MINUTES

BASEHOR CITY COUNCIL
November 18, 2002
7:00 PM
Basehor City Hall

Official Presiding: Mayor Joseph Scherer

Members Present: Joseph Odle, Chris Garcia, Burl Gratny, Julian Espinoza

Staff Present: Mike Hooper, Mary Mogle, Baron Powell, Gene Myracle, Vince Weston, John Thompson, Joe McAfee

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The monthly meeting of the Basehor City Council was called to order at 7:00 p.m. by Mayor Joseph Scherer. Roll call was answered with all members present. Pledge of Allegiance was recited followed by a moment of silence.

Mayor Scherer requested, based on the high residence attendance (est. 147 citizens) that ***Action Item #3, Approve or Deny Rezoning of Property located at 155th & Crestwood*** be addressed at this time. Council agreed.

The mayor announced that he would allow those residence who signed up to speak on the agenda to address the council. Each presenter was allowed five minutes. Mayor Scherer also reported the rumors going around town that he is in partnership with Commercial Group is false and he has no ties to the project.

Applicant: Don Cooper, Commercial Group

Mr. Furjanic, Crestwood resident, questioned if Mr. Cooper was going to receive five minutes like the residents of Crestwood. Mayor Scherer noted this was a very important issue and, yes, Mr. Cooper was going to be given the same consideration as the other citizens on the agenda.

Mr. Cooper presented a written report (incorporated by reference and attached to original minutes) to the city council addressing all the legal points they, as applicants, needed to meet to comply with rezoning laws. He presented letters from mayors and residents He noted his project meets all requirements and asked council consider approval from CP-1 Commercial to R-3, Multi-Family Residential.

SCANNED
2-21-07 dt

Citizen Comments:

- Lester Johnson (2455 N. 155th Terr.), appeared as spokesperson for Crestwood Subdivision. He thanked all the residents for their attendance noting it shows they care about what happens in their community. He read a statement (incorporated by reference and attached to original minutes) opposing the rezoning. He stated a petition signed by Crestwood residents was delivered to the city clerk previous to the meeting and also presented a seconded petition, with 200 signatures, from area residence, expressing their opposition to the project.

- Julie Cogley (2434 N. 155th Terr.) appeared to speak in opposition to the rezoning. She read a statement (incorporated by reference and attached to original minutes) giving reasons for her opposition and also noted that she requested to be placed on the agenda because she DID NOT receive a certified letter notifying her of the rezoning hearings.

- Joe Furjanic (15531 Crestwood Dr) appeared to speak in opposition to the rezoning. He requested his written statement be incorporated by reference into the minutes (attached to original minutes).

- Cynthia Harvey (15576 Crestwood Dr) appeared to speak in opposition to the rezoning. Ms. Harvey presented pictures of seven different properties owned and managed by Commercial Group. The pictures depicted dilapidated buildings, parking lots, trash dumpsters and built-up debris.

The pictures showed were from the following apartment complexes:

Blue Hills Apartments
Silver City Apartments
Valley Springs Apartments
Pine Crest Apartments
Wellsville Apartments
Golden Age Apartments
Santa Fe Apartments

Mayor Scherer questioned how many were in the audience was in favor of the project. One person stated they were in favor.

Councilman Odle questioned how many residents appeared at the planning commmission public hearing. The code administrator stated approximately thirty residents were in attendance to speak against the rezoning.

Mayor Scherer stated he was elected to the city council and then appointed as mayor. He noted that when he was asked to give his opinion about the project at the public hearing, he felt it would be beneficial for the city. However, when 10% of the Basehor population is in attendance at this meeting, he must listen to those who elected him to the board.

The public hearing portion of this agenda item was closed.

Council Discussion:

- Councilman Odle stated it disturbed him to see the large number of residents at this meeting. He felt the planning commission should not have passed the rezoning if so many property owners were in opposition.

- Councilman Garcia thanked those in attendance noting he would like to see this kind of involvement in city government in the future and also thanked them for handling the situation in an organized manner. He also supports denial of the rezoning and would like to see the property remain commercial.

- Mayor Scherer reiterated his position as aforementioned.

- Councilman Gratny stated it is obvious what the public is requesting by the attendance of tonight's meeting and expressed his opposition to the rezoning.

- Councilman Espinoza also thanked those in attendance and noted he, as well, is in opposition to the rezoning.

Councilman Garcia moved to vote on Action Item #3 at this time rather than during Action Items. The motion was seconded by B. Gratny. All aye. Motion carried 4-0.

A motion was made by C. Garcia and seconded by J. Odle to override the planning commissions request for rezoning of the property at 155th & Crestwood Dr. Mayor Scherer took a verbal vote with all councilmembers voting nay. Motion carried to deny 4-0.

At this time, Mayor Scherer called a ten-minute recess (7:40 pm).

