

# CITY COUNCIL MINUTES

## Monday, November 10, 2003

The Bonner Springs City Council met in regular session at 7:30 p.m. on Monday, November 10, 2003 with Mayor Smith presiding.

**Councilmembers Present:** Connie Steele, Wendy Scheidt, Jeff Harrington, Archie Sanders, Amber Sechrist, Doug Clements, Rory Kuhn and Debe Birzer.

**City Staff Present:** John Helin, City Manager; Rita Hoag, City Clerk; Tillie LaPlante, Budget & Finance Director; Gary Saunders, Utility Director and Marcia Ashford, Community and Economic Development Director.

The Mayor opened the meeting with the Pledge of Allegiance to the Flag of the United States of America.

**Item No. 1 - Citizen Concerns About Items Not on Today's Agenda** – Sandy Swedo representing Downtown Bonner, Inc. and Rebecca Zerkle representing All-State Insurance and Business Professional Women were present at the meeting. They distributed a schedule for the Christmas festivities planned for Monday, December 1. Written invitations were distributed for City Council and staff to attend the ribbon cutting ceremony for the rededication of Oak Street.

### CONSENT AGENDA

The Mayor read the Consent Agenda Items 2 through 6 and asked if members of the City Council, City Staff or audience wished to remove an item for separate consideration. Birzer requested Item 3 be removed for separate consideration.

**Item No. 2 - Minutes of the Regular Meeting Held on Monday, October 27, 2003** - The minutes were submitted for approval.

**Item No. 4 – Public Housing Authority Claims for November 10, 2003** - The Housing Authority claims for approval on November 10, 2003 in the amount of \$3,019.10 were submitted.

**Item No. 5 – Appointments to Boards & Commissions –**

- For Approval: Bonner Beautiful Commission – Appointment of Cecelia Correa to fill a vacant term to expire November 2004.
- For Approval: Bonner Beautiful Commission – Reappointment of Judy Cox and Darrell Donahue, who had resigned and withdrew their resignation, to fill their vacant terms. The term for Ms. Cox expires April 2006 and the term for Mr. Donahue expires May 2006.
- For Approval: Library Board – Appointment of Mary Ann White to fill an unexpired term to expire April 2007.

**Item No. 6 – Cereal Malt Beverage License for Smoke Shack Etc. Inc.** – The Smoke Shack Etc. filed an application for a Cereal Malt Beverage License for 2003. Fees were paid; the background check and inspections are complete.

### CONSENT AGENDA APPROVAL

Harrington made a motion to approve the Consent Agenda as amended. Sanders seconded the motion and it was unanimously approved.

### REGULAR AGENDA

**Item No. 3 – Claims for City Operations for November 10, 2003** – The supplement claims in the amount of \$542.12 and the regular claims totaling \$224,580.59 were submitted for approval. The following checks were questioned:

Birzer:

- Check #76164 – Variable Speed Drives - \$45,300 was encumbered and the check was issued for \$50,359.93. The City Clerk said the difference was the purchase of a Scada System.
- Check #76172 – Wilson & Company – Asked what the cost of the Oak Street Wall Design was and the City Manager said \$7,400. He stated that the wall issue was not resolved and Brandy Electric was given the design. Brandy Electric stated they could make the repair with another design and were informed to provide it for approval by the City Engineer.

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Kuhn made a motion to approve the claims for City Operations. Clements seconded the motion and it was unanimously approved.

**Item No. 7 – Public Hearing & Ordinance Amending the 2003 Wastewater Budget** – A public hearing was published to receive public comment on the proposed amendment to the Waste Water Fund in the 2003 Budget for a budget authority increase of \$78,530.

The Mayor called the public hearing to order at 7:42 p.m. Tillie LaPlante, Budget & Finance Director gave the following information:

- The Budget Amendment Includes: Repairs to Lift Station #2, TV work/cleaning for Oak Street, Pump Repairs, Replace polymer feed system and Grinder pumps & installations.
- Explained the method of budgeting for the grinder pump installations.

The following discussion took place:

- A portion of the grinder pump costs have been spent. During the 2003 budget process, the cost for grinder pumps was increased; but could not anticipate the number of homes to be constructed in the Grandview Area.
- Any funding not used will carry over to the next year.
- A copy of the grinder pump policy was distributed to the City Council.
- The cost to purchase a residential grinder pump is \$4,150 and with installation the total cost to the builder is \$5,400.

The Mayor closed the Public Hearing at 7:52 p.m. Clements made a Motion to Approve an Ordinance Amending the Wastewater Fund in the 2003 Budget. Harrington seconded the motion.

