



June 24, 2013
7:00 Regular Meeting

The Mayor opened the agenda at 7 p.m. with the pledge of allegiance. Councilman Gilner, Councilman Donnelly, Councilman Bill Peak, Councilman Truesdell, and Mayor Ward were in attendance. Councilwoman Reed arrived late. Also in attendance were city staff Nathan McCommon, Jennifer Jones-Lacy, City Planner Kathy Kem and City Attorney Michael Kelly.

A Motion to approve the consent agenda was made by Councilman Peak, seconded by Councilman Donnelly. All Ayes, the motion carried.

Open Agenda

Dennis Bixby, 704 East Street Tonganoxie, said that remarkable progress has been made on the Yoeke property since the last time he visited. He wanted to say thanks to the Council for their work. He was very pleased with the fact that cars have been removed; grass had been cut, etc.

I. Old Business

- a) Update on Chieftain Trail
 - Mr. McCommon said upon approval of the water channel change permit from KDHE, they are requesting one change to widen the foot bridge so it's not a flood impact on Tonganoxie Creek. BG thought it might be about \$5,000 cost increase, but Brian Kingsley had some suggestions to cut costs in other areas.
 - Mr. Kelly said the appraisers have met and reviewed the property. There are some issues with the proper legal description on one of the properties. He was expecting final figures today but the appraisers are going to wait until they get final feedback on the legal description. We may need to amend the legal description to encompass the change before we can move forward. Right now the City has right-of-way, temporary construction easement and permanent easement.
 - Mr. McCommon said that has to happen before Westar can move the utilities.

- b) Update on utilities extension to the industrial park
 - Mr. McCommon said he had requested a certificate of title for each of the properties in the right of way on the east side of the highway. The lowest price quote was from Premier Title and they said they would have these titles by Wednesday. Once we have that in place we can move forward on having JW Evans acquire the easements. We are also on the agenda for the Leavenworth County Port Authority to request an extension of their financial support to extend the gas line installation. KDOT has committed to provide descriptions for the need of extra right-of-way for the Army Reserve facility at which point we will know how to define the easements for acquisition.

- c) Demolition of property at 636 E. Third Street
 - Councilman Peak said he would like to wait until Kara Reed arrived or next Council meeting if she does not appear tonight.
- d) City of the Second Class - Update
 - Ms. Jones-Lacy said that the proclamation was set for Friday, June 28th at 9:30 a.m. at the Governor's Office for those interested in attending. The next Council meeting will have a first read of three charter ordinances exempting Tonganoxie from certain provisions pertaining to Cities of the Second Class.
- e) Hwy 24-40 Improvements - Update
 - KDOT is reviewing the Council's request.

II. New Business

- a) Recognizing the leadership of the Tonganoxie Days Festival
 - Mayor Ward said he had requested that those who assisted with Tonganoxie Days this year would be here so Council could recognize them.
 - Connie Tornadon had introduced her assistants for the day.
 - Councilman Donnelly thanked Connie for her assistance as well as her assistants. Connie has been doing this for 28 years and that's a serious dedication.
 - Councilman Peak...
 - The Mayor presented Ms. Tornaden with an award in appreciation for her work.

Demolition of property at 636 E. Third Street (Cont.)

- Councilman Peak said the County appraised the property at around \$90,000. He said Reece and Nichols thought the house would be valued between \$30,000 and \$40,000. He would like to save the house and then if the City decided to sell the property it would have that additional income. He showed a couple pictures of the house to illustrate its condition.
- He said the realtors asked about the City Shop adjacent to the house. He said the City shop is in much worse shape than the house. He said he knows the City shop has some items stored in it but that should be demolished before the house.
- Councilman Peak asked that the City fix up the pillars outside City Hall.
- Councilman Truesdell asked if anyone has expressed interest in the house thus far.
- Councilwoman Reed asked if saving the house from demolition this precludes moving it.
- The Mayor reminded the Council that they had passed a motion to demolish it. He also said he would like to find a resolution to this and take it off the agenda.
- Mr. Truesdell asked how much it cost to keep it up for five years.
- Councilman Peak said he hadn't seen the City has spent any money on it.
- Ms. Jones-Lacy said we pay a nominal fee to keep the utilities on.
- Councilman Donnelly asked about the liability insurance.

