

MINUTES

City of Basehor
BASEHOR CITY COUNCIL
June 19, 2006
6:00 p.m.
Basehor City Hall

OFFICIAL PRESIDING: Mayor Chris Garcia

Members Present: Pres. John Bonee, Iris Dysart, Bill Hooker (arrived at 6:11 p.m.),
Keith Sifford

Members Absent: Terry Thomas

Staff Present: Carl Slaugh, Mary Mogle, Gene Myracle, Dustin Smith, Terry Horner,
John Thompson,

WORK SESSION (6:00 p.m.)

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

Planning Department

- Silver Springs Subdivision – Planning Director Dustin Smith reported the Planning Commission approved rezoning from R-0 Rural Residential to R-1 Single Family Residential and the preliminary plat with several conditions and two modifications.

The two modifications included:

- 1) Change the alignment of the walking trail based on Planning Commission member's concerns with security in the initial plan.
- 2) Assurance that Hickory Street would be improved (by the Hickory Valley developer) to remove the "jog" in the street, near 156th Street.

The city superintendent explained there were four property points located on the west side of Hickory Point Subdivision. The City of Basehor would allow the developer to stub a road from the wastewater treatment plant with the stipulation the developer improve the street and wastewater plant street. (Councilmember Hooker arrived at 6:11 p.m.)

Mr. Smith noted the stormwater detention facility that extended across the backs of lots 55, 56, and 63 would be removed and that an entire lot would be dedicated to the detention facility in the area of lot 63.

President Bonee felt the developer should be required to improve Ripley Street since 114 homes should have another way to enter and exit other than in a school zone on Leavenworth Road. The city superintendent stated he thought the developer was going to improve Ripley Street from Silver Springs Subdivision east to 156th Street.

Councilmember Dysart asked what would happen if building permits were held up for Silver Springs if Hickory Valley was delayed on improving Hickory Street. President Bonee informed Councilmember Dysart Hickory Street would be improved on time and would not be a hindrance for Silver Springs. She also commented that collector streets are required to have sidewalks on both sides of the street. Mr. Smith stated Hickory Street was not considered a collector.

It was also pointed out that Condition #9 should be amended to read "east", not "west". Mr. Smith also thought another condition should be added requiring the developer to stub out 158th Street. Councilmember Dysart also requested the date listed on the ordinance be amended to read June rather than July. She noted the date also needed to be changed on the Wolf Creek Junction ordinance as well. Mr. Smith indicated he would make the changes.

- Wolf Creek Junction Rezoning – Mr. Smith explained the developer of Wolf Creek Junction requested 14 acres be rezoned from R-0 Rural Residential to CP-2 General Business. He commented a plan for Phase III would be submitted at a later date. Councilmember Dysart asked if this area was included in the proposed Transportation Development District ("TDD"). Developer Ed McIntosh informed the governing body the 14 acre tract of land was included in the 49 acres proposed for the TDD.
- Fox Ridge Subdivision – Mr. Smith reported Fox Ridge was formally owned by Ray Breuer. The new plan has no substantial changes from the original plan. Councilmember Dysart said she was not comfortable with approving the plan without having time to review the Subdivision Improvements Agreement. Mr. Smith reported the agreement was standard, the only changes were items such as footage of sewer main and number of manholes.
- KDHE Resolution – The city administrator noted the resolution was required by Kansas Department of Health & Environment in order to contract for State Revolving Loan funds. The resolution designates the mayor and city administrator as people authorized to sign documents concerning the loans. Mr. Slaugh reported he received a letter from KDHE approving the purchase of the UV Equipment.
- Mayor's Report – Mayor Garcia informed the City Council it was his intent to start a Citizen Forum. He would set one night aside per month to meet with citizens regarding their concerns. He said he would let them know when he planned on starting the meetings.
- Theno Estates Agreement – Councilmember Dysart stated she did not think the Council should vote on items where exhibits were not provided. President Bonee stated before he voted on the Theno Estates agreement, he wanted to know what the Basehor Athletic Association ("BAA") discharged on peak days. Councilmember Dysart suggested removing BAA from the agreement.

