

**City of Clearwater, Kansas**  
Sedgwick County  
City Council Meeting - **MINUTES**  
September 10, 2024  
Clearwater City Hall – Council Chambers  
129 E. Ross Avenue Clearwater, KS 67026

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**1. Call to Order/ Invocation and Flag Salute**

Mayor Burt Ussery called the meeting to order at 6:30 p.m. followed the invocation and flag salute.

**2. Roll Call**

The City Clerk called the roll to confirm the presence of a quorum. The following members were present:

Mayor Burt Ussery, Councilmembers; Crystal Walter, Justin Shore, Shirley Palmer-Witt and Tim Robben. Samantha Warkins was present via GoTo Meetings.

The following staff members were present:

City Administrator Zollinger, City Clerk Poe, Amber Ives, Kirk Ives, Cole Hollis, Jared Dinwiddie and City Attorney, Jennifer Hill.

Others Present who spoke:

Kendall Pierce.

**3. Approval of Agenda**

Mayor Ussery asked if there were any modifications to the agenda, Zollinger added Clearwater Fall Festival Temporary Alcohol Permit.

**Motion: *Palmer-Witt* moved; *Robben* seconded to approve the agenda as modified. Voted and passed unanimously.**

**4. Public Forum**

None.

**5. Consent Agenda**

Mayor Ussery asked if there was any question on the consent agenda and if not asked for a motion to approve.

Previous Council Meeting Minutes

Claims and Warrants

Designate Safety Zone – Downtown Trick or Treat

Mayoral Appointment

**Motion: *Walter* moved; *Shore* seconded to approve the consent agenda as submitted. Voted and passed unanimously.**

**6. Staff Reports:**

- Administration Office – Courtney Zollinger – Pearson will be starting the road project on September 11<sup>th</sup> instead of the end of the month. Notifications were left on the doors, the City Facebook page and the City Website. The Mil and Overlay will begin on Nancy, Michelle and Park between Tracy and Prospect. The streetlight has been installed and there have not been any requests for others at this time.
- Fire Department – The 1984 engine was sold for just shy of \$5,000. The Kansas Forestry's Volunteer Fire Assistance grant is a 50/50 grant, and we should receive around \$1,100 back. Warkins informed Dinwiddie that they could utilize the PA guy on stage at the Fall Festival to announce the raffle winner, the winner will be drawn on Saturday, October 5<sup>th</sup> at 5 p.m.
- Police Department – Kirk Ives – Council asked if the expired tags were being picked up by the cameras, Ives stated it was the Officers since the cameras can't pick those up.

- Public Works/Parks – Cole Hollis – Shore thanked him for getting to the trees across from the Cemetery. Palmer-Witt asked if they had located the water line, Hollis said they have not yet but are going to change directions and backtrack from a service line there.
- Senior Center – Amber Ives – None.

## 7. Business

### a. Professional Code Compliance

The Governing Body has been discussing hiring a code enforcement officer for several years. Currently the City Administrator acts as the code enforcement officer and responds to violations only when they are reported. Research into the position has shown a pay range of \$15 - \$20 per hour with benefits turns into \$51,000 to \$71,000 (2-3 mills) which is why it has not been acted upon. Professional Code Compliance reached out to offer their third-party services for code compliance. Chief Ives, Jaye Poe, and I met with Kendall Pierce from PCC and asked him to make a presentation to the City Council. We all think hiring a contractor for a compliance officer will help staff immensely. The need to only respond to compliance issues when complaints are made would be eliminated. PCC would drive through town on a schedule and respond to code violations as they see them. If complaints come in, they would be turned over to PCC to investigate and respond to. All code violation pictures, and correspondence will be available for staff to review at any time. No fines would be implemented by PCC. PCC would take over with the notification to the residents about their violation and set the time frame to abate the issue and work with the resident. If the resident does not abate the issue in a timely manner, then the issue is brought to the city council to start the "formal" abatement process with resolutions and fines. Kendall Pierce was present to answer any questions Council had. He stated that they are a third party for smaller municipalities, and he is from Towanda. Towanda was having issues in this area which prompted Kendall to start this third-party service. He said the process would be first to drive around town and do a windshield survey based off Clearwater's code. Pictures would be taken and would be time stamped. Based off the survey and code, the first step would be to hang door hangers on the properties in question. These will include the violation and time frame to abate the issue. Kendall is aware that nobody wants to be told what to do with their property. After the door hanger, if the violation has not been addressed, then a warning letter would be sent to the property owner certified and hand delivered to the tenant. Along with the pictures, any letters, hangers, notices are also uploaded so the City can see exactly what has happened with any one address. The contract is yearly, but there is a 4-month opt-out window if the City is not happy with the services. Kendall stated the 4-month time frame could be overlooked if it came down to it. City Code is in place for curb appeal and health and safety. If agreed, this would help not have to budget for an employee with benefits. A report is sent out bi-weekly with details for the month and if a court appearance is necessary, then he will be there to attend. His partner has been a city prosecuting attorney for 18 years. The request for changes to the contract from the City attorney has been received and is being looked over, but he does not see any issues with the requests. The changes that were requested were: Page 2, Section II-2 Power and Duties, In Section (c) after the second sentence add: *Revisit dwellings at periodic intervals to verify correction of violations by property owners and tenants.* Add another Duty, (e) *Investigate complaints from any source in a timely manner and ensure investigation results are communicated to the complainant.* Page 2, Section II-3, subsection (b) Add to the end of the paragraph the following sentence: *PCC will provide the City with documents of expenses if the \$25 per month amount is exceeded.* Page 2, Section II-3 subsection (c) In the second line down please replace "proceeding" with "following". Page 4, Section V-1. In the fourth line down replace "of" with "or" so that the text reads arising out of an alleged act or omission". Page 4, Section V-1. In the sixth line down change the word "with" to "within". Page 4, Section V-1. Delete the second paragraph entirely. We will not agree to pay their attorney fees. PCC's price for Clearwater is \$1,700 per month (\$20,400 annually). Council discussed the company being 4 months old and having 6 contracts. Kendall stated they are growing but have put a pause on adding more cities so they can get the kinks worked out and possibly hire another person. He would be the representative for Clearwater. Council asked about reference letters, Kendall stated that he could provide those. There is about 68 hours per month for the agreement provided and he would be driving in a marked car and wearing his PCC shirt. The hours include driving from his home to Clearwater. Since this is not a budgeted item it would come out of the general fund special projects account funds (outside of sales tax) that is earmarked for the road project would be reduced to cover this expenditure. Council then discussed the uptick in violation letters being a shock to the

