

MINUTES

BASEHOR CITY COUNCIL

January 18, 2005

6:00 P.M.

Basehor City Hall

Official Presiding: Julian Espinoza, Council President

Members Present: John Bonee, Iris Dysart, Bill Hooker, Keith Sifford

**Staff Present: Mary Mogle, Gene Myracle, Angie Solberg, Baron Powell,
John Thompson, Matt Henderson**

Newspaper: Josh Roberts, Basehor Sentinel

In the absence of Mayor Scherer, the regular meeting was called to order at 6:00 p.m. by council president Julian Espinoza. All members were present including the city attorney John Thompson. Pledge of Allegiance was recited followed by a moment of silence.

President Espinoza announced he had two changes in the printed agenda:

1. Add Item #4, under New Business, a request from Honey Creek Farms to reduce the pump size and forcemain pipe.
2. Remove Item #1 "Personnel" from the Executive Session.

MINUTES

A motion was made by B. Hooker and seconded by K. Sifford to approve the minutes of December 13, 2004 Public Hearing & Regular Meeting, December 14, 2004 Telephone Poll, and December 20, 2004 Public Hearing & Regular Meeting. All aye. Motion carried 5-0.

FINANCIAL REPORTS

A motion was made by K. Sifford and seconded by I. Dysart to approve the Treasurer's Reports and Vendor Payments as presented. All voted in favor except B. Hooker. Motion carried 4-1.

There were no investments to address at this time.

UNFINISHED BUSINESS

Item #1. Consider Support For Upsizing Cost of \$35,000 For Wolf Creek Industrial Park Sewer Line

A memorandum received by engineer, Matt Henderson, explained developer for Wolf Creek Industrial Park requested the City participate in upsizing costs associated with the construction of the sanitary improvements. Mr. Henderson stated from an engineering standpoint all developments were required to size their gravity lines to accept future development of area within the watershed basin. Therefore, it was his recommendation to require the developer to size the wet well to handle future upland sanitary flows at their cost, and noted it was Council decision to contribute \$35,000 toward the upsizing of the pump and forcemain as requested.

Miles Excavating project manager Mike Hooper stated the project could get by with a 6" line but they are required to install a 10" line. Mr. Bonee noted the City has already paid \$55,000 to upsize the pump station at Pinehurst to handle future development in that area.

Councilperson Dysart questioned the city attorney as to the ramifications of allowing someone else to connect to the 24/40 Hwy Interceptor prior to finalizing the benefit district. Mr. Thompson noted the developer would have to sign an agreement not to protest in advance of allowing them to connect to the district.

Councilman Hooker asked the engineer at what point would the forcemain need to be upsized if the developer was not required to do it at this time. Mr. Henderson stated that would depend on how fast the area developed.

Item #2. Consider Interlocal Agreement With Leavenworth County Regarding Sewer District No. 7

County counselor David Van Parys reported he, with the assistance of the city attorney, fine-tuned the proposed agreement regarding Sewer District No. 7. The agreement would allow the City to collect monthly maintenance fees, connection fees, maintain a capital improvement fund, and provide for a transfer of funds from the county to the city for taxes collected from Cedar Lakes residents.

Councilman Hooker suggested creating 7A, 7B, 7C, etc. to describe the different subdivisions included in the district (i.e. Cedar Lakes, Cedar Falls, etc.) and change the word City to District (Section 7, line 3). He questioned what would happen with subsequent years. Mr. Van Parys noted that would be up to the City to handle once the County met their commitment.

President Espinoza stated it was his understanding the County agreed to transfer funds to the City by April 1, 2005. Mr. Van Parys stated that could be arranged. Mr. Espinoza commented he would like to see that included in the agreement as well.

Councilperson Dysart questioned if the City was obligated to notify the Cedar Lakes property owners of the assessments and monthly fees. Mr. Thompson stated the City would be in a better position to answer questions once the agreement was finalized.

