

**City of Tonganoxie
City Council Meeting Minutes
03/12/12**

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on March 12, 2012. 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: Dennis Bixby, Andy Gilner, Bill Peak and Jim Truesdell. Mike Yanez, City Administrator; Patty Hagg, Clerk and Mike Kelly, City Attorney. Chris Donnelly, absent he arrived at 7:20.

After roll call, the Mayor led everyone with the Pledge of Allegiance.

Consent Agenda

- a) Approval of Minutes –
 - 1. Regular Meeting dated February 27, 2012
- b) Consider Approval of Bills - Approve Pay Ordinance A-1678
- c) Consider appropriation to BG Consultants for Easement Acquisition for Chieftain Trail in the amount of \$3,564.00.
- d) Consider appropriation to City of Basehor for Building Inspector Services for January and February in the amount of \$4,321.95.
- e) Consider appropriation to First State Bank for loan payment #7 for Fire Department Bunker Gear in the amount of \$4,871.43.
- f) Consider appropriation to First State Bank for loan number 4249564 for 2011 Ford first responder for Fire Department in the amount of \$2,903.77.
- g) Consider appropriation to OMB Guns, Inc. for three bullet proof vests in the amount of \$2,227.00.
- h) Consider appropriation to Mike Yanez for first half of March City Administrator services reimbursement in the amount of \$3,270.00.

Motion by Truesdell to approve the consent agenda items (a) through (h). Second by Gilner. All Ayes. Aye 5. Motion carried.

Open Agenda:

Mr. Robert "Marty" Trieb, 21925 Tonganoxie Dr, Tonganoxie, KS 66086, business owner at 113 S Delaware, Tonganoxie KS addressed the council with concerns he had over his property at 113 S Delaware. He stated he has had a business there since he bought the property and now that he is has a buyer he has found out the zoning has been changed from commercial property to R-SF "Residential Single Family",

He stated he has received a business license from the city. (He presented a copy) He also stated that in 2004 he created a one (1) lot Subdivision at the south end of his property to build a multi-family residential home. He withdrew his R-MF1 rezone request because the city had received notification from several neighbors who did not want the property rezoned to allow a multi-family house. He also stated that in 2003 he filed a lot split for a piece of property at the north end of the property and built a single family home on that lot. He stated he has always used the brick building as a garage to sell cars and do auto restoration and glass repair. He stated the garage/business in question was built in 1947 and at that

time it was used as a Bulk Trucking Company. Mr. Treib then introduced Mr. Kelly Smith the potential buyer for the property.

Mayor Ward asked if they wanted to rezone the property.

Mr. Trieb and Mr. Smith stated they did not feel they should have to rezone the property. They presented a copy of the staff report for the 2003 Lot Split and the 2004 Subdivision Plat. That stated the building was a nonconforming building. Mr. Smith stated he has purchased the old Casey's store and is looking for a place to store and detail his cars until he can move them to his lot at the old Casey's store.

Patty Hagg, Planning Recording Secretary, stated she is still researching the zoning of the property and as far back as 1988, the property has been zoned residential with a nonconforming building. She stated Kevin Kokes, City Planner will contact her on Tuesday, 3/13 with his determination. She stated she thought the new use of the building might change in intensity from the business that Marty has. She said Kevin Kokes thought they should go to the Planning Commission or Board of Zoning Appeals to determine if this business would have an affect on the neighborhood.

Mayor Ward asked Mr. Smith to state his address for the record.

Kelly Smith, 13521 Polfer Rd, Kansas City KS 66109. Mr Smith stated he is not going to use the building for car sales, he will use it only for detailing his cars and because the shop has a lift he may do some oil changes and brake repair. He stated the building is 30' X 70' and he plans to use the inside of the building to store most of the cars.

City Attorney Michael Kelly explained the nonconforming use stays with the building unless the building is damaged more than 50%. If so, the building will have to be torn down and rebuilt as a single-family residential structure or go through the Rezoning process through the Planning Commission.

City Building /Codes Inspector Mark Lee explained it is possible at some time the zoning reverted to the surrounding property code.

Mr. Smith stated he would not be doing anything more than what Mr. Trieb has already been doing there, minor repairs, detailing his cars, and storing vehicles that would not fit on the Casey's lot.