COMMERCIAL GROUP, INC.
620 SE MADISON, SUITE 130
TOPEKA, KANSAS 66607
O) 785-234-2882
FAX) 785-234-0802

FAX COVER SHEET

TO: Mary Ann Mogle
FAX NO.: 913-724-3102
FROM: Don Cooper
DATE: November 19, 2002
RE: Basehor zoning comments

Number of Sheets, including cover 5

Attached are my comments I read last night and would like them attached as a part of the record from last evening's zoning meeting.

CONFIDENTIALITY NOTICE: The information contained in this facsimile message and the documents accompanying this facsimile message are privileged and confidential information intended only for the use of the individual or entity named above the reader of this message. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

BASEHOR ZONING REVIEW

1. **What are the existing uses of property and their character and condition on the subject property and in the surrounding neighborhood?**

   Single-family homes to the southwest, west and northwest. Commercial property (Water District) to the north. Commercial property (car wash) and multi-family apartments to the north and south. Farm/ag land and some single family homes to the east.

   This mix of use in the surrounding areas is a good fit for a multi-family senior housing. There are two multi-family zoned developments in this area. This zoning would blend in well with surrounding properties and their existing uses.

2. **What is the current zoning on the subject property and that of the surrounding neighborhood in relationship to the requested change in zoning classification?**

   Current zoning of the subject property is commercial. Surrounding zoning is commercial, multi-family and single family.

3. **Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration for a change in zoning?**

   Yes. The property has been in an older area of town that has experienced growth and development. This particular site has sat undeveloped It is stagnant from a development standpoint

4. **Would the requested change in zoning correct an error in the application of these regulations as application to the subject property?**

   No. This is not an issue.

5. **Is the change in zoning requested because of changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?**

   Yes. There has been a multifamily, senior development just to the north of this site. Housing demands in the Basehor area indicate a need for more residential, senior housing.

6. **Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property if the change in zoning were approved?**

Yes. Our plan would also address some water and drainage problems experienced by the homeowners to the west. The drainage plan we are developing would reduce the water problems faced by these homeowners, thus improving the quality of their property by providing additional water runoff capabilities.

7. **Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, access control or building setback lines if the change in zoning was approved?**

   Unknown at this time. Should the property need to be replatted, applicant would have no objection.

8. **Would a screening plan be necessary for existing and /or potential uses of the subject property if the change in zoning was approved?**

   Possibly, yes. Our current plan does have screening and we would be open to look at additional ways to modify our screening plans to enhance the subject property and surrounding areas.

9. **Is the general amount of suitable vacant land or buildings available or not available for development that currently ahs the same zoning district classification as is requested for the subject property?**

   No. There is no other available zoned property in Basehor where our development could be relocated. We believe this location is the best location in the city. The City Commission has passed a resolution of support for this development at this site on January 21, 2002. This location is excellent for a senior development as it is on the main thoroughfare of the city, 155th Street, and near the central part of town. Projected entry points to the property are on the two side streets, thus not adding directly to congestion on 155th Street.

10. **In the event that the subject property is requested for business or industrial uses, are such uses needed to provide more services or employment opportunities?**

    Not applicable.

11. **Is the subject property suitable for the current zoning to which it has been restricted?**

    No. ~~Possibly, but~~ due to the lack of development it appears the current zoning ~~may~~ is not the best, most suitable classification.

12. If the change in zoning were approved, would the uses, which would be permitted on the subject property, be compatible with uses permitted on other property in the neighborhood?

Yes. There are two other multifamily developments within one block of this site. This senior multifamily development will mix well with the other residential properties in this neighborhood, including the single-family homes just to the west. Senior properties in general do not place a heavy traffic burden on the surrounding neighborhood or streets. Seniors are normally quiet, good neighbors and well-mannered citizens. They are positive role models in the community. This site will blend in with the overall development of the neighborhood.

13. Would the change in zoning as requested be consistent wit the purpose of the zoning district classification and the intent and purpose of these regulations?

Yes. It would be consistent with the zoning classifications in this area of town.

14. Is the request for zoning change in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

Yes, according the report from city staff.

15. What is the nature of the support or opposition of the requested change in zoning?

Unknown at this time. I believe there is some concern about a general multifamily housing development on this site. Our plans are only for a senior property.

16. Are there any information materials or recommendations available from professional persons knowledgeable on this request which would be helpful in its evaluation?

No professional opinions have been sought other than from the city staff.

17. Does the relative gain to the public health, safety, and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the requested change in zoning?

No There is no gain to the community or general public if the application for a change in zoning is denied. It is our position that the community loses if the zoning is denied; loss of needed, additional housing for seniors, and a loss of additional taxpayers to the community. Further, applicant will suffer a hardship including, but not limited to, economic losses, loss of a property to construct a senior housing development, loss of opportunity, loss of investment in property.

