



City Council Meeting Minutes 10/22/12

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on October 22, 2012. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Mayor Jason K. Ward; Council members: Councilman Dennis Bixby, Councilman Andy Gilner, Councilman Chris Donnelly, Councilman Bill Peak and Councilman Jim Truesdell. Municipal personnel present were Mr. Nathan D. McCommon, City Administrator, Assistant City Administrator Jennifer Jones-Lacy, Police Chief Jeff Brandau, and City Attorney Mike Kelly.

Councilman Peak made a motion to approve the consent agenda, seconded by Councilman Donnelly. There was no discussion and the motion carried with all ayes.

Open Agenda

- Councilman Peak asked if an item provoked a question during the meeting, would it be possible for a member of the audience to raise a hand and comment on the topic.
- Mayor Ward said that he welcomes public comment but does not want the meeting to get out of control. He asked Mr. McCommon what rules of order other towns use.
 - Mr. McCommon said he would survey what peer cities are doing and report back at the next meeting.

No other public comments for the open agenda.

Old Business

- a) Update on PWWSD#6 review of submitted termination language in order to enter an operating agreement with Public Wholesale Water Supply District #6 and #9 and authorizing additional expenditure of \$3,300 from the Water Purchasing Account of the Water Operating Fund
 - Mr. Kelly said the district has authorized its attorney to speak with him but they have not had a conversation to date.
- b) Update on Chieftan Trail
 - Mr. McCommon said we are in the final steps of easement acquisition.
- c) Update on two-way radios for the Fire Department
 - Mr. McCommon said we are waiting for a new draft agreement from the County Counselor.
- d) Review debt refinancing options to include certain state revolving loans and the industrial park.

- Mr. McCommon summarized an agenda statement from Springstead Financial stating that they recommended the City refinance several of our bonds and that four of them are attractive to package together in a single issuance. Currently the charter ordinance is in the protest period with December 3rd being the end of the protest period at which time the Council can determine whether or not to approve the charter ordinance which changes the cap for the sewer debt that can be issued. The current cap is \$300,000 for sewer debt and the charter ordinance increases that cap. The City will enjoy approximately \$500,000 in savings over the life of these loans with this deal.
- Mayor Ward said that the Council can consider whether or not they want to include the industrial park debt in the refinancing package. The Mayor Ward asked the council to set a date to discuss the inclusion of the industrial park.
- Councilman Peak asked if the costs listed on the agenda statement included Springstead Financial's fee. Mr. McCommon stated that it included their fee.
- Councilman Bixby asked if this debt would be extended to the year 2029 and Mr. McCommon confirmed that it would. The Councilman also asked if this transaction would have a negative impact on the City's credit rating. Mr. McCommon said that it should not but would research confirmation to that effect, and he emphasized that the main benefit of refinancing is the savings.
- Councilman Donnelly asked for the maturity date on the industrial park bonds.
- Mr. McCommon said December 2013. He also said the first payment would be in 2014 under a restructured financing agreement.
- Councilman Donnelly suggested the Council consider moving soon on refinancing because of the incredibly low interest rates.
- Mr. McCommon said Council could make a decision on December 10th.
- Councilman Bixby said he would like a little more time to review the information on refinancing prior to making a decision. His biggest concern is not taking another credit rating hit. He asked for an analysis on the impact to the City's credit rating.
- Mr. McCommon said the debt capacity on the General Fund is only mildly impacted by this refinancing.
- Councilman Peak said he would like to see a breakdown of whatever impact the refinancing has on the credit rating.
- Mayor Ward asked Mr. McCommon to do an analysis on the credit rating impact.

New Business

- a) Discuss appointing Nathan McCommon as City Clerk
 - Mr. McCommon asked that the Council appoint him as city clerk to satisfy statutory requirements to attest all formal actions to be keeper of public record, and swearing in public officials.
 - Mayor Ward asked if there were any conflicts with appointing the city administrator as clerk.
 - Mr. Kelly said that if the City moves to a city manager form of government, it may need to appoint another city clerk but other than that appointing Mr. McCommon should be okay for now.