Mr. Van Parys reported Sewer District #7 had conducted a number of public hearings with residents of Cedar Lakes. So far it had not been determined who the connection fee would be paid to, the City of Basehor or Sewer District No. 7. He reported Sewer District #7 would hold another public hearing to notify the property owners of the costs.

Councilperson Dysart noted she would like to see a clause added to the agreement stating the City of Basehor could not be sued by the residents of Cedar Lakes. Mr. Van Parys stated the County has attempted to improve communications with the residents; however, he was not able to guarantee that no law suits would be filed. Mr. Van Parys noted Sewer District #7 board has reviewed and approved the proposed agreement.

The city attorney stated if litigation would arise, the City would defer to the County for legal representation and all associated costs. I. Dysart asked if legal fees would be passed back to the residents of Cedar Lakes. Mr. Van Parys stated he could not answer at this time. He noted the City of Basehor would almost be considered a "contractor".

Mr. Van Parys announced he would finalize the agreement with the necessary changes and deliver the document to the city clerk for the mayor to execute.

NEW BUSINESS

Item #1. Resolution Supporting Countywide One Percent Sales Tax and Placement On April 2005 Ballot

The proposed resolution would support the placement of the one percent sales tax initiative on the April ballot as well as stipulate how the City's share of funds would be used for certain future projects.

Councilman Bonee stated he felt the projects listed in the resolution were too general. The city clerk explained she extracted projects from the adopted five-year street project plan since council had not designated work to be done thereafter.

Item #2. Contractor Payment To Kings Construction For Pinehurst Benefit District

A request for payment in the amount of \$125,822.12 to King Construction for the Pinehurst Benefit District was submitted for council approval.

The city superintendent explained once final payment was made to Kings Construction their maintenance bond would commence.

Item #3. Reconsideration Of Motion To Allow Prepayment Of Sewer Connection Fees For Pinehurst Villas (20 Sewer Connections)

Councilperson Dysart requested Council reconsider a previous motion they made at the December 13th meeting where they approved Pinehurst Villas to pre-purchase twenty sewer connection fees prior to the rate increasing. The City currently has policies in place that state connection fees shall be paid at the time a building permit was issued.

The city attorney explained the Council's first action was lawful. He provided a memorandum of a supreme court decision stating Council may take action as long as the action was not arbitrary or capricious. Council may discriminate as long as there was basis for their vote.

Councilman Hooker stated the Board should "stick" with their policy in its current format. Councilperson Dysart stated staff failed to inform them of policies prohibiting the pre-payment and felt Council should act quickly to rescind their previous motion.

Councilman Bonee supported creating a policy for pre-payment of sewer connection fees. However, in his opinion, no developer should receive the option to prepay if all developer reimbursable expenses were not paid in full.

The city clerk asked the city attorney if there was even an issue regarding the reconsideration of the previous motion of December 13th. She read the motion where it stated prepayment of the twenty connection fees would be allowed if paid by January 15, 2005. No payment had been received to date. The city attorney stated if that was the case, it was a mute point for Pinehurst Villas, but advised them they still had the option to deviate from the policy if they so choose.

Item #4. Request For Reduction Of Pump Size And Forcemain For Honey Creek Subdivision

President Espinoza reported the developers of Honey Creek Subdivision requested they be allowed to reduce the size of the proposed lift station and forcemain

from 8" to 6". Initially the owners thought they would have two other adjoining property owners (Ramar Development and Dyster Property) to assist with the cost and that didn't happen. If they were allowed to downsize they would service 130 of the original scope of 181 acres. One hundred-nine (109) acres would be offsite.

Code administrator Angie Solberg noted the developers are not asking for internal downsizing. City superintendent Gene Myracle reported it would be necessary for future developers to make changes to the impellers and some other minor modifications to the pump system. Engineer Matt Henderson noted the wetwell was sufficient to house the immediate and future pump setup. The developer's request would still cover ninety percent of the watershed with the ability to develop downstream.