- Transportation Development District (“TDD”)- City Attorney John Thompson asked financial attorney Christine Bushyhead how involved was the governing body going to be in the construction process and what assurance did the City of Basehor have that the project would be completed. Ms. Bushyhead said there were layers of protection; (1) The developer must follow the subdivision regulations, meet in a pre-construction meeting, inspection, payment for inspections, fees, and provide performance and maintenance bonds. (2) The developer must provide itemized invoices to be approved for payment by the City Council. She explained she also included a paragraph in the agreement allowing the City to hire consultants if necessary, and increased the administrative fee to \$179,708 to help pay for the consultants; and (3) The project would not start until leases are signed from business owners that would generate enough revenue to cover the bills.

Mr. Thompson suggested the agreement “indemnify” the City of Basehor as another level of protection, possibly at the bonding stage. Ms. Bushyhead cautioned the City about getting to involved in the development side, once they do, they assume more liability. She was reluctant to advise her client to agree to that at this time.

President Bonee felt there was not enough history on TDD’s to now if the City protected themselves in the right way. He noted if there was a problem, the “clock would be ticking” on interest at the rate of 6% until the issues were resolved. Ms. Bushyhead said her client wants to go with the best possible means of paying off the project costs and anticipated an early payoff. President Bonee asked what the trigger point would be to start the project. Mr. Thompson reported the developer anticipates a grocery store building in Wolf Creek Junction. The Council could stipulate in the agreement that once the grocery store commits to the project, the TDD would commence. Councilmember Hooker stated that would bind the entire project, and suggested the City may not want to hold the developer to those conditions.

President Bonee asked what would happen if, after twenty-two years, the project costs were not paid in full. Ms. Bushyhead noted if the City chose to use the bonding method, they must be paid off in 22 years; however, if they use the “pay as you go” method, it could go on for as long as necessary to pay off the project costs.

Mayor Garcia called a five minute break prior to starting the public hearing. (7:17 p.m.)

PUBLIC HEARING (7:25 p.m.)

Delinquent Sewer and Solid Waste Accounts

Mayor Garcia called the public hearing to order announcing the purpose of the hearing was to give residents the opportunity to speak regarding their delinquent sewer and solid waste accounts.

Staff Report

The city clerk reported she received two payments today which would reduce the report balance of \$18,266.83 (to \$17,389.58). If approved by Council, an additional \$3700 would be added to the balance for administrative fees.

Public Response

There was no one present who wished to address the Council concerning their delinquent accounts.

Council Discussion

There was no discussion at this time.

A motion was made by Councilmember Hooker and seconded by President Bonee to authorize the city clerk to submit the list of delinquent utility accounts to be placed on the ad valorem tax rolls. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

Mayor Garcia called the public hearing closed. (7:27 p.m.)

REGULAR MEETING (7:27 p.m.)**ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE**

All members were present with the exception of Councilmember Thomas.

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 Treasurer's Report & Vendor Payments
- b. Approve Investment Recommendations
- c. Approve Calendar of Events

A motion was made by Councilmember Hooker and seconded by Councilmember Sifford to approve the Consent Agenda as presented. A roll call vote was taken with all voting in favor. Motion passed 4-0.

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

Ed Bush (2606 N. 156th Terr.) stated he serves as a Planning Commission member and would like to comment on Business Item “b”, Silver Springs Preliminary Plat. Mr. Bush stated he agreed with President Bonee that the developer of Silver Springs should connect Hickory and Ripley Street with his subdivision. He felt it would be more feasible to have Phase I connect to Leavenworth Road, Phase II connect to Ripley, and Phase III would connect to Hickory Street.

