



COUNCIL MEETING

Council Chambers, City Hall – 131 N Main St

August 12, 2021 at 7:00 PM

MINUTES

HONORABLE MAYOR MIZE AND MEMBERS OF THE COUNCIL

CALL REGULAR MEETING TO ORDER

MEMBERS PRESENT

Mayor Philip Mize called the meeting to order at 7:00 pm. Council members Jeff Albers, Kassie Gile, Ryan Graf, and Greg Williams were present. Staff present were City Administrator/Clerk Danielle Young, Acting City Attorney Tricia Parker, Police Chief Ken Winter, Maintenance Superintendent/Fire Chief Jerry Peitz and Director of Golf Kevin Fowler. Guests present were John McKee and Rosanne Wolf

PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

DETERMINE AGENDA ADDITIONS

CONSENT AGENDA

All matters listed on the Consent Agenda are considered one motion and will be enacted by one motion. There will be no separate discussion on these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A) July 15, 2021 Council Minutes
- B) **Building Permits**
 - Fence - 220 N Filmore - Fuqua Remodeling
 - Car Port - 525 Shadybrook - Kevin Marsh
- C) Bills List

Motion made by Councilmember Albers, Seconded by Councilmember Williams.

Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf

PUBLIC AGENDA *(Please limit comments to 5 minutes)*

John McKee addressed the Council and said he started coming to the Council meetings when the RV parking issue was brought up a few months prior. He was disappointed, insulted, and challenged. He felt he was challenged to bring specifics to the meeting instead of generalities. He has had some personal experiences that he wanted to share. McKee stated he had visited with the Council members on the phone and got more input and knowledge of how they operate. He learned that their intent is good, but sometimes the optics are not as good as their intent.

McKee stated for the 2nd time in the same year, he's received a complaint about an abandoned vehicle. The first time he came in and talked to the Chief and caught him up on what was going and it went away. This time it came up he was not at home when they came by to issue the notice, so they stuck it in the door and then they went around looking at his vehicles and into the back yard looking at his vehicles to see if they were tagged. It set his dogs off and they went nuts and his neighbor called to tell John that there were people on his place. He came and asked about it and found the form in the bushes that had blown off the door. John asked why are the police officers doing code enforcement as it creates negative

feelings with the community. He expected someone to call him, tape it to the door, or send it in the mail. John thought they could have gone to their report system and found if it was licensed and tagged. He feels it was abuse of power for them to come out and comb his property when he was not there looking for additional problems. He was told they do this when they get call ins and do it on a regular basis as they drive around town. McKee thought that needed to be revisited as the info they were looking for could have been found in the system. McKee stated he brought information down and showed the tag and insurance and found that the issue was he hadn't put the tag on the vehicle. McKee said he had not been using the vehicle, so he had not put the tag on it. He put the batteries in and showed they are not abandoned and running. McKee thought public opinion is a big deal and keeps relationships between law enforcement and public as kosher. McKee was informed his 5 minutes were up.

Mayor asked him if he had found his phone and he said no, but it would turn up.

OLD BUSINESS

NEW BUSINESS

CONSIDERATION OF ORDINANCE 936 REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES," EDITION OF 2021, WITH CERTAIN CHANGES AND ADDITIONS; AND REPEALING SECTION 1 OF ORDINANCE NUMBER 928 AND ALL OTHER CONFLICTING ORDINANCES.

Motion: Adopt Ordinance 936 for the Uniform Public Offense Code for Kansas cities.

Motion made by Councilmember Williams, Seconded by Councilmember Gile.

Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf

CONSIDERATION OF ORDINANCE 937 REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS; INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES," EDITION OF 2021, WITH CERTAIN CHANGES AND ADDITIONS; AND REPEALING SECTION 1 OF ORDINANCE NUMBER 929 AND ALL OTHER CONFLICTING ORDINANCES

Motion: Adopt Ordinance 937 the Standard Traffic Ordinance Code for Kansas cities.

Motion made by Councilmember Albers, Seconded by Councilmember Graf.

Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf

DISCUSSION OF AMERICAN RESCUE PLAN FUNDS

Young explained that the City of Cheney is set to receive \$328,748.20 in American Rescue Fund Plans in two separate payments. There are many requirements, stipulations, and guidance to review on determining how funds can be spent in the community. The timeframe began in March and ends Dec 31, 2024 or if funds have been obligated in 2024, the date extends to 2026. There are a lot of internal controls that the City will need to meet, such as monitoring, cost principles, and procurement policy. Young discussed the difference between using money with sub-recipients or vendors. The various project categories will be discussed about the different project ideas.

Councilmember Jeff Albers asked if money was going to be spent to hire additional people just to meet guidelines. Young stated that a lot of staff time has already gone into trying to determine how the funds can be spent and the stipulations. Young did not ask Council to make a decision on how to spend the money, she just wanted to share the knowledge she had and general guidelines on what it can be spent on, to weed out projects. The money has been placed in an interest-bearing account and the city gets to keep the interest that is earned. Young reviewed the four statutorily guidelines on what the money could be spent on. Young mentioned that the State and County are already supplying assistance to people and programs that fall under the guidelines and the city wouldn't want to duplicate services. Young mentioned that choosing to provide funds to individuals or businesses, they will need to show how they were impacted by COVID, and the City would need to set up grant criteria. Young believed that using the funds for public safety personnel would need to be for those dealing with COVID directly.

Young stated she would first like to look at using the funds towards Revenue Loss, comparing pre-pandemic revenues with a 4% escalator. Loss revenue funds could then be used for allocated government services, which appears to be most departments within the general fund.

Investments in water, sewer and broadband. Young believed residents within Cheney already received the minimum requirement of broadband, so the community wouldn't meet the underserved definition to do broadband upgrades. For water and sewer infrastructure, projects under the Clean Water State Revolving Fund or Drinking Water State Revolving Fund would be allowable, such as energy or water conservation, wastewater treatment, repairing or replacing lagoons. Council member Albers asked about the audit that we just had at the sewer lagoons and if funds could be used for a new liner project. Funds could also be used for water mains, hydrants, security measures, renewable energy, utility energy audits, SKAET systems, generators.

Ineligible projects needed to serve future population growth, fire protection, reduce tax revenue, pension funds, debt service or place in reserve funds. Young stated there is some guidance she's watching regarding mental health and outdoor recreational purposes. Young said if Council thinks of any items that they think might fall under the guidelines, she could add it to the list. Young did not see an urgency on spending the funds and could try to fill in the needs for items the State and County does not cover.

Councilmember Albers didn't think the City should get in a hurry and should wait and see if rules change. Attorney Tricia Parker mentioned that the County uses a consultant on guidance regarding what funds can and cannot be used for.

AGREEMENT AND ACCEPTANCE OF SOUTHERN STAR CENTRAL GAS PIPELINE TRANSPORTATION SERVICE AGREEMENT

The City needs to execute the agreement for KMGa to secure the firm transport on the Southern Star pipeline for the upcoming winter season. Young explained that the agreement would give the City "firm" transport rather than "secondary" transport. Firm transport is the top priority with the pipeline and rarely sees cuts, where those on "interruptible" and "Secondary" have lower priority and can have cuts of scheduled supply when there is not adequate supply coming into their pipeline due to maintenance, unexpected constraints (line rupture), or freeze-offs.

Calculations from KMGa show the City would pay \$14,128 for the firm transport contract and last winter's season we paid \$13,821 for secondary transport. Overrun charges, days where the City exceeds the contracted amount will be managed through KMGa and will utilize other city volumes. Days that KMGa would utilize the overrun from the contracted daily volume, would be if a cold snap hit and OFO is ordered. The overrun charge is the same rate at .23/mmBtu.

Councilmember Albers stated that the City can't control what happened this past February and the City needs to make sure that gas doesn't get cut off in the future. It was asked if the City could negotiate the rate and if the 1 year contract was renewable.

Motion: Agree and accept the Southern Star Central Gas Pipeline Transportation Service Agreement subject to legal review. Motion made by Councilmember Albers, Seconded by Councilmember Graf.

Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf

REPORTS

Police Report

Chief Winter stood for questions on his report. Councilmember Jeff Albers said they did a great job covering the first day of school.

Fire Report

Chief Jerry Peitz reported that staff would meet with the new County EMS interim director next week. It was discussed that the hood is up on the County EMS vehicle due to it idling during the day. Peitz said the trickle chargers hadn't been installed by the County.

Peitz said they received pricing back on the Fire Station, but they had questions about the increased costs and didn't have anything formal to present.

Maintenance Report

Maintenance Superintendent Jerry Peitz thought they would finish sandblasting the interior of the water tower by August 13th. Then the material will be bucketed out and painted early next week. After that it will sit a minimum of 7 days before disinfecting it; therefore, the water tower is looking at being down another 9-11 days as the company is short staffed and they apologized.

Peitz reported that the tech guy from Comm-tronix had been working on their telemetry system. Peitz discussed the VFD on Well 11 and mentioned putting a VFD on Well 9 and 10 as well to help save wear and tear on the pump and motor. Comm-tronix is located in Wichita and has access to constantly monitor them. The cost is estimated at \$7,500 each and the city could save more money if they did two at one time. It was mentioned the slamming of the existing VFD was putting a lot of pressure on our mains and thought the city should look into the other VFDs in the near future.

Peitz was unable to order the new pick-up, due to Chevy moving the order date. Peitz asked Lubbers about the Chevy plants closing and they didn't think that would be a problem on getting the new truck in.

Golf Course Report

Director of Golf Kevin Fowler corrected his report regarding revenues. He discussed Army worms invading the golf course and residential yards and hopes they don't return in the fall. They will aerate the greens at the first of week and he has lost most of his help since school started.

Administrator's Report

Administrator Young stated that the closing to purchase Santa Fe property has been moved back to August 30th as they were waiting for written notice to remove the siding track from the property.

The unemployment rate has drastically increased for next year. Young has reached out to the State and LKM and found that the government rated employers increased. Potentially the unemployment cost could go up \$40,000 for next year, or \$13,000 at the minimum. Young stated this will be a hit to next year's budget, that was already presented last month where the mill levy was set. Will have to lower expenses out of other line items to account for

Swimming pool August 22nd will have Dog Days.

Vaccine Clinic on August 19th through Sedgwick County at Cheney Fire Station.

Pool committee meeting on August 16th to discuss feedback from the surveys and meet with consultant.

National Night Out Block parties are this weekend. There are 3 parties scheduled. If Council members can meet at City Hall at 6 pm and can then go out and visit the different block parties.

SBA has asked about the cell tower lease the City Hall. They reach out and ask to extend the lease. Currently the lease is 782/month with 3% escalator and is good through 2032. They want to buy out the lease and offered it might be around \$150,000. A few years ago the City extended the lease out. It was discussed the likelihood of the lease going away in the future and no decision was made on the lease.

There was a prior agreement between the City and Fairgrounds to provide water at no charge to the fairgrounds. Young stated there is a water leak at the fairgrounds that has been going on a long time and has grown substantially, so the City shut off the water to the fairgrounds until it is repaired. The City is able to see the leak through their auto-read water meter, but the Fairgrounds is unable to locate it to fix anything since it is not visible above ground. The leak escalated after the fair and they've found additional leaks in other areas than what was leaking prior to the fair.

Young stated there was a request to close the alley on Sept 25th for the auction of the property between 1st/2nd and between Main/Marshall. It will close around 8 am and adjacent property owners have been contacted about it being

closed. Young stated it was procedure to get approval on closing the alley and everyone was in agreement to allow the closure as long as other businesses were okay with it.

Young stated she had been working on a Developer's Agreement for the next Phase at the Back 9. It was brought up by the current owner, Lehner, that he currently has a letter of credit for the City and it's holding up the sale of the property. Lehner has asked for the letter of credit to be released. Attorney Parker suggested only releasing the letter of credit upon closing.

