



City Council Meeting Minutes
10/08/12

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on October 8, 2012. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Mayor Ward, Jason Ward; Councilmembers: Dennis Councilman Bixby, Andy Councilman Gilner, Chris Councilman Donnelly, Bill Councilman Peak and Jim Truesdell. Mr. McCommon McCommon, City Administrator: Jennifer Jones-Lacy, Asst City Administrator and Mike Mr. Kelly, City Attorney.

The Mayor Ward called for a moment of silence to remember Kevin Weldon with Honeycreek Disposal who lost his long battle with cancer. Councilman Peak said he was a super nice guy. Councilman Bixby said he was always friendly.

Mayor Ward requested everyone join him in the Pledge of Allegiance.

Consent Agenda

- a) Approval of Minutes – Regular Meeting dated September 24, 2012
- b) Consider Approval of Bills - Approve Pay Ordinance A-1692
- c) Consider approval of payment to Honeycreek Disposal Service for trash service for September in the amount of \$22,669.50.
- d) Consider approval of payment to Kansas Dept. of Revenue for the Clean Drinking Water and water protection fee in the amount of \$2,519.12.
- e) Consider approval of payment to Leavenworth County Probation Office for 4th Quarter Court payment the amount of \$2,739.15.
- f) Consider approval of payment to Leavenworth County Clerk for contribution for County Road 1 for \$100,000.
- g) Consider approval of payment to Link-Lite Networking for IT services performed June, July and August including new computers, and email exchange server in amount of \$12,569.
- h) Consider approval of payment to Midwest Public Risk for employee health benefits in the amount of \$29,545.
- i) Consider approval of payment to Westar Energy for monthly utility bills and street lights in the amount of \$7,487.96.

- Motion by Councilman Councilman Bixby to approve the consent agenda items A through I. Councilman Councilman Truesdell abstained from the approval of minutes. Seconded by Councilman Councilman Peak. All Ayes. Motion carried.

Open Agenda

- Christopher Hammer, 865 North Starla Court, just moved to Tonganoxie and wanted to discuss Ch. 2, Article 509 regarding dog breed bans. He's a pitbull owner and said that it's the owner not the breed of dog that can be problematic. Officer Sanchez stopped him two weeks ago and gave him a ticket. This was the first he had heard about a ban. Officer Sanchez issued a ticket for not having the dog licensed in the City and for having a pitbull. He asked that the ban be reconsidered.
 - Mayor Ward said he can appreciate his love of dog and that he has three. It's up to the Council to decide whether or not they want to reenter those discussions. The council heard from members of the public who wanted the ordinance in the first place and from experts from the humane society and other organizations when making their decision on the ordinance.
 - Councilman Councilman Truesdell said he would listen to arguments but would not bring it up again personally. They got a lot of input from the public and experts initially.
 - Councilmen Councilman Bixby and Councilman Donnelly concurred. That they wouldn't bring it up themselves.
 - Mayor Ward – lots of dogs can display aggressive behavior but there are certain breeds that have shown to be more aggressive than others.
 - Mr. Hammer said Topeka recently dropped their ban after learning about new research. The media has negatively portrayed various dogs and the public has fed into that. People began breeding for the negative traits in the breed but of all dog bites, only 10% are from the “bully breeds” and the rest are from other dogs.
 - Councilman Councilman Bixby one thing you have to worry about as a councilperson is people's perception and the Council had heard from a lot of people on this issue. The public perception at this time is not in your favor. I don't favor an overturn of the ban at this time.
 - Councilman Councilman Peak said he would like to see the additional information that caused Topeka to overturn their ban. I want to make sure that we're not feeding into emotions. I would be in favor of reviewing the latest information to be fair to the issue.
 - Mayor Ward said we've gone through this a couple times and I don't want to create false hope. But Hammer can provide additional information to the City Administrator for the Council to Review.
 - Mr. Hammer was looking for guidance on the next step from Council and Mayor Ward before issuing a petition or moving forward. He leases and might let his lease run out in May.

No other public comments for the open agenda.

I. Old Business

- a) Update on PWWSD#6 review of submitted termination language in order to enter an operating agreement with Public Wholesale Water Supply District #6 and #9 and authorizing additional expenditure of \$3,300 from the Water Purchasing Account of the Water Operating Fund

- Mr. Mr. Kelly had no updates.
- b) Update on Chieftan Trail
- Mr. McCommon - Mr. JW Evans has completed discussions with property owners and we're more than willing to proceed with anything necessary through City attorney.

