



City Council Meeting
August 18, 2014
7:00 p.m. Regular Meeting

Mayor Jason Ward opened the meeting at 7 p.m. with the pledge of allegiance. Council members present were Kara Reed, Andy Gilner, Chris Donnelly, and Jim Truesdell. Councilman Bill Peak was absent. Also in attendance were city staff Nathan McCommon, Patty Hagg, Christy Carter and City Attorney Michael Kelly.

Councilman Reed made a motion to approve the consent agenda, seconded by Councilman Truesdell. Discussion of item f. Approval of payment to Ann Jarrett-reimbursement of insurance funds. Diane Bretthauer, Insurance Center, addressed the Mayor and Council regarding an insurance refund check for the Ann Jarrett property. She stated her clients, the contractor and herself were unclear of the procedures required after the fire. She was also concerned that she had to be the one to initiate the issuance of the refund check to the Jarrett family. She felt it was unfair to the family to have to wait until a council meeting to approve their refund. The insurance check was a deposit to the City to ensure the utilities would be properly disconnected, the house demolished and the property cleaned. She stated the building inspector approved the demolition and clean up, but she had to contact City Hall to request the refund check and was told she would have to wait for the check to be approved at the council meeting. She thought the policy should be looked at so the money could be returned as soon as project was finished and passed inspection. Mayor Ward explained all checks needed council approval. Nathan stated he was not aware of the situation and the amount is over his budget authority. He stated any amount over \$2500.00 had to be approved by the city council at a regular public meeting. Chris Donnelly stated if this was a deposit and not part of the regular budget he thought this should be treated as a deposit and should be returned as soon as the project was complete. Attorney Mike Kelly stated it is treated as a bond received for the project. Mayor Ward and Chris Donnelly agreed it should be returned in a timely manner. He felt a deposit such as this should be excluded from council approval and should be handled administratively.

Consent agenda - All Ayes, motion carried.

Open Agenda

Nothing for open agenda

Old Business

- a) Update on Hwy 24/40 traffic signal improvements and approval of contract with Wildcat Concrete
 - Mr. McCommon stated KDOT has sent a letter confirming the added expenses and grant increase. He also stated a copy of the contract with Wildcat Concrete was included in the council packets and asked if there were any questions. Jim Truesdell made a motion to approve the contract with Wildcat Concrete Services Inc., for construction of traffic signals and improvements at Hwy 24/40 and Stonecreek & Southpark Drive intersection. Andy Gilner seconded the motion. 3 ayes, Chris Donnelly abstained, motion carried.

- b) Update on crosswalk at 1st St and entrance to VFW Park
 - Mr. McCommon provided information in Agenda statement dated 8/18/2014. The agenda statement information included the request by Lawrence Hill, a cost estimate of \$3700.00 for city crews to perform the work and he also stated this would be an unbudgeted expense but provided possible fund sources for the council to consider. Chris asked if there was a cross walk presently at the location, Mr. McCommon stated there is a cross walk a little further to the west crossing from Magnatech Park to the sidewalk that connects to the swimming pool overflow parking lot and VFW Park. Jim Truesdell asked for staff recommendation. Mr. McCommon stated he would be hesitant to recommend approval because several street projects are on hold at this time and this is not a budgeted item. Mr. Donnelly stated there were other areas that within the city that could use a crosswalk and he passes on this request. Mayor Ward stated he would like to keep this on the radar and evaluate the use of this site to see if a crosswalk is needed.

c) Update on Gallagher Park

- Mr. McCommon stated the Gallagher Park Task Force submitted an application for the Sunflower Foundation Grant and it was awarded to them. The task force worked on getting cost estimates for information kiosks, mileage markers and a trail head sign in the amount of \$11,600.00. He stated the grant would pay for 50% of the costs. The balance of funds will be privately raised. Mayor Ward congratulated the task force on the grant, he said he thought the task force did what was asked of them, they had community buy in and sought input from community groups. He asked about the timeline and noticed a donation deadline around the middle of September. McCommon stated he would get the information and would make sure updates are posted on the City website and Facebook page.

