

Minutes

**BASEHOR CITY COUNCIL**

**November 7, 2005**

**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, Terry Horner, John Thompson, and  
Joe McAfee (arrived at 6:05 p.m.)**

**WORK SESSION (6:00 p.m.)**

Mayor Garcia called the work session to order at 6:00 p.m. All council members were present. The following items were discussed:

- Improvements to 147<sup>th</sup> Street – The city superintendent reported some utilities along 147<sup>th</sup> Street are on private property. The City would need to obtain an easement prior to construction. Westar Energy's utility poles are within the City's right-of-way so the work would be performed at no cost to the city. Mayor reported property owner Jerry Mussett contacted Leavenworth County requesting they join forces with the City of Basehor to improve 147<sup>th</sup> Street from Parallel north to Leavenworth Road. Mr. Mussett offered to contact adjacent property owners regarding easements.
- Update on park restroom – Facility is almost finished. Need to install two heaters, wire drinking fountain and replace electric utility pole.
- Salt-Sand Dome – Completed construction of dome and in process of stockpiling mixture.
- Discussed drainage problems on property owned by Mr. Stutzman (Cedar Lakes), adjacent to Pinehurst Subdivision. Mayor Garcia recommended the city superintendent meet with Mr. Stutzman one-on-one.
- Improvements to Hollingsworth Road - The city engineer reported Hollingsworth Estates has not complied with road plan guidelines. The developer agreed to provide a digitized copy of their plan and let the City design it the way they want it. They agreed to pay the excise tax and \$40,000 toward the road design and construction. Mayor Garcia expressed his concern that the city did not have a legal right to obtain easements on the north side of the road which is county land. City engineer suggested having the county acquire the easement, and the City provide the agreements. Leavenworth County preferred Option "D" since they do not have the

means to lay asphalt. Councilmember Bonee suggested going with Option "D" now and then asphalt at a later date.

- Councilmember Sifford asked what the status was of making 156<sup>th</sup> & Poplar a 4-Way Stop Intersection. The city superintendent was directed to look into the matter and report back.
- Mayor Garcia gave the following report:
  - Leavenworth County is considering creating a countywide planning plan.
  - In process of having maps made for council chambers
  - Property owner Norma Barron has requested sewers and water be brought to her property (annexed in 1999). The city superintendent is researching the availability.
  - Attended LKM Media Relations training in Emporia on November 4<sup>th</sup>.
  - County Commissioners have agreed to meet with the Council regarding pending matters. If the City wants to meet with the full board, they request the meeting take place at the courthouse, if not, then Commissioner Oroke would be glad to attend in Basehor.

Work session adjourned at 6:57 p.m.

(Minutes are not transcribed for work sessions)

### **REGULAR MEETING (7:00 p.m.)**

#### **ROLL CALL**

Mayor Garcia called the regular meeting to order with all members present, including the city attorney. Pledge of Allegiance was recited.

#### **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. October 10, 2005 Work Session & Special Meetings
  2. October 17, 2005 Work Session & Regular Meeting
  3. October 20, 2005 Work Session (matter of record only)
- 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 written. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

### **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. *Benchmark Management Inc.***

***Re: Re-consider Planning Commission Action of October 4th for R-1 Zoning,  
Cammarata Property***

Ed McIntosh explained at the October 4th Planning Commission meeting the Board denied their request to rezone property (north of 24/40 Hwy, north 1250 ft on 166<sup>th</sup> St.) from R-0 Agriculture to R-1 Single Family. He noted he thought when they annexed into the City a couple of months ago, the property would automatically be given a R-1 zoning. Since that was not the case, they went through the proper steps, met all the criteria and guidelines for R-1 classification. It was his opinion the newer members of the Planning Commission did not have enough knowledge of Planning and Zoning to vote on the issue. He requested Council consider overturning the Planning Boards vote for denial.

Mayor Garcia asked the city attorney, John Thompson, if the City Council could override the Planning Commissions actions. Mr. Thompson reported the Council does have the authority to override the Planning Commission; however, he asked that more information be collected and recorded in the minutes. He also suggested incorporating by reference the October 4<sup>th</sup> staff report and obtaining more information from the city engineer and staff.

President Bonee and Councilmember Thomas stated they voted in favor of annexing the property with the understanding it would have a R-1 zoning classification. They also commented the R-1 zoning was consistent with the Comprehensive Plan. President Bonee stated although he felt R-1 was a good fit for the property, he would feel more comfortable sending the request back to the Planning Commission for reconsideration out of “respect” for the Board members.

