

CITY OF CHENEY

MINUTES OF THE REGULAR CITY COUNCIL MEETING

131 N MAIN ST
COUNCIL CHAMBERS, CITY HALL
June 13, 2019; 7:00 P.M.

HONORABLE MAYOR BALL AND MEMBERS OF THE COUNCIL

MEMBERS PRESENT

Mayor Linda Ball called the meeting to order at 7:00 pm. Council members Jeff Albers, Kassie Gile, Greg Kampling Philip Mize, and Greg Williams were present. Staff present were City Administrator Danielle Young, City Attorney Austin Parker, Police Chief Ken Winter, Maintenance Superintendent/Fire Chief Brad Ewy, and Director of Golf Kevin Fowler. Guests present were Ryan Bugner, Josh Scheer, Sam Jack- Times Sentinel Newspaper, Chari Michael, and Taylor Moreland.

PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

DETERMINE AGENDA ADDITIONS- None

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) Approve bills list.
- b) Approval of minutes for the May 9, 2019 City Council meeting
- c) CMB License- Bret Albers- Sedgwick County Fair Arena
- d) Building Permit- Ricky Wulf- 608 W 6th Ave (Illumicast)
- e) Building Permit- Ryan Runnells- 659 Jayhawk Dr
- f) Electrical Permit- Jet Wash- 702 Jefferson (Cheney Electric)
- g) Electrical Permit- Chad Harrison- 119 N Main (Cheney Electric)
- h) Electrical Permit- 906 N Main (Curtis Albers)
- i) Electrical Permit- 119 E 4th (Cheney Electric)
- j) Mechanical Permit- Cheney Golden Age Home- 724 N Main (Cheney Electric)
- k) Fence Permit- Kyle Miller- 519 Roosevelt
- l) Fence Permit- Jared Spradling- 509 N Marshall
- m) Fence Permit- Ryan Bugner- 133 N Washington
- n) Plumbing Permit- Jet Wash- 702 N Jefferson (Cheney Electric)
- o) Plumbing Permit- Plumbco- 619 Jayhawk
- p) Plumbing Permit- 906 N Main (Ed Bade Plumbing)
- q) Roofing Permit- 527 Jayhawk Dr (Quality Roofing)
- r) Roofing Permit- Marc Abernathy- 213 Harrison (Bob Weninger Construction)
- s) Roofing Permit- Tom Leitch- 582 Bob White Ct (Eaton Roofing)
- t) Roofing Permit- Duane Bartak- 627 W Cherry Oaks (Eaton Roofing)

Council member Phil Mize moved to adopt the Consent Agenda as removing m) Fence Permit- Ryan Bugner-133 N Washington.

Council member Greg Kampling seconded the motion. Motion carried unanimously.

PUBLIC AGENDA

Chari Michael- co-chair for Sedgwick County American Foundation for Suicide Prevention spoke regarding their event "Out of the Darkness Walk" in September. Michael has lived in the community for 12 years and her son committed suicide in February 2018. She is trying to get information out to people on how to help people and signs they may show. She mentioned suicide is the 2nd leading cause of death for 10-24 year olds. Michael left information for the police and fire departments and Young stated they would put information in the lobby of City Hall.

Ryan Bugner- 133 Washington- addressed the Council regarding his fence permit. He explained that he began his project on April 15th. City Employee Brad Ewy came by his residence on May 12th and he told Brad that the lines painted with items marked out and told Ewy that he had water under his house and had to regrade his yard. Brad said the City could grade down alley to help get the water to drain away from his back yard. Bugner stated he waited until May 21st and decided he couldn't wait any longer. The lumber yard had held his material for 2 weeks, so he decided to put up the northeast side of his fence without a permit. He waited to put up the rest of the fence until the alley was graded. Bugner stated to this day the alley has still not been graded and he's been put off. Bugner made the decision that when the alley was graded he would be more than happy to come in and get the permit. Bugner stated the alley still hadn't been graded by May 30th so he came to City Hall and paid the permit and he wouldn't receive it until 8' section was taken down. Bugner understands there is an ordinance regarding the line of site, but stated there is 12.5 feet from curb to fence and reference the average lengths of vehicles obtained from Google. He does not believe there is any visual issue coming out of the alley and thought if the fence was closer to the street or next to a sidewalk then he could see a site issue, but doesn't see that as the case for his fence.

