



City Council Meeting
June 16, 2014
7:00 p.m. Regular Meeting

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

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

Open Agenda

Nothing for open agenda.

Old Business

- a) Public input on and discussion of space of former police station property
 - Mr. Peak said RCDC met and laid out a few basics and would like some public input they are pricing items as they go along. They discussed painting the walls to look like an old Tonganoxie post card. They are trying to get prices to determine what they can afford and modify as needed.
- b) Public input on and discussion of recycling program: mandatory vs. voluntary
 - Mr. McCommon said this is another standing item for the agenda.
- c) Update on Kansas Gas extraordinary costs
 - Mr. McCommon said that they reduced the base cost down to \$249,755 and the extraordinary costs were at \$22,000. Their final payment is \$12,000.
- d) Update on Hwy 24-40 traffic signal improvements
 - Approval of agreement with BG Consultants for bidding and construction oversight
 - Mr. McCommon said that we originally estimated design and construction at \$75,000 and the estimate is under the budget. BG is proposing a total cost of just under \$75,000.
 - Mr. Peak asked how the \$75,000 figure was determined.
 - Mayor Ward said Jason Hoskinson from BG is here to answer questions.
 - City Attorney Kelly asked if the City would need additional easement acquisition.
 - Mr. Hoskinson said not anymore.
 - Mayor Ward said the rate BG is charging is the same that has been in place since 2011.
 - Councilman Gilner made a motion to approve the agreement with BG Consultants, seconded by Councilwoman Reed. Four Ayes, with Councilman Donnelly abstaining, the motion carried.

- e) Approval of agreement for biennial bridge inspection with BG Consultants
 - Mr. McCommon said we are required to get our bridge inspected every two years and BG is charging us \$200 more than they did in 2012. He said there's a culvert that is listed as a bridge and has a bridge number which requires that it be inspected.
 - Mr. Donnelly asked if we would get a report back, Mr. Truesdell said we have that information in the files and we are updating our files.
 - Mr. Donnelly made a motion to authorize the agreement, seconded by Mr. Truesdell. All Ayes, the motion carried.

- f) Update on Washington Street sidewalk
 - Mr. McCommon said the Public Works crews are making good progress on the bridge. There is on property left to be graded and then they will be complete.

I. New Business

- a) Inter-local road maintenance agreement with Leavenworth County
 - Mr. McCommon said Council examined addendum A at the last meeting and the Council had a few questions and he took them to last week's County Commission meeting. He provided a summary of the comments.
 - What is the reasoning behind swapping the streets (Laming with Washington)? – it's already convenient for county crews to do the work on Laming as they are doing work in nearby areas.
 - What is the reasoning of passing down the cost of Washington to a smaller taxing base?
 - LVCO extended the bank of the culvert on Washington
 - There will be an eastbound right-turn lane on East Street
 - The County doesn't want the liability associated with Washington Street
 - The City may raise the status of the road to City standards.
 - County prefers to dedicate resources to other county roads.
 - If the county turned Washington Street over to the City, would the County turn it over in top condition? Mr. McCommon said the County Commissioners were not prepared to respond to that question.
 - Mr. McCommon said that the state statutes state that absent an agreement, the County is responsible for maintaining collector roads. He said at the time the County Counselor David Van Parys had not reviewed the statement by Tonganoxie's City Attorney and wasn't prepared to respond.
 - Mr. Kelly said he still has not heard from David Van Parys.
 - Mr. Peak asked why we were discussing the issue if we don't have a response from the County Councilor on if he agrees with the City attorney's assessment.
 - Mayor Ward said we could table the discussion if the County wishes however we have Commissioner Bixby here tonight to discuss the issue.
 - Mr. Bixby brought the Assistant County Engineer Mickey Schwartzkopf and the Bridge Superintendent Doug Smith.
 - He said Leavenworth County has about 900,000 miles of road to maintain. The Southern end of the County has experienced substantial growth over the last few years and the County only has so many dollars to go around. The Board wants to work to improve other roads around cities instead of what is in cities.
 - The Chieftain Trail is so close to the road on County Road 5 that someone could veer off and kill someone and the County doesn't want that liability. Bixby said that and the fact that two kids got hit by cars, the wanted to put up guard rails on Washington.

They widened the road bed, created a base for the sidewalk to be poured at considerable cost to the County.

