

ORIGINAL

**Minutes  
CITY OF BASEHOR  
City Council Meeting  
July 7, 2005  
6:00 p.m.  
Basehor City Hall**

**Official Presiding: Mayor Chris Garcia**

**Members Present: President John Bonee, Iris Dysart, Bill Hooker, Keith Sifford,  
and Terry Thomas**

**Staff Present: Mary Mogle, John Thompson, Gene Myracle, Shelley Schupp,  
Terry Horner**

**Newspaper: None present.**

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**6:00 p.m. – 6:55 p.m. Work Session**

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

- Discussed easement west of 157<sup>th</sup> St. and Hickory.
- Discussed seasonal labor to mow city park.
- Discussed purchasing air conditioner for waste water treatment plant
- Discussed fans at lift stations
- Discussed street overlay and filming of sewer lines
- Judy Goens, Park Advisory Board chairman requested purchase of mulch for city park.
- Frank Feagle complimented police dept. for traffic control on 155<sup>th</sup> St, and reduction of boom box noise. Opposed to horse arena across street from him and recommended Council pass ordinance prohibiting farm animals in city limits.

Work session ended at 6:55 p.m.

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**7:00 P.M. –Regular Meeting**

**Roll Call by Mayor Chris Garcia and Pledge of Allegiance. All members present.**

***Consent Agenda Items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.***

**5. Consent Agenda:**

- a. Approve Minutes of the Council Meeting of
  - 1) June 20, 2005 Regular Meeting
  - 2) June 27, 2005 Special Meeting
  - 3) July 6, 2005 Special Meeting
- b. Approve Treasurer's Report & Vendor Payments

- c. Approve Investment Recommendations (none for this meeting)
  - e. Approve Calendar of Events

A motion was made by Councilmember Hooker and seconded by Councilmember Sifford to approve the consent agenda as written. All voted in favor. Motion carried 5-0.

### **Chamber of Commerce Report**

Chamber of Commerce president Debbie Breuer reported a forum would be held on July 26 by MARC and Leavenworth Area Development to present the new Transportation Outlook 2030 plan. She encouraged city officials to attend. She also reported there are 276 members in the Chamber of Commerce at the present time.

### **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) Residents of Leavenworth Road-West of 157<sup>th</sup> Street  
Re: Drainage and Traffic Issues

**Matthew Quick (15732 Leavenworth Rd)** reported he had an ongoing problem with water coming from the south down on his property. He felt new development (Metzger Meadows) would cause more problems. The existing pipe does not hold the rain water and cuts the ground away and ditches do not hold water in a normal rain.

President Bonee stated newer subdivisions are required to have onsite detention. Mr. Quick stated new development adds pavement which does not allow rain water to be absorbed.

Mayor Garcia stated during the last rain, he witnessed how the water flowed and would like to meet with the property owners to discuss options.

**Jeff Lumley (15711 Leavenworth Rd)** showed photographs of recent rain and opposed the preliminary plat for Metzger Meadows. He did not feel the pond design would work. He also complained about the additional traffic the development would add to a road that already had a traffic problem.

*Mark Isabell (15822 Leavenworth Rd)* stated he works for a civil engineering firm and felt the detention pond would create more of a drainage problem for some of the property owners. He asked the Council to address problems in the entire drainage basin.

*Carole Cramer (15806 Leavenworth Rd)* reported she has a 3 ft. ditch that cuts through her fence and then runs into her back yard. Children play in the ditch and expressed concern for their safety and a breeding ground for mosquitoes.

Shelley Schupp, interim code administrator, explained how a detention pond was configured and designed. She explained she could not require a developer to fix problems down stream off his property; however, the developer would be required to set land aside to hold enough volume flow. The developer would be held to city and engineering standards and explained the methods engineers use when designing a subdivision. Councilmember Sifford questioned if the developer would be making matters better or worse. Mrs. Schupp explained it would be the same, if not better, but could not increase the problem.