18. Applicant must prove the following as its burden of proof in a rezoning issue:

a. The change is consistent with the comprehensive plan, zoning and land use in the area. THIS CHANGE IS CONSISTENT WITH THESE FACTORS.
b. The change conforms with the trend of development in the area. THIS CHANGE CONFORMS WITH THE TREND OF DEVELOPMENTS, SENIOR APARTMENTS TO THE NORTH, APARTMENTS TO THE SOUTH, AND SENIOR APARTMENTS ½ BLOCK TO THE NORTHEAST.
c. The change is equally or better suited to the applicant's property than uses permitted under existing zoning. THIS CHANGE IS BETTER SUITED TO THE PROPERTY AS EXISTING ZONING HAS LED TO NO DEVELOPMENT AND THE LAND IS READY TO BE DEVELOPED UNDER THE NEW ZONING.

19. THE REZONING WILL PROMOTE THE GENERAL PUBLIC INTEREST OF BASEHOR.

a. Pay taxes and fees to the City of Basehor and Leavenworth County.
b. Healthy growth of the community by providing needed housing to seniors in the area who desire to retire and stay in Basehor.
c. Nearby land was recently rezoned to promote senior housing.
d. Need is demonstrated by market studies, discussions with community leaders, including the City Commission, and inquiries from the public.
e. Land as currently zoned has not been developed, despite efforts to sell and develop as zoned. Land is unusable under present zoning.
f. Public improvements will be made to help address water runoff problems and use public water and sewer services from the new facility.
g. Less traffic will be present with a senior housing development as opposed to a commercial use.
h. Plan is for a **SPECIFIC USE**, senior housing, and nothing else.
i. No other viable uses for this land under commercial zoning.
j. No other such zoning is possible in this area. 155th Street and the lack of other vacant land are barriers to more R3 zoning in this area.
k. Cannot deprive a property owner of the **reasonable use** of their land.

20. FINALLY, IF THE PROPOSED AMENDMENT IS BASED UPON THE COMPREHENSIVE LAND USE PLAN, IT IS PRESUMED TO BE REASONABLE. K.S.A. 12-757(a).

Our amendment does conform to the City of Basehor's comprehensive plan.

TESTIMONY OF JOE FURJANIC
BEFORE THE BASEHOR, KANSAS CITY COUNCIL
NOVEMBER 18, 2002

Re: Proposed zoning change at 155th and Crestwood Drive

City Council should deny application for rezoning

1. The planning Commission did not follow the proper procedures in its 5-0 vote of November 5, 2002. Some property owners 200 feet from the property at 155th and Crestwood Drive received three different notices in the mail regarding the planning commission meeting. The first notice stated the meeting date as October 8, 2002; the second notice stated the meeting date as November 7, 2002: only the last notice stated the proper meeting date of November 5, 2002. This last notice to property owners did not comply with Section 18, RULES OF PROCEDURE FOR REZONING, (hereinafter "Rezoning Procedure") 18.05 in that this last notice was not sent to affected property owners at least 20 days prior to the Planning Commission meeting.

2. Some property owners within 200 feet of 155th and Crestwood Drive were never sent a notice of the November 5, 2002 meeting, which is contrary to Rezoning Procedure 18.05 because these property owners were not given the opportunity to be heard at the Planning Commission hearing. It should be noted that these facts do not violate 18.05 because property owners never received notice but violates 18.05 because proper notice was never sent to property owners thereby precluding them from an opportunity to be heard by the Planning Commission.

3. Because the Planning Commission relied on the Commercial Group's notices to property owners and these notices were defective, the Planning Commission's 5-0 vote to rezone the property at 155th and Crestwood Drive was arbitrary and capricious, that is, that this decision was a willful and unreasonable action by the Planning Commission without considering or in disregard of the facts in this case.

4. The City Council should deny rezoning because the city did not post a sign on the property located at 155th and Crestwood Drive. Rezoning Procedure 18.06 places an affirmative duty upon the city to post notice on the proposed rezoned property until the conclusion of the hearing before the Planning Commission. In this case, the City of Basehor, Kansas violated its own rezoning procedures and denied the public at large, who pass by the proposed rezoned property, proper notice of the proposed zoning change and an opportunity to be heard at the November 5, 2002 Panning Commission hearing.

5. The Planning Commission did not rely on substantial evidence when it approved the zoning change at its November 5, 2002 meeting. Rezoning Procedure 18.08 was not followed by the Planning Commission in that either they disregarded or gave scant weight to the character of the neighborhood; the zoning and use of nearby properties; the suitability of the subject property for the uses to which it has been restricted; the extent to which rezoning will detrimentally affect nearby property and the relative gain to the public health, safety, and welfare by the destruction of the value of protesting citizens property verses the hardship imposed on the owners of the land in question. Further, the Planning Commission acted in an arbitrary and capricious manner when it disregarded the rezoning factors set out in 18.08 and voted to approve the rezoning.

6. Based upon 1 through 5 as stated above, I request that the Basehor City Council override the Planning Commission's recommendation to rezone the property at 155th and Crestwood Drive, Basehor, Kansas.