II. New Business

- a) Appointing Patricia Hagg as City Clerk
- Mayor Ward tabled the issue and will bring it back on the next agenda.
- b) Update on two-way radios for the Fire Department
- Mr. McCommon said the agenda statement shows the radio equipment the Fire Department currently uses do not work in a structure on fire. Firefighters inside a burning structure cannot communicate with those outside the building to get instruction. There are 13 jurisdictions that coordinated with Leavenworth County to pay for these radios with Motorola. Leavenworth County has the agreement with Motorola and everyone else has an inter-local agreement with the County. All 13 jurisdictions have felt they were misled on being able to use these radios. Motorola agreed to provide a discounted upgrade to Tonganoxie's payment of that would be \$12,033. Suggested that we keep our current agreement and extend it for a year to cover the new equipment. If we don't do this then we would have to find our own radio equipment that would actually be more expensive.
 - Councilman Councilman Peak – Did anyone test the radios prior to purchase? Is it just being the building that causes them to not work? Mr. McCommon said heat and water causes the radios to not work.
 - Mr. McCommon asked Council if this is the best option to pursue these radios. If so, he will come back to Council with a revised agreement.
 - Mayor Ward said we leveraged the inefficiencies to get a discount. We need to include a contract clause that if these don't work we won't pay for them. We have evidence that they would allow us to negotiate such a provision.
 - Mr. Mr. Kelly – We contracted with the County and not Motorola and so the County failed to include that kind of language.
 - Mayor Ward said we should make the recommendation to the County to include that contract clause and Councilman Councilman Peak agrees.
- c) Update on nuisance abatement on the mobile trailer office of Jackson Heights Development
- Mr. McCommon – on July 9th Building Inspector Mark Lee reported the mobile trailer office on the Jackson Heights development as unsafe and unfit. Council provided a cure period for the trailer to be secured. The Property owner complied. He received confirmation on Sept. 28th by the Police Chief and Mr. Lee confirmed when he got back from vacation.

d) Single Family Building Permit Rebate Incentive Program Award

- Mr. McCommon – Gerald Botkin submitted the appraisal and asked for the \$3,000 rebate. This is the 10th applicant for the year and that is the cap for this program.
 - Councilman Peak – Is this Mr. Botkin’s personal home? It looks like Mr. Botkin is appraising his own home. That jumped out.
 - Mayor Ward – Certificate of occupancy says Botkin is the owner.
 - Councilman Peak – I want to make sure the rebate goes to the owner and not the seller.
 - Mr. Kelly – The appraisal may be a problem. If he’s not a licensed appraiser then there are some questions and the building inspector isn’t here to answer questions.
 - Councilman Bixby – Is there a residency requirement?
 - Mr. Kelly – No.

e) City Administrator Agenda

1. Mr. McCommon provided an update on credit/debit cards and after checking with the bank and auditors, determined using credit card is the better option rather than debit cards. Just waiting for arrival.
2. He was advised by Judge Pray that he intends to move Municipal Court date and time beginning in January to 1 pm on the third Wednesday of the month.
3. Second Class City Update– Mr. McCommon said it’s important to evaluate the timeline of the update beginning with the initial conversation about the topic. The decision is for the charter language that will determine the future of the City. There is one item, on Feb. 1, 2013 regarding Chapter 14 that applies to Class 2 cities, if the council were to choose not to exempt itself from that, it would require the City to submit information to the County on January 25th. This means the ordinance needs to be complete with the 60 posting period by January 25th. The problem is the schedule with holidays which would only leave the beginning of January.
 - Councilman Bixby mentioned the Council may have a new council member at that time too.
 - Mr. Kelly - We also elect City Treasurer and that also needs to be done by January 25th. There are a lot of items that do not have that time line.
 - Mayor Ward – everyone needs to be engaged and ready to move forward by the beginning of next week.
 - Mr. McCommon – on the back of that agenda statement is a summarized comparison of the two chapters affecting second and third class cities and the differences. The Chapter 15 column includes the City’s charter ordinances to illustrate how the City is currently operating. This gives the council something to contemplate prior to the work session. Staff would be happy to answer any questions in the interim.
4. Executive session to discuss confidential matters or trade secrets of a third party as it relates to property acquisition
 - Mr. McCommon requested a five minute closed-session at 7:37. Motioned by Councilman Donnelly and seconded by Councilman Peak. All Ayes. Motion Carried.