There being no further comments from the public, Mayor Garcia called the public portion of the meeting closed.

SCHEDULED DISCUSSION ITEMS**a. Discussion regarding street light at K-7 and Donohoo Rd**

The city superintendent reported he met with Westar Energy regarding street lights at K-7 and Donohoo and K-7 and Hollingsworth Road. He was informed the pole located on Hollingsworth Road could be replaced with a new pole and light; however, in order to place a pole at K-7 and Donohoo, Kansas Department of Transportation (KDOT”) would have to give their permission.

President Bonee suggested the city administrator write a letter to KDOT explaining the request for a light in those locations were for safety purposes. He asked the city superintendent to check to see if the street light was located in KDOT’s right-of-way, would they pay installation costs. Mr. Myracle stated he would report to the city administrator by the end of the week.

BUSINESS**Items continued from 6/05/06 Council Meeting:****g. Consider adoption of Comprehensive Plan**

Mr. Mike Duffy with Shafer Kline & Warren addressed the governing body regarding concerns they had at the last meeting pertaining to 147th Street. Mr. Duffy noted he reviewed the street alignment for 147th Street, which originally was proposed to angle to the west ½ miles to connect with Leavenworth road on 151st Street alignment. The map was modified to maintain 147th Street as an arterial to Leavenworth Road and make it a direct north/south link. He also indicated that the conceptual road that extended to the southwest from the Leavenworth Road/147th Street intersection through the Mussett property was modified to intersect at a 90 degree angle with 147th Street. This modification was based on the conceptual plan for the Mussett property presented by Affinity Development, as well as discussion at the last Council meeting. Mr. Duffy explained the Council had three options in adopting the Comprehensive Plan; (1) adopt the plan as presented; (2) sent back to the Planning Commission with recommended revisions; and (3) adopt the Comprehensive Plan with revisions. Mr. Duffy explained if the Council chose to adopt the plan with revisions, they must pass it with a two-thirds majority vote.

Councilmember Hooker stated the Planning Commission spent a lot of time working on the Comprehensive Plan and should be adopted as presented. Mr. Duffy noted the Planning Commission had not seen the revisions as presented at this meeting.

A motion was made by President Bonee and seconded by Councilmember Hooker to approve the Comprehensive Plan with alignment changes to 147th Street going east and west and change the zoning on the north and south side of Parallel Road, east of 147th Street to mixed use designation. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

h. Consider scheduling training session for City Council, Planning Commission, and Board of Zoning Appeals (June 21 or June 27)

A motion was made by Councilmember Sifford and seconded by Councilmember Dysart to schedule a training session on June 27th at 6:30 p.m. Roll call vote was taken with all members voting in favor. Motion passed 4-0.

President Bonee stated he would not be able to attend due to previous commitment.

i. Consider authorizing funds for Leavenworth Road Drainage design survey

The city administrator reported in previous discussions, it was suggested the City use a bobcat to clean out the draining ditch; however, that did not guarantee the problem would be rectified. He suggested having a drainage design survey done by MHS Engineer. The cost would be \$3,050.

A motion was made by Councilmember Sifford to approve the design survey as presented. Motion died for lack of second.

Councilmember Dysart pointed out the agreement with the engineer was good for 60 days and questioned if it should be amended prior to taking action. Mr. Slaugh stated he would check with the city engineer before finalizing the agreement.

President Bonee stated the City should not move forward until the property owners remove the obstructions (i.e. fences, rock, personal property). Mr. Slaugh stated he would send another letter to the property owners asking them to remove the obstructions by a specific date. President Bonee suggested having a bobcat clean out the drainage ditch before the survey was conducted. The city superintendent noted it would be difficult without knowing how the ditch was to be cut.

A motion was made by Councilmember Hooker to approve up to \$3,050 for the design survey. Discussion followed. Mr. Slaugh was directed to send a letter to the property owners and talk to the city attorney regarding the agreement. Councilmember Hooker withdrew his motion.