Honey Creek developer Curtis Oroke reported Honey Creek consists of seventy-two acres. He explained when they originally designed the sewer system, they thought they would have two other property owners joining them in creating a benefit district; however, that did not happen. He noted they were not changing any engineering except the pumps and pipe size. Since they did not have cooperation creating a benefit district, their costs have been increased.

Mr. Myracle explained, if the request was approved, he and the engineer would receive a set of plans to approve, once approved the developer could order the lift station.

Councilperson Dysart stated when a developer buys land, he should have a good idea of what costs would be associated with the project. Mr. Oroke explained he has no control over the increase in costs of materials.

President Espinoza stated he would add this request to the Action Items.

County resident Dale Holland stated if the developer sizes the system correctly the first time, there would not be a need for the next developer to come back and disturb their property time and time again. Councilman Bonee commented any future extension from Honey Creek would go a different direction. The code administrator and city superintendent concurred with Councilman Bonee.

Mr. Oroke stated currently there was nothing to protect him from anyone gaining access to their line free of charge.

Councilperson Dysart stated she did not like being presented with a request at the council meeting, she preferred to have time to study the matter prior to voting. Mr. Oroke explained they have companies ready to buy land; however, they cannot sell the lots without sewers.

CITIZENS AND PETITIONS (All Presentations Are Limited To Five Minutes)

Item #1. George Smith (14923 Parallel)

Re: a) Prepayment of sewer tap & other city fees.

b) Waiving of city excise taxes.

c) The effect of Sewer Sprawl on the future development of the city

a) Mr. Smith spoke in opposition of Council allowing anyone to prepay sewer connections and other fees in advance. He noted it would have a detrimental monetary effective on the budget and how would they prevent someone else jumping on the "band wagon".

b) Mr. Smith stated the current excise tax ordinance states there was to be a formal review performed on an annual basis which has not been done to his knowledge. He noted when the excise tax was voted in, it was to be for specific streets which the ordinance does not state. He did not support the fact that Prairie Lakes received an exemption for the lake area. He considers the lake to be an enhancement to the subdivision, not a detriment.

c) Mr. Smith opposed "sewer sprawl" noting the comprehensive plan is full of verbiage that detours the City from spot annexing. He felt to continue to spot annex was a waste of money when the City needs a treatment plan down stream on Wolf Creek.

Item #2. Citizen Comments Regarding Agenda Items

President Espinoza asked twice if there was anyone in the audience who wished to speak regarding an agenda item. No one came forward, he then called the public portion of the meeting closed.

EXECUTIVE SESSION

Item #1. Personnel Exception (removed from the agenda at the beginning of the meeting)

Item #2. Attorney Client Privileged Matters

A motion was made by B. Hooker and seconded by I. Dysart to recess into an executive session for forty-five minutes to discuss the Quasi-Sewer 24/40 Hwy Benefit District and Attorney-Client Privileged Matters. All aye. Motion carried 5-0. (7:30 p.m) Code administrator Angie Solberg and engineer Matt Henderson were invited into the executive session.

At 8:15 p.m. President Espinoza called the regular meeting back to order announcing that no formal action was taken in executive session.

ACTION ITEMS

Item #1. Approve Or Deny Upsizing Cost of \$35,000 For Wolf Creek Industrial Park

A motion was made by B. Hooker and seconded by I. Dysart to deny the request for city participation in the upsizing cost of \$35,000 for Wolf Creek Industrial Park. All voted in favor except K. Sifford. Motion carried 4-1.

Item #2. Approve Or Deny Interlocal Agreement With Leavenworth County Regarding Sewer District No. 7

A motion was made by B. Hooker to approve the interlocal agreement based on previous discussion. Discussion followed. B. Hooker withdrew his motion.

A motion was made by B. Hooker and seconded by J. Bonee to approve the agreement with the changes as detailed by the county counselor (i.e. add Section 9 stating the County would pay all associated costs in the event of legal action, District to make payment by April 1, 2005, change City to District in Section 7) and authorize the mayor to executive the agreement once changes are made. All aye. Motion carried 5-0.

