



City Council Meeting

April 22, 2013

7:00 Regular Meeting

The Mayor opened the agenda at 7 p.m. with the pledge of allegiance. Councilwoman Reed, Councilman Gilner, Councilman Donnelly, Councilman Truesdell, and Mayor Ward were in attendance. Councilman Bill Peak was absent. Also in attendance were city staff Nathan McCommon, Jennifer Jones-Lacy, and City Attorney Michael Kelly.

The Mayor asked for a moment of silence for families in Boston and East Texas that were affected by the events there in the previous week.

I. Consent Agenda

- Motion made by Councilman Gilner to approve the consent agenda, seconded by Councilwoman Reed.
- Councilman Truesdell said that it's his third term of Council and asked that the minutes reflect that.
- Councilman Truesdell mentioned that he didn't realize that there was a change in vote in the last meeting during the Second Class City Manager-Council issue.
- The Mayor said it was a straw poll to give staff direction on drafting the consent agenda. Councilman Truesdell said perhaps we should start having roll call votes. The Mayor suggested that we do roll call votes on major issues.
- All Ayes, the motion carried.

Open Agenda

None.

II. Old Business

- b) 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 a minimum purchase of \$3,300 per year from the Water Operating Fund
 - Mr. Kelly spoke w/ Mr. Vanparis and said he has prepared a statement but it's not ready just yet. He should get it to him within a week.
 - The Mayor asked our status with the current agreement and Mr. Kelly said we're still operating under the old agreement since the new one has not been executed.
- c) Update on Chieftain Trail

- Mr. McCommon said we can expect approval of the state permits May 1st. They haven't posed any challenges. BG Consultants is preparing the bid advertising for construction of the trail.
 - Mr. Kelly said the appraisers report is due May 17th. He's spoken with all the property owners. We're having difficulties with one property owner who is not allowing anyone on his property to stake and survey. After the appraiser's report is in place, we can pay and start digging immediately. Any party can appeal the appraisal but we can start immediately after that.
 - Mr. McCommon said that Westar was kicked off the individual's property.
- d) Sale of property at 636 E. Third Street
- Mr. McCommon said he was contacted by an interested party who said they are very interested and he hopes for a promising answer this week.
 - Mayor Ward asked about Habitat for Humanity and said the City of Tonganoxie welcomes them and he thinks it's great that they want to do work in Tonganoxie.
- e) City of the Second Class Discussion
- The Mayor said he had a request from Councilman Peak and staff to hold off on any significant action on this issue until the next council meeting.
 - Ms. Jones-Lacy provided an overview of the procedure for becoming a City of the Second Class. She also provided an example of a proclamation the Council and Mayor would make to the governor as well as a sample charter ordinance.
 - She explained the reason staff wanted to hold off on making any significant actions was because after speaking with the County Clerk, there is a notification process that must take place because by moving to a City of the Second Class, we would impact the Tonganoxie Township who's Fire District assesses our residents for their operating taxes. The township would no longer be able to assess city residents. The County Clerk, Janet Klazinski, said that this tax could be replaced by assessing the county residents. Ms. Klazinski suggested either moving to a Second Class prior to August 1st or later in August so she can properly prepare the District's budget.
 - Councilman Donnelly asked if Tonganoxie residents would no longer be charged this property tax and Ms. Jones-Lacy said that is what she understood in speaking with the County Clerk. The total impact for the year is \$18,500 for Tonganoxie Township Fire District's Budget. Mr. Donnelly indicated that was about ½ a Mill.
 - Ms. Jones-Lacy explained the City Council opinions from the straw poll at the last Council meeting which was used to create the charter ordinance. She explained that the only issue that wasn't fully clear was whether or not the majority of council members were in favor of moving from a Mayor-Council to Manager-Council form of government. She said this would not be included in the charter ordinance as it is not a requirement of becoming a Second Class City, however could be discussed by Council at a later date if they wish to pursue it.
 - She also explained that one item included in the sample Charter ordinance that was not discussed in great detail was the chartering out of having a City Treasurer elected. Since the majority of Council were in favor of continuing

with mayoral appointments, this provision was included in the sample ordinance. However, if the Council decides it wants to have its Treasurer elected at a later date, it can do so.

- Mr. Kelly said it would pass legal muster to include all items into one charter ordinance. However, he thinks it may be easier to separate the issues into separate charter ordinances so that if one is to be changed in the future, you wouldn't have to change the entire ordinance and republish the entire thing at a later date.
 - Councilman Truesdell asked if they could get a cost estimate for a special election at the next meeting.
 - Councilman Donnelly said the first issue is the proclamation to the Governor which would start the process. The second issue is how we would develop a charter ordinance to exempt the City from certain provisions.
 - The Mayor asked if by going to a City of the Second Class if our current ordinances be out of compliance with the laws.
 - Mr. Kelly said he would have to review that and he doesn't have an immediate answer.
 - Councilman Donnelly said he would prefer separate Charter ordinances for each issue for three issues.
 - The Mayor asked if Spring Hill had a reviewed their ordinances to see if there would be a conflict.
 - Ms. Jones-Lacy said she could ask the former City Clerk about that.
- f) Hwy 24-40 Improvements – Special Meeting on Tuesday, April 23rd
- Mr. McCommon provided a summary of the information he provided in the Council packet in preparation for the next day's Special Council Meeting.
 - Included a list of questions from the community in the council packet.
 - Reed asked if the speed limit would be 30 mph on the frontage road. Is it typical to construct a sound barrier on roads that were 30 mph.
 - Mr. McCommon said it's typical for streets to be 30 mph and he doesn't know why it would be different.
 - Gilner asked if residents in Fall Creek requested a lower speed limit. The answer was yes.
 - Mr. McCommon said that their emergency funds provide 100% construction funds and design would be covered 90%. The estimate for the City would be about \$170,000.