- Michael Kelly said the house is covered under the City’s blanket general liability insurance and that the City does not pay additional cost to insure it.
- Ms. Reed said that she doesn’t like an empty house sitting on that corner. She said it would be nice to have a picnic area on that corner if nothing else. She said if it’s going to stay then we should make it look more presentable.
- Mr. Gilner said he doesn’t like that the house isn’t maintained but he did say that we did vote to demolish it. The longer the house sits vacant the longer it goes down hill.
- Councilman Peak said there is no money to build a new City Hall or Police Department so we might as well sell the property and get something for it.
- Mr. Peak made a motion to reverse the decision, save the house and have the City provide a coat of paint. The motion died for lack of a second.
- The Mayor said even though there’s no money now, we need to think about the future.
- Councilwoman Reed said she would entertain a second as long as the City guarantees to maintain the property.
- Councilman Peak made an amendment to his motion to do an annual maintenance assessment on the property in addition to his original motion to save the house, seconded by Councilwoman Reed.
- Councilman Truesdell asked for a roll-call vote which the Mayor conducted – Councilman Donnelly-Nay, Councilwoman Reed-Aye, Councilman Gilner-Nay, Councilman Truesdell-Nay, Councilman Peak-Aye.
- Councilman Peak made a motion to demolish the old City Shop, seconded by Councilman Truesdell. Discussion –
 - Mr. Bixby said the Fire Dept. stores an old green fire truck in the old City Shop. The Mayor asked if Councilman Peak and Councilman Truesdell would remove their motion and second until staff has time to research the issue. Both Councilmen agreed.
- Council wants to know the cost of demolition and cost of storage for items.
- Item is tabled for more information.

b) Request approval to rezone 1203 US Highway 24/40 from Moderate Industrial to Light Industrial by adopting Resolution 06-13-01 and Ordinance 1369

- Mr. McCommon said the request to rezone was made by the property owner for the building behind the Feed Store. Staff felt it was a good choice based on our analysis.
- Kathy Kem provided a brief overview of the resolution and ordinance. She said a commercial property located in this medium density industrial zone, which is a legal non-conforming business. They want to operate another commercial business out of the warehouse in the back of the Feed Store which they are not able to do because of the current zoning regulations. Staff recommends approval of the rezoning because 1) it’s a less intensive use; 2) it will make the Country Store conforming; and 3) a less intensive use is more appropriate for businesses along 24-40 Hwy.
- The Mayor opened the issue up to public comment, of which there was none.
- Councilman Peak made a motion to approve the rezoning and adopt resolution 06-13-01 and the findings of fact, second by Councilwoman Reed. All Ayes, the motion carried.

- Councilman Donnelly made a motion to approve Ordinance 1369. Seconded by Peak. All Ayes, the motion carried.
- c) Request approval of Firework Sales and Stand Permits
- Mr. McCommon said there were three applications and staff was available for questions.
 - The Council broke the applications approvals into three separate motions.
 - Councilman Truesdell made a motion to approve the application for Patrick O’Hare Fireworks. All Ayes, the motion carried.
 - Councilman Truesdell made a motion to approve the application for Shawn Trieb for both locations, seconded by Councilman Peak. Councilman Donnelly abstained. Four Ayes, the motion carried.
- d) City Administrator Agenda
1. Set the date and time of the next budget work session
 - Councilman Truesdell made a motion that we hold a budget work session Tuesday, June 25th at 7 p.m. Seconded by Councilman Gilner. All Ayes, the motion carried.
 2. Monthly financial report
 - Mr. McCommon said the budget is tracking closely to how it was projected. He made a couple of noted exceptions including sales/use tax coming in higher than expected. He also noted that heavy rains during the first part of the pool season reduced revenue for the pool in late May.
 - He also said water and sewer revenues are lower than projected this year due to people not watering their lawns as much. However, expenditures are well within revenues and budget.
 - Mr. McCommon asked if Councilman Donnelly was satisfied with the monthly financial update. He said yes.
 - Mr. McCommon said the sales and use taxes were not posted in the correct places. We noticed that the use tax for the Water Park was being posted in the General Fund in the past. We corrected for this and posted it in the Water Park fund. We also adjusted the formula for dividing the sales and use tax between the General and Water Park funds but this showed negative revenue transactions in the Water Park fund in May only.
 3. Request to enter an agreement with Lexus Nexus for access to case law database in the amount of \$2,880 per year
 - Mr. McCommon asked to remove this item from the agenda.
 4. Resolution 06-13-02 – Defining the geographical boundaries of the City of Tonganoxie
 - Mr. Kelly said Ms. Jones-Lacy had run it by him a couple times and worked with the Leavenworth County GIS Department.
 - Councilman Donnelly made a motion to approve Resolution 06-13-02, seconded by Councilman Gilner. All Ayes, the motion carried.