community. It was discussed to put out communication if the city decided to sign up for this service to include the process. Kendall would be coming into town around every 10-14 days. PCC uses county for property owner contact information. He typically tries to avoid having to contact the property owner with the first door hanger. Council discussed this being a non-bias opinion and being proactive in contrast to how it is being handled currently. By the time someone submits a complaint, they can be exasperated. The city will not put all violation information out for everyone to see. Kendall said his first round will be just eye sores then will report that to the City. A process has been established for nuisance violations and PCC would use that. PCC does not have general liability as they would be covered under the Tort Claims Act and is covered by the City. Council questioned the drive time in the event of an accident, Hill stated it wouldn't be on the City because of their Independent contractor status. Kendall stated they should speak to Rob about all these questions. Having a background check was discussed and agreed upon. The consensus of Council was they would like to see this happen and to bring the agreement back to Council with the requested changes.

**b. Approve Contract with Freedom Claims Management, Inc**

At the August 13th meeting the council made a consensus to move forward with switch from State Employee Health Plan to Freedom Claims Management, Inc. (FCMI) By switching the City would be in more control of employee benefits than staying with the State Employee Health Plan. FCMI was asked to provide an agreement for the city attorney to review and she had requested some changes. FCMI has not reviewed them yet. SEHP will have to be notified by October 1<sup>st</sup> if the City will not be signing up for 2025, Zollinger wanted to make sure any questions were answered before the agreement was brought to council. The City has already set a budget for 2025 and will stick to that budget. BCBS has offered an umbrella policy at \$7,100 and mirror the plans currently offered to employees. The FCMI fee per employee per month is \$54.00. FCMI will also receive a percentage of savings recovered by the Company as a "Risk Based" MERP fee. The percentage of savings to be charged will be 20%. The initial set up fee is \$850.00. HIC will come and do an open enrollment and help with the onboarding process. Council discussed the appointment of a designated person for the bank account out of Great Bend, which would be FCMI. Medical claims will be paid from this account, but the only information there is the amount, not any personal medical information for the claims. If FCMI overpays an employee on a claim, how strongly should FCMI try to recoup the funds? Hill suggested that we take that language out because we do not want them to sue any of the employees but to coordinate with Zollinger if there are issues. She does not feel comfortable delegating that responsibility to FCMI.