Julie's Talking Points
November 18
Basehor City Council Meeting

- I'd like to start by sharing a story with you. Almost ten years ago, my husband I and I drove out to Basehor one day to look at property. As we drove down 155th, a man in a yard waved at us. We waved back and I said to my husband, "Who was that?" He said, "I don't know -- I thought you knew him." And we laughed. By the time we reached the Crestwood area, several other people in cars or in yards had waved, too. We waved back. People we so open and friendly. We liked the way that felt and we both decided that this was a very different place than the neighborhood in which we were currently living. Most of you have probably had the same experience.

  That's the Basehor we have come to know and love. We value the quiet neighborhoods. We value our friends here. We appreciate the feel of safety and connectedness. We watch each other's kids. We keep an eye on other people's houses. We share leftovers. We help each other with projects. We care about one another and the way of life we have all worked so hard to build here in this solid middle class community.

- I am here tonight to talk about **quality of life** and to defend the Crestwood neighborhood and the Basehor community from those who threaten my way of life. **Make no mistake.** However you couch it, this project is **not** about the altruistic goal of helping older people or low-income families in Basehor to a better way of life. **It's about making money, pure and simple.** The mechanism used is the **low income housing tax credit program** which authorizes a federal tax incentive for the construction or rehab of rental housing units occupied by low-income households. Tenants of tax credit units may not have initial incomes greater than 50 or 60% of the area median income, adjusted for family size. The maximum rent charged to low income tenants is 30% of the maximum income for a qualified low-income household.

- **First of all, I was surprised and disappointed to learn that the property in question was purchased by Basehor Housing, LP,**

Topeka, Kansas, in October, 2002, BEFORE the zoning question was even officially heard by the Planning Commission. I understand that this fact – one I consider a KEY fact -- was not shared with those who attended the Planning Commission meeting.

- I find it interesting that a company wishing to develop a residential housing project would, in fact, actually purchase the **commercially-zoned** property well before the hearings were held to determine if, in fact, the request for zoning change would be approved. I can't help but think that assurances must have been made on someone's part for a company to take such action, merely on speculation. To me, this smacks of bad politics, bad business and, quite simply, a **DONE DEAL**. The real estate sign on the property still says "Contract Pending." I don't think so.

- **I believe that the Commercial Group development will have a significant NEGATIVE impact on our lives, our property values, and our community.**
  - We have made our homes in Basehor. Some of us planned to raise our children, live out our middle years comfortably, or retire in this safe, quiet bedroom community. While we acknowledge and appreciate progress, we see the Commercial Group development as a major deterrent to the way of life we value – the one we have built here.

  - 30+units of low-income housing, multiplied by nearly three residents per apartment (2.97 residents per household), cars, trash, noise, crime, etc. will be detrimental to this community and will change the way of life we have all worked so hard to have. You plan to cram up to 150 people within that one block? We barely have that many people in this whole Crestwood subdivision.

  - The Commercial Group specializes in the development or acquisition of conventional low-income housing tax credit properties. Its portfolio boasts 41 housing sites

consisting of 1, 530 apartments. In the Kansas City area, we need only to look to the Silver City Apartments, Gateway Plaza Townhomes, or Blue Hills Apartments for a vision of how our neighborhood and community could look in a few years.

Does this community need this project? I say an emphatic "NO!"

- According to data obtained from the U.S. Census Bureau, 21.5% of **current** Basehor residents are age 55 and older. The median household income in Basehor for 1999 (which includes people of all ages) was **$52,831**. Only 18 families, or **2.8 %** of Basehor families live below the poverty level.

    - These numbers clearly tell me that **HARDLY ANY** of our Basehor residents age 55 and older would meet income guidelines for this low-income housing.

    - It is my understanding that, although the apartments will be Section 42 housing, qualified residents may use Section 8 vouchers. This would strongly suggest that we are **overbuilding** 55 and older housing **AND** low-income housing for our own community's needs – or perhaps that we will be inviting low income adults age 55 and older and others, to this community.

    - We have little industry in Basehor. We have limited retail. **This is clearly a bedroom community.** Where will these people work? Many low-income families cannot afford cars, personal property taxes or car insurance. Will they work? How will they get to their jobs? We have no bus or taxi service here in Basehor. How can we support these people in our community?

First I would like to thank the residents of Basehor that are present tonight. Your appearance shows your concern as to what type of housing should or should not be built in your city. Although this project is a direct threat to the value of Crestwood homeowners it is also a substantial threat to he value to your property regardless where you live in Basehor.

After the railroad job changing the zoning on the property in question by our Basehor Planning Commission (5 to 0) the neighbors of the affected area decided to hold a meeting at the First State Bank on Nov. 11th, however, we decided to include any interested property owners in the City of Basehor. Our purpose was to inform residents of the Planning Commission's decision and to get a petition started in opposition to the zoning change from commercial to residential.

