

City of Tonganoxie
City Council Meeting Minutes
07/26/10

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on July 26, 2010. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Mayor Michael Vestal, Councilmembers: Paula Crook, Tom Putthoff, Jim Truesdell and Jason Ward. Mike Yanez, City Administrator; Kathy Bard, Asst City Administrator/City Clerk and Mike Kelly, City Attorney. Councilmember Burdel Welsh was absent.

Consent Agenda:

- a) Approval of Minutes -
 - 1) Regular Meeting Dated June 28, 2010
 - 2) Special Meeting Dated July 6, 2010
 - 3) Special Meeting Dated July 19, 2010

- b) Consider Approval of Bills - Approve Pay Ordinance A-1637

- c) Consider Approval of appropriation to Little Joe's Asphalt for work completed on 24/40 & Main extension to the bridge project in the amount of \$30,953.88

Motion by Putthoff to approve the consent agenda. Second by Ward. Discussion ensued with Crook asking about the \$903 purchase of television from Nebraska Furniture Mart. Chief Carpenter said the purchase included two television screens that serve as monitors for the recording and ICOP system. He also purchased a DVD burner as part of that total. All Ayes Aye 4. Motion carried.

Open Agenda: Patricia Bitler, 250 Willis Drive, said she feels like the City should be run like a business or a household and live within its means. Reestablish fund balances by cutting the department budgets. Tonganoxie seems immune to the economic times. Freeze wages and hiring, you cannot justify a cost of living increase, longevity pay or a merit increase. Family insurance should be paid by the employee. She continued, you do not need sleeping quarters at the Fire Department for four full time Firefighters and you do not need a Medical Director. Tonganoxie is the only City in the County that has a director and it is not required by statute so it is an unnecessary expense. She said you have 13 cops and 12 computers. You do not need a computer for every cop. Cut the redundant answering service as that service can be provided for by Leavenworth County in the taxes paid for 911, get rid of the Industrial Park property, cut your losses, the City should not be developers. The City should get realistic about the economy right now.

Bill Peak, 612 Washington, said he had an incident two weeks ago, in which he passed out on the street. The Fire Department arrived in two minutes and it took

another seven or eight minutes for the ambulance to arrive. He continued, if the Fire Department was not making medical calls, it could be a life or death issue and the Fire Department is saving lives by arriving to provide care while waiting for an ambulance.

Fire Chief, David Bennett and Medical Officer/Paramedic Chad Beckley, both with the Tonganoxie Fire Department, approached the podium to clarify the need for a medical director. They said Tonganoxie is not the only City in Leavenworth County with a Medical Director. They said State Statute added Senate Bill 262 as a duty to respond and the department would be liable for gross negligence. Each first responding agency has to have a Medical Director. Currently there is one ambulance to provide coverage in Southern Leavenworth County, and only a total of four for the entire County. In the last year, that ambulance was required to leave Southern Leavenworth County 127 times, leaving the City vulnerable. There have been 378 calls placed so far this year, 229 of those calls were medical, 63% of all calls are medical related. More than 10% of the calls for ambulance have a 12-minute or greater call time. The Medical Director establishes protocols. He develops a quality assurance program and is responsible for the medical program. He reviews all calls, and he is instrumental in the medical training for employees and volunteers. Councilmember Crook asked if they checked to see if the County had an umbrella that provided a Medical Director for the cities to use. Bennett said they originally started with the County but they were not interested in providing service to first responders. They provide the protocol for EMS.

Charlie Conrad, 1174 Raintree Ct said everybody here supports the first responder program and stated nobody is against that. He questioned the revenues in the proposed budget. He wanted to know if anyone went to the businesses and asked how they thought business was going to be in 2011 before estimating sales tax revenue. He continued by assuring the council that this is not personal, they just want the facts on the table. Government is spending too much money. He said every other government entity has freezes right now. The sheriff was told to cut 14 positions out of his budget.

Councilmember Ward went over the proposed mill levy and the impact of that mill levy on a \$100,000, \$150,000 and \$200,000 home. He said he is in favor of including the cost of living increase in the budgets. He justified the cost of living by stating that the pay scale for the City of Tonganoxie has been historically low, and possibly the lowest in the region. The City of Tonganoxie Police and Fire Departments train employees and they move on to other cities to make more money. The impact of a cost of living is less than .6 of a mill and equates to pennies in each department. Conrad rebutted that a Heavy Equipment Operator in the County makes \$31,000 annually after ten years with the County and he pays for his family insurance.