***b. Gary & Arlie Wells***  
***Re: Sewers for Cedar Falls***

Cedar Falls developer, Gary Wells, reported Leavenworth County Planning & Zoning approved Cedar Falls Subdivision last February, then the County made an agreement with the City of Basehor to take Sewer District No. 7 waste water which delayed his project by several months. Once the Interlocal Agreement was approved, the city engineer approved his plans. He went on to explain after the county said he could start construction, the City shut him down because a Subdivision Improvements Agreement had not been signed. Mr. Wells stated he agreed to pay inspection costs and requested permission to move forward with his project.

Mayor Garcia stated the City Council has to grant him authority to sign the Subdivision Improvements Agreement, and to date, Mr. Wells has not submitted a proper agreement. The mayor explained that all the agreements submitted by Mr. Wells had been altered. Mr. Wells noted the agreements regulated streets, storm sewers, and sidewalks which are not a part of the City, only sanitary sewers should be listed in the agreement.

Mr. Wells insisted the City Council grant him permission to start construction immediately. Mayor Garcia stated the Council would not take action at this meeting since they did not have a proper copy of the Subdivision Improvements Agreement to review and vote on. He advised Mr. Wells that if a signed agreement was submitted to the City by next Monday (November 14<sup>th</sup>), the matter would be placed on the November 21 agenda for action.

***c. Citizen Comments Regarding Agenda Items***

*Ed McIntosh, Benchmark Management Inc.*, requested clarifications of what information the city attorney was requesting they provide regarding the rezoning for Stone Creek Crossing, noting another thirty-day delay was very costly.

Councilmember Sifford agreed with Mr. McIntosh and supported overriding the Planning Commissions actions.

Mr. Thompson explained it was not the fact that the developer did not provide necessary information, but the question was "did the Planning Commission have enough documentation to support the denial".

*Ed Bush (2606 N. 156<sup>th</sup> Terr)*, reported he was fairly new to the Planning Commission and was one of the members who voted against the rezoning. He said if he had to do it all over again, he would vote in favor of the rezoning. When he voted

he was concerned about ample sewer capacity, law enforcement, and island annexation since the property was so far out from the city limits. He commented he should have left his personal views out of the vote. He also noted he did not feel pressured by the affected property owners presence at the meeting.

*Jim Washington (1901 N. 160<sup>th</sup> Street)* stated he was one of the new members that voted against the rezoning as well. He explained he voted against the rezoning because he did not feel there was enough information presented to the Planning Commission by staff and the developer to vote for the rezoning. He noted if the developer came back with more information, he would probably vote for the rezoning.

*George Smith (14923 Parallel)* stated he did not want the rezoning issue to be another project that was delayed and supported overriding the Planning Commissions vote.

*Charles Cammarata (14909 166<sup>th</sup> St.)* reminded the Governing Body that the Planning Commission was a recommending body; and the ultimate decision was that of the City Council. He commented he felt the members that voted against the rezoning was based on inexperience since a presentation from the developer was not required in the regulations so the vote should not have been based on “no presentation”. Mr. Cammarata also noted their development would be directly across from Prairie Gardens future development and close to Honey Creek Farms; therefore, he did not consider the property “so far out” from the city limits.

Mayor Garcia asked twice if there was anyone else from the audience 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. Improvements to Hollingsworth Road***

There was no further discussion since this topic was addressed in the work session.

## **BUSINESS**

### ***a. Consider proclamation for Children’s Book Week, November 14-20, 2005.***

Mayor Garcia read the proclamation aloud.

A motion was made by President Bonee and seconded by Councilmember Thomas to approve the proclamation declaring November 14-20, 2005 as "Childrens Book Week". Roll call vote was taken with all members voting in favor. Motion passed 5-0.

- b. Consider ordinance repealing Ordinance 454 (Deferred)*
- c. Consider charter ordinance repealing Charter Ordinance 15 (Deferred)*
- d. Consider adopting a Home Rule Ordinance to create Taxing districts within the city limits of the City of Basehor pursuant to K.S.A. 12-617 and K.S.A. 12-619. (Deferred)*
- e. Consider Scheduling Public Hearing for 24-40 Taxing District. (Deferred)*

Tabled and addressed under Business Item "i".