- Councilman Peak asked how thoroughly staff researched whether or not this is an issue.
- Mr. Kelly said that right now the Mayor Ward signs contracts, not the administrator. If the government structure changes to a city manager form of government that could be an issue.
- Mr. McCommon said the administrative tasks will be handled as they always have been. The clerk only does certain official duties for public record, but other staff can handle administrative duties.
- Mayor Ward asked if we need something from the city clerk and Mr. McCommon were out of town, where would we turn?
- Mr. McCommon said he would provide an option at the next council meeting on the alternate when he is out of town.
- Councilman Donnelly motioned to appoint Nathan McCommon as City Clerk and Councilman Bixby seconded. All Ayes. The motion carried.

b) Approval to purchase city-wide replacement signage

- Mr. McCommon said the 2012 budget was approved with \$15,000 from county sales tax for sign replacement. This helps make the signs more consistent and readable. The lowest bid is just under the budget mark. Staff requests approval.
- Councilman Gilner – Do we replace signs on school grounds? There is a sign up on school property that says the City police will enforce traffic.
- Mr. McCommon said he would have to research that.
- The Police Chief said we have no authority on private property so generally it is up the entity to enforce the regulations and replace signs.
- Councilman Peak – Do we have a total of all of the signs that need to be replaced?
- Mr. McCommon – Mr. Heskett has that inventory list.
- Councilman Bixby – I believe the division was to divide sign replacement into thirds and cover the replacement over three years.
- Mr. Burdell Welsh approached the council from the audience and said he is concerned about the inconsistency with the signs and would like to see some guidance from council on using the MUTCD standards for signage. He said he would like to see staff know these standards and review them prior purchasing.
- Mr. McCommon said the City is adhering, with all new installations, to those standards. He affirmed that he and Mr. Heskett are very knowledgeable of MUTCD standards and commit to continue to follow these standards in all future installations.
- Councilman Gilner motioned for council to approve the expenditure and Councilman Truesdell seconded the motion. All Ayes. The motion carried.

c) Consider Recommendation from the Planning Commission for Approval of the Final Plat for Timber Hills Farms Phase II

- Mr. McCommon – Included is a review from City Engineer Brian Kingsley, which came today regarding the plat review. The planning commission approved the final plat pending the engineer's review, and his review is before the council for consideration. The first paragraph recommends the cul-de-sac be 96 ft in diameter and right now it is 80 ft. in diameter. Second, the information regarding drainage needs to be added to drawing. Third, the plat shows the sanitary sewer line would be 70 ft. short of the property boundary. In the past council has required the sewer to go

to the property line, and council needs to make a decision on that. There is a potential impact on future development; the cost to extend the property would be borne by the purchasing developer. The current developer would have to disclose this expense to potential buyers for further development in the future. Fourth, he made a recommendation to add a gate valve and flush hydrant which will help with maintenance and help prevent a future rupture in the sewer line. Fifth, the engineer recommends that there be a construction plan signature block, where various disciplines should be able to sign showing they have reviewed and understand the plat.

- Mr. McCommon asked that council approve the plat pending revised drawings from the developer. The final issues needed to be clearly drawn on the plat.
- Councilman Truesdell asked Mr. McCommon his recommendation on extending the sewer line.
- Mr. McCommon said it is up to the council members to determine what is important for the City now. Past practice has been to always extend to the sewer lines to the property boundary so it is ready for future development. The question is, “Do we want them to pay for it now or later?” However, a developer is ready to move forward.
- Mayor Ward said the developer, Mr. Greg Ward, was present and asked if he had any comments for the Council.
- Mr. Ward said the idea behind doing these eight or nine lots now is that most of the infrastructure is present and there is not a need for a large investment in capital outlay. The sewer is there; we just need to tap into it, and it is just a matter of extending it. Staff has been great. I have a contract to build a custom home and will get going once the administrative aspect is done and we’re good to go. I saw Brian Kingsley’s review; I don’t have any issues with anything he said. I’m fine with putting a notation on the future cost on the development.
- Mr. Kelly said Mr. Ward may own the adjacent lot now but he may sell it so that would be an additional cost to a future developer.
- Councilman Peak – Why wouldn’t we follow common practice? Why would we diverge from requiring the additional sewer line?
- Mr. Ward – I would suggest that these times are different and common practice was for a previous time. Maybe when times are better it would make more sense.
- Mayor Ward asked if this was part of the original subdivision regulations.
- Councilman Peak said he just wanted validation for why we should diverge now.
- Mayor Ward said unless there is something black and white in our subdivision regulations, then you’re asking for a policy decision. We either make an exception in this area where there hasn’t been a lot of development or we don’t.
- Councilman Peak – Could we run into an area if we have other developers who end up not extending the sewer line?
- Mr. Kelly said the subdivisions regulations would dictate that answer.
- Mayor Ward asked if we could table this for later in the meeting, grab a copy of the regulations, and come back to it.
- Mr. Ward said the property was as-is because they are plotting an existing lot with the as-is notice.
- Mr. McCommon asked for a 10 minute recess at 7:47 for staff to research. Resumed at 7:57.