Bugner stated the reasons for fence. 1. Safety for his 2 year old- His wife parks in the back doesn't want his son to run out in the street. Saw a 18-21 year old girl driving in reverse down the street. Bugner believed 4 out of 5 cars go through intersection at 40 mph and don't look. 2. Privacy- There is a rental house on each corner next to his house with eye sores of 16" tall grass, chewed up couch on front yard with cats and City doesn't do anything about it. He doesn't trust the people at the other rental house. The other neighbor has parties and he doesn't want them seeing what he has in his garage. Attorney Austin Parker stated his 5 minutes were up and he's had 7.5 minutes to speak and Bugner stated he had a little more to say.

Bugner stated third reason for the fence is for weather block from rain and snow Bugner presented a list from his neighbors and everyone around the alley signed saying it's not an issue visually or an eye sore and that it looks good. Bugner passed around photos of properties with other visual issues of fences, hedges and trees on corner lots. Bugner believes the ordinance and regulation is there for a visual impairment and he does not believe there is a visual impairment from his fence.

Attorney Austin Parker stated the public comment portion was over and mentioned that he had talked to Bugner before the meeting to give him background on fence requirements from the Planning Commission and City Council. Parker stated the City is well aware of several instances in town of non-conforming fences and have efforts to change the fence regulations overtime as

existing fences are rebuilt in accordance with City policy. The line of sight regulations in the policy was put in place after discussing it and talking with engineer. Parker believed everything else of the fence, except the 8' corner piece, is acceptable. Bugner thought the 8' corner piece represented \$200 out of \$3400 in materials for the fence. The City has the ability to enforce its code. Unless the Governing Body wishes to change the ordinance, the hope is to get a fence permit issued after the 8' section is removed.

Brad Ewy stated that Bugner had called him and Ewy advised him that it wasn't the City's responsibility to get his yard to drain, but the City would do what we could to help. Ewy located his property pins and used the grader and graded down the alley. Ewy also used his personal equipment to remove all of the dirt out of the alley. Ewy stated it is okay to put his fence along the alley where he had it before, but he elected to put the fence in the other location. Ewy stated he had spoke to Bugner after he graded the alley and advised him to break off the corner of the concrete and he had only broke off 6". Ewy stated he tried to work with him and understood his water issue and went on his personal time to help him out.

Young mentioned that City Hall had documentation that a locate had been called in on May 6th that a fence was being installed. City Staff called him on May 7th to let him know a fence required a permit. Staff documented that he would come in Thursday and Brad has okayed location for the same as previous fence. Young stated his previous fence was not from the garage out to the alley and did not include the 8' section. Bugner stated the 8' section was marked out in paint. An awning was discussed and would need to stay 8' back.

Council member Kampling stated that the City has a fence ordinance and that is why a permit is required. The Ordinance was worked on for a long time by the City and if someone doesn't abide by the Ordinance, then the property owner has to change it to meet the code. Bugner stated the Ordinance is there for a visual impairment and he did not believe the 8' section created a visual impairment because there is 12.5 feet and people have to stop when leaving an alley.

Council member Jeff Albers asked for specifications on the Code. Parker explained that it's 8' from the edge of the alleyway. The alley is 20-30' wide and 8' from the edge of that alley. Albers asked what Bugner was referring to as 12.5'. Bugner stated from the face of his fence and heading to the north to the street. Albers explained that when the Code was created that property lines are all different. So an Ordinance isn't done house by house, it is something that blankets the community.

Young explained that there is a line of sight section in the code referring to street intersections. She stated that if the street intersection line of sight code pertained to alleys then Bugner wouldn't have been able to build within 37 feet from the alley. The 8' triangle was a compromise so people could still have fences. Bugner again stated that he didn't believe his fence created a visual impairment and this was an alley, not a major intersection and only two people used the alley. Young stated that there are 4 sheds in the alley with garage access and that they had already received a complaint from one individual who couldn't access the alley from his dirt pile.

Council member Kassie Gile stated that she understood his frustration as she had to deal with the same issue for 12 months. Gile explained she had to wait a year after taking down their fence and for the code to be updated, so they could put their fence back up. She also had to do the 8' corner triangle because of a driveway 30-35' away on the property to the north and doesn't have an alley. Gile stated the problem is he didn't get a fence permit before he put it up.

