



## REGULAR CITY COUNCIL

Council Chambers, City Hall – 131 N Main St

January 14, 2021 at 7:00 PM

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### 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 7:05 pm. Council members Jeff Albers, Kassie Gile, Ryan Graf, and Greg Williams were present. Councilmember Greg Kampling was absent. Staff present were City Administrator/Clerk Danielle Young, City Attorney Austin Parker, Police Sergeant Mario Martinez, Director of Golf Kevin Fowler and Assistant Maintenance Superintendent Jerry Peitz. Guests present were Brent and Julie Peintner, Jonas Stucky, Travis Mounts- TSN, and Rick Sroufe (via phone).

#### PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

#### DETERMINE AGENDA ADDITIONS

#### KPTS PARTNERSHIP

#### 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) Approval of minutes for the December 10, 2020 Council meeting
- B) Building Permits
  - Building - 830 N Garfield - Cleary Bldg Corp
  - Building - 627 W 2nd Ave - Eash Construction
  - Building - 115 N Lincoln - Kampling Construction
  - Fence - 115 N Lincoln - Grady Laverentz
  - Plumbing - 119 N Main - Precision Plumbing
- C) Bills List

Motion to approve as listed.

Motion made by Councilmember Albers, Seconded by Councilmember Graf.

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

#### PUBLIC AGENDA

Rick Sroufe with the Prairie Travelers addressed Council and stated their group would like to purchase the railroad corridor and negotiations are on-going as to how the transaction is going to work out. The Prairie

Travelers would like for the municipalities to work with them. They are not in a hurry and thought it would take several months to work through this.

Councilmember Albers asked what they meant by working with the cities and asked if they were looking for the City to purchase the railroad right of way and maintain it? Sroufe stated that they did not want to have to purchase the corridor and hoped to railbank it into the City of Cheney and Garden Plain's name.

Attorney Parker discussed the Kansas Recreational Trails Act and mentioned that if the City is the responsible party, they would have all of the maintenance responsibility. Councilmember Albers asked about the liability for the City.

Sroufe said the Prairie Travelers would like to have a planning session with the cities to discuss this and they had recently partnered with Garden Plain and leased over part of the trail to them, which allows them to get on the trail if someone is injured or needs law enforcement.

Sroufe reported that the trail currently runs 16 miles from Garden Plain to just west of I-235. Prairie Travelers owns 8 miles of this trail with the City of Wichita and Sedgwick County also having ownership. The proposed new trail would be 7 miles from Garden Plain to Cheney and 8 miles from Cheney to Murdock. They would like for Cheney and Garden Plain to split up the full 15 miles. It was mentioned by Councilmember Graf that 2 miles east of Cheney there is a large bridge over the Ninnescah.

Mayor Mize didn't think the City could give any type of commitment at this time until the City knows what type of maintenance and liability commitment would be required.

## **OLD BUSINESS**

### **CONSIDERATION OF PAYING FREIGHT COST AND GROUND COVER FOR PLAYGROUND EQUIPMENT**

Item was tabled from the November & December meeting. A decision by staff was made to not proceed forward with the grant. The Rec and City will pursue different grant options.

### **CONSIDERATION OF PORTABLE STORAGE UNIT PERMIT FOR JONAS STUCKY AT 117 N JEFFERSON**

A permit application was submitted by Jonas Stucky in December to place a portable storage unit on the lot at 117 N Jefferson. Council denied the location of the storage container and preferred the unit be placed on the north side of the existing building with the unit running east and west. Stucky has submitted a new location for the storage container. Stucky said it would be 6' north of his building and would run east and west. It would stick out 16' past the front of the building to the east.

Motion to approve the Portable Storage unit.

Motion made by Councilmember Williams, Seconded by Councilmember Albers.

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

## **NEW BUSINESS**

### **CONSIDERATION OF SPECIAL USE PERMIT AT 825 SUNSET AVE**

Mayor Mize referenced the Planning Commission minutes that were included in the agenda packet for review from the Public Hearing that was held on 1/6/2021 regarding a Special Use permit to build a shed at 825 Sunset Ave.

