



City Council Meeting
May 5, 2014
7:00 p.m. Regular Meeting

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

Consent Agenda

- a) Approval of Minutes – Regular Meeting dated April 22, 2014
- b) Consider Approval of Bills - Approve Pay Ordinance A-1731
- c) Consider approval of payment to Custom 911 for outfitting of police vehicles in the amount of \$7,394.57.
- d) Consider approval of payment to Honeycreek for monthly solid waste bills in the amount of \$22,966.00.
- e) Consider approval of payment to JP Welch Fencing for fencing and materials for sidewalk on Washington Street in the amount of \$5,110.00.
- f) Consider approval of payment to Olathe Winwater Works for water and sewer supplies in the amount of \$5,073.83.

Councilman Peak made a motion to approve the consent agenda, seconded by Councilwoman Reed. All Ayes, the motion carried.

Open Agenda

Lawrence Hill, 501 E. 13th Street in Tonganoxie. He wanted to congratulate the Council and the entire City on the new trail.

Keyta Kelly, 512 E. Fourth Street – Said she wanted to comment on the space where the former police station was. She said she would love to see a park in that location. Something simple with a couple of picnic benches, grass and a place where people could have lunch. She would like to see a mural on the wall of Dr. Stevens office and recommended working with him to bring that to fruition.

Old Business

- a) Discussion on use of space for former police station property
 - Mr. McCommon said City crews will need to repair the sidewalk and finish filling the basement in front of the old police station.
 - Mayor Ward said downtowns don't typically have a lot of green space and something like what Mrs. Kelly suggested would work. They had previously discussed making

it a parking lot but he thinks that would be short-sighted not knowing where the police department will eventually relocate.

- Mr. Peak said there are a few thousand dollars in RCDC fund that are earmarked for downtown and beautification of the lot would be a good use for that funding.
- Mrs. Morey at 300 E. Eighth St. said she would like to see a mural on the wall and we could even get the seniors art students at Tonganoxie High School to put something together to paint on the wall.
- Rachel Kelly works downtown. She said she would like to see something more elaborate. She would like to see a fountain, art, some kind of statue that would spruce up the downtown.

b) Update on Chieftain Trail

- Mr. McCommon shared some photos of the bridge installation. He said the project is almost finished. He asked the Council when they would like to do a ribbon cutting. He said it should be complete in May. The Council decided to have the ribbon cutting ceremony on Friday, May 30th at 6 p.m. at Magnatech Park.
- Mayor Ward said he has received a lot of positive feedback on the bridge.

c) Update on utilities extension - no updates

d) Update on Hwy 24-40 traffic signal improvements – no updates

e) Update on Washington Street sidewalk – scheduled to follow final work prepping the ground where the old police station was torn down.

New Business

a) Presentation by Randy Weldon of Honey Creek Disposal regarding curbside recycling

- Randy Weldon provided a presentation to council on recycling explaining the Council could provide a mandatory or voluntary program for residents. Mandatory program would cost \$2.25 per person and the voluntary program would cost \$4.00 per resident.
- He explained that the recycling container is a little shorter than the standard trash container.
- Mayor Ward asked if Honey Creek would use this for cost recovery. Randy said it depends on the market which is very volatile. He said, “You can’t get rid of plastic right now. A lot of the material goes to China so it depends on that country’s demand.”
- Councilman Truesdell asked how we decide if it’s voluntary or mandatory.
- Mayor Ward said that’s a policy decision. His opinion is that everyone should recycle.
- Randy said the new MRF will be ready October 1st which would be a good time to start the program in Tonganoxie.
- Mayor Ward said this is an opportunity to vet this and we’re coming up on budget season

b) Request approval of development plans of Fall Creek Villas

- Mr. McCommon said the development plans before Council today were approved by the Planning Commission with some qualifications.
- Councilman Peak asked if the developer review the drainage plan before phase 4, Mr. McCommon said yes.
- Mr. McCommon said this is an unusual request – normally you review the final plat and get council approval and then go back to council for development plans. Then finally follows construction. Phase 3 conforms to the current plat, but later phases do not. After hearing

staff presentations, testimony from the applicant, and public comment, the Planning Commission recommended approval of the preliminary and final development plans as submitted with the conditions that 1) the builder replat before getting building permits for Phases 4 and 5 and 2) the builder look again at the drainage plan with the city engineer.

