

**City of Tonganoxie**  
**City Council Meeting Minutes**  
**06/28/10**

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

**Consent Agenda:**

- a) Approval of Minutes –
  - 1. Regular Meeting dated June 14, 2010
  
- b) Consider Approval of Bills - Approve Pay Ordinance A-1635
  
- c) Consider approval of application for the retail sales of fireworks at the following locations.
  - 1. 1520 E 24/40 Hwy, Dorothy Rose property, applicant J's Fireworks
  - 2. 1100 West St., Sacred Heart Church property, applicant Anthony Miller
  - 3. 420 Stone Creek, across from Conoco, applicant Ashley Law
  - 4. 105 E 5<sup>th</sup>, Seymour property, applicant Ashley Law
  
- d) Consider approval of appropriation to KC Construction for work performed in the City for inflow and infiltration improvements (slip line sewer mains) in the amount of \$18,143.25
  
- e) Consider approval of appropriation to First State Bank & Trust in the amount of \$50,887.50 as capitalized interest on the Future Industrial Park property.
  
- f) Consider approval of appropriation to O'Donnell & Sons Const for asphalt purchased to repair Pleasant Drive and Delaware Drive in the amount of \$24,029.82.
  
- g) Consider approval of appropriation to Utility Solutions for work performed in the City for inflow and infiltration improvements (Reline Manholes) in the amount of \$5,985.00

**Motion** by Putthoff to approve the consent agenda items a through g. Second by Welsh. Discussion ensued concerning the previously approved minutes from the May 24, 2010 meeting. Councilmember Crook said the minutes were approved at the last meeting as amended and they have not been amended correctly. She suggested the minutes reflect what was actually said concerning the telephone

call to councilmembers that was made by the Mayor. Asst City Administrator, Kathy Bard said minutes are not prepared verbatim and typically only contains motions and votes and includes the jest of a discussion. After further discussion, Council member Ward directed staff to redo the minutes again and reflect verbatim discussion surrounding this issue, the council agreed. With no further discussion, the Motion carried 5 Ayes.

**Open Agenda:** Laurence Hill, 501 E 13<sup>th</sup> Street complimented the City on the development of the Water Park. He said the children really seem to enjoy it and it was a good addition.

**Old Business:** The first item on the agenda under old business was to discuss the charge that is assessed to a property owner when the City is required to mow a property as a nuisance violation. After discussion, the council agreed it could not charge more than a reasonable fee for the equipment and the labor to do the job but we could add an administrative fee to offset the cost of mailing, photography and other expenses that are incurred with a violation. Mayor Vestal allowed public input at this time. Velda Roberts, 496 E 12<sup>th</sup> Street asked if the City could contract the service out. Diane Bretthauer (no address given), said a city employee told her on more than one occasion that it was not a violation until it was 24" tall. Staff reassured the citizen that a violation occurred at 12". **Motion** by Ward to direct staff to research and determine a reasonable administrative fee to add to the current violation charge. Second by Crook. All Ayes. Aye 5. Motion carried.

Next on the agenda was Diane Bretthauer and A.W. (Rocky) Himpel representing David Himpel. They approached the council concerning Pleasant Street Bridge replacement project and the promise in the easement agreement to remove a tree as part of the agreement. Himpel passed out documents to the council and proceeded to inquire as to why the tree had not been removed yet. Staff explained the tree removal was included in the construction documents and the project is set to be bid in August. The City sought bids for the removal of the tree in October of 2009. Two bids were received and they were rejected by the council as they were deemed unreasonable, the low bid was \$7,000. At that time staff determined the tree would be removed as part of the project to get a better price and qualify for the 80% reimbursement from the bridge funds. Himpel said the letter dated September 19, 2009 said the tree would be removed as soon as reasonably possible and the estimate of just compensation form lists the tree as a large cottonwood tree that threatens the house. They are concerned if the City does not remove this tree, then the tree could fall and damage the home or take a life. He stated that non-removal of the tree would constitute a breach of contract and he does not want to go to court over a tree.

