



City Council Minutes
December 26, 2012

Meeting started at 7 p.m. The Mayor called roll Councilman Jim Truesdell was absent. Also present were City staff Nathan McCommon, Jennifer Jones-Lacy, City Planner Kathy Kem, and Kita Kelly sitting in for City Attorney Michael Kelly.

Councilman Peak moved to approve the consent minutes from the last meeting and the consent agenda, seconded by Councilman Donnelly. The motion carried.

Open Agenda

No items for open agenda.

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 a minimum purchase of \$3,300 per year from the Water Operating Fund
 - Mr. McCommon said District 6 attorney wants to do an amendment to the original agreement for a minimum purchase from the City of Tonganoxie and establish more clear terms on that agreement. Discussions are ongoing and the City may have a draft agreement at the next meeting.

- b) Update on Chieftain Trail
 - Still in final legal proceedings

- c) Update on city property sale: 636 E. 3rd and 301 S. Main
 - There is an individual interested in purchasing the gray house and no offers are on the table for the white house.
 - Mr. McCommon said the sealed bid gave until about March 15th to move the house. However, because there was no response, it's up to the Council to set the parameters for the time frame. I feel pretty confident that by the next meeting the buyer will have something prepared for the gray house. I would like some direction from Council on how to move forward with the white house.
 - Mr. McCommon said he will provide the Council with a couple of quotes for how much it will cost to move the white house at the next meeting

The Mayor moved an item from New Business up the agenda to discuss next.

Request to rezone property from General Business District to Residential Single Family including Resolution 12-12-04 Findings of Fact and conclusions concerning request to rezone certain property filed by the City of Tonganoxie on behalf of the property owners and Ordinance 1353 amending the zoning ordinance and subdivision regulations of the City of Tonganoxie, KS from 2003, Section 1, by rezoning certain property in the City.

- Mr. McCommon provided an overview of the resolution and ordinance that would rezone an area across from the high school to the west of the motel. The resolution in the packet acknowledges that the original zoning for this section was single-family residential and

has been rezoned as a general business district. However, it's mostly single-family homes in that area.

- Kathy Kem said the zoning followed the lot lines instead of the parcel lines which actually splits lots. She explained that she would like to clean up the map based on any inconsistencies between long-term use and current zoning in place.
- Russ Barnes, 431 Smiley Road, spoke from the public. He said his neighbor could not refinance his home because of the zoning ordinance in place in this area. He spoke in support of the zoning change.
- Wayne Yorkovich, 101 Smiley Road, spoke from the public and said he just found out about the zoning of his property when he went to refinance. He thanked Mr. McCommon for working with him to get this issue resolved.
- Councilman Donnelly made a motion to approve Resolution 12-12-04 seconded by Councilman Peak. All Ayes, the motion carried.
- Councilman Donnelly made a motion to approve Ordinance No. 1353 amending the zoning ordinances from 2013 as stated in the package. Councilman Donnelly amended his motion to note that they are amending zoning ordinances from 2003. The motion was seconded by Councilman Peak.
The Mayor asked if they needed to specifically reference the Golden case like they had in the past. Ms. Kelly said the Resolution takes care of that.
- All Ayes. The motion carried.

d) Executive Session regarding confidential matters relating to financial affairs or trade secrets of third parties

- The mayor moved into executive session motioned by Councilman Gilner Seconded by Councilman Peak for a period of 10 minutes at 7:24. Returned at 7:34. Councilman Gilner made a motion to return and Councilman Donnelly seconded. Motion carried.

e) Review debt refinancing options to include certain state revolving loans and the industrial park

Request approval of Resolution No. 12-12-02 – A resolution providing for the adoption of tax and securities compliance procedures relating to obligations issued and to be issued by the City

Request approval of Ordinance No. 1352 – An ordinance authorizing improvements to the City's sewage collection and disposal works; and providing for payment

Request approval of Ordinance No. 1351-An ordinance designating certain streets as main trafficways

Request approval of Resolution No. 12-12-03 – A resolution authorizing the improvement of certain main trafficways within the City and providing payment for the costs

- Mr. McCommon explained that the first three actionable steps toward the sale of bonds have been taken and the remaining three action steps will be taken this evening. He explained the difference between the five-year and 10-year call is approximately \$77,000.
- Mr. McCommon introduced Kevin Cowan of Gilmore and Bell. He explained that tax exempt bond issue regulations have changed to some extent. One of those changes was to ensure that all entities issuing tax exempt bonds have a policy in place to manage and report on tax exempt bonds when there are market impacts to those bonds. He has been working with the City to get those written policies in place so we can inform the IRS that the City is complying. Part of this policy is to designate a bond compliance officer as the point person to communicate with the IRS which will be the City Administrator. There is also a provision that says the City will periodically review the bonds to make sure nothing has changed that would affect the

tax-exempt status of those bonds. The resolution no. 12-12-02 puts this policy in place.