III. New Business

- a) Request approval of a Facility Use Lease with Janet Falk for the rental of the Water Park
- Janet Falk at 122 163rd Street in Linwood. She thanked the Council for allowing her to come before them. She's hosting three meets and possibly 100 additional swimmers and their families which ends at noon. She is formalizing their agreement to pay for lifeguards and insurance.
 - She said Tonganoxie Water Park is one of the best operated.
 - She requested to have an end-of-season pool party for the families on a night when the pool is not being rented. This is something she does each year.

- Mr. McCommon said this lease agreement is intended to be a template for those who want to use the pool. Addendum A on the back would be the changing element. He said that each renter needs to have liability insurance.
 - Mayor asked about rental rates.
 - Councilman Truesdell made a motion to approve the agreement, which was seconded by Councilwoman Reed.
 - Councilman Donnelly asked if they were a 501(c)3 organization.
 - Ms. Falk and her husband said they were working on that.
 - All Ayes. The motion carried.
 - A motion by Councilman Truesdell to donate the pool party rental space prior to July 29th, seconded by Councilwoman Reed. All Ayes, the motion carried.
- b) Request approval of construction agreements for the Fire Station expansion
- Council approved the lowest bidders for the construction of the fire station. The City attorney has reviewed the agreements and approves of them.
 - Councilman Truesdell asked if they got a bid for the concrete. Mr. McCommon said yes. He said it's \$100/yard for concrete.
 - Mr. McCommon asked for a motion to approve contracts.
 - Councilman Truesdell made a motion to approve Ladd, Craum and Absolute Fire Seconded by Councilman Donnelly.
 - Donnelly asked if this all fits within the budget. Mr. McCommon said yes except there is no contingency in this budget.
 - All Ayes, the motion carried.
- c) Request \$5,854.39 purchase of a new transmission for the Public Works Department dump truck
- Mr. McCommon said the dump truck we have has been limping along. Inland Truck Parts Company has the lowest bid at \$5,854.39. The dump truck is used for water, sewer and public works purposes so it's been divided among those three funds.
 - Motion to approve made by Councilman Donnelly seconded by Councilman Truesdell All Ayes, the motion carried.
- d) *First Reading*, Request approval of Ordinance 1363 – Amending text amendments to section 33 “Temporary Uses” and Section 25 “signs” to add regulations for Special Events, Street and Mobile Vending and Ice cream Vendors and update the table of contents for the new divisions.
- Mr. McCommon asked City Planner Kathy Kem to speak to all of the ordinances.
 - Ms. Kem said there had been some complaints about mobile vending on vacant lots. This corresponds to special events. Ms. Kem explained the different vendors this ordinance covers and how she reviewed other Cities vending ordinances when preparing this one.
 - The Planning Commission made a couple of changes to this ordinance.
 - Mr. McCommon provided some context for why this ordinance is before them.
 - She pointed out the highlights of the ordinance. Such as when a special event permit is required and that there are fees when a permit is required. The City Administrator would have the authority to approve the permit.
 - She explained how a permit could be denied and how they could appeal the denial.

- She explained the differences among the various types of mobile vendors including a mobile food cart, mobile food truck, mobile food prepackaged truck and the single unit mobile food truck which includes packaged food.
 - There are certain areas that are prohibited, cannot be in a 50 foot radius of a similar business. They are prohibited during certain times of the day.
 - Some of the language in the ordinance would prohibit certain types of vehicles on different surfaces.
 - Councilwoman Reed asked how this would affect the snow cone business that sets up outside of the pool.
 - Ms. Kem said that they cannot block a driveway but she would have to look at the specifics.
 - Mayor Ward said he appreciated City staff's careful look at these issues. It will be helpful to have this information available in the future. He said he was really impressed by this ordinance and that it's very thorough.
 - Councilman Gilner asked if the ice cream vendor driving through town would require a vendor's license and Ms. Kem said yes.
 - Councilman Donnelly asked what the impact would be on nonprofit organizations such as the boy scouts with mobile food vending. Would they need to have licenses?
 - Ms. Kem said they wouldn't necessarily need a vendor's license but maybe a special event license.
 - Councilwoman Reed asked about girl scouts selling cookies and the like and if they would be covered and need a license.
 - Councilman Donnelly asked who would enforce these ordinances and Kem said the Police Dept would enforce.
 - Mayor Ward said we need to have special consideration for those types of groups. However, he doesn't think that would preclude the Council from moving forward on an ordinance.
 - Ms. Kem said the Council can always amend these ordinances and should periodically review them anyway.
 - Reed said she doesn't want to create any kind of animosity from the nonprofit groups by throwing a lot of fees and paperwork at them.
 - Mr. McCommon said if the Council can send him their questions on this issue then staff can have them ready for the next meeting.
- e) *First Reading*, Request approval of Ordinance 1364 - Amending text amendments to the City Zoning Ordinance Regulations – Section 22 “Special Uses,” Section 32 Definitions and Appendix A to add regulations for Licensed Child Day Care, Child Care Centers and Preschools.
- Ms. Kem said the existing day care ordinance is not clear on whether a special use permit is required or not.
 - Kem said there are certain state regulations for day cares. In putting this together staff reviewed the state statutes as well as Overland Park and both Kansas Cities.
 - The ordinance says that if you're required to have a license by the state then you're required to have a special use permit by the City.
 - Ms. Kem went on to explain further recommended changes to the existing day care ordinance.
 - If existing daycares do not conform, they could continue to operate as a nonconforming daycare.