New Business

a) Approval of Ordinance 1379: Amending the Water and Sewer Regulations, repealing Section 8 of Article 3 and requesting immediate approval.

- Nathan McCommon presented information from agenda statement 8/18/2014. He stated the current ordinance requires rounding to the nearest 1000 of gallons but the new radio read meters have the ability to read to the tens of gallons. Mr. McCommon read the current ordinance and asked for repeal of this section to allow staff to bill in smaller increments after the first 1000 gallons used.

Jim Truesdell made a motion to approve Ord. 1379 repealing Section 8. Chris Donnelly seconded the motion. All Ayes, motion carried.

b) Public Hearing for a voluntary recycling program and approval of Honey Creek Disposal to provide such services.

- Mr. McCommon reviewed the facts presented in the agenda statement 8/18/2014. Mayor Ward opened the meeting for Public comment. No one present spoke for or against the program. The Public hearing was closed. Mayor Ward stated they received positive comments about this and now that the statutory obligations have been fulfilled the council will be able to move forward. Mr. Truesdell asked if a vote was needed. Mayor Ward said this item will be brought back to the Council at the next meeting for contract review and approval.

c) Second Reading: Ordinance 1378 adopting a fee for contractor trade licensing.

- McCommon reviewed the agenda statement provided to the council. He stated ordinance 1378 will allow the city to collect a \$50.00 fee and require a trade license for plumbing, electrical, mechanical and framing. McCommon stated it impacts a lot of people who do business in Tonganoxie. He felt plumbing, electrical, mechanical are the most important. He felt framing was also important but he was not as familiar with framing issues. Mayor Ward stated they received feedback from several contractors who wanted the council to leave off framing from the licensing requirements. Garry Mallory, Building Inspector for Johnson County, stated framing was not part of the original program when they started but the framer's came to them stating they needed more education. He considered framers as one of the most important trades. Casey Conus, 18090 Evans Rd, builder, stated framing contractors should be licensed because they need to know the current codes, he felt the education received from the Jo. Co. program is very important as codes change. He said this would be an asset to the community because we would have better workmanship. Curtis Oroke, 105 S Village, builder, thought the licensing rules and regulations would inhibit growth at this time in Tonganoxie. He stated the Tonganoxie community is just starting to rebuild after the recession. He thought the building inspector should be able to catch bad framing work. He stated the building industry is not doing very good in Tonganoxie, new homes are not being built and if local building picked up it would be a jump start to the economy. He stated approximately 100 people are needed to build a new home from start to finish and the people working on the sites would bring sales tax dollars to the city by purchasing food, gas and products from local businesses. He also stated most contractors know code regulations. He stated he was not in favor of licensing contractors at this time. Steve Chick Sr., Building Official for City of DeSoto, stated Basehor is a member of the Jo. Co. Contractor Licensing and DeSoto has been a member since 2002. Some important things about the program is that it brings education to the contractors and licensing requires validation of liability and workman's comp insurance. He stated most cities are using 2006, 2009 or 2012 codes, Tonganoxie is still using 2003 code books. He said the need for education came from the industry, individual contractors and codes enforcement working together. Jim Truesdell stated he did not think it was our building inspector's responsibility to insure a building is

built to code, he said the contractor is responsible for how to build to code. He suggested we go forward with licensing and add framing. Curtis Oroke spoke on insurance coverage and stated his disagreement with framers being added to licensing. He still felt it was the Building Inspector's job to insure a structure is built correctly.

Diane Bretthauer asked how much time will be allowed to get licensed. McCommon explained the ordinance as written states December 1, 2014. Diane thought this should be extending at least to March 2015 to allow contractors time to get the training required for licensing.