Councilmember Dysart asked if Metzger Meadows was in a flood plain. Mrs. Schupp stated it was not, it was a manmade pond. She explained the planning commission required the developer to put in a detention pond, rather than retention, and was requiring the developer to install a fence around the pond. She stated the City Council has to be the one to require the type of pond. The project engineer must design the pond to hold a 100 year flood.

City attorney John Thompson stated Kansas law with regard to development, the City could not be held liable for runoff caused by development unless the City makes changes to the project engineers construction plans. If the development is constructed in conjunction with the project engineers plan, and problems occur, the project engineer is held liable.

President Bonee reported the homes on Leavenworth Road were built prior to the City adopting low-lying requirements.

b) *Mark Baska*  
*Re: Criminal Activity On the Part of Honey Creek Development Resulting In Property and Environmental Damage (Did not appear)*

c) *Ed McIntosh*  
*Re: Metzger Meadows*

Metzger Meadows developer Ed McIntosh informed the Council he now owns the Dobson property, west of Metzger Meadows. He explained prior to purchasing the properties he had an engineer do some preliminary work with regards to the drainage in

the area. In their construction plans, they would show they have exceeded city standards. They plan to make the pond a "water feature" and line with rocks and fence, similar to what the City of Lansing has done at their entrance. The pond would be maintained by the Metzger Meadows Homeowners Association. He noted his engineer was still working on a design and calculations for the ponds which would be sized for the entire twenty-four acres.

*Jeff Lumley* stated Mrs. Schupp, earlier in the meeting, made the comment the detention pond would not hold water. He disagreed. Mrs. Schupp stated she would have to review the level of ground water and work out the calculations.

*Mark Isabell* asked if the study was going to show where the water was going to go if the pond did not hold the water. He stated his garage has never had water in it; however, if he gets water in his garage after the development goes in, it would be easy to see where it came from.

*George Smith (14923 Parallel)* sympathized with property owners, however, the City of Basehor meets the Kansas Golden Rule criteria. The current regulations deal with offsite facilities and improvements, but the homes on Leavenworth Road were built in a poor area with poor building plans. He suggested forming a benefit district in the water shed area to address the drainage problems.

*Ed McIntosh* spoke in favor of the LAD membership. He reported he has personally benefited from the organization.

*Debbie Breuer*, stated she was a developer, Chamber of Commerce member, and with Community National Bank and supported LAD membership. She stated now that LAD was going to market commercial and retail businesses in addition to industrial, they would be more involved in the community.

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

### **Scheduled Discussion Items**

#### ***a. Discussion Regarding Improvements to 147<sup>th</sup> Street***

City superintendent Gene Myracle reported design work for 147<sup>th</sup> Street has been put on hold until they can verify the centerline of the street. He commented the right-of-way did not line up and would need to be researched further. Mrs. Schupp reported all the field topography work had been done and anticipated having everything completed by July 25<sup>th</sup>. Councilmember Dysart stated she would prefer to table meeting with the

County Commissioners until the engineer finalized plans for improvements to 147<sup>th</sup> Street. She felt the City and County should work together on the project. Council agreed.

**b. *Discussion Regarding Installation of Air Conditioning at Waste Water Treatment Plant***

The city superintendent requested authorization to purchase starter motors for Aerator #1 on the aeration basin, sludge blower, and for the submersible pump at the 163<sup>rd</sup> Street lift station. The approximate cost for the three motors would be \$2000. The funds would come from the operation and maintenance treatment plant fund. There was no discussion by the governing body at this time.

**c. *Discussion Regarding Hiring Seasonal Labor for Mowing of City Park***

The city superintendent requested authorization to hire a person to mow and weed eat the city park. The person would be seasonal, receiving no benefits, and paid \$8.00 per hour. Mr. Myracle estimated the cost for the remainder of the mowing season to be approximately \$1920. There was no discussion by the governing body at this time.