Attorney Parker stated unless the Governing Body is going to take action to amend the ordinance or direct staff to change the ordinance, then nothing else needs to be done administratively. Staff is enforcing the provisions of the ordinance and Council can move on from this portion of public comment.

Council member Jeff Albers wanted to make sure that we had addressed the issue. Albers believed the conclusion to be that if the issue isn't addressed tonight then Bugner will be back next month. Parker stated a motion could be made to direct staff to continue enforcing the fence ordinance and only approve the permit upon removal of the 8' section of fence that is not in compliance with the current City ordinance. He believed that would resolve the issue. Council member Albers explained to Bugner that the City spent a long time dealing with this fence code and heard public comment for several months. Albers appreciated the information Bugner had provided, but the City had to put an ordinance into play and there are unique situations all over town that are hard to address each one specifically.

Bugner replied that his biggest issue is that it was set forth because it blocked traffic. He thought if his property line was 4' off the street and it blocked traffic then he could see it being a traffic issue, but it doesn't.

Young then stated that her and Ewy had visited his property earlier in the week and had parked in the alley facing north. When they went to leave several Crossfitters were running west down 1st Ave and when Ewy and Young went to leave and almost hit 3 pedestrians who were along the curb and could not be seen because of the fence. Bugner replied that's why he pays attention when he pulls out into the alley.

Council member Jeff Albers asked if Bugner agreed that with the Ordinance in place if he agreed that the visibility is better with the 8' section removed. Bugner thought if someone pulls up to the end of the alley then there is a clear line of site for both directions and that's his only argument because he believes there is zero visual impairment at all. Council member Kampling explained that the Ordinance was worked on for a long time to make it safer for everyone else and without an Ordinance there would be fences all over.

Council member Greg Kampling moved that when he gets the permit he has to abide by the rules and not just him, but anybody.

Council member Kassie Gile seconded the motion. Motion carried 5-0.

Josh Scheer asked that since the 4th of July falls on a Thursday if fireworks could be shot off on Friday, July 5th. Young stated that cities are allowed to set their own dates and that Goddard and Wichita allow fireworks on July 5th, but Garden Plain, Andale, Clearwater, Colwich, and Conway Springs do not. Council member Williams wondered if the time on July 3rd should be extended as well. Chief Winter recommended that they talk to their neighbors to explain the date change and that they'd be having a party.

Council member Jeff Albers moved to extend this year's (2019) fireworks to include July 5th so the code will allow July 1-3rd until 10 pm, July 4th until midnight and July 5th until 11 pm.

Council member Kassie Gile seconded the motion. Motion carried unanimously.

OLD BUSINESS

NEW BUSINESS

CONSIDERATION OF ORDINANCE 919 ESTABLISHING CERTIFICATES OF OCCUPANCY AND HABITATION WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS, PROVIDING FOR THE ENFORCEMENT THEREOF AND REPEALING ALL CONFLICTING ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF CHENEY, KANSAS

This section of the City code was not adopted with the Codification in 2016. Adoption of the Ordinance would again allow Certificates of Occupancy and Habitation within the City.

Council member Jeff Albers moved to adopt Ordinance 919.
Council member Greg Williams seconded the motion.

Vote- Albers-yes, Gile-yes, Kampling-yes, Mize-yes, Williams-yes

CONSIDERATION OF MAYOR BALL'S APPOINTMENT

Jackson Chance has been serving as a reserve officer and recently graduated from the part-time Academy at KLETC.

Part-time Police Officer Jackson Chance

Council member Phil Mize moved to confirm the Mayor's appointment.
Council member Greg Kampling seconded the motion. Motion carried unanimously.

CONSIDERATION TO RESCHEDULE JULY COUNCIL MEETING

The Sedgwick County Fair is scheduled for July 10-13th. The regularly scheduled Council meeting is scheduled for July 11th. Previously, the City has rescheduled the meeting for the next week.

Council member Philip Mize moved to reschedule the Council meeting to July 18th, 2019 at 7 pm.
Council member Kassie Gile seconded the motion. Motion carried unanimously.

CONSIDERATION OF APPOINTMENTS FOR THE KMGGA BOARD OF DIRECTORS IN ACCORDANCE WITH KMGGA'S BYLAWS, THE BOARD OF DIRECTORS SHALL CONSIST OF ONE DIRECTOR FOR EACH MEMBER CITY.

