

City of Tonganoxie
City Council Meeting Minutes
09/13/10

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on September 13, 2010. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Mayor Jason Ward, Councilmembers: Paula Crook, Chris Donnelly, Jim Truesdell and Burdel Welsh. Mike Yanez, City Administrator; Kathy Bard, Asst City Administrator/City Clerk and Mike Kelly, City Attorney.

Mayor Ward called the meeting to order and asked the City Clerk to call role, it was determined that a quorum was present.

Consent Agenda:

- a) Approval of Minutes –
 - 1) Regular Meeting Dated August 23, 2010
 - 2) Special Meeting Dated August 26, 2010
 - 3) Special Meeting Dated September 7, 2010

- b) Consider Approval of Bills - Approve Pay Ordinance A-1640

- c) Consider authorizing the Mayor to sign notice of acceptance for the Flashing Beacon Project funded with ARRA funds at 24/40 and Northstar Drive.

- d) Consider approval of appropriation to Board of Public Utilities in the amount of \$5,075.00 for construction inspection associated with the BPU Waterline connection.

- e) Consider approval of appropriation to K-11 Machine Shop in the amount of \$4,795.00 for repair of non-potable pumps at the wastewater treatment plant.

- f) Consider approval of appropriation to KC Construction in the amount of \$24,150.00 for work completed on the 4th Street Phase III water line to be paid for with bond proceeds.

- g) Consider approval of appropriation to KDHE for revolving loan payments for sewer improvements in the amount of \$131,671.21.

Motion by Welsh to approve the consent agenda items a through g. Second by Donnelly. All Ayes. Aye 4. Motion carried.

Open Agenda: Bill Peak, 612 Washington thanked Burdel Welsh for his time and dedication on the council and wished him luck with his new endeavor.

New Business: The first item on the agenda under new business was Patrick Knorr, Chief Operating Officer with Sunflower Broadband, the World Company and Knology, he was requesting consent to transfer the cable television franchise from the World Company to Knology. An Ordinance was presented for consideration to adopt approving the transfer of the cable television franchise granted by the City of Tonganoxie. **Motion** by Welsh to adopt Ordinance 1308 transferring the cable television franchise. Second by Crook. Discussion ensued. Councilmember Donnelly asked the City Attorney what was the City's obligation to provide cable service to the citizens through the franchise. Mike Kelly, City Attorney replied the franchise does not obligate the City to provide cable service the only obligation of the City is to collect the franchise fee. Donnelly said he was concerned that the company did not appear to be financially stable. He said they have no net worth. Patrick Knorr, Chief Operating Officer responded the company is solvent they were able to obtain an 800 million line of credit to purchase the company. Mayor Ward asked Mr. Knorr to update the council on what is actually happening at Sunflower, Knorr replied that Sunflower is being purchased in whole and they plan to expand and grow in NE Kansas. With no further discussion, the question was called. All Ayes. Aye 4. Motion carried.

Next on the agenda was Brian Nyp, City Auditor with Lowenthal, Webb & Oderman, PA. He gave an overview of the 2009 audited financial statements. He said, the City of Tonganoxie prepares its financial statements on a prescribed basis of accounting that demonstrates compliance with the cash basis and budget laws of the State of Kansas. As part of the audit, they consider internal controls. They became aware of an area of weakness opportunity to strengthen that area. During the audit, they noted that tickets issued by the Police Department are tracked on a citation log and that log does not agree to the Municipal Court caseload summary. The reasons for the variances are logical and not of concern as not all tickets issued by the Tonganoxie Police Department are considered or heard at Tonganoxie Municipal Court. Juvenile and some repeat offenders for example, are sent to Leavenworth County. A method of reconciliation has been determined by City Hall and the auditors will review the status of the comment during the 2010 audit. There was also discussion surrounding a negative cash balance at the end of the year in the Special Highway Fund. This is a budget law violation and was noted in the financial statements. The City has used this fund for the Capital fund for street projects. One of the street projects was financed using a reimbursement loan through KDOT, the payment was made to the contractor but the reimbursement was not received until January of 2010. It is a cash flow situation and was duly noted in the audit. With no further discussion on the audit there was a motion to accept the 2009 audit as presented. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next on the agenda was to consider renewal of the letter of understanding of services provided to the City of Tonganoxie for the 2010 auditing and financial statement services. The gross maximum fee is \$7,825.00. Council discussed doing a RFQ for auditing services and agreed it was too late in the year to begin such a measure. Motion by Truesdell to approve the renewal of the letter of understanding of services to be provided to the City

from Lowenthal, Webb & Oderman, PA in amount not to exceed \$7,825.00. Second by Donnelly. All Ayes. Aye 4. Motion carried.