The Mayor called for a roll vote and the motion was unanimously approved. **Assigned Ordinance No. 2021.**

**Item No. 8 – Special Use Permit for Fletcher Townhomes at 232-234 Pratt Avenue requested by Phillip Fletcher**

Dustin Smith, City Planner made a brief introduction:

- The Special Use Permit request is for a four-plex residential structure at 232-234 Pratt Avenue, Lots 41, 42 and 43, Block 8 of the Sunnyside Subdivision to Saratoga Park.
- The outstanding issue is the location of the parking for this facility. The developer would like it located in the front of the property in the Pratt Avenue right of way. The Development Review Team and the Planning Commission recommended the parking be located at the rear of the property.
- Planning Commission recommended improvement of the alley with a hard surface from Park Street up to the east property line.
- Staff and Planning Commission recommend approval of the Ordinance as written.

Phillip Fletcher, 8325 Riverview, Kansas City, Kansas, Developer and Builder made the following comments:

- The proposal has been approved except for the parking. The alley would have to be reviewed to understand the problems of using the alley to get to the parking area as the alley is an open storm drain from Nettleton, Armor and Neconi.
- The cost estimate to improve the alley is \$7,700 to \$8,900 and he paid an engineer for the drainage study with the parking in the front.
- The parking in front and the two lower units are designed for handicap access.

Sanders:

- He looked at the property and Nettleton and Neconi drain down the alley. The other homes built in this area did not improve the alley and they have cars parked in the front. If the alley is going to be improved, the City should participate in the improvement.

Birzer:

- Asked if this was normal procedure for the property owner to maintain the alley. Mr. Smith said we have not had a similar type of development for 13 years.

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- The Planning Commission vote was six to three and asked what was the discussion from those that voted against it. Mr. Smith said the discussion was centered around the affect on the neighborhood with the parking lot in front.

Joe Perry, City Attorney stated the Council had three options: (1) Approve as recommended by the Planning Commission; (2) Override the Planning Commission's recommendation by a two-thirds majority vote; or (3) Return the application to the Planning Commission with a statement as to why it is being returned.

Harrington:

- Asked if there are different design requirements for single-family opposed to multi-family housing in that zone as to parking in the front. Mr. Smith said there are design requirements for driveways, but single-family homes are not reviewed by the Planning Department.

Scheidt:

- The City needs to bring the alley up to standard. The issue with the parking is separate from the issue of upgrading the alley. Mr. Smith said we do not have anything that says they cannot park in the front; but, we do have the ability to place conditions on Special Use Permits.

Clements:

- It is typical for a developer to pay for the improvements for the roads to access the site and asked if there was a regulation that would require the alley improvements in order for the Special Use Permit to be approved. Mr. Smith said no.
- Asked if the parking in the front off of Pratt would impact utilities and was informed that the only utility in the area is water.

Birzer:

- Asked Mr. Fletcher if he was requesting Condition No. 6 relating to parking be removed. Mr. Fletcher said yes, but everything else was okay with him.

Kuhn:

- Asked the parking issue could be requested as a variance. Mr. Smith said this is not a variance issue with the Board of Zoning Appeals.
- Asked if neighbors have contacted staff with objections and Mr. Smith said he has not received any feedback.
- Asked Mr. Tombs if he thought the neighborhood in general was in favor parking in the front. Mr. Tombs said they are proud that he is putting his money in this neighborhood and his survey results were that everyone was glad to see an improvement in the area.

Harrington made a motion to approve an Ordinance Approving a Special Use Permit for Fletcher Townhomes at 232-234 Pratt Avenue deleting Condition No. 6 in the proposed Ordinance requested by Phillip Fletcher. Sanders seconded the motion.

The Mayor called the and it was as follows: Birzer – Yes, Harrington – Yes, Kuhn – No, Sechrist - Yes, Sanders – Yes, Scheidt – Yes, Steele – Yes and Clements – Yes. Motion carried by a vote of seven to one. **Assigned Ordinance No. 2022.**

**Item No. 9 – Preliminary & Final Plat for Shenandoah Ridge, a subdivision of Land Commonly Known as 401 North 134 Street** – The Planning Commission unanimously recommended approval. The purpose of the plat is to divide property into two lots for the construction of single family homes. Clements made a motion to Approve a Resolution Accepting the Dedication of Easements and Right of Way for the Final Plat for Shenandoah Ridge, a subdivision of Land Commonly Known as 401 North 134 Street. Steele seconded the motion.