- Ms. Kem provided a presentation to council regarding what the Planning Commission heard at their last meeting on this issue. The Planning Commission recommended Approval of the preliminary development plan with the following conditions:
 - That the developer submit to the Tonganoxie Planning Commission of revised preliminary and final plats prior to the construction of Phases 4 and 5, allowing construction to commence immediately, subject to building permits, on conforming spaces of Phase 3.
 - That the developer review original drainage plan with City Staff and City Engineer, and ensure it is in compliance, and address any issues necessary
- Approval of final development plan with the following conditions:
 - That the developer submit to the Tonganoxie Planning Commission of revised preliminary and final plats prior to the construction of Phases 4 and 5, allowing construction to commence immediately, subject to building permits, on conforming spaces of Phase 3.
 - That the developer review original drainage plan with City Staff and City Engineer, and ensure it is in compliance, and address any issues necessary
- Ms. Kem concluded with an additional recommendation to that of the Planning Commission. She adds that the developer submit a revised as-built plat following the construction of each phase to be recorded with the County to include updated blocks and legal descriptions and other changes that need to be addressed. Essentially, the developer needs to replat existing structures from Phase 3 forward.
- Mr. Brian Sturm of Landplan Engineering PA presented additional details of the builder's desire to proceed with phased construction and concurs with the recommendation of the Planning Commission.
- Councilman Peak asked if there were any issues around Fall Creek Villas effecting nearby properties.
- Mr. Homer Jennings raised a concern centered around drainage near the neighboring houses on Finch Drive. The drainage easement has eroded over time and has caused flooding in the area for those residents.
- Mr. Curtis Oroke, developer of homes on Finch Drive in the Southpark Neighborhood, said the Council was who approved the original plan from the developer when Fall Creek Villas was originally constructed and the drainage retention does not work as it should. None of those lots were constructed in conformance with established rules and that's why they are in this mess today. He commended the new owner of Fall Creek for trying to do business in this town, but the City is making that very difficult for him and leaving problems for the residents on Finch Drive. He said the City needs to fix the drainage issue.
- Councilman Peak said he disagreed with Mr. Oroke's comments. He said the Council is trying to rectify the issues from the past and trying to formulate plans for the future. He said by asking these questions, council members are trying to do their due diligence.
- Mr. Peak said his concern is to make sure that the builder controls the run off, that they maintain the equity of those homes that are already there. He said this needs to be resolved now.
- Mr. Kingsley said the drainage plan for Fall Creek Villas conformed to drainage standards of the City of Lawrence, because at the time the City of Tonganoxie did not have drainage standards in place. The plan designed the drainage to be sufficient to control the water runoff as if the entire development were completely built. The current situation is that much is yet to be built and the plan already is designed for additional runoff from the new impervious surfaces. No plan ever intends for storm water to always remain within the channel during flash flood circumstances and homeowners next to creeks should expect surges over the banks in such cases. The culvert under 4th Street is designed to accept normal seasonal highs in precipitation from the drainage channel that flows down from Fall Creek Villas.

