



City Council Meeting
November 18, 2013
7:00 Regular Meeting

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

Consent Agenda

Councilman Peak made a motion to approve the consent agenda, seconded by Councilwoman Reed. All Ayes, the motion carried.

Open Agenda

- Denise Bixby, 704 East Street – wanted to know some more concrete dates on the Stone Creek/24-40 Hwy traffic signal improvements.
- Ms. Bixby said she hasn't heard much about the Washington Street sidewalk and wanted to know some feedback on that.
- Councilman Truesdell said both are on the agenda.

Old Business

- a) Update on Chieftain Trail
 1. Mr. McCommon said King Construction has completed the grading work once the weather allows they will work on the grading south and pouring concrete.
- b) Update on utilities extension
 1. Easement acquisition for water and gas – On the east side of the road, all of the sewer line pipe is installed with the exception of boring. There are two agreements for the Council's consideration tonight. The two contractors were approved by Council at the last meeting. Now the Council needs to approve the contracts. Michael Kelly confirmed that he reviewed it.
 2. Approval of contracts for boring water lines
 - i. Carver Construction: under US 24-40 Councilman Peak made a motion to approve not to exceed \$42,180, seconded by Councilman Gilner. All Ayes, the motion carried.
 - ii. Angell Construction: driveway Councilman Donnelly made a motion authorizing the mayor to sign the contract not to exceed \$4,700. Seconded by Councilman Truesdell. All Ayes, motion carried.
- c) Update on Hwy 24-40 traffic signal improvements

1. Agreement with KDOT for commitment of Access Management Grant – the Council has the opportunity to approve the contract tonight as a confirmation from KDOT to commit funds pending the City’s match.
 - Mr. McCommon said there were no funds budgeted for this in 2013 and it might make more sense to plan for funding of the project in 2014. There was discussion to take \$100,000 from the capital projects fund fund balance.
 - Councilman Gilner clarified that the City is not committing any amount of money tonight.
 - Mr. McCommon said that we will commit some funds but nothing formal tonight and that it would be approximately \$100,000.
 - Councilwoman Reed said there was a schedule which shows an expected completion date of Sept. 2014 for the traffic light.
 - Mr. McCommon said he would email that schedule to Denise Bixby.
 - Mr. Kelly said it’s not something we could change even if we wanted to. There is nothing objectionable or surprising, however.
 - Councilman Peak made a motion to approve the agreement with KDOT, seconded by Councilman Gilner. Councilman Donnelly abstained, three Ayes, the motion carried.

New Business

a) City Administrator Agenda

- Mr. McCommon said that there was an item that didn’t make it on the agenda and that’s the vacation of easement. In addition to recording the plat, the school district is asking the City vacate an old sewer and drainage easement so the architect can move the easement. This motion allows the City to give up the easement and after there’s a new plat the easement will be moved.
- Councilman Donnelly asked if all utilities would have to execute the vacation the easement.
- Mr. Kelly said that it was only City utilities that would need to vacate.
- Councilman Peak made a motion to approve the vacation of easement, seconded by Councilman Donnelly. All Ayes, the motion carried.

Action Items:

1. Approval of purchase of ballasts for sewer treatment plant
 - Due to the construction of the sewer plant, there is only vendor that provides the bulbs and ballasts for the plant. That vendor is Xylem Corp. and the purchase of ballasts should last 20 years.
 - Councilman Peak asked if we did a preventative maintenance program so we could budget specifically for these things.
 - Mr. McCommon said it was an inventory replacement and that the sewer capital reserve fund has an allowance to cover basic maintenance each year. He mentioned a major water main break last year which took a large chunk of the sewer reserve fund but this year we haven’t tapped into it very much for maintenance.
 - Councilman Peak asked what the cost would be if the supplier went out of business.
 - Mr. McCommon said the product would be available by another vendor.
 - Councilman Peak made a motion to approve the purchase not to exceed \$10,044. Seconded by Councilwoman Reed. All Ayes, the motion carried.
2. Agreement with Mize Houser for 2013 financial auditing services