d) Mayor Ward Agenda

- a. Schedule City Administrator’s 6 month performance evaluation.
 - Mayor stated that they can do evaluation forms like we had in the past. You can provide me with the comments and I will compile them and we can share those with the administrator. We’ve looked at LKM in the past if there is something you would like for us to use we can.

- e) Council President Agenda
No report

- f) City Council Agenda
 - Councilman Gilner - Should we bump the council meeting to another day because it is a holiday? Tuesday, Nov. 13th at 7 pm will be the next council meeting. Councilman Gilner motioned, Councilman Bixby seconded. All in favor.
 - Councilman Bixby – I had asked Mr. McCommon about establishing a school zone by Genesis Christian academy on Church St. Where are we at on that?
 - Mr. McCommon replied that both Kansas and the County would leave it up to the City to make that area a school zone. There are opportunities to get a grant to cover the cost of markings and signage; the state could provide that funding. I believe we are required to provide a public notice about the speed changing and I can research that.
 - Councilman Bixby – This would be good for both schools on Washington. I would like to see the entire corridor be a school zone.
 - Councilman Peak – I asked that Mr. McCommon research grants to get a sidewalk along Washington. I recommended City get as many grants as possible to get that sidewalk as it is so dangerous on Washington. That is a serious safety hazard.
 - Tonganoxie Christian Church said they would donate whatever easement necessary for that.

- 1. Retail Commercial Development Committee Report – Bill Councilman Peak
No report

- 2. Infrastructure Committee Report – Jim Truesdell
 - Will hold a committee meeting after the elections.

- 3. Industrial Park Committee Report – Chris Councilman Donnelly
No report.

The Council returned to the item of Timber Hills plat research.

- Mr. Kelly said they did not find anything in writing about the developer required to extend sewers to property line. This was very quick research, however.
- Mr. McCommon talked to Mr. Kingsley who said the City previously required developers to build out the sewers, which came to be standard practice because of complaints among builders.
- Councilman Donnelly – I recommend approval, seconded by Councilman Gilner.
- Councilman Truesdell – we should add “as long as they meet the requirements of City engineer” to that approval. We should require the documentation be provided with the

approval of the City Administrator as he will be signing off on the construction documents.

- The motion was amended to include Councilman Truesdell's recommendation. All Ayes, the motion carried.