The following day of this impromptu meeting by popular demand of Basehor residents wishing to sign the petition, it was hand-carried to those concerned for their signature. They are all home and property owners, taxpayers and most are registered voters. They expect to be heard and expect you to listen.

The City Commission may consider placing this zoning change on a ballot for the coming election in April 2003 for the property owners of Basehor to decide with a simple YES (change) or NO (remain commercial). This would be the fair and democratic way! Prior to the meeting Nov. 5, 2002 of the Basehor Planning Commission Rick Hogue was overheard by two homeowners present at the meeting say "Why are all these people here? It's a done deal." Days later we the homeowners found out the Commercial Group did in fact purchase the property on Oct. 31st, 2002 from Dencorp Inc. and the Warranty Deed was recorded Nov. 1st, 2002 in Leavenworth County's Registor of Deeds, all prior to the Planning Commission's meeting on Nov. 5th, 2002.

In a presentation by Don Cooper, representative of Commercial Group he has attempted to impress us with his company's net worth in property they now own and control throughout the state of Kansas. Like the Gateway Plaza and Silver City Apartments in Kansas City, KS. He assures us they will maintain and manage the proposed complex here in Basehor just as they do in K.C. KS.

Well there are many people whom live in Basehor who also once lived in K.C.K. Those properties and many more like them throughout K.C.K. are the reason these people moved to Basehor. Residents are asking questions like – If these are for the elderly and they do not drive or own vehicles, who provides transportation? Will we need more police and equipment for the police? Maintenance? Sidewalks? Hiking Trails? YES Hiking Trails are just as absurd as Don Cooper saying what would you rather have on the property a Liquor Store and Tattoo Parlor? Commissioners please listen to us – we DO NOT WANT THIS LOW RENT HOUSING COMPLEX IN BASHOR!

At this time I would like to present a petition with 200 signatures of Basehor homeowners.

I ask you: **Is this truly our vision for this community?** It's certainly not my vision nor, I believe, that of my neighbors. This project is threatening our very way of life and our investments. And, for most of us, our homes are the largest investment we have.

Surely you understand that, because we **do care** passionately about this community, we cannot and will not stand quietly by and watch this happen.

Thank you.

PROTEST PETITION

RECEIVED
NOV 18 2002
2:02 pm

Pursuant to the Basehor City, Leavenworth County, Kansas, Section 18, RULES OF PROCEDURE FOR REZONING, specifically 18.13 PROTEST BY NEIGHBORING LANDOWNERS, ~~which states in its~~ entirety:

> 18.13 PROTEST BY NEIGHBORING LANDOWNERS
> If, however, a protest against such amendment, supplement or change be filed in the office of the City Clerk withing fourteen (14) days after the date of the conclusion of the hearing. Pursuant to said publication notice, duly signed and acknowledged by twenty percent (20%) of the total area, excepting public streets or ways, located within two hundred (200) if in the city or one thousand (1000) feet if in the county from the boundaries of the property proposed to be rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of all the members of the City Council.

The undersigned landowners own real property within 200 feet of land at 155th and Crestwood Drive, Basehor, Kansas, and are OPPOSED to rezoning said property to R3 from Commercial as it is presently zoned.

NAME	ADDRESS	TELEPHONE
Tracy J Case	2415 N 155 Terr	724-4646
Tracy J Case	2415 N 155 Terr	724-4646
~~Karen Pigsonet~~		
Karen Pigsonet	15526 Elm Street	913-724-4417
Karen Pigsonet	15526 Elm Street	913-724-4417
CLAUDENE SASNETT	15525 Elm St.	913-724-4522
Claudene Sasnett	15525 Elm St.	913-724-4522
Margaret Smith	15527 Elm St.	913-724-2625
Margaret Smith	15527 Elm St.	913-724-2625
Nick Bellaci	15529 ELM ST	913-724-2577
Nick Bellaci	15529 ELM ST	913-724-2577
MR&MRS BLAINE E. DAVIS	15531 ELM ST.	913-724-2804
Mr. & Mrs. Blaine E. Davis	15531 Elm St.	913-724-2804
Lester F. Johnson	2455 N. 155 Terr	913-724-3889
Lesty F. Johnson	2455N 155 Terr	913-724-3889
Juanita K. Johnson	2455 N. 155 TERR	913-724-3889
Juanita N. Johnson	2455 N. 155 TERR	913-724-3889
Joseph M. Fabijanic	15531 CRESTWOOD DR.	(913) 724-4401
Joseph M. FABIJANIC	15531 CRESTWOOD DR.	(913-724-4401
Cindy Harvey	15515 Elm Street	(913) 724-1221
Katherine L. Burns	2471 N 155th Terrace	913-724-1898
Shanna L. Hermann	15537 Walnut Pl.	913-724-3202