- Returned at 7:44. Mayor Ward made motion to return, no action taken. Motioned by Councilman Bixby seconded by Councilman Peak. All Ayes. Motion carried.

f) City Attorney Agenda

1. Repealing certain sections of Article 3, Fireworks, of Chapter 7 of the Code of Ordinances and replacing same for the purpose of defining the authority to ban the sale and use of fireworks in the city limits and provide public notice of such ban.
 - Mr. Kelly said he didn't have an ordinance drafted but will do so after feedback from the Council. He needed to know the fine Council want imposed for violation, also whether or not any part of the fee can be refunded if the Chief declares a ban. This provides for a ban in the event the Fire Chief declares an imminent danger for fires and will put in a fine for violation. Mr. Kelly asked if the Council wanted to impose a rebate.
 - Councilman Bixby – Would the penalty or fee be a flat dollar amount and there were no provisions for restitution?
 - Mr. Kelly – municipalities cannot impose restitution. We can impose a jail sentence up to one year by making it a Class A misdemeanor and a maximum fine.
2. Amending Chapter 8 the Code of Ordinances and adding a certain section that would define “trail” to be of minimum width of eight feet, constructed for pedestrian and bicycle use, and provide connectivity between residential, business, and public areas. Municipal services would maintain the trail.
 - Mr. Kelly – added section B in Ordinances 13108 and 13401. Designates a trail as a hiking/biking trail if its 8 ft. wide or wider and is maintained by the City and not property owner. We have an ordinance in effect now but this would make it more clear for property owners Mr. Kelly said he hasn't gotten more feedback on this issue from Council.
 - Mr. McCommon – I've gotten no more feedback except from property owners who want the City to maintain the trail.
 - Mayor Ward – It's generally our practice to discuss the ordinance in one meeting and vote on it in the next. I don't know if we had any questions. Requested that we set it up for action in the next meeting?
 - Mr. Kelly – Councilman Bixby had a few outstanding questions which is why he hadn't drafted anything yet.
3. Update on mowing VFW Park
 - Mr. Kelly - If the City chooses they can cut grass in that park if they declare it to be for a public good. Laws restrict public funds for private use but as long as the VFW does not place restrictions on the park, this can be done. There are no charges to use the park. One problem is if Council chooses to cut the grass at the park, the City may be asked by other entities to mow their grass as well. Mr. Kelly said he spoke to Larry Meadows and the VFW has abandoned this issue for now and dropped it from their agenda. I'm also providing you a copy of the deed when it was given in 1995. There is a provision that the park goes

to the City if the VFW ever disbands. This is not a legally valid clause. The park would actually go back to the grantor, not city.

- Councilman Bixby – My understanding that the park would revert back to the state chapter of the VFW.
- Councilman Peak – My intent in bringing this up was to enter this into the record so that it's in the minutes so we have a factual record that we've looked at the problem and that the VFW has dropped the issue for now so that we have something to go back to if a future council brings this up.
- Mayor Ward – I appreciate the legal analysis of the issue. We haven't taken the time to do a full analysis of this and this analysis makes a lot of sense because now we have a full understanding of the issues and the VFW does as well.
- Councilman Peak – Can we have this in a document somewhere so we can rely on this? Can Mike provide the information?
- Councilman Bixby requested that Mr. McCommon copy the VFW with this analysis so they can reference it.

g) Mayor Ward Agenda

- Discussed the refinancing with Springstead Financial at the last Council meeting. Mayor said he would like to add the industrial park to that refinancing list and put the issue on the next council agenda. We need to follow up on that because the rates are so low.
 - Councilman Bixby – do we want to have the option to put cost of piping to industrial park into that?
 - Mayor Ward – that's a discussion point. That's a policy discussion if council wants to bond rather than pay capital outlay.
 - Councilman Bixby – question to Chris is are we going to see money
 - Councilman Donnelly – can interest rates go lower? Yes we are in historic lows though.
 - Councilman Bixby – what kind of situation would we be in if interest rates were any lower?
 - Councilman Donnelly – we're as close to zero as I've ever seen in my career. Don't look a gift horse in the mouth we need to take advantage.