Mr. Trieb stated he had up to 20 cars in the parking lot when he was junking cars with his brother, and there is plenty of parking space because he has street millings around the building and a concrete parking area on the south side of the building. He has parked trailers there and sold cars there and some glass repair.

Mayor Ward asked Mr. Smith if he would use this lot to sell vehicles.

Mr. Smith stated he will not have retail customers at the building, he only wants to use it as a place to store cars and he wants to do the detailing work there and he may have a mechanic onsite later.

Councilman Bixby asked if he would have about a half dozen cars.

Mr. Smith stated he planned to have no more than 8 inside and 6 outside. He stated he is in the wholesale business and needed a place to move the cars around if they were not selling at the old Casey's store, he would swap them with cars that were stored at the Delaware St. building.

Councilman Chris Donnelly arrived at 7:20 p. m.

Mr. Smith stated he did not want to go through the Rezoning process. He had to do that with the Old Casey's Store and he didn't want to do that again. Mr. Trieb stated he offered to lease the building to Mr. Smith during that time, but Mr. Smith stated he needed a building to store and detail his vehicles right away. If he had to, he would look for another building.

Mayor Ward asked the Mark Lee, Building/Codes Inspector for nonconforming use information.

Mr. Lee explained he didn't know exactly what was in the Tonganoxie Codes but he zoning code "Nonconforming Use" is a way to weed out existing buildings/businesses that no longer fit with the current zoning codes. He felt as long as the intensity of the new business did not change, there should not be any problems.

Mayor Jason Ward reminded Mr. Smith of the risks in involved with a nonconforming building and the risks of interpretation by future council. He stated if Mr. Smith knew of these consequences he had no problem allowing the building to remain as a nonconforming use building to be used for auto storage and detailing in a residentially zoned area.

No official motion was made. No vote was taken. The council members agreed with the Mayor, and wished Mr. Kelly good luck with his new business.

With no additional comments from the public, the Open Agenda was closed.

Old Business:

A) Suburban Water Proposal – Industrial Park Site

Mike Kelly stated representatives from Suburban Water District had to cancel and requested to be added to the first council meeting in April. (April 9, 2012)

B) Tom Kaleko, Springstead, Inc. – Police Station Financing Options

Mr. Kaleko reviewed the financing options available to the City for financing of the Police Department Building. He explained three options and his recommendation.

Option 1 - General Obligation Bonds

Option 2 – Revenue Bonds

Option 3 – Lease Purchase

Mr. Kaleko stated he recommends issuing Public Building Commission (PBC) Revenue Bonds to finance the facility. He stated this would not count toward the city's debt ceiling and would preserve the General Obligation Authority the city has if they needed to use it for unforeseen events or future projects.

Mr Kaleko stated that PBC bonds are primarily used for City Facilities and once they are setup they can be used in the future for joint projects with the county or school. He explained that right now the PBC bonds have just about as good an interest rate as General Obligation Bonds. He said the PBC bonds are similar to a Lease Purchase agreement. He reviewed revenue sources for the repayment of the bonds and stated the primary source will be from a property tax increase and/or expenditure reductions. Mr. Kaleko also recommends a 20-year bond repayment program. He explained this would help the city's credit rating. He recommends waiting until after the approval of the 2013 budget to give the city time to begin a planned multiyear program to restore and improve the city budget. His recommended method of sale is through a competitive sale. He stated PBC bonds sell very well.

Councilman Peak asked how this does not go against the debt limit; it is money that will have to be repaid. Me Kaleko explained it does not go against the Legal Limit that is looked at by Moody's Investor Services, they provide the city's credit rating. He said it would still go against the practical limit. Discussion ensued covering topics such as how to wait until after the 2013 budget is approved, negotiations with the sellers for purchase time frame and renovations, builders and inspectors for the renovations, setting procedures for inspections of the renovations, hiring project managers and architects to assist in reviewing the renovations, what the turn-key operation involved, approximate move-in date. Mr. Kaleko suggested using the interim police station, working with the sellers using a detailed contract to deal with the topics discussed, talking to the sellers to see if they can start the renovations before the bonds are issued if they have intent to buy contract from the city. He stated he will provide additional information on competitive rates for the PBC bonds. He stated the city would have to adopt a Charter Ordinance for the PBC bonds. Mr. Donnelly asked staff to see what the actual cost of the bonds will be and to provide information on the steps the City needs to take to start the PBC Bond application and process.