Item #3. Approve Or Deny Resolution Supporting Countywide One-Cent Sales Tax And Placement on April 2005 Ballot

Commissioner Oroke recommended changing the verbiage in Section 2 from "Miscellaneous ditch project and culverts" to "Ditch projects and curbs to include necessary materials" and delete "Miscellaneous material, asphalt, salt, sand".

A motion was made by J. Bonee and seconded by K. Sifford to approve the resolution as submitted with the aforementioned amendment. All aye. Motion carried 5-0.

RES. 2005-01. A RESOLUTION IDENTIFYING THE CITY OF BASEHOR FUNDING NEEDS FOR THE LEAVENWORTH COUNTY ONE-PERCENT (1%) SALES TAX INITIATIVE

Item #4. Approve Or Deny Contractor Payment to Kings Construction For Pinehurst Benefit District

A motion was made by B. Hooker and seconded by J. Bonee to approve the

payment to Kings Construction in the amount of \$125,822.12 for work performed in the Pinehurst Benefit District. All aye. Motion carried 5-0.

Item #5. Approve Or Deny Reconsideration of Motion To Allow Prepayment of Sewer Connection Fees for Pinehurst Villas (20 Sewer Connections)

A motion was made by B. Hooker and seconded by I. Dysart to remove Action Item #5 from the agenda and take no action. All aye. Motion carried 5-0.

Item #6. Approve Or Deny The Addition To Action Items the Reduction Of Pump Size And Forcemain For Honey Creek Subdivision

A motion was made by J. Bonee and seconded by K. Sifford to allow the addition to the action items the request for reduction of pump size and forcemain for Honey Creek Subdivision. All aye. Motion carried 5-0.

Item #7. Approve Or Deny Reduction Of Pump Size And Forcemain For Honey Creek Subdivision

A motion was made by J. Bonee and seconded by K. Sifford to approve the request for reduction of pump size and forcemain for Honey Creek Subdivision as presented. All aye. Motion carried 5-0.

MAYOR'S REPORT

Due to the absence of Mayor Scherer, there was no Mayor's Report at this time.

COUNCIL MEMBER REPORTS

There were no Council Member Reports at this time.

ADJOURNMENT

A motion was made by J. Bonee and seconded by K. Sifford to adjourn the meeting. All voted in favor. Meeting was adjourned at 8:20 p.m.

(Fifteen Minute Recess)

Council agreed to forgo the fifteen minute recess and convene into the work session directly following the regular meeting.

WORK SESSION (directly following regular meeting)

The following topics were discussed at the work session. Transcribed minutes of work sessions are not required by law, therefore, this section is included as a matter of record.

Item #1. Discussion Regarding Neighborhood Revitalization Plan

Note: David Van Parys, Leavenworth County was in attendance to answer questions.

Citizen Comments:

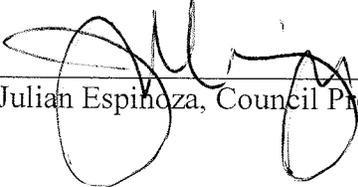
1. Susan Guy, Economic Development Committee
2. Mario Moore, Basehor Suds
3. Ron Johnson, Community National Bank

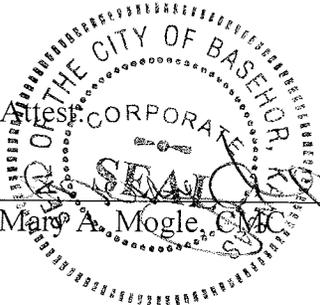
Item #2. Discussion Regarding Amending Ordinance/Policy allowing for pre-purchase of sewer connections.

Item #3. Discussion Regarding Implementation of Agreement Not to Protest Benefit District for Developers and Builders. (Requested by John Bonee)

Item #4. Discussion Regarding Developer Reimbursement Expenses. (Requested by John Bonee)

Submitted for Council approval with/without corrections this 13th day of February, 2005.


Julian Espinoza, Council President


Attest:

Mary A. Mogle, CMC