Council member Philip Mize moved to appoint Brad Ewy to serve on the KMGGA Board of Directors for a two (2) year term beginning September 1, 2019 and appoint Jerry Peitz to serve as the alternate Director.
Council member Jeff Albers seconded the motion. Motion carried unanimously.

CONSIDERATION OF COMMERCIAL PERMIT APPLICATION FOR STORAGE CONTAINER

The Cheney Golden Age Home requested a Storage Container be used for permanent storage at 724 N Main. A small shed would be removed and replaced with an 8'x8'x40' cream-colored storage container. Ewy mentioned that he had looked at the location and didn't see any issues.

Council member Phil Mize moved to approve/decline the Commercial-use of Portable Storage Unit at 724 N Main.
Council member Greg Williams seconded the motion. Motion carried 4-0 and Greg Kampling abstained from voting.

CONSIDERATION OF RESOLUTION 296-2019 AND 297-2019 FIXING THE TIME AND PLACE FOR A HEARING CONCERNING THE CONDEMNATION AND REPAIR OR

DEMOLITION OF A STRUCTURE LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS

Young explained that the City had been in contact with the Cheney Mobile Home Park regarding the condition of the mobile home on Lot 8 over the past year. The Mobile Home Park has not taken action on repairing or removing the mobile home. A Nuisance Resolution was adopted by the City Council in May 2017 regarding the condition of the mobile home in Lot 10 and asking the owner to remove and abate the mobile home. Over the past year the Cheney Mobile Home Park has stated they would remove the mobile home, but they have not taken action on repairing or removing the mobile home.

Young reported she had had daily contact with the Mobile Home Park and as of 5 pm today they had hired a contractor to remove the mobile homes at lot 8 and 10 by July 15th. It was mentioned that to adopt the Resolution a structural engineer report would have to be obtained, but the engineer is not available to do the report until at the earliest the end of June. The engineer estimates the report to cost between \$1000-\$2000 per mobile home. A contractor has estimated the cost to remove the mobile homes at \$3500/each and could get to them typically within a month of being contracted. The cost of removal could be assessed to the property owner, but it is not guaranteed that we would receive those funds back. Young thought it was best to wait to see if the mobile homes were removed before the next Council meeting. Attorney Parker stated that if the Council went through with the Resolution the process would take much longer because notices would need to be published and a hearing held.

Council agreed to wait until the July 18th meeting to see if the mobile homes were removed.

POLICE REPORT

Chief Winter reviewed his May Police Report. Winter mentioned that the Kansas Highway Patrol had done an Audit since they oversee the KCJIS program, where record checks and criminal histories are obtained. The Police Department was given a 3 year time frame to get in compliance with the network and Record Management System requirements. Winter has been in contact with the Record Management System (Omnigo) and they will allow each computer to be licensed for an additional \$3500 this year and the cost to upgrade the firewall with Unique Enterprises will cost up to \$1900. The audit showed everything the officers were doing internally was good, the software and hardware just need upgraded. The Record Management System upgrade would also allow for the department to do digital ticketing.

FIRE REPORT

Fire Chief Ewy reported that the Fire Department tournament had went well.

MAINTENANCE REPORT

Ewy reported that they had a KDHE sewer inspection this month.

Ewy stated that with the the river being up from the rain they had an issue with the discharge pipe that goes from the old sewer plant to the river. The new property owner found a sink hole on their property. Ewy and Young have researched and cannot find an easement that has been filed with the Register of Deeds. They believed it would have been done in 1958 when the sewer plant was built. Attorney Parker defined a prescriptive easement and believed that since the City had been utilizing the piece of property since 1958 then the City would have the ability to use it as a regular easement or a quiet title action might need to take place.

Ewy reported that the other Ford Pickup was taken in and the cam phasers were fixed in the amount of \$3000. Luckily this was caught before \$8000 had to be spent on replacing the motor.

He mentioned that he would also like to look at purchasing a new pickup to replace his maintenance truck.

The rain and trash trucks are creating several pot holes and tearing up the streets.

A water tower inspection was completed and the center column was scraped and painted. The inspectors felt that within the next two years we would need to have the center column sand blasted.

GOLF COURSE REPORT

Director of Golf Kevin Fowler stated there are several areas on the course with water issues after receiving over 13" of rain in May. Memorial Day weekend had revenue of \$10,000 less than normal because of the rain, but June is off to a great start with several tournaments including the Fire Department tournament, GP Football team, and Kansas Junior Golf Association Tournament. The Friends of Cherry Oaks Tournament is June 23rd. So far, the Sponsorship dollars are up this year and the number of teams are similar.