PROTEST PETITION

RECEIVED
NOV 18 2002
2:02 pm
DeBrough

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NAME	ADDRESS	TELEPHONE
Billy G. Williams	15524 CRESTWOOD DR.	913 724-3643
Billy G. Williams	15524 CRESTWOOD DR.	913 724-3643
Phyllis A Willis	15532 Crestwood Dr	913 724-2092
Phyllis A Willis	15532 Crestwood Dr	913 724-2092
Tammi Schoreman	2452 N 155th TERR	913-724-2566
Tammi Schoreman	2452 N 155th TERR	913-724-2566
JEFF Schoreman	2452 N 155th TERR	913-724-2566
	2452 N 155th TERR	913-724-2566
KATHY JENNINGS	2446 N. 155th TERR	913 724-9825
Kathy Jennings	2446 N. 155th TERR	913 724-9825
PETER JENNINGS	2446 N 155th Terr	913-724-9825
Peter J. L. Jennings	2446 N 155th Terr	913 724-9825
Joyce G Wade	15538 WALNUT CT	913 724-2984
Joyce G Wade	15538 WALNUT CT	913-724-2984
Keith Hollingshead	15526 Walnut Ct	913-724-2907
Keith Hollingshead	15526 Walnut Ct.	913-724-2907
Karen Clark-Maskil	15525 Walnut Ct	913-724-2407
Karen Clark-Maskil	15525 Walnut Ct	913-724-2407
PAT W. TOMASEVIC	2423 N. 155th TERR.	913. 724. 2489
Pat W. Tomasevic	2423 N. 155th TERR.	913. 724. 2489
Loretta G. Tomasevic	2423 N. 155th Terr.	913-724-2489
Loretta G. Tomasevic	2423 N. 155th TERR.	913-724-2489

REGULAR SESSION

At 7:50 p.m., Mayor Scherer called the meeting back into regular session with all members present.

APPROVAL OF MINUTES

A motion was made by C. Garcia and seconded by J. Odle to approve the minutes of November 1 and 6th, and telephone polls of November 5th and 7th as written. All aye. Motion carried 4-0.

APPROVAL OF TREASURER'S REPORT

A motion was made by J. Espinoza and seconded by J. Odle to approve the October 2002 Treasurer's Report, November 18th Supplement and Investment Report as presented. All aye. Motion carried 4-0.

APPOINTMENT OF COUNCIL MEMBER

Mayor Scherer presented the appointment of resident, Keith Sifford, to fill the council position of Joseph Scherer.

A motion was made by J. Odle and seconded by B. Gratny to approve the appointment of Keith Sifford to the Basehor City Council. All aye. Motion carried 4-0.

Mr. Sifford received Oath of Office by city attorney, John Thompson and assumed the council seat at this time.

ELECTION OF COUNCIL PRESIDENT

Mayor Scherer presented the nomination of Julian Espinoza as council president.

A motion was made by B. Gratny and seconded by K. Sifford to elect Julian Espinoza as council president. Gratny, Sifford, Garcia-Aye. Odle-Nay. Motion carried 4-1.

STAFF REPORTS

City Engineer

KDOT Grant:

Engineer, Joe McAfee, announced the City of Basehor received a grant award for construction to 158th Street by Kansas Department of Transporation. Mr. McAfee noted if the City decides to accept the award they need to sign a letter of interest and return to the KDOT office by December 13th. Once the award is finalized the City can move forward to fund the balance owed and start construction in year 2006. The total cost of the project will be 2.3 million dollars. He also named several items that would not be included in the KDOT funding such as surveying and easement acquisition. Mr. McAfee suggested looking into low interest state funding programs.

Update on Working Projects:

- Prairie Lakes, 2nd Plat - Sanitary improvements are in except force main and lift station.
- Falcon Lakes - Complete, except for installation of man-lift.
- Prairie Gardens - Storm and sanitary sewers are complete.

24/40 Highway Interceptor Project:

Mayor Scherer reported the bids were let on October 30th; however, he would like to reserve the right to discuss several legal matters concerning the award in executive session. Council agreed.

John Bran, design engineer for Ponzer-Youngquist, reported the City received 12 bids at the opening on October 30th. The majority of the bids were over one million dollars with the low bidder being Wilson Plumbing. Mr. Bran noted the three lowest bidders have been researched for validity and appear to be in good standing.

Councilman Odle questioned Mr. Bran as to why he includes specifications if he is is not going to adhere to them when the bids are let. Mr. Bran noted all bids are compared and KDHE allows comparable materials to be used. Boring versus street cuts were also discussed.

CITIZENS AND PETITIONS

Mayor Scherer noted the first three citizen requests were heard earlier in the meeting.

Debbie Breuer, Basehor Chamber of Commerce, requested a $100 donation for the Holiday Lighting Contest. Mrs. Breuer noted the City's donation goes to award residents within the city limits and the Chamber and Pride donations go to residents and businesses outside the city limits. (See Action Item #17)

Citizen Comments Regarding Agenda Items - Mayor Scherer opened the floor for public comment regarding any agenda item.

