

**MINUTES**

**BASEHOR CITY COUNCIL**

**January 24, 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, Baron Powell, Angie Solberg,  
Matt Henderson, John Thompson, Terry Horner (arrived at 6:30  
pm)**

**Newspaper: No newspaper reports were present at this meeting.**

President Espinoza called the regular meeting to order at 6:00 p.m. announcing that all members were present except Mayor Scherer. Pledge of Allegiance was recited followed by a moment of silence.

**MINUTES**

President Espinoza announced the January 18th minutes were not ready and reserved the right to poll council at a later date following their review.

**FINANCIAL REPORTS**

A motion was made by J. Bonee and seconded by K. Sifford to approve the Treasurer's Report and Vendor Payments as presented. All aye. Motion carried 5-0.

**UNFINISHED BUSINESS**

**Item #1. Consider Annexation of Cedar Lakes and Briarwood Commercial Lots**

Councilperson Dysart questioned the city attorney if approving the Sewer District #7 agreement changed the annexation service plan. Mr. Thompson explained the agreement does have an impact on the service plan and should be updated. He recommended the City postpone action to annex until the plan could be updated and residents notified of the changes. I. Dysart agreed stating she felt action at this time was premature.

**Item #2. Consider The Allocation of Final Costs for Quasi-Sewer District US 24/40**

The city attorney reported he would like to discuss this item in the executive session.  
Council agreed.

**Item #3. Contract With Shafer, Kline & Warren To Update Comprehensive Plan**

The code administrator submitted a contract and scope of services for the update to the Comprehensive Plan. The firm of Shaffer, Kline & Warren submitted a project cost in the amount of \$42,000. There was no council discussion at this time.

**Item #4. Consider Amending Subdivision Improvement Agreement To Include Requirement For Developer To Sign an "Agreement Not to Protest Formation Of Benefit District".**

(refer to Item #5)

**Item #5. Consider "Agreement Not To Protest Formation of Benefit District" For Builders.**

President Espinoza announced the proposed ordinance includes Item #4 and #5 and would be addressed as one item.

The ordinance would require property owners, builders and developers to sign an agreement not to protest formation of a benefit district. The code administrator explained this would stop property owners from stating they did not have knowledge of future benefit district assessments. The City of Lawrence uses the same ordinance and forms as being proposed. There was no council discussion at this time.

**NEW BUSINESS****Item #1. Ordinance Amending Article 7, District Regulations of the Zoning Ordinance As It Pertains to Zoning Classifications (adopt "Mixed Use Neighborhood District")**

The code administrator announced the planning commission held a public hearing regarding the addition of the Mixed Use Neighborhood District zoning classifications (MU1, MU2, MU3) and recommends approval. There was no council discussion at this time.

**Item #2. Consider Payment of Leavenworth Area Development Annual Funding For 2005 (\$4458.00)**

Leavenworth Area Development submitted a request for annual funding of \$4458.00 for year 2005.

Councilperson Dysart stated she was surprised to see the jump from \$1200.00 in 2004 to \$4458.00 for 2005.

President Espinoza suggested tabling action and discuss at the work session directly following the council meeting. Council agreed.

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

**Item #1 Lynn McClure, Leavenworth Area Development  
Re: Quarterly Report**

Mr. McClure was not present at this time.

**Item #2. Citizen Comments Regarding Agenda Items**

**Susan Guy (1713 N. 150 St)** spoke in favor of paying Leavenworth Area Development (LAD) \$4458.00. She reported the north end of Leavenworth cut their funding to LAD because they were jealous that LAD was spending so much time in Basehor. Mrs. Guy reported the City staff and Chamber staff do not have time to spend doing this type of work and urged Council to support LAD.

J. Bonee asked if it would be better if the money given to the Chamber of Commerce and leave it up to them to distribute the money as they see fit.

Audience member, John Bell, questioned Mrs. Guy as to the projects that LAD assisted Basehor with in the past year. Mrs. Guy stated they advertise area businesses and the City of Basehor on their website and worked with some area businesses regarding incentive programs.

**Mike Mallory (18367 154th St.)** agreed with Council that it would be in the best interest of all to table action regarding the annexation of Cedar Lakes.

**Robert Workman (18210 153 St.)** stated that no one in Cedar Lakes "embraced" being annexed into Basehor. They do not want to pay Basehor taxes in addition to county taxes when they would not receive any additional services than what they already have. He asked Council to think about why they would push 110 families to do something they do not want.

Councilman Hooker asked Mr. Workman what he thought about them connecting to the City of Basehor's sewer system. Mr. Burke responded stating they would prefer to pay 125% monthly sewer fees in lieu of paying higher taxes.

**Carol Washington (1901 N. 160th St.)** reported she was never told about any assessment (24/40 Hwy Interceptor Benefit District). She asked if the assessment was intended for the developer or homeowner to pay.