g) City Administrator Agenda

1. Executive session to discuss matters of non-elective personnel
 - Motioned by Councilman Gilner, seconded by Councilman Peak for a 10 minutes executive session at 8:10. Councilman Gilner motioned to return from executive session and noted no action was taken, seconded by Councilman Truesdell.
 - Councilman Gilner motioned to go into a second executive session for a period of 10 minutes to follow up to the previous discussion. The motion was seconded by Councilman Truesdell at 8:22. The Mayor asked for a motion to return from closed session at 8:34 and make a note that no action was taken. Motioned by Councilman Gilner and seconded by Councilman Bixby. All Ayes, the motion carried.
2. Upgrade on mitigation of wells on city property
 - Mr. McCommon said these are the wells on the east side of Tonganoxie Park north of 1st Street. The wells were a risk for people falling in. Only concerns I heard were safety and environmental. City crews filled and capped the wells and gained access to the property with permission from the County. The work is completed and the guard rail along the road is replaced.
 - Councilman Bixby asked if there was any intent to remove the fence on the north side of the property.
 - Mr. McCommon responded that he knew of no discussion regarding the fence and that the urgency solely was prompted by the open wells.
3. Mr. McCommon explained the need for an emergency purchase. The digester aerator broke a little over a week ago. It removes sludge from the sewer treatment plant. As it gets colder, sludge removal becomes more of an urgent issue. The Sewer Operating Fund does not have a single budget line sufficient to cover that cost but we can cobble together various lines to come up with \$12,000 to cover the cost of the piece. We ask to spend \$10k for an aerator with a rebuilt motor. I don't think the Sewer Operating Fund can come up with the \$14k for a brand new one. His request from the Council was to cover the cost of this aerator housing, shaft, and rebuilt motor.
 - Councilman Gilner made a motion to approve the purchase, seconded by Councilman Donnelly.
 - Councilman Gilner asked if there is a guarantee on the motor. Mr. McCommon said yes, but it is probably not long.
 - Councilman Peak asked about the extension on warranty if they buy brand new. We're going to spend 2/3 the price of the new one and get one with a rebuilt motor and a one-year warranty. What else in addition to that would we get that is new aside from stainless steel

versus fiberglass? We could be looking at this again in a year and a half. If we spend another \$5,000 we could get an extended warranty and a brand new item.

- Councilman Bixby asked who is doing the installation and if it includes alignment and shimming in the installation. He said that is important because few people are able to do that and a motor will go bad much quicker if it is not properly aligned and shimmed.
- Mr. McCommon said the provider is doing the installation. He said we would prefer a new one, but our concern funding. The Council has the option to use the capital reserve fund but that is supposed to be held to extend utilities to the industrial park. The Sewer Operating Fund is very delicately balanced for the rest of the year.
- Mayor Ward – if we didn't use funds out of Sewer Fund, would we use the General Fund?
- McCommon – Yes, the General Fund is a likely candidate.
- Mayor Ward asked for Mr. McCommon's recommendation on the funding source.
- Mr. McCommon – we should leave at least \$5,000 of budget in Sewer Operating Fund. I will examine options from the General Fund and others.
- Councilman Bixby – I see no future in a used motor.
- Councilman Peak – can get a long-term warranty? If so that would help Council make a decision?
- Mayor Ward suggested Council use new versus used to make its decision.
- Councilman Peak – Price does not include installation, wiring cables, or fasteners? Would staff do the installation – the City Administrator confirmed they would install.
- Mayor Ward - Would you all entertain a motion to move forward on purchasing a new aerator? \$10,000 of the money would come from sewer fund.
- Councilman Bixby said the price needs to include shimming and alignment.
- Mr. McCommon said he would be happy to research General Fund accounts and find \$5,000. I'm sure it would be at the sacrifice of something else so I would want the council to know what that would be.
- Councilman Peak asked if the City is out of compliance.
- Mr. McCommon if we had a sludge discharge to natural water channels, then we would be out of compliance with KDHE.
- Mayor Ward – would the Council recommend allowing the city administrator to move forward on finding funding from the General Fund?
- Councilman Donnelly – I would not be in favor of that. I don't want to cannibalize something else in the General Fund to pay for a new item. The next time we'll absolutely need a new item and then we'll have to take the money again from somewhere else.

- Mayor Ward – we either move forward with a new motor and allow the city administrator to find the funding, or we purchase the item with the rebuilt motor.
- Mayor Ward – can we do a budget amendment to move the money from the General Fund?
- Mr. McCommon – Yes, if we need to increase above what was authorized in the 2012 budget.
- Councilman Peak – can we use multiple funds to pay for this?
- Mr. McCommon - Yes.
- Councilman Bixby – if we were to be fined \$4,000 for a violation, what where would that money come from?
- Mr. McCommon – we would have to look at the Sewer Operating Fund to find that money and probably at a levied fund like the General Fund. Such a fine would put the budget truly in jeopardy. I will provide a report to the Council on where to get the funding for this.
- Councilman Truesdell motioned to move forward on purchasing a new aerator with additional research from Mr. McCommon on the funding source, seconded by Councilman Bixby.
- Councilman Gilner asked Mr. McCommon if he didn't think the Sewer Fund could handle an additional \$4,000 hit.
- McCommon – if the Sewer Operating Fund were to pay the \$4,000, then funding for known expenses like laboratory fees would have to be paid from another fund that is not ready to cover the cost.
- Councilman Peak – I am concerned that we don't have complete information on the warranty.
- Councilmen Donnelly and Councilman Gilner opposed, Truesdell, Bixby and Peak had Ayes. The motion carried.