**d. *Discussion Regarding Annual Membership for Leavenworth Area Development***

Mayor Garcia reported he met with LAD representatives regarding some of his concerns. Initially, he felt \$5000 could be spent on in-house staff performing economic development work. However, he felt the city administrator would not be able to devote the time needed to do the job properly. The mayor also reported he has requested LAD make a quarterly report.

Tony Cramer, LAD Vice President, and Lynn McClure, LAD Director appeared to answer any questions the Council may have concerning the \$4729 membership dues. Mr. McClure explained how the membership dues were calculated and explained the different services LAD provides to the area cities.

Councilmember Thomas asked how many businesses located to Basehor based on LAD's marketing. Mr. McClure explained the projects they worked on in the past and explained since Basehor does not have an industrial park, they were unable to bring large businesses to the area. President Bonee reported he was satisfied with what he received from his personal membership and had received benefits from his listing on the LAD website. Mr. McClure stated now that LAD would be marketing commercial and retail businesses, he felt they would be able to service Basehor more in the future. Councilmember Hooker stated in the past he was opposed to joining LAD, however, he has changed his mind and would support staying a member of LAD.

Mayor Garcia stated Item "T" would be added to Business. Action would be requested to purchase mulch for the city park in the amount of \$3318.07.

A motion was made by President Bonee and seconded by Councilmember Thomas to recess for five minutes. All voted in favor. Motion carried 5-0. (8:30 p.m.)

At 8:36 p.m., Mayor Garcia called the regular meeting back to order.

### **Business**

**a. Consider Contract for Auditing Services. 5-0**

A motion was made by Councilmember Sifford and seconded by President Bonee to approve the contract for audit services with Lowenthal Singleton Webb & Wilson for audit year 2006 not to exceed \$7900. All voted in favor. Motion carried 5-0.

**b. Consider Appointments to Planning Commission**

Mayor Garcia requested appointment of David Povilonis to the Planning Commission. (Mr. Povilonis would fill the vacant position of George Smith).

A motion was made by Councilmember Sifford and seconded by Councilmember Hooker to approve the appointment of David Povilonis to the Planning Commission. All voted in favor. Motion carried 5-0.

**c. Consider Resolution Authorizing the Public Sale of General Obligation Bonds (Pinehurst Benefit District)**

Mayor Garcia requested Items "c" and "d" be addressed as one vote. Council agreed.

**d. Consider Resolution Authorizing the Redemption of the Series 2003-B Notes**

A motion was made by President Bonee and seconded by Councilmember Sifford to approve the resolution authorizing the public sale of the Pinehurst General Obligation Bonds and the resolution authorizing redemption of the Pinehurst Series 2003-B notes. All voted in favor. Motion carried 5-0.

*RES. 2005-08. A resolution authorizing and providing for the public sale of General Obligation Bonds, Series 2005 of the City Of Basehor, Kansas; setting forth the details of said sale; and providing for the giving of notice thereof.*

RES. 2005-09. *A resolution authorizing and providing for the redemption of the Series 2003-B Notes of the City of Basehor, Kansas.*

e. ***Schedule Public Hearing for 2006 Budget – August 15, 2005 at 7:00 p.m.***

A motion was made by President Bonee and seconded by Councilmember Thomas to schedule the public hearing for the 2006 Budget for August 15<sup>th</sup> at 7:00 p.m. All voted in favor. Motion carried 5-0.

f. ***Consider Membership to Leavenworth Area Development For Year 2006***

A motion was made by President Bonee and seconded by Councilmember Thomas to approve \$4729 for 2006 membership dues to Leavenworth Area Development (LAD). All voted in favor. Motion carried 5-0.

g. ***Resolution Designating the Mayor, City Treasurer, and City Clerk as Authorized Officers to Transfer and Invest Funds in the Municipal Investment Pool.***

A motion was made by Councilmember Sifford and seconded by President Bonee to approve the resolution designating the mayor, city treasurer, and city clerk as the authorized officers to transfer and invest funds in the municipal investment pool. Discussion followed. The clerk was questioned if the city administrator should be included in the resolution. She noted that most city administrators do not want to deal with finances in this manner; however, another resolution could be presented at a later date if the governing body wanted to change designees. All voted in favor. Motion carried 5-0.

h. ***Consider Resolution (Final Draft) Supporting Setback Regulation on K-7 Corridor***

Mayor Garcia expressed concerns that the Zarda property, that fronts K-7 was not in the city limits and suggested tabling action until annexation could be confirmed.