- Commissioner Bixby said that they aren't cutting back they are just doing other roads in the area.
- The school is installing a turn lane and the County hasn't been consulted that so they want to turn the road over.
- Mr. Truesdell asked what the road having two names have anything to do with the agreement.
- Councilman Peak said he watched the road and he said there are two cross walks and he doesn't see any increased liability. He said he used to see people on County Road 5 and he doesn't see anyone any longer. Even if it's close to the road, it's not the road. Even if it's three feet from the road the sidewalk is 10 feet he doesn't see any increased liability.
- Commissioner Bixby said he has photos that he could share that showed tire tracks on the sidewalk.
- Mrs. Reed asked how liability would be changed based on who maintains the road.
- Mr. Kelly said the only reason there would be a liability is if the road weren't maintained but it's rare that a county or municipality would have any liability. Almost all the liability would be on the driver.
- Mayor Ward said since the County has historically maintained, it someone on their game could say it was never maintained to standard so it's both parties fault. He said he doesn't think liability should be a part of the equation.
- Mr. Bixby said a woman got hit and they sued the County. That's why they want to avoid these opportunities.
- Councilwoman Reed said he's proposing to trade Laming Road for Washington Street – he asked if there was a cost analysis to see if maintaining Laming was less expensive than Washington Street?
- Commissioner Bixby said they are already clearing snow on Laming Road. He said it's not just money it's assets.
- Mr. Smith said it's less expensive to maintain Laming Road than it would be Washington Street because Laming is much shorter.
- Councilman Donnelly said the liability issue is an abstract item. He asked if all cities are doing this or if it's just Tonganoxie. Mr. Smith said Lansing has taken over some roads as has Leavenworth. Mr. Donnelly said if Tonganoxie is disproportionately not maintaining roadways within the City limits compared to the other cities in the county then that's something he could take back as a reason to change the agreement.
- Leavenworth staff didn't have an answer to that question.
- Councilman Donnelly said if some of the roads we are going to fix benefit Tonganoxie in some way. Will we benefit from a side road? If we take on lane mileage, our taxpayers are going to pay more money. He said if there's no benefit to the City, this is an easy calculation.
- Mr. Bixby said they do an analysis on all roads every two years, determining how many cars drive it. Mr. Donnelly said as part of the PRP, they ask land owners to donate the right-of-way along roads and once they get 100% donated, they will do a chip and seal on the road.
- Mr. Smith said Washington would run \$20,000/mile
- He said typically when a city takes over a county road it's typically because of some large development, neighborhood, etc. Maybe the school is that reason. Mr. Donnelly said he pays county tax but he doesn't use county roads. He said he doesn't

understand how this makes sense to the city of Tonganoxie. All he sees is that we are taking up the burden and that funding is going to a smaller populous.

- Mr. Bixby said when people write checks to the County for County taxes, of \$1,000, the County keeps \$250. They have a lot of items to fund. It doesn't go very far.
- Mr. Donnelly said we have equal expenses too and what it boils down to is shifting the burden from a larger tax base to another.
- Mr. Peak said there's no data to back up Mr. Bixby's argument. He said if they are going to ask the City to do something then there needs to be more data to back it up.
- Mr. Bixby said two years ago the City didn't have an MOU with the County.
- Mr. Peak said if Mr. Bixby wants changes to the agreement then they need something in writing. We need to know that the taxpayers of this City are getting a value.
- Mr. Bixby said the information Mr. Peak is requesting is within the content of the City's Council minutes.
- Mr. Peak said he wants data to show what the County spent for overlay, plowing the street, etc.
- Mr. Bixby said he doesn't have precise figures for each street to determine how much it costs. That's the City's responsibility to determine how much it will cost our guys to maintain Washington Street.
- Mr. Truesdell said the sewer in Washington is going to cost \$100,000 and it was his understanding that that would be done prior to installing the sidewalk. Before Washington Street gets turned over to us that needs to be done before. We're talking about the culvert. Mr. Smith said they were going install a liner in the culvert and they moved that money to install a fence, which didn't cost \$100,000.
- Mr. Bixby said the drainage pipe is not at the end of its useful life.
- Glenn Cannizarro, 1014 Shawnee – he said the culvert affects his property. He said the culvert was leaking several years ago and the County said they would fix it and to this date they have not.
- Councilman Truesdell said he would like to know any defects of the roads the County wants to turn over.
- Mrs. Reed asked if the County was considering funding the culvert lining. Mr. Bixby said not at this time.
- Doug Smith, road and bridge superintendent of Leavenworth County said they had budgeted specifically for the pipe liner. He said the commission chose to take the money from the culvert liner and use it for the guardrail.
- Councilman Bixby said the County extended the culvert on the south side.
- Pam Smith, 236 Outlook Court asked how long it has it been since an engineer reviewed the safety of the culvert on Washington. They said within the past few years an engineer reviewed it.
- Mr. Bixby said he asked Mike Spickelmeyer reviewed it and said that it's getting close to the end of its useful life.
- Mr. Donnelly said he needs to find out how Tonganoxie compares to other Cities in the county when it comes to maintaining county roads.
- Mayor Ward asked to take five minute break.

b) Appointment of LeAnn Bond to the Recreation Commission Board of Directors

- Councilman Donnelly made a motion to approve, seconded by Reed.
- Councilman Peak asked if it was a public vote to appoint Recreation Commissioners.
- Councilman Donnelly said the staff and board make recommendations for approval. All Ayes, the motion carried.