The City Planner stated: This is a subdivision of a 20 acre lot divided into two 10 acre lots of the property at 401 North 134 Street; the Planning Commission approved the Final Plat on October 28, 2003,; a variance for the excessive lot lengths was granted and the appropriate right of way provided.

Murray Rhodes, 2803 New Jersey, Kansas City, KS was present to answer any questions and the following Discussion was held:

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- The appropriate easement and right of way for the four houses to the south of Riverview and 134<sup>th</sup> Street were provided. Monetary value is not offered for platted easements or right of way.
- Sidewalks are a requirement of the subdivision regulations and would need to be provided when 134 Street was improved.

The Mayor called for the vote and the motion was unanimously approved. **Assigned Resolution No. 2003-14.**

**Item No. 10 – Site Plan for Willie’s Sales located at 11930 Kaw Drive requested by Willard Grooms–** The Planning Commission recommended approval. The applicant proposes to add a deck to the current building at 11930 Kaw Drive. The Development Review Team did not recommend approval as recommended by the Planning Commission, as the Planning Commission’s recommendation does not include conditions e. through h. as provided in the staff report. The City Council has three options in considering the site plan: (1) approve the site plan as recommended by the Planning Commission (2) override the Planning Commission’s recommendation by a two-thirds majority vote; or (3) return the application to the Planning Commission with a statement as to why it is being returned.

The City Planner made a brief presentation:

- The deck has been proposed to provide exterior access to the second floor and public use of the second floor was restored.
- The building is located in the CS Zoning District which allows the proposed use.
- There have been some code enforcement problems on the property and outstanding permit requirements.
- The Planning Commission did omit four of the conditions that were listed in the Staff report. Three of the four conditions are Ordinance requirements.

Bob Bradbury, 134 N. Nettleton, Architect & Engineer for Willie’s Sales:

- Said the Planning Commission used good judgment in deleting the conditions and provided reasons why they should be deleted.

Birzer made a Motion to Accept the Planning Commission Recommendations for Willie’s Sales Located at 11930 Kaw Drive Requested by Willard Grooms. Steele seconded the motion and the following discussion occurred:

- Connection to the sewer was recommended since the City does not have confirmation that the septic tank is working properly.
- Exempting flood plain requirements could affect our flood insurance program with the Federal Emergency Management Agency.

The Mayor called for a roll vote and the motion was as follows: Kuhn – Yes, Sechrist – Yes, Sanders – Yes, Scheidt – Yes, Steele – Yes, Clements – Yes, Birzer – Yes, and Harrington – No. The Motion carried by a vote of seven to one. **Assigned Resolution No. 2003-15.**

**Item No. 11 – Ordinance Establishing Riverfront Park Development Committee –** The Mayor vetoed the Ordinance by not signing it and by providing “on or before the next regular meeting” his objections in writing as provided by KSA 12-3003. The written objection document prepared and signed by the Mayor was submitted on November 4. In order to override the veto, a three-fourths majority (six of the eight Councilmember’s) is required.

The Mayor said at the last meeting an Ordinance was passed and he vetoed it. State Law allows the Mayor the right to veto any ordinance that he feels is improper or not for the good of the entire City. The Council has the right to override the veto by a two-thirds majority vote. The Mayor read his memo that was in the agenda packet. The City Attorney proposed that two Councilmember’s be appointed to meet with him to come up with a solution that will be acceptable to all parties.

Birzer Made a Motion to Form a Committee of two as recommended by the City Attorney to consist of Councilmembers Steele and Harrington. Clements seconded the motion and it was unanimously approved.

At 9:15 p.m., the Mayor called for a 10 minute break and the meeting reconvened at 9:25 p.m.

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**Item No. 12 - City Manager's Report** - Questions about items in the City Manager's Update, comments made and other items discussed as follows:

The City Manager added the following:

- If the Council is interested in business cards, return form that was distributed.
- Two work sessions are needed. One for Economic Development Task Force Report and the other for review of the International Building Codes. The Workshop for the Economic Development Task Force was scheduled for Wednesday, November 19 at 7:00 p.m.
- A decision needs to be made on the improvements within City right of way for 130 and 134 N. Nettleton.

Clements made a Motion to Authorize Construction of Right of Way Improvements with respect to 130 and 134 North Nettleton, pursuant to plans prepared by Wilson & Company, dated November 10, 2003, said plans superseding all prior plans. Harrington seconded the motion.