Administrator Young explained that Brent and Julie Peintner had applied to build a shed on the lot they own at 825 N Sunset. They also own the lot to the south, in which there was a mobile home on the lots, but removed them and planned to build a shed. Their home is built to the west on Evergreen Ct, but because there is an alley that sits in between their home and the lots they own on Sunset there was not a way for the lots to be merged

together to have a dwelling with an accessory structure. So they applied for a Special Use Permit, which created a Public Hearing with the Planning Commission. Property owners within 200' were notified and a few comments were made at the Public Hearing, which were recorded on the minutes included in the Agenda packet for review prior to the meeting. The Planning Commission did approve the Special Use Permit and also recommended the City vacate the alley. Currently, the alley is being used as an easement with a sewer line, but no one is using it as any type of drive access. The recommendation from the Planning Commission was to vacate the alley, but for the City to still maintain a 20' easement. By vacating the alley, it would give the 20' of alley to property owners on each side and move the property line to the middle with a 20' easement over the top. This would allow Peintner's to connect this lot to the lot where the dwelling is located. Young stated the original plat shows an alley running north and south and then 3 additional alleys running east and west. Young spoke with Brad Ewy regarding access to the existing utilities. There are some sewer manholes in the alleys, but Young thought that by converting the alley to an easement would be similar to the properties east of this location where the city has allowed fences to be built in the easement, with the understanding that if the City has to access their utilities the fences will have to be removed by the homeowner.

Peintner's are not asking to build within the easement and are meeting all setbacks. Young explained that if Peintner's had left one of the mobile homes on the lot then they could have built the shed without having to go through the Special Use Permit.

Councilmember Gile asked about the discussion where if it was ever sold, it would have to be sold together with the house. Young explained that if the alley was vacated then the properties could be merged together. Albers asked Peitner's if they were wanting to merge them together. Peintner stated that wasn't their goal, but they would just like to build a shed. Peintner stated they own all three properties and were unaware of the Ordinance and were just trying to clean up the area by removing the trailers. They would have left one of the trailers if they had known it would have allowed them to build the shed without going through this process.

Councilmember Albers thanked them for cleaning up the area. Mayor Mize mentioned that the intent of the code of adjoining the lots was to keep from someone coming along and building a shed on an empty lot. Albers thought that by vacating the alley, it would keep things cleaner and set precedence so additional requests for Special Uses weren't made to build sheds.

Councilmember Albers stated he would like to see concrete ran in the alley to fix the drainage issue that was discussed in the Planning Commission minutes. Drainage locations from Evergreen and Greenwood Ct were discussed.

Young explained that the alley didn't have to be vacated. There were two different motions made from the Planning Commission. The Planning Commission unanimously voted to approve the Special Use and also asked Council to look into vacating the alley. Attorney Parker originally suggested utilizing the Special Use Permit, which allows everything to remain status quo and is a little less burdensome with time and cost. Vacating the alley does clean up the alley throughout the entire area. The Attorney referenced two different State Statutes to vacate an easement. KSA 15-427 doesn't leave the City the option to maintain easements within the area for drainage and utilities. KSA 12-505 requires a petition to be signed, a public hearing to be held, and notice to be published in the newspaper. Attorney Parker stated the City could vacate the north/south alley or include the other alleys that run east/west. Albers asked if it would be more time to vacate all of the alleys at the same time.

Mayor asked the Attorney for the easiest option and still maintain the ability to maintain the area. Attorney Parker stated the easiest thing to do is approve the Special Use Permit, but if Council wishes to fix the problem for everyone then the process would be for the Attorney to draft an ordinance to vacate all public un-opened

alleys in Block 5 of the Northboro Addition, but reserve the public utility easement in the un-opened alley. Then the Register of Deeds office will allow the alley to be split and all go back into the property owner's names.

Young thought Council should make a decision on Peintner's shed so they could move forward without having to wait on the vacate process. Councilmember Gile and Mayor Mize agreed that they should be able to build their shed. Councilmember asked about the timeline to vacate the alleys. Attorney Parker stated the alley could be vacated at the next meeting and recommended allowing the Special Use to be approved for 30 days and then say it expires once it's vacated. Parker stated the public hearing for the vacation of the alley would need to be set and published on January 21<sup>st</sup> to meet the 20-day deadline.

Councilmember Gile moved to approve the Special Use for 30 days. Councilmember Albers seconded the motion. Peintner asked what happened if the alley wasn't vacated and the Special Use would expire and thought the Planning Commission made two separate motions to consider separately. Albers understood it as the Special Use was approved by the Planning Commission and then once the alley is vacated the Special Use would go away. Councilmember Gile asked if a specific timeframe had to be listed or if the Special use could be approved until the vacation. Albers wanted to make sure the Special use was approved because of the alley vacation, so future requests of Special Uses for building sheds aren't made.

Motion to approve a Special Use Permit in anticipation of vacation of the alley where the Special Use expires upon the vacation of the alley.

