

City of Tonganoxie
City Council Meeting Minutes
08/09/10

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on August 9, 2010. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Councilmembers: Paula Crook, Tom Putthoff, Jim Truesdell, Jason Ward and Burdel Welsh. Mike Yanez, City Administrator; Kathy Bard, Asst City Administrator/City Clerk and Mike Kelly, City Attorney. Mayor Michael Vestal resigned July 28, 2010. In the absence of a Mayor Council President Jason Ward presided as Acting Mayor.

Presentations: Troup No. 357 Eagle Scouts presented the colors. All present stood and recited the Pledge of Allegiance. Everyone was seated. Acting Mayor Ward read a proclamation recognizing Eagle Scouts from Troup No. 357. Following the reading, each Eagle Scout was acknowledged individually for his accomplishments and each received a certificate of appreciation from the Governing Body. The following Eagle Scouts were recognized at the ceremony:

- a) Thomas John Miller
- b) Brett James Morey
- c) Jonathan Hunter Sturgis
- d) Cody Eugene Martin
- e) Ezekiel Boston Kissinger

Next on the agenda was an information update on the transition and replacement of the Chief Elected Official (Mayor). City Attorney, Mike Kelly said according to State Law and the City Code, the Council President would become Mayor until the next election, which will be in April 2011; however, you cannot compel a person to take office. If the Council President accepts the position as Mayor, he gives up his seat as a Council member and in this case, that term expires in April 2013. The new Mayor will appoint a qualified elector as a council member with consent of the council to fill the unexpired term.

Acting Mayor Ward said he has had two weeks to think about this but he thinks to be fair he would like to continue this meeting as acting Mayor and vote on the items before the council tonight and announce his decision on this issue under his agenda.

Consent Agenda:

- a) Approval of Minutes -
 - 1) Regular Meeting Dated July 12, 2010
 - 2) Regular Meeting Dated July 26, 2010
- b) Consider Approval of Bills - Approve Pay Ordinance A-1638
- c) Consider approval of change order #2; US 24/40 Intersection Improvements net \$-(532.60).

- d) Consider approval of Completion of Work Certificate for the US 24/40 Intersection Improvements as recommended by BG Consultants
- e) Consider approval of final pay application to Kings Construction in the amount of \$19,430.25, to be paid with the KDOT Revolving Loan proceeds.
- f) Consider approval of appropriation to First Bank in the amount of \$10,530.00 for semi annual lease payment for two Crown Victoria Police cars, to be paid from County Sales tax.
- g) Consider appropriation to K-II Machine Shop LLC in the amount of \$4,085.00 for the repair of a pump at the Wastewater Treatment plant, to be paid from sewer user fees.

Motion by Welsh to approve the consent agenda items a through g. Second by Truesdell. All Ayes. Aye 5. Motion carried.

Open Agenda: Dennis Bixby, 704 East Street, provided a follow up on the City Wide Clean Up. He said the E.A.S.T (Entrepreneurs Achieving Success Together) helped organize the event. He said they collected approximately 75,000 lbs of unwanted items with the help of City crews and the volunteers. There were around 25,000 lbs of recyclable material. There were 22 gallons of reusable paint that was recycled and a large portion of that already donated to nonprofit entities. The unusable portion was transported to the transfer station. He said they would like to repeat the event in the spring, possibly a couple of weeks before Tongie Days. He proposed that the council initiate an illegal dumping fee of \$500.00 to fine people for dumping unwanted items by the Thrift Store. He said they removed all the junk from that area and in less than one day, it was covered with junk again. The elderly women that work there have no business cleaning up other peoples junk. He said he wanted to give special thanks to: Himpel Lumber, B&J Country Mart, the Tonganoxie Mirror, Robin Jones Financial, Gambino's Pizza, Peruvian Connection, Tongie Office Supply, The Insurance Center and Friends of the Library. He finished by reminding the council that they said they would address the junk car issue again in August when the new Standard Traffic Ordinance and Uniform Public Offense Code was available.