Aaron Racine, 1001 E. 101 Terrace, Suite 170, Kansas City, MO 64131, Attorney for Bob Bradbury made the following comments:

- Mr. Bradbury was pleased with the plans that were previously adopted.
- The easement that was proposed had a complete waiver of liability for the City, KDOT, architect and contractor. Mr. Bradbury would have no ability to recover damages that might occur and this is the only item of difference that remains to be resolved.

Mr. Perry explained in the plan dated November 10 that the City will provide for the installation of the sidewalk and a drain along the east side of the sidewalk within the right of way. The replacement of concrete outside of the easement will be negotiated separately with the property owner.

Mr. Racine said there are issues with the trench drain:

- This will be a City drainage improvement and will become a maintenance issue that could be a liability concern. If the trench drain gets blocked, it could cause water pooling in the parking lot.

Bob Bradbury asked what constituted a change in design and Mr. Perry said the City feels the need to move forward.

The Mayor called for the vote and the vote was as follows: Sanders – Yes, Scheidt – No, Steele – no, Clements – Yes, Birzer – No, Harrington – Yes, Kuhn – Yes and Sechrist – No. There being a tie vote the Mayor voted yes and the motion carried.

Marcia Ashford, Community & Economic Development Director addressed the sidewalk in the 300 block of Oak Street:

- Introduced Brian Kingsley, Engineer; Terry Asher, President of Brandy Electric and David Salovich, Superintendent.
- Issues with the sidewalks in the 300 block were joints not being cut through, water meters, curing compound and lines not being straight. We agreed to allow them time to clean up these items to see if the sidewalk would be acceptable.
- Adjacent to Commercial State Bank side there are cracks in the curb and sidewalk which have been patched but may not wear as long.
- All concrete work must be done before the mill and overlay of the street can be completed which is scheduled for next week.

Mr. Kingsley:

- Said the sidewalks that start on either side north of the islands along Oak Street extending up to Nettleton have been approved.
- One section of sidewalk in front of Commercial State Bank has a crack that goes over the curb and the contractor has agreed to replace it.

Charles Swedo, DBI:

- Said there has been a substantial change in appearance on the Commercial State Bank side. It is acceptable to the Downtown Merchants and would like the project completed.

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Sechrist:

- Concerned about heavy machinery being on the street near the failed wall. Mr. Salovich said their plans are to get the City Manager a full drawing of what type of support is being put in and plan to make a temporary repair this week. Ms. Asher said the footing design will be submitted this week for Mr. Kingsley's approval.

### **Item No. 13 – City Manager and City Council Items**

Scheidt:

- Said the citizens realized that KDOT would not participate in replacing trees along Nettleton, but they still think it is an obligation to replant trees.

Sechrist:

- Would like to add to the Council request an ordinance that may need to be drafted regarding infill development and redirecting stormwater runoff.
- Would like the issue of sidewalks addressed at a work shop using information provided at a 2001 retreat.

Kuhn:

- Recognized a new business in Bonner Springs, Trinity Motors, owned by Paul Peterson that moved into the old Hoffine building.

Birzer:

- Would like information on the Wyandotte Mental Health Department.
- Business in Professional Women awarded Community Woman of the Year to Wendy Scheidt.
- Thanked everyone for the flowers while she was in the hospital.

Steele:

- Appreciates the light at 3<sup>rd</sup> and Cedar getting repaired.
- Asked if the allotment of water we buy from BPU is passed on to Water District #6. Mr. Saunders said Wholesale No. 6 is using more than the minimum from BPU.
- Talked with Carol Hiatt, Bed & Breakfast on Nettleton and she is concerned with a plumbing bill that the City or insurance company should be compensating her for.

### **Item No. 14 - Mayor's Items –**

- Attended a MARC Environmental meeting dealing with air quality.
- Kansas City, Missouri is recommending there be a metropolitan wide water run off policy which is the same for every city in the metro area.
- Kansas City, Missouri is recommending banning smoking of cigarettes in all retail restaurants.
- Attended the Wyandotte County/Johnson County Mayor's Association meeting.
- Concerned about American Identity closing. Talked with Jim Thompson, Wyandotte Development, Inc. to see what they are going to do with the building and get it listed with WDI and other areas.
- Doris Elliott-Watson was named one of the Kansas 2003 Sunflower Games athletes of the year.

Jane Hanks, 424 Twist Drive, said the award that Councilmember Scheidt received is quite an honor. The award is known as the Evelyn N. G. Hulburd Award who was the Chartering President of the Bonner Springs Chapter in 1945.

The meeting adjourned at 10:21 p.m.

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City Clerk