- Ms. Jones-Lacy explained the City's history with Mize Houser and how they have been really helpful in assisting the City throughout the year and their familiarity with the City's books has been very helpful. That is why we felt it was prudent to continue the relationship with Mize Houser
- Motion by Councilwoman Reed to approve the agreement not to exceed \$8,300, seconded by Councilman Truesdell.
- Councilman Donnelly said he was under the impression that in order to keep everyone honest and organized we were going to go out to bid.
- Ms. Jones-Lacy said essentially that staff ran out of time to put together an RFP but that Mize Houser is a good firm and will provide good service. Next year staff will commit to bidding this out.
- Mr. McCommon said that this is an item we put on the backburner too long and had planned to bid this out, not because of poor service or price but just because it's a good practice to test the contracted services we get.
- All Ayes, the motion carried.

Informational Items:

3. Monthly financial report – October

- Mr. McCommon said everything is trending as expected. Franchise fees, court fees and property taxes are trending slightly higher than expected. The main concern for the budget is auto repairs and maintenance and IT expenses. We continue to monitor these expenses closely. The revenue in the enterprise funds all year long have been slightly under expectation
- The main payments left outstanding are \$100,000 County Road 1 payment in November.
- Councilman Donnelly asked if the City has ever done a stress test on the sales tax taking a big hit. The property tax is pretty stable but what would happen if one, two, or three of the businesses in town closed shop. He said what would happen if 5%, 10%, or 20% of sales tax contributors went away.
- Mr. McCommon said this town is very dependent on property tax. Councilman Donnelly said the property tax would be relatively consistent but he wants to know how sales tax would be impacted if major contributors were to dry up.
- Mr. McCommon said he'll provide that information and he has some similar data already.

4. Cellular tower lease agreement

- Mr. McCommon said he has been in conversation with American Tower regarding the cell tower lease in the industrial park. They agreed to 5, 4-year terms, they've agreed to \$1,000 per month of for leases, they would pay \$350 additional dollars for each additional tenant, they would pay any increment in property taxes on that property if the property is changed from agricultural land to commercial. They would also pay a one-time lump sum payment of \$25,000. He asked if the Council would foresee a reason to want to review the contract every four years since the terms renew automatically.
- Mr. Kelly said the tower is in the industrial park and the question is the valuation. We won't be able to sell leases to customers unless we have the security. We don't know if this is undervalued.
- Mr. McCommon said their biggest concern was leasing to tenants and keeping their long-term customers. Having that 20 year commitment gives them a stronger stance with other carriers.
- Mr. Kelly said Mr. McCommon did most of the negotiating.
- Councilman Donnelly said the contract is a good deal for the City.

- Mr. McCommon said there's an adjustment for CPI. Mr. Kelly also put in there that they would have to remove all materials if they were to terminate including remediating any toxic materials.
- Mr. McCommon said he just wanted to get feedback from Council to determine if they wanted anything else in the contract.
- Mr. McCommon said they have been working on this since February and there's no urgency since we're operating under the existing agreement until 2019. If there is additional language the Council feels is important he would take that back to the representatives at American Tower.
- Councilman Donnelly said we are still working under the existing contract. However, if we complete this agreement we get a lot of financial benefits from the new agreement. He said it's a good deal.
- Councilman Truesdell said the sooner we can get the agreement in place the better the City will be.

Mr. McCommon said there was a typo in the Employee Evaluation Policy that was approved by Council in the last meeting. This involved a definition for anniversary date. While he explained the policy that the anniversary date was the first date of employment with the City, but the policy should have said that their anniversary date is the date the employee started in their current position.

- Councilman Donnelly asked if an employee could potentially not get a raise for two years.
- Mr. McCommon said the promotion essentially constitutes a special review of the employee's performance which provides the increase in salary. That review would be sooner and better than their standard annual review.
- Councilman Peak asked if this has been thoroughly explained to employees as he's gotten a lot of complaints.
- Mr. McCommon said it had been.
- Councilwoman Reed made a motion to approve the definition as described by Mr. McCommon, seconded by Councilman Donnelly. All Ayes, the motion carried.

Councilman Gilner made a motion to go into executive session for 10 minutes to discuss matters of real estate negotiations. Seconded by Councilman Peak. All Ayes, the motion carried.

- Motion to return from Gilner, seconded by Reed. All Ayes, the motion carried.