Mr. John Flowers, 15515 Cedar Lane, reserved the right to comment when the Council addresses the matter of Pinehurst Development Annexation and Annexation Agreement. Mayor Scherer stated this is the time for public discussion. Mr. Flowers wished to go on record as opposing the residential density of plan.

Resident, 15549 Bradford Court requested clarification as to what an annexation agreement was regarding Pinehurst Development. The mayor explained the agreement is like a contract between the developer and the city regarding improvements such as streets, sanitary sewers, storm sewers, and benefit districts.

Wanda Strange (2356 156th St.) stated she did not receive a certified letter notifying her of the Pinehurst Develoment public hearing and also questioned once the city decides to annex Pinehurst Development, do the area residents still have input regarding the rezoning. Ms. Strange also questioned when the annexation of Cedar Lakes would come before the city council.

Mayor Scherer questioned the code administrtor as to whether the property owners around Pinehurst would be notified again in accordance with the law. Mr. Hooper stated he could have the developer send out letters again; however, they most likely would not be by registered mail.

Fred Farris (18376 155th St.) questioned why those property owners would not be notified by registered mail. Mr. Hooper noted the developer is required to notify by registered mail one time; however, he would have the city attorney review the requirements.

Joseph Perry, attorney for Pinehurst Development, requested Action Items #4 and #5 be reversed.

A motion was made by J. Espinoza and seconded by B. Gratny to reverse Action Items #4 and #5 as requested. All aye. Motion carried 5-0.

Don Mayberry (15316 Rickel Dr.) commended the residents and council on the action taken regarding the rezoning of property at 155th & Crestwood..

Rich Hogue (15544 Bradford Crt) asked if apartments are built in the Pinehurst Development, is there a way to stop the entrance coming into the existing subdivision (Briarwood). Council would take that under advisement.

Don Dysart, Basehor Cabinet Shop, requested a letter nullifying the original agreement signed by Mayor Hooker requiring the cabinet shop on 155th Street to be demolished. Council agreed to add as an Action Item (See Action Item #15).

Tom Steele (15308 Elm St.) congratulated the council and residents on the action taken tonight regarding the rezoning of the Crestwood property. He questioned why the car wash had not opened after all these years. Mayor Scherer stated that as long as the car wash property was being kept mowed and property maintained, the City had no recourse.

There being no further citizen comments, Mayor Scherer closed the public portion of the meeting.

EXECUTIVE SESSION

A motion was made by J. Espinoza and seconded by J. Odle to go into an executive session for up to one hour to discuss personnel and legal matters. Motion carried 5-0. (8:40 PM)

Employees, Gene Myracle, Mary Mogle and Baron Powell were invited into the session at different times during the executive session.

At 9:20 p.m, Mayor Scherer called the regular session back to order.

ACTION ITEMS

Item #1. Approve or Deny Payments to Contractors of Falcon Lakes Subdivision

A motion was made by J. Espinoza and seconded by B. Gratny to approve contractor payments in the amount of $116,455.76 for the Falcon Lakes Project. All aye. Motion carried 5-0.

Item #2. Approve or Deny Payments to Ponzer-Youngquist for Design Work on the Sewer Interceptor Line (SRL Request)

There were no payment requests this month

Item #3. Approve or Deny Rezoning of Property at 155th & Crestwood

Refer to beginning of minutes.

Item #5. Approve or Deny Annexation Agreement for Pinehurst Development

Mayor Scherer questioned the developer as to the location of the storm drainage. The developer stated they wanted the storm drainage to be included since it will be located in the right-of-way and not on private property. Council also wanted to see an addition to Section 7, Sewer Connection Fees state it will be collected at the time a building permit was issued.

A motion was made by J. Odle to approve the annexation agreement as submitted with the aforementioned corrections. Odle, Gratny, Sifford, Espinoza-Aye. Garcia-Nay. Motion carried 4-1. ***(12/16/02 Amendment to Minutes showing that Councilman Espinoza second the motion)***

Item #4. Approve or Deny Petition for Annexation and Ordinance of Pinehurst Development

A motion was made by J. Espinoza and seconded by B. Gratny to approve the Petition and Ordinance annexing property known as Pinehurst Development (Section 11, Township 11S, Range 22E, South Basehor). All aye. Motion carried 5-0.

ORD. #393. AN ORDINANCE ANNEXING LAND TO THE CITY OF BASEHOR, KS.

Item #6. Approve or Deny Renewal of Cereal Malt Beverage License for Casey's General Store

A motion was made by B. Gratny and seconded by J. Espinoza to approve the renewal of cereal malt beverage license to Casey's General Store. All aye. Motion carried 5-0.

Item #7. Approve or Deny Petition for Annexation Submitted by Zarda Brothers

Mr. Tom Zarda gave a presentation regarding the annexation of a ten-acre tract of land north of Falcon Lakes Subdivision, on Hollingsworth Road. The acerage is contiguous to the city and will be annexed as R-O zoning.