Old Business: The first item on the agenda under old business was the hiring policy proposal. Yanez said that at the direction of the governing body, and with

concurrence of the City Administrator a policy was drafted from hiring department heads and the City Clerk. In part, the policy reads:

- A vacancy shall be advertised with a deadline date set for acceptance of applications.
- The governing body may create a committee to review the applications, conduct interviews and investigate and verify the submitted application materials.
- The committee shall submit its recommendations of at least two but no more than five candidates to the governing body.
- The governing body shall then select a candidate for the position or reject the recommendations.
- A vote of four of the six members is required to hire a City Clerk or other Department Head.
- In the event all the recommendations are rejected by the governing body, the governing body may reopen the hiring process.
- Any selected candidate shall pass a criminal and financial background check before hiring is confirmed.

Councilmember Putthoff asked if this policy conflicted with the adopted personnel policy as it relates to hiring. The current policy states to promote from within whenever possible. City Attorney Mike Kelly said he would review the personnel policy and bring forward any changes to a later meeting. Council asked if they should wait to adopt the policy. Mike Kelly said they did not have to wait because it would not be effective until after the protest period for Charter Ordinance 21 expires on August 23, 2010. **Motion** by Crook to approve the hiring policy proposal and to direct the City Attorney to research the current personnel policy for any conflicts. Second by Ward. All Ayes. Aye 4. Motion carried.

Next under old business was the tree removal aspect of the easement agreement associated with the easement acquisition at the property located south of the Pleasant Street bridge property. City Administrator said at the direction of the governing body we re-solicited bids to remove the large cottonwood tree. Two bids were received this time as follows:

Plake's Tree Service	\$7,600
Arbor Masters Tree & Landscape	\$6,800

Additional quotes were requested from vendors who chose not to submit a quote. In past considerations, the city council and staff felt it would be more affordable to the City to wait for the project's construction when the cost of the tree removal would be accommodated with 80% of project grant money, relieving the taxpayers of the entire impact of removing the tree. The property owner states the documents received from the City state that the tree will be removed as soon as reasonably possible. Originally the project was to be bid in June but the project was redesigned to allow for one lane of traffic to always be open on Pleasant Street which moved the bid letting for the project to October.

There is a question what a judge would determine to be a reasonable time frame if the issue ended up in court. **Motion** by Truesdell to enter into an executive session at 7:50 PM for five (5) minutes to discuss a matter of attorney client privilege and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 7:55 PM. Second by Putthoff. All Ayes. Aye 4. Motion carried. **Motion** by Crook to exit executive session and reconvene with the regularly scheduled meeting at 7:55 PM. No items were discussed other than that mentioned and no votes were taken. Second by Putthoff. All Ayes. Aye 4. Motion carried.

Motion by Crook to award the bid for tree removal to Arbor Masters Tree & Landscape in an amount not to exceed \$6,800. Second by Crook. All Ayes. Aye 4. Motion carried.

Mayor allowed public input. Kelli Owens, 623 Yoeke, said the job could be done locally for \$400 less than the Plake's Tree Service bid. Yanez said the bid was not awarded to Plake's Tree Service.

New Business: The first item under new business was the FY2011 Budget proposal to consider scheduling a public hearing on August 9, 2010 in the Tonganoxie City Council Chambers at 7:00 P.M. Councilmember Crook motioned to eliminate the cost of living increase, the longevity increase in the budget and eliminate the answering service immediately due to improper use of computer. Motion failed for lack of a second. Mayor allowed public input. Velda Roberts asked if the council would arrange to hold the budget hearing at a different location so everyone that wanted to attend could have input. Due to occupancy load restrictions, the entrance to the meeting tonight was restricted leaving approximately 15 people without entry. The notice has to be to the paper by 9:30 am but staff will try to get an alternate location reserved if possible. **Motion** by Truesdell to schedule the public hearing to hear the 2011 budget on August 9, 2010 at 7:00 PM and authorize the publication. Second by Putthoff. 3 Ayes. 1 Nay (Crook). Motion carried.