Motion made by Councilmember Gile, Seconded by Councilmember Albers.

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

#### **CONSIDERATION OF ANNUAL RENEWAL OF SCHWAB-EATON ENGINEERING SERVICES**

Schwab-Eaton has acted as the City's engineer for several years. They have presented a renewal contract for 2021 with hourly rates increasing \$5 per hour.

Motion: Approve the renewal contract for engineering services from Schwab-Eaton, P.A. for 2021.

Motion made by Councilmember Albers, Seconded by Councilmember Graf.

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

#### **CONSIDERATION OF AN AGREEMENT WITH GEORGE, BOWERMAN & NOEL P.A. TO PERFORM THE YEAR ENDING 2020 CITY OF CHENEY AUDIT**

George, Bowerman & Noel have conducted financial audits of the City's financial statements for the last several years. Staff is very comfortable with this firm and the accountants conducting the audit. Staff recommends continuing this relationship and approving the letter of engagement.

Motion: Approve the letter of engagement with George, Bowerman & Noel for a fee not to exceed \$9,900 plus out of pocket expense.

Motion made by Councilmember Graf, Seconded by Councilmember Gile.

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

#### **CONSIDERATION OF 2021 SIDEWALK INSTALLATION/REPLACEMENT PROGRAM**

The 2021 budget contains \$10,000 for sidewalk and curb ramp improvements. The policy was established in 2005. In 2018, the program increased the grant from \$500 to \$750 per homeowner to replace sidewalks. In 2020, the policy changed to allow 2/3 reimbursement, instead of 50%.

The City received 4 applications in 2020 and funded two grants. The two additional applicants did not get their projects completed by year end and plan to apply again in 2021.

Motion: Approve the 2021 sidewalk replacement program and allocate \$5,000 towards sidewalk grants.  
Motion made by Councilmember Albers, Seconded by Councilmember Graf.

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

**CONSIDERATION OF RESOLUTION 304-2021 REQUESTING THE KANSAS DIRECTOR OF ACCOUNTS AND REPORTS TO WAIVE THE STATUTORY REQUIREMENTS OF USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE CITY OF CHENEY**

This Resolution exempts the City of Cheney from the statutory requirement of using Generally Accepted Accounting Principles. In recent years, Cities have been under increasing burden to account for assets that have no actual market value. And while these things do not have a fair market value, they still are required to be in conformance with GAAP. Therefore, smaller municipalities in Kansas have opted to go with another form of cash basis of accounting that is in conformance with Kansas's law. (Requirements of K.S.A. 75-1120a (a))

Motion: Approve Resolution 304-2021 requesting the Kansas Director of Accounts and Reports to waive the statutory requirements of using generally accepted accounting principles for the City of Cheney, Kansas.

Motion made by Councilmember Williams, Seconded by Councilmember Albers.

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

**CONSIDERATION OF ORDINANCE 933; REGULATING OUTDOOR PARKING/STORAGE OF RECREATIONAL VEHICLES AND EQUIPMENT AND PARKING OF VEHICLES UPON PRIVATE PROPERTY WITHIN THE CITY OF CHENEY, KANSAS**

An Ordinance was drafted to address Recreational Vehicle and Equipment being stored in yards as well as parking in front yards.

Mayor Mize asked to table the item until next month since Councilmember Kampling and Chief Winter were not present and thought that everyone needed to read through and understand the Ordinance before taking any action. Mize suggested everyone should drive around and look at the items being discussed and figure out how they will be enforced.

Councilmember Albers thought Kampling's input should be considered and they should wait until next month to discuss it further. Councilmember Williams asked about parking items in driveways.

Young stated she had taken inventory of how many properties would be affected by the Ordinance and mentioned that during the summer months there could be additional campers and boats parked in driveways. Attorney Parker mentioned that in the City of Augusta, they directed staff not to address violations unless there were complaints. Mayor thought there should be some regulation, but didn't want to go over the top.

Councilmember Albers moved to table the item until the February meeting. Gile seconded

Motion made by Councilmember Albers, Seconded by Councilmember Gile.

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

**KPTS PARTNERSHIP**

The City entered a partnership with KPTS in October 2019 for advertising and promotional items for one year. KPTS is requesting the City renew the partnership, which will produce and broadcast a minimum of 2 profiles on Positively Kansas, a 30 second commercial, Station ID, and segment with the Mayor. In 2019 the expenditure

was \$1500. Council member Williams stated he had seen the advertisement on KPTS.

