



City Council Meeting
September 2, 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, Bill Peak and Jim Truesdell. Also in attendance were city staff Nathan McCommon, Patty Hagg, Christy Carter and City Attorney Michael Kelly.

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

Open Agenda

No items presented for open agenda

Old Business

Mayor Ward moved agenda item IV (i.) City Attorney Agenda-Dissolution of the Wholesale Water District to Old Business.

- City Attorney Michael Kelly reviewed the dissolution agreement. He stated Rural Water District # 6 assets will be sold. Rural Water District #9 will purchase the line and pump station. Rural Water District # 6 will remove any remaining items. After the assets are sold the distribution will be 20% to City of Tonganoxie, 20% to Rural Water District # 6 and 60% to Rural Water District #9. The percentages are per an agreement from 1993. Members from RWD #9 & RWD #6 were present and stated they had already signed the dissolution agreement and hoped they could get the required signatures from the city.

Chris Donnelly made a motion to accept the dissolution agreement as presented. Bill Peak seconded the motion. All ayes, motion carried.

a) Update on Hwy 24/40 traffic signal improvements

- Mr. McCommon stated the notice to proceed was given to Wildcat Concrete. Staff met with Wildcat Concrete August 28th. The plan is to start at the corners, some traffic delays may occur during the median work in October. They should be done by November. Mr. McCommon stated regular traffic and construction updates will be posted on the city website www.tonganoxie.org and the city's Facebook page. Mr. Gilner asked if the city had received any donations from the public for this project. Mr. McCommon replied no.

b) Update on Gallagher Park

- Kay Soetaert presented an update from the task force. She presented a conceptual drawing of the project. She stated the task force submitted an application for the Sunflower Foundation Grant and they were awarded a \$5,800.00 grant for information kiosks that will contain trail, community and health information. The kiosks will be located on the northeast side of the property. She introduced members of the task force present at the council meeting, J.W. Evans, Kevin Gallagher, Denise Bixby, and Bill Peak. She thanked Jennifer Jones-Lacy for all the work she did preparing the grant for submittal. Ms. Soetaert stated the task force is still working to obtain monetary donations and volunteers to help with the project. She requested the council approve Resolution 09-14-01 naming the property Gallagher Park. Mayor Ward congratulated the task force, he stated the family had asked for the area to be developed for use by the community and he knew of civic groups in the community that would like to partner with the task force and the city to help with the project.

Chris Donnelly made a motion to adopt Resolution 09-14-01 naming the property at 301 S Main St "Gallagher Park". Bill Peak seconded the motion. All ayes, motion carried.

New Business

- a) Approval of an agreement with Honey Creek Disposal to provide recycling and refuse collection.
- Mr. McCommon reviewed the facts presented in the agenda statement 9/02/14. He stated the revised contract includes voluntary curbside recycling, weekly solid waste disposal, monthly bulk item pickup, regular leaf and brush collection. He stated the contract will be a five (5) year contract from 10/1/2014 to 09/30/2019.. Randy Weldon, from Honey Creek was present. He stated the recycling containers should arrive in October. He hoped to have them delivered and ready to start recycling pickup by the end of October.
Bill Peak made a motion to approve the signing of the 5 year contract with Honey Creek Disposal Service. Jim Truesdell seconded the motion. All ayes, Motion carried.
- b) Second Reading: Ordinance 1378 adopting a fee for contractor trade licensing.
- Mr. McCommon reviewed the agenda statement provided to the council. He stated the following changes have been added since the last review of Ordinance 1378:
 - Remove Section 3 that establishes a fee for city licensing. A yearly business license will still be required and a fee will be associated with that application.
 - Remove the licensing requirement for framers
 - Added language that would qualify existing contractors as eligible for licensing by experience and without testing (known as grandfathering) for a period of one year from the ordinance effective date if the following criteria has been met and is accepted by Johnson County Licensing program.
 - Must have Tonganoxie business license
 - Must provide certificate of insurance, type of coverage for the risk of work
 - Must provide at least one of the following documentation
 - Must have worked 20 projects that have required permits and the projects have passed final inspections from any regional jurisdiction in the past five (5) years.
 - Written endorsement form general contractors that could affirm the contractor's quality of work and have worked 20 projects with successful final inspections from any regional jurisdiction in the past five years.
 - Add language that may rescind the city license for the following:
 - If a contractor fails three inspections, limited to undisputed corrections and resolved disputes, on any single project. Pending disputes would not count against this measure.
 - If the contractor fails to maintain proper insurance
 - If the contractor willfully and continually chooses to build without a permit.
 - Change the effective date to January 1, 2015. The grandfathering option would be available for the entire year. January 1 also matches licensing calendar of neighboring jurisdictions and the Johnson County licensing program.
 - Other important factors in the program include:
 - City hall staff will ask each contractor to show his/her Johnson County license in order to create the license with the City of Tonganoxie.
 - Grandfathered licenses can be annually renewed indefinitely. However, if a license should lapse, the contractor must take the test for renewal.
 - Eight (8) hours of continuing education per year are required of all licensees, including grandfathered contractors. Classes are offered free of charge through the Johnson County licensing program and the licensees receive a complimentary copy of the building codes manual.
 - Prometric and the International Code Council also administer the testing and Johnson County licensing program accepts testing from these agencies.
 - The Johnson County renewal fee is \$225.00 per year with a first time registration fee of \$100.00. This fee includes classes and code books offered throughout the year.
 - Contractors may be a qualified individual or a company that has at least one qualifying individual. Qualification is achieved by:
 - The qualified individual has passed a nationally recognized test of the master level in at least one of the categories governed by this ordinance