A motion was made by Councilmember Hooker and seconded by President Bonee to table action until the July 3rd meeting. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 3-1.

j. Consider interlocal agreement with Leavenworth County for resurfacing of Hollingsworth Road.

The city administrator reported Leavenworth County agreed to start on the Hollingsworth Road project with 15 days notice. They also requested the City pay for materials since their budget had not included the expenditures. He informed the governing body he was to meet with the county engineer and property owners on Hollingsworth Road at 6:30 p.m. on Tuesday, June 20.

A motion was made by President Bonee and seconded by Councilmember Dysart to approve the agreement as presented. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

k. Consider interlocal agreement between the City of Basehor, Jeffrey Theno, and Basehor Athletic Association providing for the treatment of wastewater.

A motion was made by President Bonee and seconded by Councilmember Sifford to table action until wastewater calculations could be obtained and have the Basehor Athletic Association removed from the agreement allowing Jeff Theno to carry on with his development. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

l. Consider a request for the annual funding of the Leavenworth County Development Corporation (\$5579.00)

A motion was made by President Bonee and seconded by Councilmember Dysart to approve annual funding for Leavenworth County Development Corporation not to exceed \$5579. A roll call vote was taken with all members voting in favor with the exception of Councilmember Sifford. Motion passed 3-1.

m. Consider Transportation Development District (TDD) Sales Tax ordinance and Development Agreement for Wolf Creek Junction

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to approve the Transportation Development District Sales Tax ordinance and Development Agreement for Wolf Creek Junction as presented. A roll call vote was taken with members Sifford and Hooker voting in favor and members Bonee and Dysart voting against. Mayor Garcia broke the tie voting in favor of the ordinance and agreement. Motion passed 3-2.

New items to be acted on for 6/19/06 Council Meeting:

a. Schedule public hearing for Falcon Lakes Assessments

The city administrator reported he received a call from Falcon Lakes Properties requesting the special assessments be recalculated and reassessed on the development. He explained the bonds do not change; however, it would be necessary to hold a public hearing of the affected property owners. He noted he had a meeting scheduled with bond representative Greg Vahrenberg and bond attorney Mary Carson the next day.

President Bonee spoke up regarding the assessments. Councilmember Hooker informed President Bonee that he should refrain from partaking in discussion due to conflict of interest since he was a property owner in Falcon Lakes.

The city attorney suggested council members Bonee and Thomas abstain from voting.

President Bonee asked if there would be a retroactive assessment. Mr. Slauch explained the developer had already paid the last two years of taxes and would not request repayment. Councilmember Hooker once again spoke up requesting President Bonee refrain from discussion. The city attorney told Mr. Bonee he should refrain from discussion and voting since there was a "perception of impropriety".

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to schedule a public hearing for July 3 at 7:00 p.m. A roll call vote was taken with all members voting in favor with the exception of President Bonee who abstained from voting. Motion passed 4-0. (Note: A vote of abstention is a vote for the prevailing side.)

b. Consider change of zoning from R-O, Suburban Residential to R-1, Single-Family Residential and preliminary plat for Silver Springs Subdivision, submitted by Albert Hoelting, for property located at 15977 Leavenworth Road:

A motion was made by Councilmember Hooker to approve with the condition that Hickory and Ripley be connected in accordance with City standards up to existing City boundaries. Discussion followed. President Bonee felt the item should be sent back to the Planning Commission for further review of continuation of Hickory and Ripley to the east. Councilmember Hooker withdrew his motion.

A motion was made by Councilmember Hooker and seconded by President Bonee to refer the matter back to the Planning Commission to further recommendations regarding the connection of Hickory and Ripley and improvement of the existing roads to the east. Motion passed 4-0.

c. Consider change of zoning from R-O, Suburban Residential to CP-2, General Business on property located at 1104 N. 150th Street, which is part of the Wolf Creek Junction development, submitted by Basehor Properties, LLC.