- g. Consider Improvements to Hollingsworth Road, east of 14<sup>th</sup> Street to K-7 Hwy*

A motion was made by President Bonee and seconded by Councilmember Thomas to authorize the mayor to send a letter to the Board of County Commissioners requesting assistance with land acquisition and Option "D" for improvements to Hollingsworth Road. Discussion followed. The city attorney stated he would deliver Hollingsworth Estates plan to the County in hopes that they accept it, if they do not, he would present a scope of services, at the next available meeting, for design work. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

- g. Re-consider Planning Commission Action of October 4th for R-1 Zoning, Cammarata Property*

A motion was made by Councilmember Sifford and seconded by Councilmember Thomas to override the Planning Commissioners decision of October 4, 2005 to deny the rezoning from R-0 to R-1. The Council's decision was based on 1) comments made by two Planning Commission members (Ed Bush and Jim Washington) stating they would change their vote, 2) the two members were not intimidated by comments of the opposition in attendance, 3) Council had reviewed the staff reports and had taken into consideration the Seven Golden Rules, 4) incorporate by reference the staff report of October 4, 2005 pertaining to the rezoning. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

- j. Consider contract with Lowenthal Singleton Webb & Wilson for quarterly audit and training (\$500 per quarter).*

A motion was made by Councilmember Thomas and seconded by Councilmember Sifford to approve the contract with Lowenthal Singleton Webb & Wilson for quarterly

audit and training as presented. Discussion followed. Councilmember Hooker was not comfortable with the way the contract read where it stated the auditor "engagement cannot be relied upon to disclose errors, fraud or illegal acts that may exist". Council discussed what the training would include and what information the report would provide. . Roll call vote was taken with all members voting in favor with the exception of Councilmember Hooker. Motion passed 4-1.

***k. Scheduling Special Meeting to consider Business Items "b", "c", "d", and "e".***

A motion was made by Councilmember Hooker and seconded by Councilmember Sifford to schedule a special meeting on Thursday, November 10<sup>th</sup> at 6:00 p.m. to discuss and possibly take action on Business Items "b", "c", "d", and "e". Discussion followed. Councilmember Thomas requested the meeting be delayed until 6:30 p.m. Council member's Hooker and Sifford agreed to amend their original motion to hold the meeting at 6:30 p.m. rather than 6:00 p.m. Roll call vote was taken with all members voting in favor. Motion passed 5-0.

**MAYOR'S REPORT**

See work session for Mayor's Report.

**COUNCIL MEMBER REPORTS**

*Iris Dysart*

Councilmember Dysart questioned the city clerk as to the status of the independent financial audit required by Kansas Department of Health and Environemtn. The city clerk reported she has forwarded the documents to the auditor for review.

***John Bonee***

President Bonee presented a copy of a brochure recently published by Leavenworth Area Development. The City may include an insert into the brochure if they wish. He also reported Leavenworth Area Development and the Chamber of Commerce was currently working with the city clerk and staff to compile a packet for perspective developers.

***Bill Hooker***

Councilmember Hooker reported he has received complaints about Miles Excavating trucks not being allowed to use the round-about at the entrance of Pinehurst Development. He noted signs were not posted prohibiting trucks access.

Police Chief Terry Horner suggested adopting an ordinance regulating weight limit of vehicles with the exception of delivery vehicles. No action taken at this time.

**Keith Sifford**

Councilmember Sifford reported some derogatory comments regarding the chief of police were posted on the Sentinel Community Forum. He asked to go on record as supporting Mr. Horner and felt he did a good job. He read aloud a letter the Council received supporting the chief.

**EXECUTIVE SESSION**

- a. *Attorney-Client Privileged Matters*
- b. *Personnel*

A motion was made by Councilmember Sifford and seconded by Councilmember Thomas to convene into executive session for thirty minutes to discuss attorney-client privileged matters and personnel. Roll call vote was taken with all members voting in favor. Motion passed 5-0. Chief Horner and City Clerk Mary Mogle attended the first fifteen minutes of the session. ((8:20 p.m.)

At 8:50 p.m., Mayor Garcia called the regular meeting back to order. No action was taken during Executive Session.

**ADJOURNMENT**

There being no further business to discuss, a motion was made by Councilmember Sifford and seconded by Councilmember Hooker to adjourn the meeting. Roll call vote was taken with all members voting in favor. Motion passed 5-0. Meeting adjourned at 8:55 p.m.

Submitted for Council approval with/without corrections this 21<sup>st</sup> day of November, 2005



  
 Chris Garcia, Mayor

  
 Mary A. Mogle, City Clerk