5. Executive session to discuss confidential matters or trade secrets of a third party.

e) City Attorney Agenda

1. Request to proceed with the acquisition of easements for Chieftain Trail
2. Request approval for an exemption extension of the conceal-carry law
 - Mr. Kelly said we have until July 1st to determine and submit our request for a 6 month exemption from the requirements of HB 2052 which addresses multiple statutes. If we do not exempt ourselves, we have to allow anyone with a Conceal and Carry license to enter a public building. If we want to extend the resolution for four years, we have to do a safety study and provide legal descriptions of all our buildings and would have to install metal detectors in all buildings. This allows us to study it and determine if we want to exempt ourselves from the law for another four years.
 - Mr. Peak asked why we were proposing this.
 - Mr. Kelly said right now we have a standard sign that says no firearms allowed and this would not continue.
 - Mr. McCommon asked how this would impact City employees ability to conceal and carry.
 - Mr. Kelly said this exemption would allow the City to put a ban in its personnel policy to restrict employee's ability to conceal and carry on the job.
 - Mr. Kelly said the Council would need to vote to approve the exemption. Councilman Truesdell made a motion to exempt the City from K.S.A. 21-6302, K.S.A. 21-6309, K.S.A. 75-7c06, and K.S.A. 75-7c10 as described in HB 2052 Chapter 105. Seconded by Councilman Peak.
 - All Ayes, the motion carried.
3. Inter-local agreement with Leavenworth County for roadway maintenance
 - Mr. Kelly said he hadn't heard from Mr. Van Parys but he has had some communication with him.
 - Councilman Truesdell asked if there had been changes from the original agreement.
 - Mr. Kelly said yes, one of the issues was mowing along Co. Rd. 5 and that the County continues to do that and that acquisition of easements be conducted. The acquisition of any easements would be in connection with any further annexation by the City.
 - Mr. McCommon had made additional suggested changes to the agreement including #4, which said the City will take over road maintenance when it becomes a First Class City.
 - The Mayor asked Mr. Bixby if he could get in contact with Mr. Van Parys. Mr. Bixby said that according to Mr. Van Parys, the ball is in the City's court and he doesn't know what the foot dragging is about. All we needed to do was have the City sign the old agreement. It's been frustrating. Mr.

Bixby suggested that Mr. McCommon visit Mr. Van Parys this week when he is in town.

- The Mayor said he suggests Mr. Bixby facilitate that since Tonganoxie is one of his constituents. Mr. Bixby said that's what he's been doing.
4. Second Reading, Ordinance No. 1366 – An Ordinance amending Chapter 2, Article 5, Section 2-509 providing an exemption from breed ban for registered service animals
 - Councilman Peak asked if there were other definitions of a service dog that we're considering.
 - Mr. Kelly said the best definition he could find was that a service dog was "as defined by the ADA". He said it won't be fool-proof.
 - Councilman Gilner made a motion to approve, seconded by Councilwoman Reed. All Ayes, the motion carried.
 5. Second Reading, Ordinance No. 1367 – An Ordinance establishing the day and time of regular scheduled meetings of the governing body
 - Mr. Kelly said this was something for the Council's consideration to establish an automatic rescheduling of City council meetings to the following Tuesday when those meetings fall on a holiday.
 - Mr. Truesdell said he wants to change the council meeting to the first and third Monday in the month so that it doesn't conflict with the school board meetings.
 - As a result, the Council held the request until the next Council meeting to give staff time to research the issue to determine if there would be any issues with this type of change.
 6. Second Reading, Ordinance No. 1368 – An ordinance establishing municipal court costs
 - Mr. Kelly said this ordinance allows the court to assess court fees such as fingerprinting, probation, and jail fees to the defendants. There is a mechanism to recoup those costs per the state. He said Lansing has nearly all of these fees.
 - A motion to approve Ordinance NO. 1368 was made by Councilwoman Reed, seconded by Councilman Gilner. All Ayes, the motion carried.

f) City Council Agenda

- Councilman Peak said he's read all the reports on the old police station. We need to know what it cost to remediate and use the police station for storage or whatever other purpose. He said he wanted to know the cost of tearing it down.
- Mr. Bixby said there's an engineering report that said the bid was less than \$50,000 to remediate the issues at the old station. He said if the Council continues to have an untreated building, we risk having an environmental concern for the staff in City Hall.
- He said the Council needs to consider the attached buildings if the police station is torn down.

- Mr. Truesdell said he would like staff to look into it and make recommendations.

Councilman Peak asked for an executive session for seven minutes to discuss confidential matters of non-elected personnel. Seconded by Councilman Gilner. All Ayes, the motion carried.

A motion to return from executive session with a not that no action was taken was made by Councilwoman Reed, seconded by Councilman Gilner. All Ayes, the motion carried.

Mr. McCommon asked that we enter into executive session for five minutes to discuss confidential matters or trade secrets related to a third party. A Motion was made by Councilwoman Reed seconded by Councilman Gilner. All Ayes, the motion carried.

Motion to return from executive session with a not that no action was taken was made by Council Gilner, seconded by Reed. All Ayes, the motion carried.

A Motion to adjourn was made by Councilman Gilner, seconded by Councilwoman Reed. All Ayes, the motion carried.

Respectfully Submitted,

Jennifer Jones-Lacy, Assistant City Administrator