- The qualified individual possesses a Bachelor of Science degree in architecture, engineering, construction science or construction management from an accredited college or university.
- During the first year of the program, the qualified individual meets the experience provision of this ordinance.
- Those companies that would fail to take continuing education for a year would be treated like companies that apply for the first time.

Councilmember Peak questioned where and who would issue the license. Johnson County Contractor Licensing Program will issue the contractor the initial license and that license would be provided to city staff during the business license or building permit process. Peak also asked if apartment managers would also have to be licensed. McCommon stated it would depend on the type of work that was performed by the manager. In some cases a license would be required. Peak also asked what the penalty is for not having a license. City Attorney Kelly stated there was a provision for a \$300.00 per day fine. Councilmember Reed asked if the city regulations matched the eight (8) hours continuing education required by Johnson County. McCommon stated the Ordinance mimics the requirements for licensing through the Johnson County Program. Mayor Ward asked if the council was ready to take action based on the information provided or do they want to wait for another meeting. Councilman Peak wanted to wait until the next meeting and would like staff to contact local contractors and advise them of the grandfathering requirements and the discussion to leave the framers out of the licensing process, get their feedback, and report at the next meeting.

c) Discussion of the revised personnel policy.

Mayor Ward stated this item will be tabled to a future meeting.

d) Forms of government: Mayor-council-manager and commission-manager structures.

Michael Koss, representative from League of Kansas Municipalities, was available to answer questions and explain the city manager form of government. Among topics discussed were setting and enforcing policies, mayoral appointments, voting ward requirements, purchasing authority, ballot language. Koss explained the council/commission would still be responsible for setting policy; the city manager would enforce the policy. Mr. Koss explained that under the city manager structure the manager would have hiring authority. Mr. Koss explained the City of Tonganoxie has already chartered out of ward requirements and that would carry over to a manager/commission or manager/council form of government. He reviewed several Kansas Statutes from Chapter 12, Article 10 – City Manager to help clarify questions he received from the council members. Bill Peak discussed the authority of a manager versus administrator. Peak also raised the question if the public voted for a manager /commission or manager/council form of government and then decided they wanted to go back to a mayor/council form what is the process. Koss explained after four (4) years they could bring it back to the general public as a ballot question. Chris Donnelly stated he would like to see the City of Tonganoxie move toward a city manager type of government so a professional would be responsible for the day to day operations of the city. Andy Gilner questioned why we needed to get rid of the mayor position. He stated Topeka has a city manager form of government but also has mayor that is elected at large. Mayor Ward stated he felt Tonganoxie has been moving toward a city manager type of government for several years. Ward said he felt comfortable giving a professional manager authority for run the day to day operations. He also stated he felt the general public would still like to have a mayor as figure head for the city and for that reason he felt a mayor/council/manager form of government may be the type of ballot question that should be considered. Kara Reed felt we should move forward and get the question on the November ballot. From the public, Denise Bixby, 704 East St., asked who the manager reported to and stated if all the council wanted to do was to give the administrator more spending authority and the authority to hire/fire why didn't they just do that through an ordinance change. Michael Kelly reported that a city manager position was statutorily defined; a city administrator position was not. He also stated the county clerk would need to have a ballot question from the city by September 9th to be on the November ballot. If members did not agree this evening, they would have to wait until the April 2015 election, hold a special election, or absorb the costs of such or wait to place it on the next ballot two (2) years from now for the manager/commission form. A manager/council form could be put to the voters anytime. Peak wanted to wait until the April elections to make sure they knew exactly what they wanted to present to the public. Jim Truesdell also wanted information on charter ordinances and felt they should wait until the April elections. After further discussions it was decided to wait until the April elections to give the council more time to discuss options for mayor/council/manager form of government or commission/manager form of government.

