomas voting in favor and members Bonee and Dysart voting against. Motion was 2-2 with Mayor Garcia casting an aye vote in favor of the agreement. Motion passed 3-2.

e. Consider authorizing Planning Commission to schedule Comprehensive Plan Public Hearing

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to schedule the Comprehensive Plan public hearing before the Planning Commission for April 4, 2006. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

f. Consider amendment to Chapter II, Article 2-101 and 2-109 Animal Control

Councilmember Thomas stated he felt rather than pass amendments to the animal code in "bits and pieces" they should wait until the entire ordinance was revised.

A motion was made by Councilmember Thomas and seconded by President Bonee to table action and include in the next code update. Roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 3-1.

g. Consider installation of new manhole at 157th Terrace & Hickory St.

President Bonee announced the manhole was located in his new subdivision Hickory Valley and would abstain from voting.

President Bonee noted he thought there were two manholes that needed to be replaced. The city superintendent reported the second manhole would have to wait until a later date. Councilmember Dysart questioned if the wastewater from the north would run into this manhole. Mr. Myracle answered yes.

A motion was made by Councilmember Sifford and seconded by Councilmember Dysart to approve the purchase and installation of the new manhole not to exceed \$3,000. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

h. Consider Tomahawk Valley Final Plat and Construction Documents

A motion was made by Councilmember Sifford and seconded by Councilmember Thomas to approve the final plat and construction documents for Tomahawk Valley. Discussion followed. The city superintendent questioned if the easement for the force main was still stipulated in the final plat. Mr. Hooper stated it was included on the plat. Councilmember Thomas questioned why the development had a street named Lakeside Drive. Mr. Hooper stated they were directed to rename the street because it would line up with Lakeside Drive in Prairie Lakes Subdivision. President Bonee questioned if the developer had signed the addendum stating they would not protest benefit districts. The city attorney commented the waive of protest was very limited and should be revisited to see if the City wants to try to enforce. Mr. Thompson explained the ordinance did not waive property owners right to protest, but waived their right to force an issue on the ballot. He felt it would be in the City's best interest to abandon the approach and look into other options such as including a section in the Subdivision Regulations when they were revised.

Councilmember Dysart commented the two proposed subdivisions were sitting on top of a sewer line that the developer does not want to pay for and asked if the City was obligated to approve

the developments at this meeting. Mr. Thompson stated the fact that the City was currently in litigation with the developer was not up for discussion. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

i. Consider Falcon Lakes, Phase III Final Plat and Construction Documents

Councilmember Thomas stated he did not get his question answered earlier regarding the flag type lot. No discussion.

Councilmember Dysart stated on page 4 of the Subdivision Improvements Agreement referred to the transportation tax as an "excise tax" and she felt it should be consistent with the annexation agreement that referenced an "impact fee".

Mr. Hooper noted Falcon Lakes was actually paying more per lot with the impact fee than the .09 cents per square foot excise tax.

Councilmember's Sifford and Thomas agreed to amend their vote to amend Item H on page 4 of the Subdivision Improvements Agreement to incorporate by reference the proper terminology as stipulated in the original annexation agreement. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

j. Consider Wolf Creek Industrial Park Final Plat and Construction Documents

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to approve the final plat and construction documents for Wolf Creek Industrial Park as presented. Discussion followed. President Bonee and Councilmember Dysart requested Councilmember Thomas amend his motion to read "approve based on staff recommendations". Councilmember Thomas did not agree to amend his motion. Roll call vote was taken with members Sifford and Thomas voting in favor. Members Bonee and Dysart voted against the motion with Mayor Garcia breaking the tie by voting in favor. Motion passed 3-2.

k. Consider authorization for staff and elected officials to attend FEMA Training

The city clerk explained the Federal Emergency Management Agency offers training in Maryland free of charge other than meals and transportation costs to and from the college. FEMA pays airfare and lodging expenses.

Councilmember Thomas stated he did not support the police detective going to out-of-state training. Chief Horner explained it was always good to have someone else training, also this year, all supervisors would be required by the State to receive special emergency management training. If staff did not receive training, the City would not qualify for federal funds.

A motion was made by Councilmember Sifford to authorize the list of classes to be attended by staff and elected officials. Motion died for lack of second.

A motion was made by Councilmember Thomas to approve applications to attend classes subject to council approval. Motion died for lack of second.

A motion was made by President Bonee and seconded by Councilmember Dysart to deny authorization to attend FEMA classes. Roll call vote was taken with members Sifford and Thomas voting against and members Bonee and Dysart voted in favor. Mayor Garcia cast a nay vote breaking the tie. Motion failed 2-3.

A motion was made by President Bonee and seconded by Councilmember Thomas to approve the applications subject to Council's final approval. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

l. Consider transfer of \$244,000 from the Sewer Fund to Bond & Interest Fund for State Revolving Loan Payment

President Bonee stated the last audit report recommended protecting the sewer fund. He recommended taking funds out of the General Fund to pay the State Revolving Loan principal and interest payment.

The city clerk commented she did not think the Council could do that since the transfer was not budgeted in the General Fund, but was budgeted in the Sewer Fund.

A motion was made by President Bonee and seconded by Councilmember Thomas to transfer \$244,000 from the General Fund to the Bond & Interest Fund to make the State Revolving Loan payment. Roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 3-1.

MAYOR'S REPORT

a. Sponsor Leavenworth County Planning Training Session

Council agreed to sponsor a training session in May 2006.

b. Schedule Council Retreat (April)

Mayor Garcia requested council members provide their top ten list of projects for the city administrator to work on at the work session on March 13. His intent was to discuss these projects at a council retreat in April. Council agreed to meet in a retreat session on April 22 from 8:00 a.m. to noon.

COUNCIL MEMBER REPORTS

John Bonee

President Bonee reported he had a discussion with a developer about his golf course being taxed at a commercial rate and had concerns about Hollingsworth Road and 147th Street improvements. The developer expressed his frustration with city staff for not addressing Falcon Lakes tax problems.

Mr. Hooper stated Mr. Ferzandi had already hired another engineer to redo the golf course calculations. The city clerk reported the city staff met with Mr. Ferzandi and his staff regarding problems with the subdivision. Mr. Ferzandi's engineer, Ed Schlagel was to

recalculate all the assessments, including the golf course, and get back to city engineer. Mrs. Mogle reported she had been checking with the city engineer periodically to see if he had received any information from Mr. Schlagel. Last week, Mrs. Mogle, was informed by Falcon Lakes that Mr. Schlagel was not available and nothing had been done to date. She also explained the city engineer suggested having Mr. Ferzandi attend a work session so the Council could address his problems since neither of them had the authority to make any decisions.

Mayor Garcia reported Mr. Ferzandi's concerns had already been placed on the March 13th work session.

Iris Dysart

Councilmember Dysart stated she would still like to meet with the Council and residents along Leavenworth Road to discuss the city engineer's drainage report. Council agreed.

She also questioned the city superintendent as to the status of 14th Street improvements. Mr. Myracle reported he has received only one signed easement agreement, but anticipates the rest in a week or so. He noted the mayor has instructed him to send a letter to those who failed to sign giving them a deadline to submit signed agreements and deeds.

ADJOURNMENT

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to adjourn the meeting. Roll call vote was taken with all members voting in favor. Motion passed 4-0. Meeting adjourned at 9:42 p.m.

Submitted for Council approval with/without corrections or additions this 20th day of March, 2006.


Chris Garcia, Mayor



Attest:


Mary A. Mogle, City Clerk