**c. PUD Amendment – Indian Ridge at Clearwater**

Bryan Lagaly Properties, LLC requested to change the Zoning classification from R-2 to R-3 to install three-family housing. The Board of Zoning Appeals denied the change because they didn't want to allow the option of apartment complexes in Indian Ridge. Since R-2 allows for triplex, the Board asked that the developer apply for a PUD change to remove the restrictions of single family and duplexes on these lots. Lots 3-14 Block 2. The areas surrounding these lots will be single and two-family units. North and East of the area are two and multi-family units (Indian Lakes and Senior Residence). R-2 Dwelling District. Byran Lagaly would like the Board to consider allowing tri-plex's in the stated lot without changing the R-2 zoning district but just amending the PUD allowable builds on these lots. The Planning Commission reviewed the request and found the request in line with the Comprehensive Plan and made a motion to approve the amendment to the PUD. If approved the PUD will be filed with the Sedgwick County Register of Deeds. Council asked how the specials are assessed, Zollinger stated it is per linear foot. Zollinger stated there have already been lot splits on Arrowhead and notification has been sent to the County. Council discussed how the triplex would look and fit in the lots requested for triplexes. Zollinger stated they would be more ranch style with long driveways, there are no building plans yet. The only thing approved by Planning Commission is to remove the restriction on just single- and two-family homes within R-2 and to allow triplexes in this area. Zollinger stated it is the job in the office to check the square footage, layout and setbacks once a building permit has been submitted to see if it complies with the code. If it does not comply, they will have to go back to the board of zoning appeals to request a variance. Zollinger stated that a triplex falls under commercial builds and would go through MABCD, but still has to abide by Clearwater City Code and a permit will not be issued if it does not fall in line with that.

**Motion:** *Warkins* moved; *Robben* seconded to approve the amended PUD. Voted and passed unanimously.

**d. Sidewalk & Drainage Repair**

In July the Council was presented with various concrete projects around town. Quotes from Triple B were presented, and the Council asked for a secondary quote. Zollinger reached out to BKZ, PPJ and Pearson, but only heard back from Pearson. In the spring Decker Electric was out to repair lights at the sports complex and damaged some sidewalks. The quote has already been turned into Decker Electric for them to review and an invoice will be sent once the work has been completed. The crosswalk at 4<sup>th</sup> and Ross needs to be fixed as well as the drainage hole at Tru2U. The Council asked for a quote for the ADA sidewalk to the fishing dock at the Chisholm Ridge Ponds.

|                                | Triple B    | Pearson     |
|--------------------------------|-------------|-------------|
| Tracy & Ross Drainage          | \$ 7,837.00 | \$14,000.00 |
| Sports Complex/Wheelchair ramp | \$ 9,642.00 | \$ 9,940.00 |
| Chisholm Ridge Sidewalk        | \$19,040.00 | \$19,850.00 |

There is a sidewalk fund in Special Projects with a balance of \$202,621 to cover the materials and labor for the sidewalks. For the drainage area next to Tru2U it is recommended to use Public Works Equipment Reserve. The balance of that account is \$44,112. Zollinger stated the difference in price for the drainage between the 2 companies was the grate itself vs the concrete to help with the drainage. Triple B was able to find a cheaper grate than Pearson. Staff has submitted the quotes and invoices for the damage done by Decker Electric which included Garretson and Whitney Landscaping.

**Motion: Robben** moved; **Walter** seconded to approve Triple B to do the sidewalk and drainage repairs with the quoted amounts and funding with Special Projects and Public Works Equipment Reserve. Voted and passed unanimously.

**e. Clearwater Fall Festival Temporary Alcohol Permit**

On June 25, 2024, the City Council approved a temporary permit for Reflection Mobile Bar Service for the annual Clearwater Fall Festival. The original permit is for a beer garden on Friday October 4th from 6pm-10pm and Saturday from 2:00 PM to 10:00 PM. The request is to amend the beer garden hours to October 4th from 5pm to 10pm and October 5th from 11am to 10pm. Warkins stated the request is due to being able to be open during the Chili Feed on Friday night, and to coincide with the Cornhole tournament on Saturday.

**Motion: Shore** moved; **Robben** seconded to approve the amended temporary permit for the mobile bar service. Voted and passed unanimously with Shirley Palmer-Witt abstaining.

**8. Governing Body**

Walter – None.

Shore – Shore asked how issues are handled with code compliance behind privacy fences such as grass. Zollinger answered that unless a violation is noticeable without looking over the fence or a neighbor complains about a nuisance would an action be taken.

Warkins – Warkins noticed the lights around the playground and walking path at city park were not lit at night over the weekend. She is concerned the issue is not fixed because Fall Fest is approaching. Zollinger stated they would get it fixed. She also stated someone pointed out to her that a person behind her, across the alley, is piling up brush in the alley and asked if that was considered a nuisance. Zollinger said for the person to turn in a nuisance complaint because it people are to keep all property between their property line and right-of-way/ easements maintained.

Palmer-Witt – None.

Robben – None.

Ussery – None.

**9. Executive Session**

None.

**10. Adjournment**

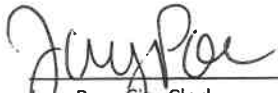
**Motion:** *Palmer-Witt* moved; *Walter* seconded to adjourn the meeting. Voted and passed unanimously. The meeting adjourned at 7:52 PM

**CERTIFICATE**

State of Kansas       }  
County of Sedgwick   }  
City of Clearwater    }

I, Jaye Poe, City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the September 10<sup>h</sup>, 2024, City Council meeting.

Given under my hand and official seal of the City of Clearwater, Kansas, this 24<sup>th</sup> day of September 2024.

  
Jaye Poe, City Clerk