Garry Mallory, stated when they first started the program they allowed 6 months to offer an opportunity for existing contractors to demonstrate experience. They would be then licensed through the program but if they lost their license or did not renew after that period they would have to be recertified though the classes and tests required to be licensed. This allowed contractors to be grandfathered in at the beginning of the program.

Mayor Ward had questions regarding demonstrating experience.

Garry Mallory had questions regarding the direction Tonganoxie was going with education and licensing.

Christy Carter replied the city is asking for contractors to be licensed through the Jo.Co. program, ICC or Prometric.

Garry Mallory stated the beginning licensing date was a problem for them too. He stated at the beginning they did find out that less than 50% of contractors had insurance and they offered a short period of time for contractors to demonstrate their ability or take the licensing test.

Andy Gilner asked when & where the classes were available.

Garry Mallory stated that Jo Co. has two Educational Conferences per year. The classes are 8 hours per day for 3 days in the spring and 5 days in the fall. They also have daily classes in December & January and videos are available in the office for training if contractors cannot attend the conferences. The fall classes are the largest and contain about 90 different subjects. The fees are part of the licensing. All fees go back into the program to support education and administration. He stated they educate about 7000 contractors per year.

Jim Semen, 501 2nd St, retired sheet metal union worker, stated he looked into taking the block test to be licensed for a sheet metal company he worked for. He found out he would have had to learn about several trades just to pass the test to get licensed in his trade. He thought experience was the best teacher. He also wanted to know about reciprocity from one city to another.

Garry Mallory stated the block program only licensed an individual, with the Jo. Co. Program a company would be licensed. The fee is about \$200.00 per year for all trades and includes all education classes and code books.

Kara Reed wanted to know if staff had information on local contractors who are licensed.

McCommon reviewed the contractor survey included in the packet.

Jim Truesdell stated he did not see anything in the ordinance that allowed grandfathering.

Mayor Ward stated grandfathering is important and he wanted a partnership with the contractors. The main goal is to protect the citizens and to make sure the builders are actively involved in their education, experience and requirements.

The council directed staff to obtain more information on grandfathering existing contractors, initial training, and continuing education classes, fees and dates. The council also wanted a list of local contractors who pulled building permits in the last two years in Tonganoxie.

Curtis Oroke stated Tonganoxie was a city that was leading and was the fastest growing city in Lv. Co. before the economy dropped. He stated local contractors are doing more remodel work now instead of new construction. He thought the council should put more interest into rebuilding the downtown and offering incentives to bring new businesses to the city. He felt the economy was at a standstill and needed a boost.

Diane Bretthauer stated she hears that Tonganoxie has a reputation of not being business and building friendly. She felt there needs to be a timeline for local contractors to adjust to new policies and she suggests a meeting with contractors.

Mayor Ward stated we have not been consistent with our policies in the past but there is an open door policy and that if a service needs to be done people should reach out to Nathan or Christy for policy information and clarification or check the city website.

Garry Mallory stated the fall education program will start in October at the Overland Park Convention Center. He invited everyone to the conference and stated that as a member of the Jo. Co. program building inspectors are invited at no cost and will be given a set of code books.

Kara Reed stated she did not think of Tonganoxie as unfriendly and if anyone hears any rumbles she asked if they would let any of the Council members know.

No further discussion and Mayor Ward asked for a brief 5 minute recess.