h) Council President Agenda

- Councilman Truesdell said he met with Brian Camp, President of Tonganoxie High School booster club. They have a building permit and have collected money to build a new press box at the football stadium. Mr. Camp requested the City waive the building permit fee of \$100. Councilman Truesdell motions that we waive the permit.
 - Councilman Bixby – I would second that, we've done so historically.
 - All Ayes, the Motion carried.

i) City Council Agenda

1. Discussion on Rules of Order – Councilman Dennis Bixby

- Attended the LKM workshop over the weekend. They talked about special city council meetings when controversial issues are being discussed. Suggested Bob's Rules of Order to make sure everyone shows proper

respect if they want to be part of the conversation. This is a list of 8-10 items recommended posting on the wall so the audience can read it to remind everyone they can be part of the process but need to follow rules of order. The Councilman wants to bring back to the next meeting.

2. Retail Commercial Development Committee Report –Councilman Bill Peak
 - The Committee is pursuing complete prices for wayfinding signs and determining how many we can afford. Plan to have signs directing people to VFW Park, which should help with the lack of signage. Looking forward to getting signs purchased in the next month or so.
3. Infrastructure Committee Report – Jim Truesdell
 - Mayor Ward told Councilman Truesdell that he made the suggestion that he would be the best person to work with on the school bond issue. So that's what it means for the council but would like your input on any future infrastructure issues.
 - Mr. McCommon and Councilman Truesdell met w/ School Superintendent Randy Weisman and Jean Beckerman last Thursday and discussed what the committee is going to do and discussed philosophic issue. Councilman Truesdell said they need additional members on the committee so he asked John Morgan who's a planner to be on the committee. Mr. McCommon invited Mike Spickelmeyer from the County to also participate on the committee. County will have their planner involved in the issue too. Council will need to engage our planning consultant to work with the school on those issues. It would be more productive to have the first meeting after the election so the school has better direction for where they're going.
4. Industrial Park Committee Report – Councilman Chris Donnelly
No Updates
5. Update on fireproof storage in city hall – Councilman Bill Peak
 - Councilman Peak talked to a couple vendors at LKM conference. Said he still thinks we desperately need a fireproof unit. However, Mayor Ward mentioned scanning and electronically storing our documents and Mr. McCommon said many items are already being scanned and saved. My concern is the historical documents and we should know what's important to us and prioritize. The Councilman said we need something for an immediate remedy to save our most important documents and move on it.
 - Councilman Bixby – I talked to the GIS people with County and said they could get a grant from the Kansas Dept. of Commerce to get a large format scanner to scan documents.
 - Mayor Ward – Like Bill said, we want to focus on what we can get into an electronic form and what we can't. Records retention is part of my profession so it's important for historical and legal reasons.
 - Councilman Bixby – should be stored by year in chronological order.

6. Councilman Gilner – I’ve been asked by several people on status of houses on 3rd and Main. One of the two is looking pretty shabby – the one next to the old maintenance building.
 - o Mayor Ward – Our hope was when we purchased to use those properties for future expansion. We hoped someone would buy that home and move it for us, which didn’t happen. It’s up to Council to decide what they want to do. The other house was gifted to City.
 - o Councilman Bixby – do we have any inventory of the contents of these houses? Mr. Kelly said no.
 - o Councilman Bixby – I would like to meet Mark Lee over there and give it a quick evaluation and update at the next council meeting. Suggested that we may be able to auction it off.
 - o Councilman Peak – We supposedly auctioned off the house for \$1 but it was never advertised. If we do this in the future we need to let people know they would have to move it.
 - o Mayor Ward – Directed Mr. McCommon to ask Mark to review the building and make recommendations for removal of it.
 - o Councilman Gilner – is the property insured?
 - o Mr. McCommon – It falls under the insurance for all other city facilities.
 - o Councilman Peak – Is the house sellable? That might be an option.
 - o Mr. McCommon asked if the intent of Mr. Lee’s evaluation was to determine if it’s in good enough condition to sell and Mayor Ward said yes.

Mayor Ward called for a motion to adjourn. Councilman Gilner made the motion and Councilman Peak Seconded. All Ayes. The meeting adjourned at 8:16 pm.