A motion was made by Councilmember Thomas and seconded by President Bonee to table to the August 1, 2005 meeting. All voted in favor. Motion carried 5-0.

i. ***Consider Request for Rezoning from “R-O” Suburban Residential to “R-1” Single-Family Residential, Submitted by Metzger Meadows, LLC on the Following Described Property:***

***A 4.83 acre tract of land in the West half of the Northeast Quarter of Section 34, Township 10 South, Range 22 East of the Sixth Principal Meridian in the City of Basehor, Leavenworth County, Kansas (More commonly known 15749 Leavenworth Road)***

A motion was made by Councilmember Hooker to deny the request for rezoning as submitted. Motion died for lack of second.

A motion was made by Councilmember Sifford and seconded by President Bonee to approve the rezoning request as submitted noting the plan conforms to the comprehensive plan. All voted in favor with the exception of Councilmember Hooker. Motion carried 4-1.

j. ***Statement of Action for Preliminary Plat for Metzger Meadows, Submitted By Metzger Meadows, LLC on the Following Described Property:***

***A 4.83 acre tract of land in the West half of the Northeast Quarter of Section 34, Township 10 South, Range 22 East of the Sixth Principal Meridian in the City of Basehor, Leavenworth County, Kansas (More commonly known 15749 Leavenworth Road)***

A motion was made by Councilmember Hooker to deny the Statement of Action for Metzger Meadows preliminary plat. Motion died for lack of second.

A motion was made by Councilmember Sifford and seconded by President Bonee to approve the Statement of Action for the Metzger Meadows Preliminary Plat. Discussion followed.

Councilmember Thomas wanted to make sure the detention pond would be built before the subdivision. Mrs. Schupp stated the pond would be one of the first items to be constructed in the subdivision, along with the installation of a silt fence and would meet MPD National Code. President Bonee stated the developer was required to show more in his construction drawings and felt this was an opportunity to assist with controlling some of the runoff problems. He went on to say that if drainage problems occurred from the development of Phase I, the City would be able to make the developer fix some of the problems before Phase II was approved.

Mr. McIntosh reported he originally submitted his preliminary plat with all lots having a 75 ft. frontage. The previous code administrator required him to provide an additional 40 ft. right-of-way to allow for widening of Leavenworth Road in the future. Once the additional right-of-way was provided, this caused the lots fronting Leavenworth Road to be reduced to 72 ft. The variance was to be included in the acceptance of the preliminary plat.

Councilmember Dysart stated she felt classification "F" homes were too small and should be increased to "D" or "E". Mr. McIntosh stated he had no problem increasing the size of homes noting the builder plans to construct around 1400 sq. ft. homes.

Mayor Garcia asked for a vote. All voted in favor with the exception of Councilmember Hooker. Motion carried 4-1.

- k. ***Consider Request for Rezoning from "R" Rural (county) to "R-1" Single-Family Residential, Submitted by Landplan Engineering, P.A. on the Following Described Property:***

***A 69.4 acre tract of land in the North One-Half of the Northeast Quarter of Section 27, Township 10 South, Range 22 East of the Sixth Principal Meridian in the City of Basehor, Leavenworth County, Kansas (More commonly known as the SW corner of 155<sup>th</sup> Street & Donahoo Road)***

- l. ***Consider Request for Rezoning from "R" Rural (county) to "CP-2" General Business, Submitted by Landplan Engineering, P.a. on the following described property:***

***A 10.6 acre tract of land in the North One-Half of the Northeast Quarter of Section 27, Township 10 South, Range 22 East of the Sixth Principal Meridian in the City of Basehor, Leavenworth County, Kansas (More commonly known as the SW corner of 155<sup>th</sup> Street & Donahoo Road).***

***[Changed from 6.5 acre tract to 10 acre tract at City Council request]***

A motion was made by Councilmember Sifford and seconded by President Bonee to approve Item "K" and "L" as submitted. All voted in favor. Motion carried 5-0.