- d) Approval of contractor for chip and seal work on city streets.
McCommon reviewed the agenda statement. He stated the bids were publically advertised. The total resurfacing would not exceed 16,000 sq ft. He stated target areas are Shawnee to Delaware St and 5th to 8th St, Ann St. and the 900 block of Shawnee St. Sealed bids were accepted until 3pm on Aug 13th. Two companies provided bids Harbour Construction \$32,800.00 and Vance Brothers \$35,800.00.
Andy Gilner made a motion to award the contract to Harbour Construction for the amount not to exceed \$32,800.00. Kara Reed seconded the motion. Discussion: Chris Donnelly asked if the roads were currently chip/sealed. McCommon stated they were, this would just bring them up a step. All ayes, Motion carried.
- e) Resolution 08-14-01-Defining the geographical boundaries of the City of Tonganoxie.
McCommon stated the resolution is an annual administrative requirement of Kansas Statutes. This resolution will clarify a portion of the road on N. Main St. On previous maps it showed city limits extended farther to the north past the bridge. The boundary change will move the city limits to the northern property line of Northstar Subdivision which is north of Myers Dr. The east side city limit boundary line will include the Rural-Residential property that extends to the bridge but it will not include the road.
Chris Donnelly made a motion to approve Resolution 08-14-01 redefining the legal boundaries of the city limits as presented. Jim Truesdell seconded the motion. All ayes, motion carried.
- f) Public Hearing for the adoption of the FY 2015 budget.
McCommon stated the Public hearing notice was published in the Tonganoxie Mirror. The notice included the proposed 2.9 mil tax increase. The budget also includes a water & sewer increase of \$2.00 each. He stated at this time no one had expressed any comment regarding the budget or tax increase. He said the final filing date with the county clerk is August 25th, 2014. He also asked if the Mayor would ask for a roll call vote.
Mayor Ward opened the Public Hearing. McCommon stated that the current city mill levy is 41.503 the new city mil levy will be 44.403. The total mill levy is 144.485 the new levy will be 147.385. No one present spoke for or against the proposed budget. The City Attorney asked for a roll call vote recorded with the motion.
Jim Truesdell made a motion to approve the 2015 budget. Andy Gilner seconded the motion.
Roll Call Vote: Jim Truesdell, aye; Chris Donnelly, nay; Andy Gilner, aye; Kara Reed, aye. Motion carried, 3 ayes, 1 nay.
- g) City Administrator Agenda
- 1.) Emergency Expense for the Wastewater Treatment Plant
McCommon stated that a motor needed to be replaced on the machinery that removes the sludge from the sewer plant. He stated this part is a specialized part and the company that we do business with is moving to Illinois. If we can't get it fixed before the company moves we will have added expenses for the travel time for the company representative. The parts and labor would cost approximately \$4000.00. Jim Truesdell made a motion to approve Nathan's purchase authority to cover CPU, belt drive and labor for this repair. Chris Donnelly seconded the motion. All ayes, motion carried.
 - 2.) July Financial Report
McCommon reviewed the July Financial Report. He stated the balance of the Ad Val tax collection should be received in October. General Revenues are close to budgeted amounts. Expenditures changes are mostly from salaries due to hiring 3 new firefighters. Overtime is going down. Water consumption is down due to more rain this year. Typically the highest water usage occurs in July/Aug/Sept. Sewer is steady. McCommon also stated there is one more payment for the Chieftain Trail. July and August show the year's largest debt payments and includes the final payment for 2004 street project.
 - 3.) Affirm the date of the first meeting in September
McCommon stated the first Monday in September is Labor Day holiday and suggested the regular scheduled meeting be held on Tuesday, September 2, 2014 @ 7:00 pm. All Ayes.
McCommon also requested a work session to review the new personnel handbook. Jim Truesdell made a motion to hold a work session on 9/2/2014 @ 6:00 pm. Andy Gilner seconded the motion. All ayes, motion carried.

Mayor Ward asked for the Executive Session to be moved to the end of the agenda.

h) City Attorney Agenda

Michael Kelly stated the dissolution of the Wholesale Water District is almost finished. They are at a break in proceedings on one part that involves percentages. He stated Mr. Hanson will contact them by the end of next week.

i) Mayor's Agenda

Mayor Ward discussed a meeting with Leavenworth County involving the extension of the 1% sales tax. The renewal will be on the ballot in November. Each city and the county identified specific projects that the sales tax would be used for. He said they also discussed a 20 year extension instead of a 10 year. Leavenworth County felt rates and participation would be better with a 20 year extension. After discussion council members agreed a 20 year extension would benefit the City of Tonganoxie and recommended sending a letter of support to Leavenworth County for a 20 year extension of the 1% sales tax.