Young stated there is still a total amount of \$93,000 on all special assessments owed for the lots that have not been developed. Young said at closing back taxes and pro-rated taxes for this year would have to be paid and thought \$64,000 would still be owed in special assessments. Councilmember Albers asked why City couldn't draw on letter of credit for the back taxes before closing. Young explained the letter of credit is in Lehner's name and Attorney Parker stated an agreement would have to be done prior to closing. Albers thought it should be settled at closing and funds directed to City or draw on line of credit and then Lehner would have to take it up with Back 9 LLC. Albers didn't think letter of credit could be released until transaction was completed. Young asked about the balance of the specials still owed. The city is working on a developer's agreement with the new developer requiring 35% of the cost of all lots in Phase 2 for the letter of credit. The 35% is based off of what other cities are requiring developers. Young had not received estimated costs yet. The new developer will not own all lots in Phase 2, as there are 29 total lots, but 11 lots are owned by others.

Albers thought the potential new owners would have to provide a letter of credit. Young stated the Plan was to develop Phase 2 and then Phase 3 would be done once a percentage of Phase 2 are sold. Young explained that the question is what Council wants to do about the balance of approximately \$64,000 in existing Specials that have already been assessed. Albers asked if the City had agreed to 35% in the original agreement. Young stated that was not the agreement, but has been told that no developer will agree to those prior terms.

Albers wanted a letter of credit for 100% and didn't think the City should release the current letter of credit without a requirement of the new developer. Young stated the existing specials covered drainage and lift station and the new agreement would cover additional costs, such as the roads, water, and sewer. Albers thought 35% of the new infrastructure plus the remaining balance. Albers didn't think we should walk away from the original amount of the special assessments and needed to watch out for the City. Young stated they want to close within the next few weeks, but didn't think City should expose themselves to 100% of the risk. Mayor and Albers discussed the need to focus on Phase 2 and existing specials and determining Phase 3 guidelines later.

Young recapped that Council seemed to be in agreement that the letter of credit be released upon closing, but asked about the requirement for the new developer on covering the new and existing specials. Albers stated the current letter of credit covers the City for 100% of the costs because of prior performance by current developer. Albers wanted to give the new developer a clean slate. Young stated she had negotiated the 35% of the total cost with the new developer and he was not willing to agree to a 50% requirement. Councilmember Albers thought the new owner should be required to have a letter of credit to cover 35% of new money plus the full balance of existing special assessments that are left. Council agreed to waive the sidewalk requirement for a letter of credit in the full amount of specials remaining. Council requested to see the costs of the estimated improvements. Albers doesn't want the City to end up in a worse position because the property is being sold to a new developer. Mayor asked how much is the City willing to risk for the new development?

The City has agreed to install the natural gas at City's cost. Another requirement the City's zoning codes has is the installation of sidewalks, but the first phase of the development was not required to install sidewalks. Young asked Council about the sidewalk requirement and since there are no existing sidewalks that would tie in to the new Phase 2 sidewalks. Council mentioned they would waive the requirement upon agreement of the letter of credit.

ATTORNEY'S ITEMS

Attorney Tricia Parker sat in for Attorney Austin Parker.

MAYOR'S ITEMS

Mayor Philip Mize had nothing to report.

COUNCIL ITEMS

Councilmember Albers had nothing to report.
Councilmember Gile asked about contacting the property owner who owns the bushes south of Benny's to have them trimmed back away from the sidewalk.
Councilmember Graf had nothing to report.
Councilmember Kampling had nothing to report.
Councilmember Williams had nothing to report.
Councilmember Kampling was absent.

EXECUTIVE SESSION

Motion: City Council enter into executive session to discuss personnel matters related to non-elected personnel of the police department pursuant to KSA 75-4319(b)(1) with Attorney Parker, Police Chief Winter, and Administrator Young for 15 minutes at 8:47 pm.

Motion made by Councilmember Gile, Seconded by Councilmember Graf.
Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf

ADJOURN

Motion made by Councilmember Gile, Seconded by Councilmember Graf to adjourn the meeting at 9:05 pm.
Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile, Councilmember Graf



A handwritten signature in blue ink that reads "Philip Mize".

Philip Mize, Mayor

Attest:

A handwritten signature in black ink that reads "Danielle Young".

Danielle Young, City Clerk