Next, there was a **Motion** by Ward to enter into an executive session at 7:35 PM for five minutes to discuss a matter of attorney client privilege and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 7:40 PM. Second by

Putthoff. All Ayes. Aye 5. Motion carried. **Motion** by Crook to exit executive session and reconvene with the regularly scheduled meeting at 7:40 PM. No items were discussed other than that mentioned and no votes were taken. Second by Putthoff. All Ayes. Aye 5. Motion carried.

**Motion** by Ward to direct staff to seek bids to remove the tree immediately and provide copies of those bids to the council for consideration. Second by Truesdell. All Ayes. Aye 5. Motion carried.

Mayor Vestal allowed public comment at this time. Diane Bretthauer, (no address given), asked if it was City policy that when a street is replaced with curbs a sidewalk is supposed to accompany those improvements? She asked why the City did not put sidewalks on Pleasant Drive and Delaware Drive when the work was being completed. She said she was told by a Meadows employee that the City did not have the money and that is not a good reason to go around a city policy. City Administrator Mike Yanez said the emergency street repair projects were not engineered to city standard with storm water improvements and when the roads are engineered and improved to City standards the sidewalks will be added at that time.

Next, there was a **Motion** by Truesdell to enter into an executive session at 7:50 PM for fifteen minutes to discuss as it pertains to a non-elected personnel 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 8:05 PM. Second by Ward. All Ayes. Aye 5. Motion carried. **Motion** by Ward to exit executive session and reconvene with the regularly scheduled meeting at 8:05PM. No items were discussed other than hat mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 5. Motion carried.

Next item for discussion was the hiring policy proposal for department heads. Discussion ensued. The council directed the City Administrator to select a committee of five members for a selection process for Police Chief and bring back the hiring policy to the next meeting for consideration and adoption.

Break at 8:40 PM reconvene at 8:45 PM.

**Motion** by Welsh to adopt Resolution 06-10-02 adopting a "No Smoking Policy" and add to the second sentence of the policy no smoking in city owned vehicles. Second by Truesdell. Aye 3. Nay 1 (Putthoff). Abstain (Ward). Motion carried.

**Motion** by Ward to adopt Ordinance 1302 increasing court costs effective July 1, 2010. Second by Putthoff. All Ayes. Aye 5. Motion carried.

**Motion** by Crook to adopt Ordinance 1303 increasing Fireworks stand permit fees to \$300.00. Second by Truesdell. All Ayes. Aye 5. Motion carried.

**Motion** by Truesdell to adopt Ordinance 1304 revising and increasing the City water rates. Second by Welsh. All Ayes. Aye 5. Motion carried.

**Motion** by Putthoff to adopt Ordinance 1305 increasing the bulk water rate to \$0.75 for 50 gallons. Second by Ward. All Ayes. Aye 5. Motion carried.

Next on the agenda was the Neighborhood Revitalization Plan. Staff met with the Leavenworth County Commissioners to gain approval of the plan. They did not approve the plan and would like the Council to reconsider the area selected to be eligible for revitalization by taking out the large parcels around Tonganoxie Creek. The County previously approved Basehor, Lansing and Leavenworth's plan and the council would like staff to go back to the County and plea to County as they were creating an unlevel playing field for development by not approving Tonganoxie's plan. **Motion** by Ward to direct staff to revisit with the County Commissioners and request they reconsider the plan with the knowledge that USD 464 and the Township had adopted the plan as is. Second by Putthoff. 4 Ayes. 1 Nay (Crook). Motion carried.

**Motion** by Putthoff to approve the contract for Solid Waste Collection with Honey Creek Disposal Service, Inc to expire December 31, 2014. Second by Ward. All Ayes. Aye 5. Motion carried.

Next on the agenda was cleaning of the north water tower. Staff solicited and received three bids to perform the work. Enviroklean \$7,200, Central Tank Coatings \$5,200 and Paint Platoon USA \$20,640. Staff recommends awarding the low bid. **Motion** by Crook to accept low bid of \$5,200 from Central Tank Coatings for the North water tower cleaning. Second by Welsh. All Ayes. Aye 5. Motion carried.

Mayor Vestal read a Proclamation to reaffirm our commitment to work toward full ADA compliance in the City of Tonganoxie.

With no further business to discuss, there was a **motion** by Crook to adjourn. Second by Putthoff. Motion carried. All Ayes. Aye 5. Meeting adjourned at 9:30 PM.

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