Old Business: The first item on the agenda under old business was to consider Resolution 08-10-01 adopting the Leavenworth County Multi-hazard Mitigation Plan. County Emergency Management Director Chuck Magaha introduced the agenda item stating that in November 2007 the Leavenworth County Emergency Management began preparing a hazard mitigation 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. The County wanted to incorporate all the other municipalities and water, school and fire districts in the plan. The plan assists the City when mitigating natural disasters. The plan is required for the City to apply for Federal Mitigation Funds. He said typically there is a 75/25 cost share on mitigation projects and the 25% city share can be with in-kind funds. 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. Before any mitigation grant projects are approved, each jurisdiction must approve the plan.

Motion by Welsh to approve Resolution 08-10-01 adopting the Leavenworth County Multi-Jurisdiction Mitigation Plan as this jurisdiction's Multi-hazard Mitigation Plan. Second by Truesdell. All Ayes. Aye 5. Motion carried.

Next on the agenda City Administrator Mike Yanez gave opening remarks with regard to the 2011 budget proposal. He provided a presentation to the public and governing body explaining the contributing factors to the proposed mill increase of 2.088 mills. He also said that the mill increase would equate to about \$40.00 annual increase in taxes on a \$100,000 home. He continued stating the mill levy has been constant for at least the last ten years and only because of the national recession was this increase necessary. Expenses have been reduced to below 2009 operating levels. The budget does not include any new positions or promotions and at least three positions that have become vacant are not budgeted to be filled. The budget includes a 2.5% cost of living when the actual cost of living increase through July is 2.8%.

At the conclusion of the City Administrator presentation on the budget request, Acting Mayor, Jason Ward opened the public hearing for the 2011 budget.

Charles Conrad asked if anyone asked the businesses what they think their business will do in 2011 before we assumed the sales tax revenue. He said he does not like being compared to other communities as Yanez had done in the presentation. He said Tonganoxie is in an excellent geographical position. He said that yes, the mill levy had been stable for ten year but the valuation increased every year. He asked what the City did with the extra valuation. He finished by stating he saw the original document put out by the City Administrator that asked for a merit increase for the employees. All you did was take out the merit and put in a cola. He said we are not stupid.

Lester Meiner, 608 Hidden Valley Court said 4416 people live in Tonganoxie and it takes \$4,900 from each person in this town just to pay the employees. He said in 1966 he made \$366 each month and was up to \$550 each month when he left in 1975. He said if there are employees interested in continuing to do their jobs for the same money then let them go. There are three or four more people who would be happy to do their jobs.

Paige Edwards, 1611 E 4th Street, said she has lived here five years and loves Tonganoxie. She said her neighbors would drop anything to help another neighbor. She asked if there was anything the citizens could do to help with the budget to ease the burden on the taxpayers.

Bill Peak, 612 Washington asked if was correct that the \$2 a month extra for each \$100,000 home will be enough to cover the 2 mill increase, work on replenishing the reserve and pay the debt for the Pleasant Street bridge and 4th Street Phase III. He asked if the decrease in the cash reserve was to keep from raising the taxes in the last couple of years. Yanez replied, yes. He said he was against the 4th Street Phase III project and was curious out of the 2.008 mill increase how much of that was attributed to the projects. Yanez replied two mills. He

finished by saying the City needs to tighten its forecast for growth to help increase the cash balances.

Laurence Hill, 501 E 13th complemented Paige Edwards for her suggestions on volunteers to help the community. He mentioned cleaning up the four corners at the intersection of 4th Street and 24/40 Hwy.

With no further comments from the public concerning the 2011 budget proposal Acting Mayor Ward closed the public hearing.

