
MINUTES

BASEHOR CITY COUNCIL

September 27, 2004

6:00 P.M.

Basehor City Hall

Official Presiding: Mayor Joseph Scherer

Members Present: Pres. Julian Espinoza (arrived at 6:10 p.m.), John Bonee, Iris Dysart, Bill Hooker, Keith Sifford

Staff Present: David Fuqua, Mary Mogle, Angie Solberg, Joe McAfee, John Thompson

Newspaper: Josh Roberts, Basehor Sentinel

Mayor Scherer called the regular meeting to order at 6:05 p.m. Roll call was answered with all members present except Julian Espinoza and city attorney, John Thompson. Pledge of Allegiance was recited followed by a moment of silence. (City Attorney arrived at 6:06 p.m.)

MINUTES

A motion was made by B. Hooker and seconded by K. Sifford to approve the minutes of September 13, 2004 as printed. All aye. Motion carried 4-0.

FINANCIAL REPORTS

Councilman Hooker requested the vendor payment vouchers be available at the council bench for review the night of the meeting. (President Espinoza arrived at 6:10 p.m.) Councilmen Sifford and Espinoza stated they felt it was not necessary to review the vouchers the night of the meeting since the mayor and city administrator approve them prior to the meeting. J. Espinoza noted any council member has the authority to come into the office before the meeting to view the vouchers as well.

A motion was made by K. Sifford and seconded by J. Espinoza to approve the Treasurer's reports, vendor payments and investment recommendations as submitted. All voted in favor except B. Hooker. Motion carried 4-1.

SCANNED

2-15-07 *lx*

UNFINISHED BUSINESS**Item #1. Improvements to City Hall Parking Lot**

City engineer Joe McAfee reported the recommendations made by the governing body at a previous meeting for improvements to the city hall parking lot have been incorporated into the plans. Mayor Scherer commented an engineer's cost estimate was also submitted to council prior to the meeting; however, that would not be made public since the project would be bid. Mr. McAfee stated his company's engineering fees would not change from the original engineer's cost estimate previously submitted.

President Espinoza suggested, in an effort to save money, the city superintendent could act as the general contractor for the project. The majority of the Council stated they wished to see bids from other contractors. Mr. McAfee stated he would prepare and run the "Invitation To Bid" in the newspaper next week.

Item #2. Amendment to 5.04MP – Sewer Connection Fees

The amendment before the council would increase the sewer connection fees from \$1700.00 to \$2200.00 as of January 1, 2005 and increase by \$250 on January 1 every year thereafter.

Council member's Bonee and Dysart stated they did not want to see the developers get "stuck" with an increase of this magnitude and both were also opposed to raising the cost by \$250 every year. President Espinoza stated this amount was agreed upon during the budget process.

Item #3. Allocation of Final Construction Costs of 24/40 Hwy Interceptor Sewer Main-Phase 1 & 2

The city attorney requested this matter be discussed in executive session. Council agreed. Mayor Scherer stated since he had a conflict of interest regarding this agenda item and would excuse himself during this portion of the executive session.

NEW BUSINESS**Item #1. Waive of Plat Restrictions Per Request From Rickel Subdivision (Phase 3) Residents**

Resident Jerome Hundley submitted signed petitions from all but one property owner in Phase III, Rickel Subdivision requesting the plat restriction prohibiting accessory buildings be removed from the original plat. B. Hooker stated he was

opposed to removing the restriction since it would allow anyone to build a mini warehouse in their back yard. President Espinoza explained the residents in Phase III would still be required to meet the City's zoning and subdivision requirements. The current regulation states an accessory building may not exceed 2.5% of the lot size.

The city attorney stated there were ample signatures from property owners requesting the restriction be waived; therefore, the City was within their jurisdiction to pass an ordinance allowing those in Phase III to build accessory buildings (not to exceed 2.5% of their lot size). If the city council chose to deny the "waive of plat restrictions", the property owners have the right to sue their neighbors who have accessory buildings, and name the City in the suit. The property owners in violation would then be required to remove their buildings. I. Dysart questioned how many lots were in Phase III and all of Rickel Subdivision. Property owner Jerome Hundley reported there were thirty-four lots in Phase III, with a total of ninety-seven lots in the entire subdivision.

Mayor Scherer and B. Hooker stated they were opposed to lifting a developer's restriction since they are shown on the plat for a reason.

Item #2. Consideration and Action On the Preliminary Development Plan and Preliminary Plat for Creek Ridge, Phase III

Mayor Scherer stated he had a conflict of interest; therefore, if any council member had a question regarding this agenda item he would excuse himself from the bench. I. Dysart stated she had a question. Mayor Scherer proceeded to turn this portion of the meeting over to President Espinoza and removed himself from the room.

Council member Dysart asked the city engineer if Creek Ridge had met all the conditions listed in his report. Mr. McAfee stated they had not; however, the Council could make that part of their motion.