3. Discussion on Second Class City

- Mayor Ward – Ms. Winn suggested that if we did want to make changes was that we provide an opportunity for further discussion and public participation. I recommend that we move forward in a structured fashion either at a future work session or on an agenda.
- Councilman Peak – we need a separate session to discuss this issue at length.
- Councilman Truesdell – one of Ms. Winn's suggestions was to form a committee to perhaps meet prior to a council session.
- Mayor Ward asked about setting a future special meeting.
- Mr. McCommon asked if Council wanted to focus on various aspects of this issue and phase it into future regular meetings.
- Everyone agreed this was a good suggestion.

4. RFPs Issued for Website Design and IT Upgrades

- Mr. McCommon – everyone is aware there is a need for new website and an IT upgrade. Funding is from the County sales tax in 2012 budget, it is scheduled to lapse. On the website RFP, can I get a council member to sit on the selection committee? This is something council may get calls on in the future.

- Bill Councilman Peak volunteered. He took a couple of courses and spoke with people at Lawrence who have a very user friendly website.
 - Councilman Bixby asked if it makes sense to tie in the Chamber to the website?
 - Mr. McCommon – I wouldn't recommend sharing one website. I think it is important to focus the website on City government, but the City's site should link to the chamber's website.
 - Councilman Peak – we need to do our research on what these programmers have done in the past and make sure that other towns have not gotten burned.
5. Update on Vacant Properties at 626 E. 3rd St. and 301 S. Main St.
- Mr. McCommon said we can tear the white house down and it will cost less than \$1,000 to do and then we can burn the debris off-site.
 - Councilman Bixby – I say we sell the house as-is condition. Councilman Peak, I don't have a problem with that.
 - Mayor Ward – I would leave the disposition to staff and City attorney. Should we place ads in the paper or have an auction?
 - Mr. Kelly – if we advertise outside the *Mirror* we may get better representation.
 - Councilman Donnelly – what would happen if we took sealed bid on all three structures, gray house, white house, and detached garage on the white house? Maybe then we won't have to pay for demolition. We could collect separate sealed bids on all three structures – the gray house, the white house and the detached garage.
 - Mayor Ward – can we have a motion on the advertising? Motion by Councilman Gilner, authorize the City Administrator to put together a request for sealed bids on the lots, seconded by Councilman Bixby.
 - Councilman Bixby recommended the deadline be Dec. 3rd at 5 pm to take sealed bids. All Ayes, the motion carried.

h) City Attorney Agenda

1. *First Reading*, Repealing certain sections of Article 3, Fireworks, of Chapter 7 of the Code of Ordinances and replacing same for the purpose of defining the authority to ban the sale and use of fireworks in the city limits and provide public notice of such ban.
 - Mr. Kelly - Need to know if Council wants to issue a refund for a fireworks sale permit if there is a ban? Council agreed and Mr. Kelly said he would put that in and have the ordinance ready for next meeting.
2. *Second Reading*, Amending Chapter 8 the Code of Ordinances and adding a certain section that would define "trail" to be of minimum width of eight feet, constructed for pedestrian and bicycle use, and provide connectivity between residential, business, and public areas. Municipal services would maintain the trail.
 - Mr. Kelly – trails are only trails if they are designated as such by the City.

- Motioned by Councilman Peak to adopt ordinance no 1347, need to correct the date to show the adoption date as October 22nd on the last line of the ordinance. The motion was seconded by Councilman Gilner. All Ayes. The ordinance passed.

Mayor Ward called for a motion to adjourn. Councilman Councilman Gilner made the motion and Councilman Councilman Peak Seconded. All Ayes. The meeting adjourned at 9:25 pm.