A motion was made by J. Odle and seconded by C. Garcia to approve the Resolution requesting the County Commissioners consider the annexation to Basehor, Ks. All aye. Motion carried 5-0.

RES. 2002-03. A RESOLUTION OF THE CITY OF BASEHOR, KANSAS REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS MAKE CERTAIN FINDINGS REGARDING THE ANNEXATION OF PROPERTY.

Item #8. Appointment of Planning Commission Member (Jason Logsdon)

A motion was made by C. Garcia and seconded by J. Espinoza to approve the appointment of Jason Logsdon to the Basehor Planning Commission (to fill the position of Ray Harvey). All aye. Motion carried 5-0.

Item #9. Approve or Deny Resolution and Ordinance for Condemnation on Buchholz Property aka Kelley's Restaurant

A motion was made by B. Gratny and seconded by J. Odle to approve the Resolution and Ordinance authorizing the city attorney to proceed with condemnation of property for an easement needed for the 24/40 Hwy Interceptor Project.

RES. 2002-04. A RESOLUTION DECLARING THE NECESSITY AND DESCRIPTION OF INTERESTS IN LAND TO BE ACQUIRE4D BY EMINENT DOMAIN.

ORD. 394. AN ORDINANCE DECLARING THE NECESSITY OF APPROPRIATING CERTAIN PRIVATE PROPERTY BY CONDEMNATION FOR PERMANENT EASEMENTS AND SEWER CONSTRUCTION PURPOSES AND AUTHORIZING THE DIRECTING THE APPROPRIATION OF SAID PRIVATE PROPERTY BY CONDEMNATION AND ADOPTING AND APPROVING THE SURVEY AND DESCRIPTION OF LAND REQUIRED AS MADE BY THE CITY ENGINEER AND FILED WITH THE CITY CLERK OF THE CITY OF BASEHOR, KS.

Item #10. Approve or Deny Extraterritorial Jurisdiction Ordinance (Planning Area)

A motion was made by B. Gratny and seconded by J. Espinoza to approve an Ordinance providing for the extension of the City of Basehor extra-territorial planning area in the county of Leavenworth. All aye. Motion carried 5-0.

ORD. 395. AN ORDINANCE PROVIDING FOR THE EXTENSION OF CITY ZONING AND SUBDIVISION REGULATIONS AND THE USE OF CITY SEWER AND STREET STANDARDS AND BUILDING CODES WITHIN THE URBAN GROWTH MANAGEMENT AREAS DEFINED IN THE LEAVENWORTH COUNTY AND CITY OF BASEHOR COMPREHENSIVE PLANS.

Item #11 & 12. (11) Approve or Deny Charter Ordinance Authorizing The Assessment of Court Costs and (12) Approve or Deny Ordinance Pertaining to Municipal Court Costs.

A motion was made by B. Gratny and seconded by J. Odle to table action on Action Items #11 and #12.

Item #13. Approve or Deny Acceptance of Grant Funds for Road Project

A motion was made by B. Gratny and seconded by C. Garcia to authorize the mayor to sign a letter of acceptance of grant funds for 158th Street Road Project. All aye. Motion carried 5-0.

Item #14. Award Bid for 24/40 Highway Interceptor Line Project

Mayor Scherer announced the council conferred with counsel regarding the legal issues concerning the bid award on the 24/40 Highway Interceptor Project. And based on the legal advice received the following action will be taken.

A motion was made by B. Gratny and seconded by J. Odle to award the 24/40 Highway Interceptor Project bid to Miles Excavating. All aye. Motion carried 5-0.

Item #15. Approve or Deny Rescinding Legal Agreement with Cabinet Shop of Basehor Regarding Demolition of Building

A motion was made by C. Garcia and seconded by K. Sifford rescinding the legal agreement with the Cabinet Shop of Basehor regarding the demolition of building.

Item #16. Approve or Deny Reimbursement of Insurance Proceeds to Breuer Shopping Center for Cleanup of Property

A motion was made by J. Odle and seconded by J. Espinoza to approve the reimbursement of Insurance Proceeds to Breuer Shopping Center (Dennis & Debbie Breuer). All aye. Motion carried 5-0.

Item #17. Approve or Deny $100 Donation to Chamber of Commerce for Holiday Lighting Contest

A motion was made by J. Espinoza and seconded by J. Odle to approve a donation of $100 to the Chamber of Commerce Holiday Lighting Contest. All aye. Motion carried 5-0.

MAYOR'S REPORT

There was nothing to report this month.

COUNCIL MEMBER REPORTS

There was nothing to report this month.

ADJOURNMENT

There being no further business to discuss, a motion was made by B. Gratny and seconded by J. Odle to adjourn the meeting. All aye. Motion carried and meeting adjourned at 9:50 p.m.

Submitted for Council approval with/without corrections this 16th day of December, 2002.

Joseph Scherer, Mayor

Attest:

Mary A. Mogle, City Clerk