Next on the agenda was the council discussion on the proposed budget. Councilmember Crook started the discussion stating she has received a lot of input from the public concerning the proposed 2.5% cost of living increase. She said we could not compare our salaries to those salaries of Shawnee, Lawrence, Leavenworth or other larger communities. The larger communities can afford to pay more. She continued saying the \$1.5 million to the County was a mistake. It will cost \$100,000 a year. She thinks the City should work to get out of that contract. Councilmember Truesdell asked if there was anything the City could do about the delinquency rate. Yanez said the County takes care of delinquent tax collections. Truesdell disagreed with Crook stating we need to compete with some of the surrounding communities, not necessarily the ones mentioned but others if we want to maintain good employees. Councilmember Putthoff agreed saying we have to get more competitive with our salary package, and reward with pay. We are training, and then losing good employees to cities that pay better. Councilmember Welsh said with regards to the \$1.5 million, mentioned earlier by Crook, that it really equates to \$500,000 investment so the County will allow the City to have extra territorial in the area of County Road 1 which requires developers to build to City standard so the City does not end up acquiring inadequate infrastructure upon annexation. Welsh continued, with the cost of recruitment, training, etc, retaining employees is important. He is in favor of the COLA and thinks this is not enough of a raise for employees but it is a way to keep our head above water with the surrounding cities we compete for employees with. Acting Mayor Ward said we would continue training employees to go to work at other cities for more money if the Governing Body creates situations that would cause us to lose employees. We need to try to do what we can to keep the employees we have. He said the council failed last year with using the reserves to offset any tax increase. It just set us up for future debt.

Acting Mayor Ward allowed public input. Charlie Conrad said if you are going to compare Tonganoxie to others cities, then you need to compare every line item, as each City is unique. As business owners in Tonganoxie, we have had to cut staff and even cut cable because it cost too much. If you are going to compare our city to others, make sure you are comparing apples to apples and oranges to oranges. Right now, it is about survival.

Councilmember Crook said she thinks the City still has issues with the answering service and with the city computer. She said if we keep the answering service, we should get the computer back. It is creating a liability for the City. Yanez said if the council approves the funding in this budget then administration would like to get involved with the contractor and prepare a contract that includes providing his own equipment. Ward said he voted to keep the service in the budget based on information from and recommendation by the

Police Chief. Truesdell agreed with Ward. Councilmember Putthoff said the council already discussed this issue and voted on it. The answering service was approved in the budget on a 3 to 2 vote. Council finished discussions on the budget.

Motion by Welsh to approve Ordinance 1307 attesting to an increase in tax revenues for the budget year 2011 for the City of Tonganoxie. Second by Truesdell. 4 Ayes. 1 Nay (Crook). Motion carried.

Motion by Welsh to adopt the 2011 budget. Second by Truesdell. 4 Ayes. 1 Nay (Crook). Motion carried.

Motion by Putthoff for a ten minutes recess. Second by Welsh. All Ayes. Aye 5. Motion carried.

Mayor reconvened the meeting at 8:40 pm.

Next on the agenda was Dan Hardin, engineer with BG Consultants. He introduced the proposed MARC project submittals for 2012-2014. He explained the grant money comes from the Federal Aid Highway Act for the sale of fuel. The Federal Government distributes the revenue to the state and metropolitan planning area. MARC receives construction grant monies to be spent on various transportation projects. The projects are usually an 80/20 match. Tonganoxie costs will be spread through budget years 2012, 2013 or 2014. They have targeted public transit and alternate modes of transportation such as rail, air and multi-use paths. The projects staff has considered submitting projects for consideration. The projects to be considered were a multi use trail on the South Side of Washington Street between the Middle School and the Genesis School in the amount of \$468,000 (City Share \$94,000). Another project to consider was a multi use path on the east side of Church Street between 4th Street and Washington Street in the amount of \$488,000 (City Share \$98,000). The final project for consideration was a multi use path from Tonganoxie Drive cross Country to Ridge Street along the back side of the businesses. The trail would mirror the proposed frontage road identified in the 24/40 corridor study. This project total was \$1,155,000 (City Share \$231,000). Each of the projects received preliminary engineering funding in the form of a TEAP (Traffic Engineering Assistance Program) study previously approved by MARC to identify path and probable costs.