- e) First Reading: Ordinance 1381, revising the regulation of political signs
Mr. McCommon stated the current zoning regulations are not enforceable. The regulations state political signs can be placed within the community 6 weeks before the election and must be removed 2 weeks after the election. However the regulations then say if the signs have not been removed a notice can be sent no sooner than 30 days after a violation occurs and can abate no sooner than 60 days. This period will sometimes overlap with the next election period, such as the case this year between primary and general elections. The proposed ordinance states a 3-day period for sign removal after violation or the Codes Enforcement Officer will pick up the signs. After discussion the council directed staff to amend the ordinance to allow one (1) week after an election for sign removal and keep the provision to abate three days after notice.
- f) First Reading: Ordinance 1382, repealing certain section of the City Code regarding personnel actions and adopting a recruitment policy.
Mr. McCommon reviewed the proposed ordinance and stated the new policy will allow the city administrator to approve the hiring of all budgeted positions. The new policy provides guidelines for the directors to follow during the recruitment process. The primary elements include advertising, selection criteria, and guidelines on hiring relatives, internal preference, and Veteran's preference.
- g) Approval of an agreement with Harbour Construction for street repairs.
Mr. McCommon reviewed the contract agreement for chip and seal of certain city streets by Harbour Construction. Mr. Kelly stated he reviewed the contract and found no problems with it as presented. Andy Gilner made a motion to approve the signing of the contract with Harbour Construction by the Mayor. Jim Truesdell seconded the motion. All ayes, motion carried.
- h) City Administrator Agenda – Executive Session moved to later in the agenda
- i) City Attorney Agenda- moved and discussed during old business
- j) Mayor Agenda-Nothing at this time
- k) Council President Agenda-Nothing at this time
- l) City Council Agenda – Committee Reports
Bill Peak stated the RCDC has committed approximately \$8000.00 of the 2014 RCDC budget for beautification of the green space on the corner of 4th & Delaware Streets. He stated the committee has plans to apply for a grant from the Leighty Fund to help fund a Mural. The committee also discussed purchasing benches, tables and stepping stones for the property. Mr. Peak suggested the 2015 RCDC budget of \$10,000.00 should be moved to another fund in the 2015 general budget. He stated by adding this back to the existing budget it would save about 3/10 of a mil. He stated the committee will try for more grants and private funding if needed in 2015. City Attorney stated a formal budget amendment would not be needed to move the funds, but he suggested leaving the amount in the budget where it was approved. He stated most grants will require matching funds.

Andy Gilner made a motion for an executive session to discuss confidential matters or trade secrets of a third party for a period of seven (7) minutes to include the City Attorney, Governing Body and City Administrator. Bill Peak seconded the motion. All ayes. Andy Gilner made a motion to return from executive session. Kara Reed seconded the motion. All Ayes. No Action was taken

Andy Gilner made a motion to adjourn at 9:10 p.m., seconded by Kara Reed. All Ayes, the motion carried.

Respectfully Submitted,

Patty Hagg