- Mr. Homer Jennings said the owner of Fall Creek has historically not maintained the ditch. He said the water has flowed over the road despite the city engineer's claim that the drainage was established to withstand a 100 year flood.
- The engineer for Fall Creek Villas, Mr. Brian Sturm, said they agree with Ms. Kem's recommendation except the "as built" statements.
- Councilman Peak asked if they were going to review the drainage and address any issues. Ms. Kem said the existing drainage plans were provided properly according to the platting process.
- Mr. Kingsley noted that City ordinance says if drainage channel is on private property, it is the property owner's responsibility. He said he met with property owners from the Stone Creek subdivision previously who had hired an engineer to review a drainage channel that was eroding between their properties. They agreed to share the cost of improving the channel and reducing the effects of erosion.
- Homer Jennings, 1725 Finch Drive, said the retention pond is not functioning the way it is supposed to. Over the last five years the amount of water has increased every year with every storm. He said the town maintenance guys have had to come in and clean out the debris from the culvert. He said he spoke with the building inspector and the acting planner at the time who said the City was in negotiations with the developer of Fall Creek Villas. He said that several planners and building inspectors have expressed concern about the ditch growing in size. He understands that the drainage ditch may be his responsibility, but he wants assurance from the town that, if it is fixed, that it won't continue to get worse. His concern is that the previous storm water management plan is ineffective.
- Mr. Truesdell said if maintenance of ditches is left up to individual property owners and they are all maintaining it differently, that would be a problem.
- Mr. Oroke said the water retention policy needs to be re-evaluated.
- Mayor Ward said part of the Council's role is to determine what happened and how to make it right moving forward. We need to make sure we have the policies and procedures in place to do things correctly. One of the recommendations the Council has before them is that this drainage issue be reviewed.
- Mayor Ward asked the Council if they had enough information to move forward or if there are items that need to be resolved.
- Councilman Peak asked Kathy Kem to repeat what her recommendation was. Ms. Kem said the "as built" plat would only apply to the new structures.
- Councilman Donnelly said "If they don't change anything and build in the same footprint they could build tomorrow in Phase 3, right?" He said P&Z recommended one thing, professional staff recommended another item, and the drainage issue hasn't been resolved.
- Ms. Kem said the design of the building is a non-issue. Ms. Kem said the flexibility of the PUD allows the Council to ask for an adjustment to the plat and development plans.
- Councilman Donnelly said it seems odd that he gets two different recommendations and felt that the meeting of the Planning Commission sufficiently vetted all the relevant information.
- Ms. Kem said the Planning Commission pondered her recommendation a long time. Ms. Kem said it is her intention to make sure things are done correctly moving forward which is why she recommended the additional steps. However, the Planning Commission was concerned with delaying the developer, which is why its recommendation was less restrictive.
- Mr. Donnelly asked Mr. Kingsley if he would review the storm water issue, and if there was a contingency that would prevent the plan from moving forward. Mr. Kingsley said that contingency would come before Phase IV construction and that the builder was free to begin Phase III.
- Mayor Ward asked why we wouldn't review the storm retention plan prior to this next phase.
- Mr. Kingsley said he doesn't believe this addition will provide a detrimental impact on the storm water because the storm water facility is already designed to accept drainage of a fully constructed subdivision. Mr. Kingsley asked if it was fair to slow the developer down for a perceived problem. Mr. Kingsley said there is no guarantee in the plan that that channel would not erode. Dirt channels erode. If the intention was to avoid erosion, they should have installed

concrete. There's a process that we'll have to go through to develop an understanding of what the homeowners purchased so they are aware.

- Casey Conus, Cover Properties, owner of Fall Creek Villas LLC, affirmed that he concurs with the recommendation of the Planning Commission and that his engineer will look at any possible solution to drainage off the property just as the recommendation reads. Only at the meeting of the Planning Commission was the first he learned of any drainage concern.
 - Curtis Oroke, 105 S. Village. We have a good builder in town that wants to finish Fall Creek Villas. They are not part of all the history. But the drainage is a serious problem.
 - Mr. Jennings said he doesn't want to put the responsibility of fixing the storm water issue on the developers. He just knows that the original channel was supposed to be much smaller than it is now.
 - Mr. Kingsley proposed to verify the storm water detention plan then look at the velocity levels of actually drainage to learn if it is performing according to the plan.
 - Mayor Ward said he would like Council to make decision on the next steps.
 - Councilman Peak said he is glad the drainage issue is at the forefront so we can take a look at it. He said he does not have a problem with them building out Phase 3 and upholding the recommendations of the Planning Commission.
 - Ms. Kem said the recommendation by the PC is to replat the structures that they are building now prior to getting building permits for Phase 4. Ms. Kem's clarified that it will be best to replat the existing structures of Phase 3, too.
 - Ms. Kem said if you change the plat for Phases 1 and 2, that would create a complicated legal issue, and she does not recommend doing that.
 - Mr. Conus said all of the homes for the original development were designed 46 feet deep. For whatever reason, a few of the blocks were recorded 43 feet, 42 feet, etc. And then some already constructed homes in Phases 1 and 2 were still built over the block boundaries.
 - Councilman Donnelly said he understands Ms. Kem's recommendation and that she's trying to address a long-term problem.
 - Mr. Donnelly made a motion to accept the Planning Commission's recommendation for the preliminary Phase III development plan only.
 - Members discussed when to require a review of the drainage plan and agreed that the recommendation of the Planning Commission was enough to give the developer and staff direction.
 - Councilman Peak, seconded the motion.
 - All Ayes, the motion carried.
 - Councilman Donnelly made a motion to approve the final plat with the conditions from the Planning Commission, requiring that City engineers review the drainage and not start Phase 4 or 5 until the storm water plan is reviewed by the City engineer. Seconded by Councilman Gilner, all Ayes, the motion carried.
- c) Request approval of a temporary Cereal Malt Beverage License for the Abdallah Shrine Rodeo
- Councilwoman Reed made a motion to approve, seconded by Councilman Gilner. All Ayes, the motion carried.
- d) Consideration of a \$3,000 homebuyer's incentive for Kimberly Musick
- Councilman Peak made a motion to approve, seconded by Councilwoman Reed. All Ayes, the motion carried. Councilman Donnelly abstained.
 - Mr. McCommon asked about the intent of the program, if the intention was to encourage people to buy in Tonganoxie. He said he asked because there are folks who already live here and already bought here who are applying for the rebate, at which point it is more of a bonus and less of an incentive.
 - Council directed staff to review the policy and possibly bring it back to Council for another revision.