Mr. McCommon suggested December 3rd for a community meeting to discuss the Gallagher property introductory meeting. Councilman Peak said he's not available.

- The meeting will be on December 3rd at 7 p.m. to discuss the Gallagher property. The meeting will be a work session. A motion was made by Councilman Peak to host a work session to discuss the Gallagher property on December 3rd at 7 p.m. second by Councilman Gilner. All Ayes, the motion carried.

b) City Attorney Agenda

1. Review of revised nuisance code

- Ms. Jones-Lacy provided an explanation of the change in code explaining much of it was changes in terminology to make it more clear including changing the definition of "property owner" to persons responsible for the property. This includes any guests or renters of a property that is in violation. It clarifies the definition of "public officer" to include code enforcement officer and any police officer or chief or their designee.

- Mr. Kelly said much of this code takes enforcement out of the hands of the Council and into the courts. He asked the Council to read through it one last time to and make any comments prior to putting an ordinance together.
- Councilman Peak asked if there was an escalation that went to the owner of the property if the property was being rented.
- Mr. Kelly said the landlord would receive a letter along with the tenant. However, to compel the owner to show up in court would require the letter to be served personally. If the landlord is out of state it's unlikely they would show up for court. We will have authority to abate the nuisance and assess it to the property.
- Councilman Peak asked if the City could tow a car to lot and charge the fees to the property if it were a nuisance.
- Mr. Kelly said we can't do that with personal property. It depends on how the citation was issued. There's language in this code that the tow can be assessed against the individual. If there's a junked vehicle on someone's property that's been there for several weeks or months, that could be assessed against the landlord as well.
- Councilman Peak said there are some typos that need to be reviewed.
- Mr. Kelly suggested January for a first reading of the revised ordinance.

c) Mayor Agenda

1. Council on Aging Letter of Support – Mr. McCommon said the Council on Aging applied for a transportation grant. There's a letter in the packet that the Mayor would like to sign.
 - The Council indicated they were in support of the letter.
1. Infrastructure Committee Report – Jim Truesdell
 - i. Update on sidewalk on Washington
 - Councilman Truesdell asked if there were some grading that needed to be completed for the sewer for the Washington sidewalk. Mr. McCommon confirmed that the County completed some grading of that sewer. There's a smaller sewer to the east.
 - Mr. McCommon said we need to get an easement and at minimum a temporary construction easement.
 - Councilman Truesdell said he is planning on a committee meeting later this week. Councilwoman Reed said the alternative funding ideas that she has looked at have not been successful and that the infrastructure committee needs to meet.
 - Councilman Peak asked if there would be any dirt available from the Chieftain Trail.
 - Mr. Kelly said he didn't think there would be anything available.
 - Councilman Gilner asked what material the county put down on Washington. Councilman Gilner said he's not sure where we would get the funds to build a sidewalk at this point. He thinks kids can walk on either side of the guardrail the way its set up right now on the old trail trestle.
 - Councilman Peak said you need a fence.
 - Councilman Gilner said he doesn't see where we would get this funding.
 - Councilman Truesdell said he thought they hadn't reached that conclusion yet.
 - Councilwoman Reed said she has crunched the numbers and she doesn't see where we would get that funding since they want to build a traffic

signal and get grant match funding. There aren't funds available, \$65,000 is the least expensive we've seen for this sidewalk and there's less than \$50,000 available. The best bet is to apply for grant funding but that that's not available until 2015.

- Councilman Truesdell said it wouldn't be more than \$65,000 to build the sidewalk and fence which is predicated on using city forces and does not include the grading.
- Mr. McCommon suggested the infrastructure committee meet to further discuss the issue.

2. Update on fireproof storage in city hall – Bill Peak

- Councilman Peak said the horizontal cabinet is about \$5,000. Since not everything is backed up. This has been brought up since Kathy Bard's time and it was shot down due to the cost. He said he would be happy to get additional quotes. He said he would get scanning prices and other quotes.

A Motion to dismiss was made by Councilman Donnelly, seconded by Councilman Gilner. All Ayes, the motion carried.

Respectfully Submitted,

Jennifer Jones-Lacy
Assistant City Administrator