A motion was made by President Bonee and seconded by Councilmember Hooker to approve the ordinance changing zoning from R-O Rural Residential to CP-2 General Business on property located at 1104 N. 150th Street, Wolf Creek Junction. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

d. Consider final plat for Fox Ridge of Prairie Gardens, as submitted by B.R. Coppinger Construction, Inc.

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to approve the final plat for Fox Ridge of Prairie Gardens as recommended by the Planning

Commission. Discussion followed. Councilmember Dysart said she wanted to study the Subdivision Improvements Agreement prior to voting. The planning director stated the agreement was a standard document. A roll call vote was taken with members Sifford and Hooker voting in favor and members Dysart and Bonee voting against. Mayor Garcia broke the tie voting in favor. Motion passed 3-2.

e. Consider amendment to Ordinance. 399, Section 5, Court Costs

A motion was made by Councilmember Sifford and seconded by President Bonee to approve the ordinance amending Section 5 of Ordinance 399, Court Costs. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

f. Consider resolution authorizing filing of application with KDHE for State Revolving Loan Funds

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to approve the resolution authorizing the mayor and city administrator to file and sign necessary paperwork in conjunction with State Revolving Loans. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

MAYOR'S REPORT

a. Discussion regarding monthly Citizen Forum

Mayor Garcia stated he would inform the governing body what his schedule would be for the Citizen Forums.

COUNCIL MEMBER REPORTS

Keith Sifford

Councilmember Sifford questioned the status of moving the speed limit and city limit signs north to the city limits. The city administrator stated he spoke with the city superintendent earlier in the day and he was informed the signs would be moved by the end of the week.

Bill Hooker

Councilmember Hooker reported residents have contacted him requesting the speed limit on 155th Street be increased from 20 mph to 35 mph from Leavenworth Road south to Parallel, with the exception of the school zone. President Bonee suggested discussing the topic in a work session. Mayor Garcia disagreed with the increase noting if it was increased to 35 mph, people would drive 45 mph.

Iris Dysart

Councilmember Dysart questioned if the City had received the General Maintenance Agreement from the Board of County Commissioners. Mr. Slaugh stated the agreement had yet to be approved and returned by the County. Councilmember Dysart asked that he try to resolve the issue. She also questioned the status of the Sewer Master Plan. Mr. Slaugh stated the city engineer had requested an extension.

Carl Slaugh, City Administrator

Mr. Slaugh asked if everyone would be present on July 3rd since it was a holiday week. President Bonee and Councilmember Dysart stated they would be out of town. It was not known if Councilmember Thomas had plans to be out of town also. Mr. Slaugh suggested moving the July 3 meeting to July 6.

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to move the July 3 regular meeting and Falcon Lakes public hearing to July 6th. A roll call vote was taken with all members voting in favor. Motion passed 4-0.

EXECUTIVE SESSION

- a. Attorney-Client Privileged Matters
- b. Personnel (requested by City Administrator)

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to convene into executive session for 32 minutes to discuss land acquisition, pending litigation in the Cigich matter, and personnel as requested by the city administrator. A roll call vote was taken with all members voting in favor. Motion passed 4-0. (8:40 p.m.)

At 9:15 p.m., Mayor Garcia called the regular meeting back to order.

ADJOURNMENT

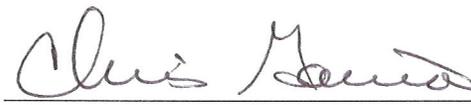
There being no further business to address, a motion was made by Councilmember Hooker and seconded by President Bonee to adjourn the meeting. A roll call vote was taken with all members voting in favor. Motion passed 4-0. Meeting adjourned at 9:15 p.m.

Submitted for Council approval with/without corrections or additions this 6th day of July, 2006.

Attest:




Mary A. Mogle, City Clerk


Chris Garcia, Mayor