- Mr. Cowan explained the two ordinances as well as the remaining resolution. He said there is no statute that says the City can refinance based on these bonds but Cities have certain home-rule authority that allows them to refinance in the method the City is pursuing. These actions along with the previously passed charter ordinance are basically project authorizations.
- Mayor Ward said the Council needed to discuss the call period. Mr. Cowan explained that there's a double-edged sword because cities want to be able to have some flexibility to redeem or sell their investments. However, bond authorities and investors do not want to see the bonds called ever. He said having a shorter call period may reduce the number of bidders and will increase the interest rates but gives more flexibility. Defeasance on bonds means you have reached a redemption date and the bonds are paid off and out of circulation. You can also accomplish defeasance by providing funding for the bonds through an escrow defeasance account that will allow the City to pay principle and interest out of that account. However, the escrow will never keep up with rate of growth on the bonds. He said the decision should be based on what's important to the council, if flexibility is important, a shorter call period is perhaps the right direction.
- Councilman Donnelly, said the interest rates are based on the market so conceivably the interest rates could go to 0% theoretically.
- Mr. Cowan said early release would require consent but this could allow the City to negotiate or get consent for an earlier release date because interest rates will inevitably increase over time.
- Councilman Donnelly said you could escrow more with a growing interest rate.
- Mr. Cowan said the benefit of the taxable bonds allows the City to earn interest on the escrow account.
- Mr. Cowan said Springsted needs direction from Council on the call feature because that's a part of the bond sale. The City Administrator would need direction on how to move on this.
- Councilman Peak asked if an escrow account had been factored into the budget and the City Administrator said the budget would not be affected.
- Councilman Donnelly said he didn't think a shorter call is worth \$77,000 and he would recommend a 10 year call.
- Mayor Ward said the defeasance states that we will be setting funds aside to pay for these bonds. This will not impact our debt limit? Mr. Cowan confirmed that notion. Everything we're doing tonight is in preparation for the sale on January 14th. If the sale is not good enough, the Council can reject the sale at that time.
- Councilman Peak asked if this refinancing included the industrial park. The Mayor confirmed that Council agreed to that at the last council meeting. Councilman Peak asked what has changed since the Budget hearings where the Council decided we couldn't afford to refinance and why we're now including the industrial park.
- Mayor Ward said that nothing has changed and that this is an opportunity to include it in this sale.
- Councilman Donnelly and Councilman Gilner said the interest rates were the key factor and that's why they felt they needed to take advantage.
- Councilman Peak made a motion to approve Resolution 12-12-02, seconded by Councilman Gilner. All Ayes, the motion carried.
- Councilman Donnelly made a motion to approve Ordinance No. 1352 – An ordinance authorizing improvements to the City's sewage collection and disposal works; and providing for payment, seconded by Gilner. All Ayes. Motion carried.
- Councilman Peak made a motion to approve Ordinance No. 1351-An ordinance designating certain streets as main trafficways, Gilner seconded all Ayes. Motion Carried.

- Councilman Donnelly made a motion to approve Resolution No. 12-12-03 a resolution authorizing the improvement of certain main trafficways within the City and providing payment for the costs, seconded by Gilner. All Ayes the motion carried.
- There was no disagreement with moving forward on the 10 year call.

New Business

a) Approval of cereal malt beverage licenses

Casey's Retail Company
B&J Thriftway Incorporated
G&P Country Market

- Mr. McCommon explained there were three applications for cereal malt beverage.
- Councilman Donnelly made a motion to approve Casey's Retail Company, B&J Thriftway and G&P Country Market for cereal malt beverage licenses. Seconded by Councilman Peak.
- Mr. McCommon said he looked to make sure that all of the entities that needed one had an application.
- All Ayes. Motion carried.

b) City Administrator Agenda

1. Year-end budget projection

- Mr. McCommon said the sales tax has declined slightly where the budget anticipated growth. While the Water Park Sales Tax does not cover its debt, the Debt, Bond and Interest fund and fund balance can cover any overage.
- Councilman Bixby asked if the start-up costs for the swimming pool will be covered in 2013. Mr. McCommon explained that the operating funding for the pool is covered and that its funded from the General Fund.
- Councilman Donnelly made note that eight funds burned through cash and eight have increased fund balance.
- Mr. McCommon asked if the Council wanted anything in addition to what he's provided for the final year-end close at the end of 2012.

2. Update on signage for school zone on Washington Street

- Mr. McCommon said the previous Council meeting said the crosswalk should be at the western-most driveway and the Principal of the Genesis School agreed with the Council that the eastern-most driveway would be best.
- Council agreed to allow Mr. McCommon to install the signs.