Councilmember Welsh said he is not interested in submitting any applications that is going to cost the City any match money. The evidence is not there. Putthoff agreed saying we cannot proceed with any more applications that include match money. They said we are baited by the 80% grant and are stuck coming up with the match. Councilmember Ward said he would like to hear what the opportunities are and Truesdell agreed. Dan Harden said that he had anticipated that type of response from the council. He replied, saying with this type of application we are not committing match funds so the council has the right to turn down grant awards. With this economy, it is becoming more common for cities to decline the funds. It used to be very uncommon for a community to turn down federal grants but not any longer. City Administrator Mike Yanez said the Washington Street project has a lot of merit for pedestrian safety. Councilmember Crook corrected Yanez by saying this is not free money, it comes from Federal and State taxes. She agrees the multi use

paths on Church Street and Washington Street hold merit for safety and would welcome the opportunity to use Federal and State money in our community. **Motion** by Putthoff to authorize BG Consultants to prepare MARC applications for the multi use paths on Washington Street and Church Street for budget years 2013-2014. Second by Crook. All Ayes. Aye 5. Motion carried.

Next on the agenda was the City Administrator. He updated the Council with the City Administrator report. He provided a mid-season report for the Tonganoxie Water Park, showing that at mid season the water park was not requiring any taxpayers support. He announced the water park closing schedule and informed the public it would be advertised so those not at the meeting would also be informed.

Next on the agenda was the City Attorney. He told the council that he received a letter from Gilliland & Hayes PA. The firm represents Granite Inc, the surety for BRW Construction, the general contractor for the Interceptor Sewer Phase II project. The project has been completed and the City is holding the final payment in the amount of \$21,246.30. On May 17, 2010, a representative from Granite Re notified Kathy Bard that there were potential claims from subcontractors on the project that have not been paid by the general. They requested the City issue the final payment jointly payable to Granite Re and BRW and send the payment to the law firm. Granite Re intends to use the funds as security for payment of the claim until that claim is resolved. **Motion** by Crook to authorize the payment as requested. Second by Truesdell. All Ayes. Aye 5. Motion carried.

Next on the agenda was the Council President, Jason Ward. Ward said as far as the vacant Mayor position he has had two weeks to think about this opportunity. While the entire time he was Council President he had not considered the possibility at great length. He said the leadership for the City is important as well as any decision for a replacement councilmember. He announced his decision to continue as Mayor for the City of Tonganoxie until the term expires in April 2011. City Clerk, Kathy Bard administered the Oath of Office to Mayor Ward.

As his first official action, Ward appointed Chris Donnelly to fill his unexpired term as Councilmember. He said Donnelly would bring forth extensive knowledge and professionalism to the Governing Body. **Motion** by Putthoff to accept the mayoral appointment. Second by Crook. All Ayes. Aye 5. Motion carried.

Next Ward recommended Councilmember Burdel Welsh as Council President. **Motion** by Crook to accept Welsh as Council President. Second by Putthoff. All Ayes. Aye 4. Abstain 1 (Welsh). Motion carried.

Next on the agenda was the Council Agenda. Putthoff started by saying he was offended by the comment made by Crook that the council was condoning the use of pornography by the Ex-Mayor and he disagrees. He asked if there was a computer usage policy in place. He suggested the council consider auditing every computer for pornography because as leaders we need to eliminate this. Yanez said we could review the policy and remind the employees of the agreement that they signed. He also said that within the policy, it does authorize the examination of computers for unauthorized use. Putthoff continued that each computer

should have a separate logon for each employee. Councilmember Welsh said he would support a comprehensive program for computer usage. Council directed City Administrator and City Attorney to review the current policy and make recommendations.

Next, there was a **Motion** by Welsh to enter into an executive session at 9:50 PM for five minutes to discuss a matter of attorney client privilege and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard, Police Chief, Kenny Carpenter and City Attorney Mike Kelly attend the executive session, to return at 10:00 PM. Second by Crook. All Ayes. Aye 5. Motion carried. **Motion** by Crook to exit executive session and reconvene with the regularly scheduled meeting at 10:00 PM. No items were discussed other than that mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 5. Motion carried.

With no further business to discuss, there was a **motion** by Crook to adjourn. Second by Truesdell. Motion carried. All Ayes. Aye 5. Meeting adjourned at 10:00 PM.

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

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