Motion: Approve spending \$1,000 for a city partnership with KPTS.

Motion made by Councilmember Graf, Seconded by Councilmember Gile.

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

## **REPORTS**

### **Police Report**

Sergeant Mario Martinez had nothing additional to add to their monthly report. Martinez had been filming a scene in Logan Mize's music video earlier in the evening.

### **Fire Report**

Assistant Chief Jerry Peitz said they have been working well with Sedgwick County's paramedics. Cheney Fire has 5 firefighters attending the EMT class in Kingman. Two of those attending are also police officers. Peitz stated they had done training on the new Scott Air-packs and everyone was fitted for their own mask. Mutual Aid with other departments has been going well.

### **Maintenance Report**

Assistant Superintendent Jerry Peitz reported that they didn't get as many streets slurried in 2020 as they had hoped because they had a lot of repairs on the new truck. The Mini-excavator has been ordered and it's on the ship in route. Alexander will be here next week to install the VFD pumps on the water wells. A flow test was done for the sprinkler company for the St. Rose Catholic church that is being built. The Department is preparing for a KCC audit.

### **Golf Course Report**

Director of Golf Kevin Fowler reported that the numbers are already looking awesome for 2021.

Fowler reviewed his year-end number comparisons to 2019. The course hosted 27 tournaments in 2020, 23 less than 2019. Fowler discussed how there had always been the belief that tournaments were needed to get revenue, but in 2020 the course did better in revenue on the weekends without having the tournaments. Fowler also noted that they had sold 5000 more beers in 2020 than in 2019.

Councilmember Albers asked if the course would limit the number of tournaments moving forward. Fowler thought the course had a lot of long-standing organizations that have had tournaments to help many different causes. Fowler stated staff has discussed having a minimum number of golfers for the tournament and will continue to figure out ways to work around tournaments.

Fowler stated the new golf carts arrived without windshields, but have since been installed. They are receiving good feedback on the new carts. All of the mowers are currently taken apart for servicing.

A community business person inquired about donating pipe to complete the fence around the course. Staff will organize and put together a plan to construct the pipe fence around the course.

### **Administrator's Report**

Administrator Young reviewed the 4th Quarter financials and discussed revenues that were not met due to COVID. Overall, the utility funds did well and the year-end transfer was \$294,000 into the Capital Improvement Fund.

### **ATTORNEY'S ITEMS**

Attorney Parker requested a short executive session for attorney-client privilege.

### **MAYOR'S ITEMS**

Mayor Mize had nothing to report.

### **COUNCIL ITEMS**

Councilmember Jeff Albers thought the City needed to look at the drainage issue at the end of the cul de sac that was discussed earlier in the night on Greenwood Ct.

Albers also thought the City should look at adding additional Christmas decorations at perhaps the ball diamond where people could pull into and park.

Councilmember Williams had nothing to report.

Councilmember Gile had nothing to report.

Councilmember Graf had nothing to report.

### **EXECUTIVE SESSION**

Motion to enter into executive session to discuss employee contract pursuant to matters related to non-elected personnel KSA 75-4319 (b)(1) at 8:45 pm for 5 minutes and to discuss potential class action lawsuit pursuant to matters related to attorney-client privilege KSA 75-4319(b)(2) for an additional 5 minutes with Administrator Young and Attorney Austin Parker.

Motion made by Councilmember Graf, Seconded by Councilmember Gile.

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

Motion to enter into executive session to discuss preliminary discussions relating to the acquisition of property KSA 75-4319 (b)(6) for 45 minutes with Administrator Young and Attorney Austin Parker.

Motion made by Councilmember Graf, Seconded by Councilmember Gile.

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

Motion to enter into executive session to discuss preliminary discussions relating to the acquisition of property KSA 75-4319 (b)(6) for 10 minutes with Administrator Young and Attorney Austin Parker.

Motion made by Councilmember Graf, Seconded by Councilmember Gile.

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

Mayor Mize stated Council was back in regular session at 9:50 pm with no binding action taken.

Motion to approve an addendum to Administrator Young's contract. Motion made by Councilmember Graf, Seconded by Councilmember Gile. Voting Yea: Councilmember Williams, Councilmember Albers, Councilmember Gile and Councilmember Graf.

### **ADJOURN**

Motion to adjourn at 9:50 pm.

Motion made by Councilmember Albers, Seconded by Councilmember Graf.

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



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

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Philip Mize, Mayor

Attest:

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

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Danielle Young, City Clerk