Councilman Peak wanted to know exactly what we are buying. He wanted to see the plans.

Mayor Ward stated he thought we would need a purchase agreement with a plan of finance for the sellers so they would be able to start the renovation process. He liked the PBC bonds because they do not go against the General Obligation debt.

Mayor Ward recognized Police Chief Jeff Brandau. Chief Brandau explained he is reviewing specifications and listing renovations that his department will need for the new building. He stated he has talked to a bank that may be interested in a lease purchase option. He would like the council to consider that also. He would also like to hire someone to review and ensure the plans meet codes and to do inspections as each of the renovations is finished. The council discussed contractor and construction managers, schedules and budgets, the professionals hired by the sellers,

Councilman Tuesdell recommended using the city engineers, B G Consultants, to represent and oversee the project. There was further discussion with the Building Inspector Mark Lee regarding the plan review process he uses now. City Attorney Mike Kelly suggested everything will be in a legal contract that will be presented to the city and the sellers before financing the project.

Councilman Bixby made a motion to seek BG Consultants and up to 2 other consulting firms to provide a fee estimate for the project review.

Additional discussion regarding hiring BG Consultants, cost estimates the city has already received, lease purchase plan, the Public Building Commission bonds, and concerns for raising the mill levy or increasing sales taxes.

Councilman Donnelly stated he likes the PBC bonds but also wants to build the city's reserves. He wants to see departments cut their expenditures instead of all the debt being placed on the tax payers.

The Mayor recognized Mr. J.W. Evans at this time. Mr. Evans stated the loss of the Post Office has hurt the downtown area and he is opposed to the Police Station moving from Downtown. He feels there is a need for a Police presence in the downtown area.

No second to the motion from Mr. Bixby. Motion died.

C) Planning Advisory Services RFQ

City Administrator Michael Yanez stated the Planning Commission reviewed the letter for planning service and did not make any changes. He stated the date to return the RFQ information in the proposed letter would need to be changed before sending it out and suggested the new date should be approximately 30 days from now.

Jim Tuesdell made a motion to approve the RFQ letter for Planning Services and use the return date of April 20, 2012

Dennis Bixby seconded the motion, All Ayes (5) - motion carried.

Mayor Ward called for a ten minute break at 8:25 PM. The meeting reconvened at 8:35 PM.

New Business:

a) Special Use Permit submitted by Marilee Drennan for Plant Sales at Myers Hotel.

Mr Yanez review the staff report and stated Mrs. Drennan had supplied all of the supporting documents with the application.

Bill Peak made a motion to approve the Temporary Use permit as presented.

Jim Truesdell seconded the motion. All Ayes (5) – motion carried

b) Water Valve Installation submitted by Kent Heskett, City Superintendent

Mr. Heskett reviewed the staff report and request for the purchase and installation of water valves from Water Product, Inc.

Chris Donnelly made a motion to approve the purchase and installation of water valves for \$13,250.00.

Dennis Bixby seconded the motion. All Ayes (5) – motion carried.

c) Downtown Crosswalk Replacement – Kent Heskett, City Superintendent

Mr. Heskett reviewed the staff report. He recommends replacement of 5 crosswalks. One at 4th & Pleasant, two at 4th and Main, and two at 4th and Delaware. He stated city crews would assist in the tearout of this project. He received bids from local contractors and recommends hiring Bingham's Landscaping.

Dennis Bixby made a motion to approve the contract to Bingham's Landscaping for \$18847.50 to replace 5 crosswalks downtown.

Chris Donnelly seconded the motion.

There was discussion regarding contact with the business owners before the streets are to be closed for repair and a recommendation to not close Pleasant Street on a Monday or Friday due to heavy business traffic on those days.

All Ayes (5) – motion carried.

d) Street Sealing Program – Kent Heskett, City Superintendent

Mr. Heskett reviewed the staff report. He provided a map of the streets he plans to seal. He explained sealing the streets increases the life of the street. He stated tests indicated increased life of asphalt by 6 years. He recommends approving a contract with ProSeal Inc.

Bill Peak made a motion to approve the contract to ProSeal Inc, for \$50,000.00 from the Special Highway fund to seal several city streets.

Dennis Bixby seconded the motion. All Ayes (5) – motion carried.

e) Request for approval of expenses – Lloyd Wisdom, Utilities Superintendent.