Next on the agenda was to consider Resolution 07-10-01 adopting the Leavenworth County Multi-hazard Mitigation Plan. Yanez introduced the item stating that staff has been working with the Leavenworth County Emergency Management to prepare a plan for Leavenworth County. E-Fm Consulting LLC was hired to assist with the development of the plan as part of the grant funding that was provided to the County for this plan. On May 18, 2009, the City of Tonganoxie adopted Resolution 05-09-01 authorizing the consultant to prepare the plan on behalf of the City. A Public Hearing was held on January 5, 2010 at the County Courthouse and with no additional input the plan was completed in February of this year. The plan was then sent to FEMA for approval and they granted approval, pending adoption by each jurisdiction depicted in the plan. Each jurisdiction must approve the plan before any mitigation grant projects can be received. Members of the public spoke out wanting to know what this plan was going to cost the city. They did not state their names. The Council tabled the

item as they would like to have more time to review the plan and further directed staff to have Chuck Magaha, Leavenworth County Emergency Management Coordinator come to the next meeting to go over the plan in more detail.

Next on the agenda were two bids for the parking lot expansion and sidewalk extensions between the new Ball fields.

Binghams Landscaping - \$29,932.89
Meadows Construction - \$38,123.00

Members of the public spoke out, no names were given. One of the citizens asked why is the city approving bids for the recreation commission. Yanez explained the Recreation Commission cannot legally have debt so the City served as a conduit for funds by entering into an agreement. All parties adopted a Certificate of Participation (COP) Agreement so the money goes through the City but the Recreation Commission repays the City for the debt obligation. **Motion** by Ward to award the bids for the construction of the parking lot expansion and the sidewalk extension to Bingham's Landscaping in the amount of \$29,932.89 with funds to be paid with the COP revolving fund. Second by Truesdell. 3 Ayes. 1 Abstain (Putthoff). Motion carried.

Mayor Vestal Proclaimed Saturday, July 31, 2010 at "City-Wide Clean-Up Day."

Next was Council Agenda and the first item discussed was brought forward by Councilmember Putthoff. He asked about the progress with the committee for Police Chief search. Yanez said the committee met last week and distributed copies of the resumes. They have the task of going over each one and on Wednesday, July 28, they are meeting again. The committee members will present their selections and they will see if there is any consensus of the top three to five applicants.

Next Councilmember Crook said she wanted to talk about the answering service the City has with J&M Answering Service, and the report that its employee (Michael Vestal) was sending porn to people using city equipment. She suggested the City terminate the service for contract immediately to avoid any liability to the City. Vestal apologized for the action and said a letter of reprimand was placed in his file. He further stated he regrets the error and said it will never happen again. Councilmember Ward said he agrees this is a problem and a letter was written to the consulting service reprimanding the consultant for the behavior. Councilmember Putthoff said he does not condone the issue and thinks this may be a pattern as it is the second time this has occurred. Councilmember Truesdell agreed and he does not condone this behavior either.

Roger Shilling, 910 Somers, said so the City is subsidizing a private contractor by providing the contractor with City equipment?

Several comments were being made by the public with no names given and no addresses recorded.

Laurence Hill, 501 E 13th, asked the Mayor to please require people who would like to speak to come to the podium so everyone can hear and are not talking at the same time as it is hard to hear what is being said.

Velda Roberts, 496 E 12th Street said the Mayor sending emails and the answering service are two different issues. Leavenworth County provides dispatch services as part of the taxes we pay the County. The City of Tonganoxie providing these services is a duplication of the service.

Dennis Bixby, 704 E 8th said the City is paying a lot of money for the answering service. Since the Mayor is an employee of that service he should excuse himself from the discussion and let the council talk about the issue.

Michelle Selby, 825 Delaware, said she is appalled. This is her first council meeting and this is what she hears. She said it does not matter if you are sorry, it is an integrity issue. If you are truly sorry you should step down as Mayor.

Patty Bitler, 250 Willis said the answering service is redundant, and the firm we have contracted with allowing one of its employees to behave in such a manner should not be tolerated. The Mayor is abusing the job and has participated more than once in relaying of pornographic material.

With no further business to discuss, there was a **motion** by Truesdell to adjourn. Second by Crook. Motion carried. All Ayes. Aye 4. Meeting adjourned at 8:40 PM.

Respectfully submitted,
Kathy Y. Bard
Asst. City Administrator/City Clerk

On Wednesday, July 28, 2010, Mayor Michael Vestal resigned.