- m. ***Consider Installation of Air Conditioning at Waste Water Treatment Plant***

A motion was made by Councilmember Thomas and seconded by President Bonee to approve the purchase of air conditioner and installation not to exceed \$5200. All voted in favor. Motion carried 5-0.

- n. ***Consider Hiring Seasonal Labor for Mowing of City Park***

A motion was made by Councilmember Sifford and seconded by Councilmember Thomas to hire seasonal labor at 8.00/hr not to exceed 20 hrs. per week and not to exceed the mowing period in October. The position will be for mowing season 2005 only. All voted in favor. Motion carried 5-0.

o. ***Consider Final Plat for Hickory Valley, Submitted by Bonee Construction L.L.C***

Due to conflict of interest, President Bonee excused himself from the Council bench during this discussion.

A motion was made by Councilmember Hooker to deny the final plat as presented. Motion died for lack of second.

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to approve the final plat for Hickory Valley. Discussion followed. Mayor Garcia questioned the 24 ft. wide chip & seal street, noting the regulations call for curb & gutter. Councilmember Sifford asked if the City would be setting precedent

Hickory Valley developer, John Bonee, stated the City Council approved the preliminary plat without offsite improvements. He explained the condition of the road was the driving force to do something. He felt the City had set their standards too high and could improve more streets if they allowed chip & seal surface. He added, as part of his project, he would be removing the curve at 156<sup>th</sup> St. and Hickory.

Councilmember Sifford, Thomas, and Dysart voted in favor with the exception of Councilmember Hooker. Motion carried 3-1.

p. ***Consider Final Plat for Hollingsworth Estates, Submitted by Kansas Townhomes, Inc.***

Mrs. Schuff gave a summarized staff report noting there would be both public and private improvements within the development. Councilmember Thomas asked what happened to the original detention pond. Mrs. Schupp explained Falcon Lakes L.L.C agreed to allow the down stream runoff to go into their lake.

Doug Kean, Hollingsworth Estates developer, gave some background regarding the history of the development. He stated he did not have a problem with submitting plans if he could pull permits before improving Hollingsworth Road and was willing to work with the City of Basehor to asphalt Hollingsworth Road. He explained the Falcon Lakes culvert was designed to handle his development. President Bonee stated he agreed with the staff report and recommended working with Mr. Kean to asphalt Hollingsworth Road.

A motion was made by Councilmember Thomas and seconded by President Bonee to approve the final plat for Hollingsworth Estates as presented. All voted in favor with the exception of Councilmember Hooker. Motion carried 4-1.

**q. Consider Final Plat for Fairways of Falcon Lake Villas, Submitted by Falcon Lakes LLC**

Mrs. Schupp gave a summary of her staff report explaining the variance for the cul-de-sac length was granted in 2001. She reported parking was not allowed in the Villa's.

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

A motion was made by Councilmember Hooker to deny the final plat. Councilmember Hooker withdrew his motion when Mayor Garcia questioned if a culvert could be installed allowing fire trucks to cross from 143<sup>rd</sup> Street.

A motion was made by Councilmember Thomas and seconded by President Bonee to recess for five minutes. All voted in favor. Motion carried 5-0. (9:51 p.m.)

At 9:56 p.m., Mayor Garcia called the regular meeting back to order.