Motion by Welsh to approve Cereal Malt Beverage License for Country Cuisine located at 1212 E Hwy 24/40 for sales of cereal malt beverages for consumption of premises. Second by Donnelly. All Ayes. Aye 4. Motion carried.

Motion by Donnelly to appoint Mike Yanez and Paula Crook to serve as voting delegates on behalf of the City of Tonganoxie for the League of Kansas Municipalities annual conference. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next, there was a **Motion** by Truesdell to enter into an executive session at 7:45 PM for fifteen minutes to discuss a matter that pertains to non-elected personnel and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 8:00PM. Second by Crook. All Ayes. Aye 4. Motion carried. **Motion** by Welsh to exit executive session and reconvene with the regularly scheduled meeting at 8:00 PM. No items were discussed other than that mentioned and no votes were taken. Second by Crook. All Ayes. Aye 4. Motion carried.

Motion by Donnelly to accept the employment agreement for Police Chief with Jeffery Brandau to serve as Chief of Police for the City of Tonganoxie. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next on the agenda, Mayor Ward said he was regretfully accepting the resignation of Tom Putthoff as Councilmember for the City of Tonganoxie. Councilmember Donnelly interjected by thanking Tom for his commitment hard work to the betterment of the City. The Council agreed Tom was an asset to the City in his role as councilmember.

Next Mayor Ward appointed Bill Peak to fill the vacant councilmember chair. Motion by Truesdell to accept mayoral appointment of Bill Peak as Councilmember. Second by Donnelly. All Ayes. Aye 5. Motion carried.

Next on the agenda Council President Burdel Welsh said he as well is resigning, this will be his last meeting he has accepted a job in the Marshal Islands and will be moving at the end of the month. The council expressed appreciation for Welsh's efforts and wished him the best in his new career.

Next, there was a **Motion** by Donnelly to enter into an executive session at 8:05 PM for fifteen minutes to discuss a matter that pertains to non-elected personnel and request City Attorney Mike Kelly attend the executive session, to return at 8:20PM. Second by Truesdell. All Ayes. Aye 4. Motion carried. **Motion** by Crook to exit executive session and reconvene with the regularly scheduled meeting at 8:20 PM. No items were discussed other than that mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next, there was a **Motion** by Crook to re- enter into an executive session at 8:25 PM for twenty minutes to discuss a matter that pertains to non-elected personnel and request City Attorney Mike Kelly attend the executive session, to return at 8:45PM. Second by Truesdell.

All Ayes. Aye 4. Motion carried. **Motion** by Welsh to exit executive session and reconvene with the regularly scheduled meeting at 8:45 PM. No items were discussed other than that mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next, there was a **Motion** by Truesdell to re- enter into an executive session at 8:45 PM for fifteen minutes to discuss a matter that pertains to non-elected personnel and request City Attorney Mike Kelly attend the executive session, to return at 9:00PM. Second by Donnelly. All Ayes. Aye 4. Motion carried. Councilmember Welsh excused himself from the executive session and left the meeting at 8:45. **Motion** by Donnelly to exit executive session and reconvene with the regularly scheduled meeting at 9:00 PM. No items were discussed other than that mentioned and no votes were taken. Second by Crook. All Ayes. Aye 3. Motion carried.

Next, there was a **Motion** by Truesdell to re- enter into an executive session at 9:00 PM for fifteen minutes to discuss a matter that pertains to confidential data relating to financial affairs or trade secrets of second parties, such as corporations and partnerships and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 9:15PM. Second by Donnelly. All Ayes. Aye 3. Motion carried. **Motion** by Crook to exit executive session and reconvene with the regularly scheduled meeting at 9:15 PM. No items were discussed other than that mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 3. Motion carried.

Next, there was a **Motion** by Truesdell to re- enter into an executive session at 9:15 PM for ten minutes to discuss a matter that pertains to confidential data relating to financial affairs or trade secrets of second parties, such as corporations and partnerships and request City Administrator, Mike Yanez, Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 9:25PM. Second by Donnelly. All Ayes. Aye 3. Motion carried. **Motion** by Donnelly to exit executive session and reconvene with the regularly scheduled meeting at 9:25 PM. No items were discussed other than that mentioned and no votes were taken. Second by Truesdell. All Ayes. Aye 3. Motion carried.

With no further business to discuss, there was a **motion** by Crook to adjourn. Second by Donnelly. Motion carried. All Ayes. Aye 3. Meeting adjourned at 9:30 PM.

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