- Donnelly asked about allowing daycares in an industrial setting and do we allow usage in an industrial setting? Ms. Kem said that's not allowed.
- f) *First Reading*, Request approval of Ordinance 1365 - Amending text amendments to the City Zoning Ordinance Regulations Section 12 "HBD" – Historical Business District and Section 32 "Definitions" to add conditions that will allow residential use in the form of apartments(s) as an accessory use on all levels of the retail/commercial building.
- Mr. McCommon explained that there was a question related to building codes as to the definition of mixed use in the historic business district. The intention with this ordinance is to provide clarification of where residences are allowed in the historic business district.
 - Ms. Kem said the goal is to preserve the front-facing street as retail/business space.
 - Mayor Ward said this is good to address this issue and we need to apply the rules consistently.

g) City Administrator Agenda

1. Swimming Pool Fee Amendment – Private Lessons
 - Mr. McCommon said that we had missed one fee which was the private lessons. This is a request to add this item.
 - Motion to approve by Councilman Truesdell, seconded by Councilman Donnelly. All Ayes, motion carried.
2. First Quarter 2013 Financial Update
 - Mr. McCommon said revenues and expenditures are tracking on budget. We planned a very tight budget this year and barring any severe emergency he anticipated the budget would be okay. He said he's watching the IT services closely.
 - Councilman Donnelly asked about the budget for the Capital Reserve fund and if it was going to be an issue due to it being nearly maxed out. Mr. McCommon explained that those accounts are like a bank account and the council appropriated certain budgets for specific expenses this year.
3. Request to estimate new revenue and appropriate expenditures in the amount of \$82,138.60 for the Ball Field loan.
 - Mr. McCommon said the ball field loan was previously reported off-budget and this would allow us to have it on budget without throwing off the budget and to be transparent.

h) City Attorney Agenda

1. *Second Reading*, Request approval of Ordinance No. 1357 – An ordinance to provide more effective enforcement for addressing inoperable vehicles
 - The police chief asked that the violation period be 24 months instead of 12 months. The first read was 12 months this ordinance has 24 months.

- Motion made by Councilman Donnelly to approve, seconded by Councilman Gilner. All Ayes, the motion carried.
2. Inter-local agreement with Leavenworth County for roadway maintenance
 - Mr. Kelly said he has spoken with the County Counselor regarding the cooperative inter-local agreement and he said he wasn't aware of a revision. Mr. Kelly said he recommended that we
 - Mayor Ward asked Mr. McCommon to reach out to the County Administrator to get these items on the agenda in the future so that they aren't seen for the first time during Council session without being vetted.
 - Councilman Truesdell said Mr. Bixby apologized for asking the Council to approve the agreement at the same council meeting.
 - Councilman Truesdell asked if the City had a say in whether or not we accept this roadway or not.
 - The Mayor asked the City Administrator and Attorney to get answers to these questions and have a draft ready for the next meeting.

i) Mayor Agenda

1. Executive session to discuss confidential matters of a third party for five minutes.
 - Motioned by Councilwoman Reed, seconded by Councilman Gilner. All Ayes, the motion carried.
 - Motion to return from executive session and a note that no action was taken was made by Councilman Gilner, seconded by Councilwoman Reed. All Ayes, the motion carried.
2. Executive session to discuss confidential matters of non-elected personnel
 - The Mayor requested a motion to go into executive session for a period of 10 minutes.
 - A motion was made by Councilman Gilner, seconded by Truesdell. All Ayes, the motion carried.
 - A motion to return from executive session and a note that no action was taken was made by Councilwoman Reed, seconded by Councilman Gilner. All Ayes, the motion carried.

IV. Adjourn

Motion to adjourn was made by Councilman Gilner. Seconded by Councilwoman Reed. All Ayes, the motion carried.

Respectfully Submitted,

Jennifer Jones-Lacy, Assistant City Administrator