Mr. Heskett reviewed the staff report. He explained the dump truck is used to haul solid waste to the landfill. He stated the control module needed replaced and recommended to approve the repairs on the truck.

Chris Donnelly made a motion to approve the dump truck repairs for \$2007.69.

Andy Gilner seconded the motion.

The council members asked the age of the truck. Kent stated it is a 2008 truck.

All Ayes (5) – motion carried.

Mr. Heskett also reviewed a report regarding repairs to the S.C.A.D.A. wastewater treatment plant computer system. He stated the treatment plant is fully functional in manual operation, but the repairs were needed for data required for State monthly reports and day-to-day operational reports. Mr. Heskett recommended approval of the repairs to the computer system.

Chris Donnelly made a motion to approve the bill for computer repairs to Micro-Com Inc. for \$3068.50.

Andy Gilner seconded the motion. All Ayes (5) – motion carried.

f) Emergency Reporting Software – Dave Bennett, Fire Chief

Mr. Bennett reviewed the staff report. He stated the current software program is need of some updates. He has reviewed the cost of updating the current software (Firehouse) and a new web based system (Emergency Reporting). After review of both software programs and consulting with fire departments in the area, he recommends the council approve the contract with Emergency Reporting. He explained the new program is more user friendly, more than one firefighter will have access to fill out reports, they will have the use of Google maps and several needed reports. He stated the new software is DOT certified. He said there is an additional \$1049.00 set up charge, the monthly fee of \$158.00 or yearly fee of \$1896.00. The council asked questions regarding FEMA tracking, the software package and price. Councilman Bixby stated he had seen the program at the LKM Conference; he thought the program was very good and would benefit the Fire Department.

Dennis Bixby made a motion to approve the software purchase for the Fire Department from Emergency Reporting for set up charges of \$1049.00 and monthly fees of \$158.00 contingent upon final review of the contract by City Attorney Mike Kelly.

Andy Gilner seconded the motion. All Ayes (5) – motion carried.

g) Hiring Full Time Police Officer –Chief Brandau

Chief Brandau reviewed the staff report. He stated that due to the recent resignation of a full time officer, he wanted to fill the vacant position. He recommends hiring Jason Colobong. Mr. Colobong has completed an application, passed the written test, physical agility test and background investigation. He will also need to pass a physical and psychological test before employment. Chief Brandau stated Mr. Colobong is not a certified officer and will need to attend the academy.

Councilman Peak asked why the Chief did not promote a part-time officer. Councilman Bixby wanted to know how many full & part time offices the city has. Councilman Bixby questioned the need of another officer, he stated the City of Basehor has does not have part-time officers and including their Chief they have 12 full-time officers. Chief Brandau stated he did not have a part-time officer who wanted to move into a full-time position. He said the City would have 10 full-time officers and 11 part-time officers. He needed the part time staff to provide coverage for training days, vacations, sick leave, personal days.

Councilman Peak stated the City Police officers are extremely professional. Councilman Bixby suggested all council members schedule a ride along with one of the officers to experience the police officer profession.

Bill Peak made a motion to approve the hiring Jason Colobong as an entry-level full-time police officer contingent upon a successful physical and psychological test.

Dennis Bixby seconded the motion. All Ayes (5) – motion carried.

h) Ordinances adopting 2003 International Building Codes – Mark Lee, Building Inspector

Mark Lee, Building Inspector, reviewed his staff report. He stated the Fire Department uses the 2003 International Fire Codes but the City using the 2000 International Building Codes. He stated most builders are already using the 2003 codes and that he has been certified to inspect using the 2003 codes and there is not a lot of differences in the 2003 codes from the 2000 codes. Mr. Lee explained the 2006 codes including several foundation improvements and the 2009 codes included several energy codes including Residential Sprinkler Codes. He also suggested changing the city building fee chart. The current chart is from the 1994 Uniform Building Code. He suggests the city set fixture pricing for consistency in the building permit process. Mr. Lee presented a power point to discuss codes used by surrounding cities, contractor licensing, building fee restructure and cost of new books. Mr. Lee stated by 2015 all cities must be using at least the 2009 International Building Codes. The council reviewed the information presented and reviewed the budget for purchasing the books.

Dennis Bixby made a motion to adopt of 2003 Codes. He amended his motion to approve Ordinance 1333 adopting the 2003 International Residential Codes.