Fowler mentioned the construction of a Restroom off of Hole 7 that was discussed last month. The committee is looking to add a 2nd bathroom at the same time next to the cart path between Hole 14 and 15. It was mentioned that getting water and sewer to that location will be a little more difficult. Ewy and Fowler will work on plans.

Fowler stated that is not a timeline for construction yet and no drawings are available to submit, but he is confident the tournament will raise enough funds to complete one restroom facility this year, but they would like to construct both restrooms at the same time. Young stated that an internal loan could be funded and then paid back next year with the tournament's revenues. Council Phil Mize moved to build the 2nd restroom and to be recouped in future fundraising efforts from Friends of Cherry Oaks.

Council member Kassie Gile seconded the motion. Motion carried 3-0. Williams and Albers abstained.

ADMINISTRATOR'S REPORT

Young reported that the abandoned home on Marshall Street and the vacant lots at the Back Nine will be sold at tax auction on July 16th.

The City Buy-out Night at the Diamond Dawgs game has been rescheduled for this Saturday at 6 pm.

The assessed valuation from Sedgwick County was received earlier this week and has increased. Young will work on the budget over the next month and have it prepared for the July meeting.

Staff will work on paperwork to obtain two sewer easements. It was recently discovered that the City did not have an easement at the Back Nine Lift Station and the discharge line to the River. Young requested to attend the ICMA Annual Conference in October.

Council member Jeff Albers moved to approve Young to attend the ICMA Conference.

Council member Kassie Gile seconded the motion. Motion carried unanimously.

ATTORNEY'S ITEMS

Attorney Austin Parker had nothing to report.

MAYOR'S ITEMS

Mayor Ball had nothing to report.

COUNCIL ITEMS

Greg Williams had nothing to report.

Jeff Albers asked if the City had heard anything regarding development of additional lots at the Back 9. Young stated she had sent terms for a developer's agreement to the owner, but had not heard anything back.

Philip Mize asked about the 5-minute public agenda at the beginning of the meeting and asked if there was a way to direct these items as agenda items so other people who have public comment don't have to sit through a long ordeal. Mize didn't think it was fair for other people that were there for the public agenda to sit through the items that take longer. Council discussed the time limit and having a timer that would alert the individual when their 5 minutes was over. Mize thought that this had happened on several occasions of public agenda items lasting 30-45 minutes and he didn't feel it was fair to the other people at the meeting wishing to speak as a public agenda item. It was discussed what the School Board allows at their meetings. Albers thought individuals needed to be reminded that they have 5 minutes when approaching the podium. Parker stated that he has seen other cities add people as agenda items, but then there is no limit. Parker said every City is different on handling public comment. Parker thought the scheduled public comment could be added under "New Business". Parker stated many cities use 5 minutes as the time limit and suggested if the individual had additional information then they could submit additional written information ahead of time to be distributed with the agenda packet.

Council member Kassie Gile had nothing to report.

Council member Greg Kampling had nothing to report.

Council member Jeff Albers moved the City Council recess into executive session to discuss intelligence information of an investigation that could jeopardize security measures of persons involved pursuant to matters relating to security measures KSA 75-4319(b)(13)(D) for 5 minutes with Chief Winter, Chief Ewy, Administrator Young and Attorney Parker. The open meeting will resume in the City Council Chamber at 9:05 pm.

Council member Kassie Gile seconded the motion. Motion carried unanimously.

Mayor Ball stated back from Executive session with no binding action taken.

Council member Jeff Albers moved the City Council recess into executive session to discuss intelligence information of an investigation that could jeopardize security measures of persons involved pursuant to matters relating to security measures KSA 75-4319(b)(13)(D) for 5 minutes with Chief Winter, Chief Ewy, Danielle Young, and Attorney Austin Parker. The open meeting will resume in the City Council Chamber at 9:10 pm.

Council member Kassie Gile seconded the motion. Motion carried unanimously.

Mayor Ball stated back from Executive session with no binding action taken.

ADJOURN

Council member Jeff Albers moved to adjourn at 9:14 p.m.

Council member Kassie Gile seconded the motion. Motion carried unanimously.

Linda Ball, Mayor

Attest:
(seal)

Danielle Young, City Clerk