e) City Administrator Agenda

1. Consider the purchase of automated meter reading devices
 - Mr. McCommon said there were several questions from the previous meeting, the most prominent being the return on investment. Mr. McCommon said the primary benefit is the savings in man-hours which would be reduced to 1/8th the time we currently spend.
 - The life of the device savings would be paid back in 6.2 years.
 - He said every meter will be read automatically. Staff would know immediately if there's an issue that needs further review and we could quickly notify customers of an issue.
 - Mr. McCommon said the meters are covered under warranty for 15 years or 1.5 million gallons whichever comes first. Mr. Heskett said it's possible to get there in 15 years. He covered the warranty for all other items.
 - He said customer support comes with the hardware and software support for one year and can be continued with a licensing and support fee.
 - The Water Capital Reserve Fund would be targeted for this project because of significant savings from the utilities extension project.
 - Councilwoman Reed made the motion to approve the purchase, seconded by Councilman Gilner. All Ayes, the motion carried.
2. City Employee Benefits Renewal for 2014-2015
 - Ms. Jones-Lacy informed the Council that employee benefits rates for the next plan year came back favorable. Health and vision insurance rates remain flat and dental increased approximately 2% over the prior year. Open enrollment is planned for May 22nd.
3. Grant of Right of Way Westar Energy
 - Mr. Kelly said we have made a few changes which gives the City the right to modify the easement in the future.
 - Donnelly made a motion to allow the mayor to sign the easement...seconded by Councilman Gilner. All Ayes, the motion carried.
4. Budget Calendar
 - Mr. McCommon provided a calendar with potential work session dates. Mr. McCommon said the Port Authority is also asking for funding from all of the municipalities, so that will be part of the discussion.

f) City Attorney Agenda

- Agreement to dissolve the Wholesale Water District –
 - Mr. Kelly said it would probably be another month before they have something for Council to review.

g) Council President Agenda

- Councilman Gilner asked if we need a new computer because it was embarrassing to watch the technical difficulties when we had guests. Councilman Peak concurred. Mayor Ward said if we need a new computer, he's sure Mr. McCommon will get one.

h) Mayor Agenda

- Councilman Gilner made a motion to go into executive session to discuss matters of non-elected personnel to include the City Attorney for a period of 5 minutes, seconded by Councilman Peak, all Ayes. The motion carried. Motion to return from executive session was made by Councilman Peak, seconded by Councilwoman Reed. All Ayes, the motion carried.

- A Motion to return to executive session for a period of 10 minutes was made by Councilman Gliner, seconded by Councilman Peak, all Ayes, the motion carried. Motion to return from executive session noting no action was taken was made by Councilman Peak, seconded by Councilman Gilner. All Ayes, the motion carried.
- A motion to adjourn was made by Councilman Gilner, seconded by Councilman Peak. All Ayes, the motion carried.

Respectfully Submitted,

Jennifer Jones-Lacy
Assistant City Administrator