Mr. Thompson explained the original intent was to be a cost share between the City of Basehor and the developers. Mrs. Washington questioned when the sewer line became operational. The city superintendent reported in November 2003. She asked how the Council could create the benefit district after it was operational.

Councilman Hooker reported it was the responsibility of the developer to notify the property owners, not the City of Basehor. President Espinoza added if the resident dealt with a real estate agent, it was the agents responsibility to notify them of the proposed assessment. Councilman Bonee noted it was a possibility their developer may have intended to pay the assessment in full and not pass the cost to the residents in his development.

Mrs. Washington stated she felt the residents should have been notified of the assessment in writing.

**Jim Washington (1901 N. 160th St.)** stated the assessment should have been disclosed at time of title work and it was his opinion it was the responsibility of the City of Basehor, not the developer. He questioned why the assessment was not noted in their agreement. The city attorney reported it was not the responsibility of the City to announce the possible assessment. At that point it becomes an issue between Mr. Washington and the developer. Mr. Thompson suggested the property owner look at his contract to see if it included language about the pending assessment.

Mr. Thompson noted he supports the "Agreement Not To Protest The Benefit District" when a building permit was issued this way they would know about the assessment upfront.

Mr. Washington also spoke in favor of supporting the Chamber of Commerce and Leavenworth Area Development. He noted the area needs economic and industrial businesses. He felt development in an orderly, well planned, and aggressive manner was good for the City of Basehor.

**Mrs. Cochran (1952 N. 160th St.)** question the difference in 24/40 Hwy Interceptor assessments from November 2004 and tonight's figures.

President Espinoza stated the November 1 Public Hearing costs were estimates. Tonight's figures are final costs.

**Trevor Urban (15498 Cedar Lane)** spoke in opposition of the proposed annexation. He noted there are a lot of questions that have not been addressed. Cedar Lakes property owners do not want to pay higher taxes and felt there was a lack of communication on the county's part. Mr. Urban also complained about the Pinehurst developers failing to make drainage repairs to some properties adjoining their development.

President Espinoza noted he was unable to answer questions regarding the county; however, he would have the city staff check into the drainage issue.

Mr. Urban reported the detention pond is not full and has never held water, the water goes around the pond rather than in it. He noted the City should lead by example if they wish to convince the property owners of Cedar Lakes they should be a part of the City of Basehor.

Councilman Bonee stated Pinehurst Development is one of the best developments in Basehor, it looks beautiful with all the amenities that have been added such as the round-about. He stated the City has mechanisms in place to see that things are done correctly and would address Mr. Urban's concerns with the city engineer.

**Walter Heimbaugh (15101 Sweet Briar Dr.)** questioned if Briarwood Subdivision lose their vote regarding the sewer system. He noted Briarwood residents have been paying into the benefit district for about fifteen years. Mr. Espinoza commented the City was not able to answer that question since it was a County issue. The city attorney stated this was his first knowledge about another district and would have to research the matter.

Bill Petrie and Tony Kramer, Leavenworth Area Development, apologized for being late and asked if they could address the Council at this time regarding their organization and annual funding. President Espinoza informed Mr. Petrie Council agreed to table action and discuss at a work session following the council meeting. President Espinoza invited Mr. Petrie and Mr. Kramer to stay for the work session if they had time.

President Espinoza asked twice if there were any more comments from the audience, there being no more requests, the public portion of the meeting was closed.

#### **EXECUTIVE SESSION**

1. Personnel
2. Attorney-Client Privileged Matters

A motion was made by B. Hooker and seconded by K. Sifford to convene into a forty-five minute executive session to discuss personnel issues, Quasi-Sewer 24/40 Hwy Benefit District and the Annexation of Cedar Lakes. All aye. Motion carried 5-0. (6:55 p.m.)

The city clerk, city superintendent, and chief of police was invited into the executive session to address personnel issues. The code administrator and engineer were invited into the executive session to address the Quasi-Sewer 24/40 Hwy Benefit District.

At 7:40 p.m, President Espinoza called the regular meeting back to order announcing that no formal action was taken in executive session.

### **ACTION ITEMS**

President Espinoza reported they would add Action Item #8 to address the scheduling of a special meeting on January 31st at 6:00 p.m. to consider a home rule ordinance and LAD funding.

#### ***Item #1. Approve or Deny Annexation of Cedar Lakes and Briarwood Commercial Lots***

A motion was made by I. Dysart and seconded by K. Sifford to deny the annexation of Cedar Lakes and Briarwood Commercial Lots. All aye. Motion carried 5-0.