j) Council President Agenda – Nothing at this time

k) City Council Agenda

1.) Discussion on manager-council versus mayor-council government

Chris Donnelly opened discussion on this topic by stating he thought this is something that has been left undone. He stated the council first discussed this when the city went from a 3rd class city to 2nd class city last year. Jim Truesdell stated he was not ready to act on this, he wanted more detailed information and had concerns about losing the elected position. He did not think it should be put on the November ballot. Kara Reed suggested they discuss now and move on it as soon as possible. Andy Gilner asked if this would include ward position.

Mayor Ward stated they discussed this topic last spring. He said currently the position of Mayor is elected by the public. A city manager would be hired by the council or a group designated by the council. A city manager would allow staff to run the day to day operations. Mayor Ward feels that the City of Tonganoxie has starting moving toward a city manager type of government. He wants staff to run the day to day operation. He stated he still makes appointment and he is more of an advisor on certain situations and or when an ordinance requires staff to come to him.

Chris Donnelly felt this would be a step toward a more progressive city and felt this would help the city move forward.

Jim Truesdell asked how many cities our size had this form of government and wanted to know exactly what the proposed change would mean.

McCommon stated League of Kansas Municipality would have that information. He could provide that information. He also stated there are statutes in Chapter 12 and there is a template of the manager and commission form of government.

Michael Kelly stated the government would be made up of 5 commissioners and could contain wards; the city manager would run the day to day operations and would have a higher spending authority. The commission would still review policy changes. He stated there would have to be a vote to the whole populace and the commission would have to be members of the populace. He stated there are certain statutes they could opt out of. The example discussed was the City of Topeka who still has a Mayor but also has a city manager to run the day to day operations.

Jim Truesdell wanted specific details of the language that would be used on the ballot.

Michael Kelly stated to be on the November ballot they would have to submit something to the County Clerk by Sept. 8th or 9th. He stated they have the option to expand the responsibilities of the administrator. Chris Donnelly stated he thought the city manager position is a piece that is needed for the city. He said the commission still changes every four years. It would just expand the responsibility of the City Manager. The council members then discussed the mayoral appointments to various positions and the differences between the two forms of government and current city codes that could be changed without changing the form of government.

Chris Donnelly asked if McCommon could contact the League of Kansas Municipality to come to another meeting to discuss and answer questions from the council. He wanted to keep this on the agenda for additional discussion. He felt Tonganoxie is growing and this type of government will be good for the City.

Mayor Ward stated if they could not come to a decision for the November ballot, the next ballot that would be available would be in two years unless a special election is held.

Nathan stated this topic was discussed at six council meetings last year and at two public forums held at the High School. He felt timing is an important factor right now since mayor and two council positions will be on the ballot in April. He added that we should honor those who run for office in good faith that the elected position will exist.

Kara Reed reminded everyone that the city manager position is a paid position and the Mayor and Council positions are voluntary and as the city grows, it become more tim- demanding for a voluntary Mayor.

Jim Truesdell stated he would like to see more information on the commission form of government. Andy Gilner stated he would like more information on the commission with modified mayor position and manager that Topeka uses. Michael Kelly said some ballot information language could also be presented at the next meeting for review.

Jim Truesdell does not want to rush the change of government and would like to have more discussion and questions answered before it is placed on the ballot.

Chris Donnelly made a motion for an executive session to discuss confidential matters or trade secrets of a third party for a period of 5 minutes to include the City Attorney, Governing Body, City Administrator. Andy Gilner seconded the motion. All ayes. Andy Gilner made a motion to return from executive session. Chris Donnelly seconded the motion. All Ayes. No Action was taken

Andy Gilner made a motion to adjourn at 9:23 p.m., seconded by Reed. All Ayes, the motion carried.

Respectfully Submitted,

Patty Hagg