Council member's Dysart and Hooker stated they were not in favor of approving the plat without the sewer benefit district in place. President Espinoza stated the City created the problem and should not stop the developer from moving forward. B. Hooker stated the developer's who are currently connected to the 24/40 Hwy Interceptor should not have connected until the benefit district was in place. I. Dysart stated the plat was not in conformance with the City's future land development plan. Mr. McAfee stated if the developer would not agree to meet city requirements, the City would not be obligated to approve the plan.

President Espinoza noted since Action Item #3 and #5 are tied together, he suggested moving the executive session ahead of action items.

A motion was made by K. Sifford and seconded by J. Bonee to amend the agenda to call for the executive session prior to Action Items. All aye. Motion carried 5-0.

Mayor Scherer returned to the bench at this time.

Item #3. Consideration and action on a request from “R-O” suburban residential to “R-1” single-family residential and preliminary plat for Hickory Valley (submitted by John Bonee located in Sec 34, Twp 10, South, Range 22E)

Councilman Hooker stated he was opposed to approving the plat until the “jag” at 156th & Hickory was addressed. J. Bonee proceeded to address his question when Mayor Scherer stopped him, noting he had a conflict of interest and should excuse himself from the bench if he was going to address any questions. At this time, J. Bonee, removed himself from the bench.

Council member Dysart questioned if the recommended stipulations listed on page 6 of the planning commission minutes, were to be paid by the developer or the City. The city engineer stated that would be decided between the developer and City through a Subdivision Agreement. There being no further discussion regarding this agenda item, Mayor Scherer invited J. Bonee back to the bench.

CITIZENS AND PETITIONS (Presentations Limit to 5 Minutes)

Item #1. (no written requests received)

Item #2. Citizen Comments Regarding Agenda Items

Jerome Hundley stated thirty-four property owners in Phase III have asked that the accessory building plat restriction be removed, noting there are already five lots with “big” garages and twenty-nine others have some type of storage shed. Mr. Hundley clarified his garage would not have electricity, running water, car lift, nor house any form of business. His only purpose for the garage was to house his antique cars. President Espinoza stated although the property owners in Phase III would like to see the restriction waived, it was the property owners behind him that were opposed to the waiver. J. Bonee stated he was not opposed to garages as long as they are tastefully built and met city guidelines.

Bob Mulich spoke in favor of the waiver of plat restrictions, noting three other Phase III property owners want to build garages. He felt Mr. Hundley and those property owners should receive the same benefit, otherwise, it would be discriminatory.

Gervase Stallbaumer (2107 N. 154th Terr) reported the garage Mr. Hundley is asking to build is only 75-80 ft. from his house. He noted he first agreed to the variance, but then changed his mind when Mr. Hundley changed the location and purpose of the garage. Mr. Stallbaumer noted his wife was informed by Mr. Hundley's wife that her husband intended to build 3 or 4 antique cars per year to make money.

George Smith (14923 Parallel) agreed that a shed in the back yard was ok as long as it has a nice appearance and not over sized. He noted he was informed the building inspector wants to increase the maximum size of accessory building allowed and was opposed to the increase.

Helen Godard (2108 N. 154th Terr.) stated if sheds were allowed to get bigger and hoists installed, neighborhoods would turn into industrial parks.

The code administrator stated Mr. Hundley has no intentions of putting in a business. The building would not have a ramp or hoist and he would only be allowed to building up to 768 square feet, if the restriction were lifted.

Jeff Scherer (1706 N. 150th St.) spoke in opposition to the amendment to 5.04MP Municipal Policy. He explained, as a developer, he passes the sewer connection increase to his buyer; however, in the end it raises property values, which in the long run hurts the City because many home owners could not afford to buy a home in Basehor.

President Espinoza stated the sewer connection fees were being raised in order to keep up with future expenses and not raise taxes.

Jeff Scherer disagreed with not allowing a developer to connect to the 24/40 Hwy Interceptor before the benefit district was finalized. At this time Mayor Scherer announced he had a conflict of interest and turned the meeting over to the council president.

Jeff Scherer stated he invests a lot in the community and needs to move forward so the City could meet their estimated seventy-five homes per year. He also addressed the matter regarding Creek Ridge being out of compliance with the future development land map. He stated it was not his intention to be out of compliance, noting the property has already been rezoned "planned urban development" (PUD).

Mayor Scherer returned at this time.

Mayor Scherer asked if there was anyone else in the audience who wished to speak regarding any agenda item. After asking twice, he then called the public portion of the meeting closed.

ACTION ITEMS

- Item #1. Approve or Deny Improvements to City Hall Parking Lot**
- Item #2. Approve or Deny Amendment to 5.04MP-Sewer Connection Fees**
- Item #3. Approve or Deny Allocation of Final Construction Costs of 24/40 Hwy Interceptor Sewer Main-Phase 1 & 2**
- Item #5. Approve or Deny Preliminary Development Plan and Preliminary Plat For Creek Ridge Phase III**

The aforementioned action items were delayed until after the executive session.