3. Request to reclassify a Meter Reader position to Maintenance Worker II

- Mr. McCommon said this change was approved as part of the FY 2013 Budget. This will allow basic preventative maintenance to be handled in house which will save the City money on outside labor.
- Councilman Peak asked if this employee was a certified mechanic. Mr. McCommon said yes and said most of the work he will do is oil changes and brake work mostly.
- Councilman Bixby asked if there was any funding in the budget to cover his certification next year to make sure his certification is kept up to date. Mr. McCommon said there is a training budget available.
- Councilman Donnelly made a motion to reclassify the position. Seconded by Councilman Peak. Councilman Donnelly asked if this was a permanent change.

Mr. McCommon said the council could choose to reclassify at any time if they choose. All Ayes, motion carried.

4. Select alternate council meeting dates in 2013
 - The Council decided the way the calendar is positioned currently is good for now.
5. Request approval of an agreement with Link-Lite to perform Information Technology upgrades
 - Mr. McCommon asked to post-pone this item until the next meeting.
6. Request approval to enter into an agreement for year-end accounting services
Mr. McCommon said this would help his confidence to ensure that the City ends the year soundly.
 - Councilman Donnelly made a motion to approve the agreement not to exceed \$1,773. The motion was seconded by Councilman Peak. All Ayes, motion carried.
7. Request approval to issue a Request for Proposals for payroll processing services
 - Mr. McCommon explained the benefits of outsourcing payroll. He explained his request was to publish an advertisement to issue RFPs for this process.
 - Councilman Donnelly asked if the Administrator would bring the RFP in for final approval by Council. Mr. McCommon said yes.
 - A motion was not required and everyone said they were fine with issuing an RFP.
8. Discussion of City of the Second Class: Manner and time to gather public input
 - Mr. McCommon said he consulted with the League of Kansas Municipalities and other city administrators, nobody had ever done surveys. However, public forums are very common. He said he would look to the Council on how to move forward.
 - Councilman Peak said he liked the idea of moving from an appointment to a contractual arrangement for city attorney, municipal judge and city administrator.
 - Mayor Ward said he thinks the most important issue tonight is to determine how the Council wants to receive feedback from the public.
 - Councilman Gilner said it's important that prior to getting public feedback, the Council give the public more information on what's being discussed.
 - Mr. McCommon said ICMA said the same thing that most members of the public are not educated on what a change in the form of government means.
 - Councilman Bixby asked if we could get some feedback from other cities that have changed on what some of the pitfalls are and how to avoid them.
 - Mr. McCommon said the most common method was public forums, nobody did surveys and a few cities did committees.
 - Councilman Donnelly said he would like to see a series of three meetings where there's an agenda/subject matter for each meeting for the public to discuss.
 - The Mayor agreed and said that perhaps the first meeting could be informational, the second could include breakout sessions to discuss different topics, and a third meeting.
 - Councilman Peak said it's important the Council know all of the issues and a forum would be a good idea. Councilman Peak suggested having handouts and posters to inform the public on what we're doing. Possibly have an ad in the paper explaining what this will be about.
 - Councilman Bixby said there was no rush on moving into a Second Class City.

- Denise Bixby from the public suggested that the Council go out in the community and go to one of the existing public gatherings to discuss the issue in order to get the public. She said word-of-mouth is the best way to get the word out.
- Mayor said we owe it to the Community to get them involved. This is part of that process. The next step for the city administrator is to determine how to organize those meetings at that point we can reach out to the community and express our plans.
- Councilman Bixby said most people don't like change and that it's important to express the benefit of such change.
- Mr. McCommon said that there aren't too many items up for discussion at a public forum.
- The Mayor requested the City Administrator suggested an agenda for the public forums.

c) City Attorney Agenda

1. *Second Reading, an ordinance* 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 providing public notice of such ban
 - Held off the agenda

d) Mayor Agenda

Mayor took a moment to reflect on 2012 and thank staff for all of their hard work. He also thanked the volunteers for the City and expressed that the City is carried by the volunteers. He also thanked the Council as well.

e) City Council Agenda

1. Retail Commercial Development Committee Report – Bill Peak
 - i. Approval of Ordinance No. 1350 - Amending Ordinance No. 1342 Retail Attraction and Retention Incentive Program, repealing Section 2A sales tax rebate incentives
 - Councilman Peak said he wants Mr. McCommon to get with the City Attorney to tighten up a couple of definitions instead of a full out repeal. Asked for it to be held until the next meeting.
2. Councilman Bixby explained Bob's Rules of Order for a public forum. He suggested a poster be hung in the Council chambers to remind everyone to be courteous and respectful to all participants. He suggested the Council study this issue at the next couple of meetings to see if this is something the City wants to adopt.
3. Councilman Bixby also said there's an increasing problem with junk cars, roosters and livestock in alleys between 6th Street from Yoeke to River Streets and that the code enforcement review that section of town again.

A Motion to adjourn was made by Councilman Donnelly and seconded by Councilman Gilner. All Ayes. The meeting adjourned at 9:07 p.m.