Jim Truesdell seconded the motion. All Ayes (5) – motion carried.

Bill Peak made a motion to approve Ordinance 1334 adopting the 2003 International Building Codes
Andy Gilner seconded the motion. All Ayes (5) – motion carried.

Bill Peak made a motion to approve Ordinance 1335 adopting the 2002 National Building Codes
Andy Gilner seconded the motion. All Ayes (5) – motion carried.

Andy Gilner made a motion to approve Ordinance 1336 adopting the 2003 International Plumbing Codes
Bill Peak seconded the motion. All Ayes (5) – motion carried.

Andy Gilner made a motion to approve Ordinance 1337 adopting the 2003 International Mechanical Codes.

Dennis Bixby seconded the motion. All Ayes (5) – motion carried.

Dennis Bixby made a motion to approve Ordinance 1338 adopting the 2003 International Fuel Gas Codes.

Andy Gilner seconded the motion. All Ayes (5) – motion carried.

The Council directed staff to publish the Ordinances, review the budget for payment of the books, and send a letter to local builders informing them of the change from the 2000 Edition Code books to the 2003 Edition Code books.

Mr. Lee then addressed the council to clarify a question he responded to earlier regarding the renovations at the Police Department building. He stated the architect usually submits the plans to the city with building permit, the plans are then sent to a plan reviewer hired by the city to review the plan for code compliance. Jim Truesdell asked if they would review the plans to police station specification and codes. Dennis Bixby stated there is not any National Standards for Police Stations. He stated National Standards are set for Jails and Prisons. Mike Kelly, City Attorney, stated the council would know more after the Chief gets his lists of wants and needs together for the remodeling of the building.

i) City project List –Who, What, When, Where? – Councilman Bill Peak

Councilman Peak suggested starting a list of projects that will need to be done. He has heard citizens mention that a new City Hall is going to be built. He wants the council to make a list of future personnel needs. He thinks the council should be prepared, look 1-3 years out, and try to prepare for projects, salaries and personnel needs. Mayor Ward stated the Capitol Improvement Plan (CIP) is looked at every year when during the budget planning process.

j) City Administrator Agenda – Executive Session – Moved to after City Council Agenda.

k) City Attorney Agenda

Mike Kelly, City Attorney, reviewed the Farm Lease contract with Jim Grinter Farms, Inc. He stated Mr. Grinter would like to make two annual payments and the amount of liability insurance needs to be discussed. Mr. Grinter has also asked to remove scrub trees and brush in the tillable areas.

Mr. Kelly also discussed the 1998 Lease Purchase Agreement for the Perka Building. He stated the loan is paid in full and it is ready for closing. He stated the City is required to pay for deeding of the property and title insurance costs. The amount is expected to be between \$500.00 to \$800.00.

Bill Peak made a motion to approve up to \$800.00 for title insurance and the property deed.

Dennis Bixby seconded the motion. Chris Donnelly abstained from voting, Aye 4, – motion carried.

l) Mayor Agenda

Mayor Jason Ward asked the council members for a Special Executive meeting with Art Davis to discuss the City Administrator applications he has received on Wednesday, March 14th at 5:00 p.m. in the City Council Chambers.

Andy Gilner made a motion for a Special Executive Session on Wednesday, March 14th at 5:00 p.m.

Bill Peak seconded the motion. All Ayes (5) – motion carried.

m) Council President Agenda –No items for discussion

n) City Council Agenda

Council members reviewed the flyers for the St. Patrick’s Day Parade and events at the Historical Society.

j) City Administrator Agenda – Executive Session

Motion by Mike Yanez City Administrator to enter into executive session at 9:55 PM to discuss a 3rd party inquiry on the Industrial Park Property for ten (10) minutes to include the City Council Staff, Mayor, City Administrator and City Attorney. Second by Bixby. All Ayes. Aye 4. Motion carried.

Motion by Andy Gilner to exit executive session at 10:05 PM. No items were discussed other than that mentioned and no votes were taken. Second by Bill Peak. All Ayes (5) - Motion carried.

With no further business to discuss, there was a motion by Andy Gilner to adjourn. Second by Jim Truesdell. Motion carried. All Ayes. Aye 5. Meeting adjourned at 10:08 P.M.

Respectfully submitted,
Patty Hagg, Clerk