A motion was made by Councilmember Thomas and seconded by President Bonee to approve the final plat for Fairways of Falcon Villas with conditions as stated in the staff report and additional stipulation that they leave an opening at the end of 143<sup>rd</sup> Street, Tract C, for emergency vehicles. All voted in favor with the exception of Councilmember Hooker. Motion carried 4-1.

**r. Consider Payment To MHS Engineering for Falcon Lakes/K-7 Improvements**

The city clerk presented an agenda item summary questioning who was to pay for inspections of the entrance to Falcon Lakes from K-7 Hwy. The developer has refused to pay the inspection fees. Mr. Ferzandi informed the city clerk the City did not own the property; therefore, he was not obligated to pay the inspection fees.

The city superintendent stated he observed work being done on K-7 and called the city engineer questioning the work since there was not an inspector from the City or KDOT on site.

The city attorney reported upon finalizing the court case with KDOT, the 50 ft. right-of-way was deeded back to the City of Basehor. It was his opinion Mr. Ferzandi had no basis and owed the inspection fees. President Bonee stated if the property was in the city limits, the City of Basehor had every right to inspect the work.

A motion was made by Councilmember Hooker to deny payment to MHS Engineering and collect from Falcon Lakes LLC. Motion died for lack of second.

A motion was made by President Bonee to pay the bill to MHS Engineer and pursue collection of bill (\$4450.00) from developer. All voted in favor with the exception of Councilmember Hooker. Motion carried 4-1.

s. ***Schedule Special Meetings July 12<sup>th</sup> and 13<sup>th</sup> for the Purpose of Interviewing Applicants for the Position of City Administrator***

A motion was made by President Bonee and seconded by Councilmember Dysart to schedule special meetings for July 12 and 13 for the purpose of on-site interviews with applicants for the position of city administrator. All voted in favor. Motion carried 5-0.

t. ***Consider Purchase of Mulch for City Park***

A motion was made by President Bonee and seconded by Councilmember Thomas to authorize the purchase of 180 yards of mulch not to exceed \$3318.07. All voted in favor. Motion carried 5-0.

**Mayor's Report**

- a. Overhead projector would cost approximately \$1800.  
The projector would help show maps and documents at city meetings.
- b. Urged council members to meet with Lynn McClure, Leavenworth Area Development on a one on one basis to address their concerns.

**Council Member Reports**

***Terry Thomas***

Councilmember Thomas reported he had a good meeting with Leavenworth Road residents regarding their drainage problems.

John Bonee

President Bonee reported the Wolf Creek Junction developer had an issue with the grade and needs to lower the 12" force main. He explained the developer was offering to design, construction, provide a two year maintenance bond, and pay all associated costs.

The city superintendent stated the developer is aware of engineering requirements, issues with air release valves, and that all plans must be reviewed by the city engineer and himself.

Council consensus was that Mr. McIntosh provide an agreement before they take action. The clerk was directed to add the agreement to the August 1, 2005 agenda.

**Executive Session**

a. Attorney-Client Privileged Matters

The city engineer stated due to the late hour, he asked to postpone the executive session until the next meeting. He briefly explained he found a better way to handle the 24-40 Interceptor Benefit District. In accordance with KSA 12-16A, the City could pass a charter ordinance that would allow the City to place the assessments on the property taxes. Charter Ordinance 15 requires a one-time payment. He requested Council meet in a special meeting to discuss the matter.

A motion was made by Councilmember Thomas and seconded by Councilmember Dysart to hold a special meeting and executive session on August 11, 2005 for the purpose of attorney-client privileged matters. All voted in favor. Motion carried 5-0.

**Adjournment**

There being no further business to discuss, a motion was made by Councilmember Thomas and seconded by Councilmember Dysart to adjourn the meeting. All voted in favor. Motion carried 5-0. The meeting was adjourned at 10:39 p.m.

Submitted for Council approval with/without corrections or additions this 1<sup>st</sup> day of August, 2005.

  
Chris Garcia, Mayor

Attest:

  
Mary A. Megie, City Clerk