#### ***Item #2. Approve or Deny Allocation of Final Costs for Quasi-Sewer District US 24/40***

A motion was made by K. Sifford and seconded by J. Bonee to approve an ordinance for the creation of the Quasi-Sewer District US 24/40 and approve final costs allocations. Discussion followed. Councilperson Dysart asked that her statement go on record. Her statement was as follows:

“That there are ordinances and policies in place that should have protected us (the City of Basehor) from this incident happening with this fiasco over the sewer district. My vote would be a vote of protest since procedures were not followed correctly.”

Councilman Hooker asked what was her alternative. She stated she thought the policy (charter ordinance pertaining to Home Rule) being presented by the city attorney would correct things along with the vote the council would be taking later in the meeting. President Espinoza stated the council would not be acting on the ordinance, only scheduling a special meeting for January 31<sup>st</sup> to consider the ordinance.

All voted in favor except I. Dysart. Motion carried 4-1.

***Item #3. Approve or Deny Contract With Shafer, Kline & Warren To Update Comprehensive Plan***

A motion was made by J. Bonee and seconded by K. Sifford to approve the contract with Shafer, Kline & Warren to update the City's Comprehensive Plan and not to exceed \$42,000.00. All aye. Motion carried 5-0.

***Item #4. Approve or Deny Ordinance Amending Article 7, District Regulations of the Zoning Ordinance As It Pertains to Zoning Classifications (adopt "Mixed Use Neighborhood District")***

A motion was made by K. Sifford and seconded by J. Bonee to approve the ordinance amending Article 7 as presented. All aye. Motion carried 5-0.

*ORD. 452. AN ORDINANCE AMENDING ARTICLE 7, DISTRICT REGULATIONS OF THE ZONING ORDINANCE AS IT PERTAINS TO ZONING CLASSIFICATIONS AND ADOPT "MIXED USE NEIGHBORHOOD DISTRICT".*

***Item #5. Approve or Deny Payment of Leavenworth Area Development Annual Funding for 2005 (\$4458.00)***

Action was tabled at this time. Discussion followed at the work session directly following the regular council meeting.

***Item #6. Approve or Deny Amending Subdivision Improvement Agreement To Include Requirement For Developer To Sign an "Agreement Not to Protest Formation Of Benefit District".***

(refer to Action Item #7)

***Item #7. Approve or Deny "Agreement Not To Protest Formation of Benefit District" For Builders.***

A motion was made by K. Sifford and seconded by J. Bonee to approve the ordinance requiring property owners and developers to sign an agreement waiving certain legal remedies prior to obtaining building permits or acceptance of final plat. All aye. Motion carried 5-0.

ORD. 453. *AN ORDINANCE REQUIRING PROPERTY OWNERS AND/OR DEVELOPERS TO WAIVE CERTAIN LEGAL REMEDIES PRIOR TO OBTAINING BUILDING PERMITS OR ACCEPTANCE OF FINAL PLAT.*

***Item #8. Approve or Deny To Schedule A Special Meeting Regarding Home Rule Ordinance and Funding For Leavenworth Area Development***

A motion was made by J. Bonee and seconded by B. Hooker to schedule a special meeting on January 31 at 6:00 p.m. to consider the creation of a home rule ordinance regarding benefit districts and funding for Leavenworth Area Development. All aye. Motion carried 5-0.

**MAYOR'S REPORT**

Due to the absence of Mayor Scherer, there was no report at this time.

**COUNCIL MEMBER REPORTS**

There were no Council Member Reports at this time.

**ADJOURNMENT**

There being no further business to discuss, a motion was made by K. Sifford and seconded by J. Bonee to adjourn the meeting. All aye. Motion carried 5-0. Meeting adjourned at 8:00 p.m.

**Work Session**

At 8:05 p.m. President Espinoza called the work session to order to discuss the following topics. Transcribed minutes are not required by law; therefore, this is only a matter of record.

*Item #1. Discuss Policy Pertaining to Prepayment of Sewer Connection Fees  
(Staff is in the process of collecting data)*

The work session was adjourned at 8:30 p.m.

Submitted for Council approval with/without corrections this 14th day of February, 2005.

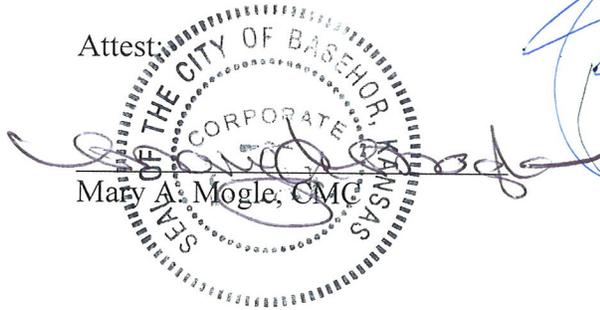
ORIGINAL

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Joseph Scherer, Mayor

Attest:



Mary A. Mogle, CMC