- Item #4. Approve or Deny Waive of Plat Restrictions Per Request From Rickel Subdivision (Phase III) Residents**

The city engineer stated the City of Leavenworth informed him, in order to waive a plat restriction, the subdivision would have to form a homeowners association, vote to waive the plat restriction, then file the action with the register of deeds. J. Bonee stated he would like to see some restrictions placed on the plat requiring an accessory building to be compatible with the existing structure.

A motion was made by B. Hooker and seconded by I. Dysart to deny the waive of plat restrictions for Phase III of the Rickel Subdivision as requested. Discussion followed. All voted in favor of denial except J. Espinoza. Motion to deny passed 4-1.

- Item #6. Approve or Deny Ordinance Rezoning Property Located in Sec 34, Twp 10, Rge 22E from "R-O" Suburban Residential to "R-1" Single Family Residential (aka Hickory Valley, Developer John Bonee)**

A motion was made by J. Espinoza and seconded by K. Sifford to approve the rezoning of property located in Sec. 34, Twp 10, Rge 22E from "R-O" Suburban Residential to "R-1" Single Family Residential. Sifford, Espinoza, Dysart voted in favor, Hooker voted nay and Bonee abstained. Motion carried 3-1-1.

- Item #7. Approve or Deny Hickory Valley Preliminary Plat**

A motion was made by J. Espinoza and seconded by K. Sifford to approve the Hickory Valley preliminary plat as submitted, with the stipulations set forth by the planning commission, as well as, additional improvements to existing streets to meet 20 mph zones. Sifford, Espinoza, Dysart voted in favor, Hooker voted nay and Bonee abstained. Motion carried 3-1-1.

EXECUTIVE SESSION

A motion was made by K. Sifford and seconded by J. Bonee to convene into a thirty-minute executive session for the purpose of discussion personnel and attorney-client legal matters. All aye. Motion carried 5-0. (7:30 p.m.)

At 7:50 p.m., Mayor Scherer excused himself from the executive session due to conflict of interest. At 8:02 p.m., the regular meeting was called back to order by Mayor Scherer announcing no formal action was taken in executive session.

EXTENTION OF ACTION ITEMS**Item #1. Approve or Deny Improvements to City Hall Parking Lot**

A motion was made by J. Espinoza and seconded by B. Hooker to proceed with the bid process for improvements to the city hall parking lot. All aye. Motion carried 5-0.

Item #2. Approve or Deny Amendment to 5.04MP-Sewer Connection Fees

A motion was made by B. Hooker and seconded by J. Espinoza to approve the amendment to 5.04MP Municipal Policy, increasing the sewer connection fees to \$2200.00 effective January 1, and \$250 each January 1 every year thereafter. All voted in favor except J. Bonee. Motion carried 4-1.

The gavel was passed to President Espinoza at this time. Mayor Scherer stepped down due to conflict of interest.

Item #3. Approve or Deny Allocation of Final Construction Costs of 24/40 Hwy Interceptor Sewer Main-Phase 1 & 2

President Espinoza suggested tabling action until further advised by legal counsel.

A motion was made by B. Hooker and seconded by K. Sifford to table until they were advised by the city attorney to place on the agenda for action. All aye. Motion carried 5-0.

Item #5. Approve or Deny Preliminary Development Plan and Preliminary Plat For Creek Ridge Phase III

A motion was made by B. Hooker and seconded by I. Dysart to deny the request until the sewer benefit district was in place. Discussion followed. J. Bonee stated the developer should be able to move forward with the preliminary plat, but not receive

approval on the final plat until the sewer benefit district was in place. Hooker and Dysart withdrew their motions.

A motion was made by K. Sifford and seconded by J. Bonee to approve the preliminary plat and preliminary development plan with stipulations set forth by the engineer. All voted in favor except B. Hooker. Motion carried 4-1.

The gavel was passed back to Mayor Scherer.

MAYOR'S REPORT

There was no Mayor's Report at this time.

COUNCIL MEMBER REPORTS

Julian Espinoza

Review Committee – President Espinoza noted he received positive comments from people regarding the formation of a committee to assist the planning commission with updates to the City's zoning and subdivision regulations. He urged the mayor to compile his list as quickly as possible so the project could move forward.

ADJOURNMENT

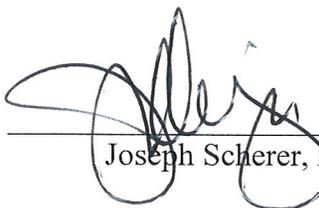
There being no further business to address, a motion was made by B. Hooker and seconded by K. Sifford to adjourn the regular meeting. All aye. Motion carried 5-0.

WORK SESSION

Item #1. Discussion Regarding Request For Proposals to update Comprehensive Plan

Note: Transcribed minutes are not required by law; therefore, no written record of this work session is available.

Submitted for Council approval with/without corrections this 11th day of October, 2004.



Joseph Scherer, Mayor

Attest:


Mary A. Mogle, CMC City Clerk



SEAL OF THE CITY OF BASEHOR, KANSAS
CORPORATE