- c) Request approval of Fireworks Stand permits
1. Mr. McCommon said two are from Shan Trieb, one is from Rockstar Fireworks and the other is from Anthony Miller.
 2. Councilman Peak made a motion to approve the location at 105 E. 5th Street, seconded by Councilman Truesdell All Ayes, the motion carried.
 3. Councilwoman Reed made a motion to approve the location at 420 Stone Creek, seconded by Councilman Peak All Ayes, motion carried. Councilman Donnelly abstained.
 4. Councilman Peak made a motion to approve the location at 325 W. 24-40, seconded by Councilman Truesdell. All Ayes, the motion carried.
 5. Councilman Peak made a motion to approve the permit at 1100 West Street seconded by Councilman Truesdell. All Ayes, the motion carried.
- d) Request approval of Cereal Malt Beverage license for Brother's Market, Inc.
- Mr. McCommon said Brothers Market 5 is seeking a CMB license, they have their business license, and passed building and fire inspections. This is the final item to being fully operational.
 - Councilman Peak made a motion to approve, seconded by Councilwoman Reed. All Ayes, the motion carried.
- e) Approval of inter-local agreement with Leavenworth County for 800mhz radios
- Mr. McCommon said these negotiations were complete in 2012 with Motorola. This is really rectifying an administrative oversight as this agreement should have been approved back in 2012.
 - Councilman Peak made a motion to approve, seconded by Truesdell, all ayes, the motion carried.
- f) Approval of lease with Calvin Quisenberry for the police station
- Mr. Peak made a motion to approve, seconded by Councilman Gilner.
 - Mr. Kelly said he reviewed the agreement.
 - All Ayes, the motion carried.
- g) City Administrator Agenda
1. Contractor licensing program
 - Mr. McCommon said this program would require trade licensing for specific contractors. Mr. McCommon said all of our neighbors already have this in place. ICC is the leader in this field and Tonganoxie has adopted the 2003 edition of the code. Mr. McCommon said Johnson County certifies contractors and if someone were to demonstrate that they have certification from one of these agencies, the city would charge a fee. He said he was looking for Council feedback.
 - Mr. Peak asked if someone doesn't have this license then they could not do work in Tonganoxie.
 - Mr. McCommon said that's the City's leverage to ensure licensure.
 - Mr. McCommon said we could invite builders to the meeting the City has to consider the ordinance.
 - Councilman Donnelly said where you see the problem are those individuals who do their own electrical or their own work.

- Property owner are exempt from the requirements if they are working on their own homes.
- Mr. McCommon said Johnson County offers free continuing credit training and that would extend to our staff as well. We can also list all of our licensed contractors on our website showing who is licensed.
- Councilman Gilner asked if anyone doing work in the city limits would need a permit and Mr. McCommon said yes.
- Mrs. Pam Smith asked if people employed to maintain a person's property if they would need a license. Mr. McCommon said only for trades people such as plumbing, mechanical, etc.
- Mayor Ward said we could have a meeting in about a month to discuss this.
- Mayor Ward said this is a public safety issue to ensure people working in Tonganoxie are licensed and have the training and what's the impact to things we hadn't considered. He said he's been asked that question for a while.

2. May financial report

- Mr. McCommon said he's still talking to the County Clerk regarding the ad val shortfall. There's a large payment each year in October in the form of delinquent taxes and we may receive a large chunk at that time. My recommendation at this point would be to hold that amount from being spent in the contingency line in administration.
- Mr. McCommon said sales taxes are performing well. He said the pool just opened so it's hard to gauge.
- Franchise fees and lease payments are up from last year. He said American Tower is about to add a sub-tenant and that will add \$350/month.
- The water park sales tax is coming in just under budget.
- He explained recent debt that was paid in May.
- Mayor Ward asked if the utility pole issue was resolved – Mr. McCommon said there was utility pole that was too close to the trail so King's has to move the trail.

3. Mr. McCommon said Main Street Live is hosting an event at the Water Park on Thurs. at 6 p.m.

h) City Attorney Agenda

- Mr. Kelly said the resolution the City passed still exempts public buildings for three years.
- Mr. Kelly said he is waiting to hear back from Mr. Van Parys regarding the dissolution of the consolidated water district.
- Rural Water District 6 wants the City to consider a pump station to be built on Hubble Hill which would require easement.

i) City Council Agenda

Councilman Peak asked when benches were going to be installed on Chieftain Trail. Mr. McCommon said he knows that they have arrived and staff needs to assemble them. He said the Public Works crews are currently stretched pretty thin but should be more available upon the completion of the Washington Street sidewalk.

Mr. Donnelly said he would like to continue the conversation on a city manager form of government.

Councilman Gilner made a motion to adjourn, seconded by Councilwoman Reed. All Ayes, the motion carried.

Respectfully Submitted,

Jennifer Jones-Lacy