

Regular Meeting
January 9, 2012 6:30 p.m.
City of Oswego, KS

Present: Councilmembers Ty Lewis, Jane Rea, Dee Brown, Darren Tynan and Bill Owens with Mayor Glenn Fischer presiding.

Absent: Councilmember Terry Edwards.

Also present: City Clerk Cheri Peine, Deputy City Clerk Carol Eddington, City Superintendant and Fire Chief Donnie Allison, Police Chief George Elliott, Bill Cunningham, Steve McBrien, Bob & Linda Shields, Gene Ellis, Attorney Rick Tucker and Larry Richardson.

OPENING PRAYER & PLEDGE OF ALLEGIANCE

Reverend Steve McBrien, Assembly of God Church, opened the meeting with a prayer and Councilmember Owens led the Pledge of Allegiance.

PETITIONS AND DELEGATIONS

Public Hearing – Distance Waiver for JC Cattle Co CMB

Gene Ellis addressed the Council. He is opening a supper club at the JC Cattle Co. restaurant and would like a distance waiver in order to serve beer and wine coolers. The restaurant is within the 500 foot radius of the Presbyterian Church and it is in the city ordinance that it is unlawful to sell cereal malt beverages within a 500 foot radius of a church, school or library.

Before moving to Oswego Ellis had the Fireside Inn in Thayer for 12 years. He and his son have moved here and want to become active members of the community.

Mr. Ellis assured the Council that he would not serve a CMB to anyone without an I.D. The restaurant will be closed on Sundays. Chief Elliott reported that Mr. Ellis passed the background check on him but he has not lived in Labette County for 6 months yet, which is required by city ordinance. Attorney Tucker was delayed in getting to the meeting and the issue was tabled until he was able to attend.

City vs. Turner – Settlement Received

The city has received the settlement payment of \$125,000. Mayor Fischer asked the Council what they wanted to do with it? The expenses of attorney fees and engineering fees came out of the Electric Fund until it ran out of money. After that, the expenses came out of the Capital Improvement Fund. The city is also paying on a bond issue for the ballfield expenses and some of the money could be used to pay down that bond issue.

After some discussion, Rea made a motion and Lewis seconded to apply \$108,000 to the Electric Fund and \$11,000 to the Capital Improvement Fund. Motion was voted down three to two.

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Brown made a motion to apply \$11,640 to Capital Improvement Fund, 50,000 to the Electric Fund and the balance paid toward the bond debt. Motion died for lack of a second.

Owens made a motion to apply \$11,000 to Capital Improvement and use the rest to pay down the debt. Motion died for lack of a second.

Brown made a motion and Lewis seconded to apply \$11,640 to Capital Improvement, \$43,171 (for special prosecutor fees) to Electric and the balance to pay down the debt. Motion carried.

CONSENT AGENDA

The Consent Agenda includes minutes from last month's regular meeting and any special meetings held since then, accounts receivables report, monthly revenue report for all funds, monthly expense reports (accounts payable and payroll), petty cash listing, fund balance, revenue and expense reports for water, sewer, refuse and golf course, water loss report, expense report for general fund by department breakdown and total budget used, and monthly reports on franchise fee, sales tax receipts (both city & county sales tax), overtime, vacation, water, growth (households in/out), building permits, and municipal court.

Also included in the Consent Agenda is:

Appointment to Tree Board – Kristi Ruttgen appointed for a three year term to expire in January 2014.

GAAP Waiver Resolution for 2011 – K.S.A. 75-1120a(a) requires municipalities to use generally accepted accounting principles in preparation of their financial statements and reports, however, municipalities may waive this requirement. In doing so, the city's financial statements and financial reports must be prepared on a cash basis and in full compliance with the budget laws of Kansas. The city's auditor has recommended this practice for the city.

Resolution # 1-09-12A, requesting the State of Kansas Director of Accounts and Reports to waive the requirements of K.S.A. 75-1120a(a) as they apply to the City of Oswego for the year ended 2011, was included in the Consent Agenda.

Clerk Peine said there were two more bills that need to be approved for payment but couldn't be added to the accounts payable listing since they are 2012 expenses: KMIT (city work comp insurance) - \$21,661.00 and 4th St. Auto (police car repair) - \$776.36.

Rea made a motion and Owens seconded to approve the Consent Agenda and the two extra checks. Motion carried.

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OLD BUSINESS

Inoperable Vehicles

Mary Shields

Her six month extension is up as of today. Mayor Fischer asked if Bob Shields was in attendance in order to address the issue of the vehicles and he said he could. Mayor

Fischer instructed him to please place any time extension request in writing. Shields submitted a hand-written note requesting another 6 month extension of time to have the vehicle violation abated. The agenda item will be discussed after Attorney Tucker is able to join the meeting.

Dottie Preston

The third extension of time for Preston's to have their semi moved is up tomorrow, January 10, 2012. There has been no additional extension of time requested. Clerk Peine reported an individual has tried to make contact several times with the Preston's because they were interested in purchasing the truck but could never reach them and never received a return call. Peine will be contacting Mrs. Preston.

Conditional Use Permit – Red Chair Investments

Red Chair Investments has applied for a conditional use permit to convert their building into apartments for both short-term and long-term. The Planning Commission will hold a public hearing on Monday, January 23rd at 6:30 p.m. A notice has been posted on the building, published in the newspaper, posted on the city's website and mailed to all property owners within 200 feet of the property boundaries.

Airport Fuel System

Rick Bryant, Airport Development Group, will be putting information together on going out for bids. Bryant will attend the February Airport Board meeting to provide updates.

Water Project

Phase 1 – Rural Development – Distribution Lines

Supt. Allison explained that there are some short runs that need to have the old water lines replaced but were not included in the initial project plans:

North & Michigan – short run of 2" line (2 houses) - \$3,240

5th & California – 2" line (three houses) - \$4,680

6th & Nebraska – 2" line (four houses) and fire hydrant with 4" line beyond hydrant - \$19,862

Oregon Street – 6" line - 950' from Lewis' house to the city limits including a fire hydrant - \$26,353 (or 2" line with a flush valve)

Clerk Peine said funds would still remain if these improvements are done. Owens made a motion and Tynan seconded to move forward with the first three options and installing the 6" line for 510 feet on Oregon St. Motion carried.

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KDHE – Cryptosporidium Bin Class 2 Regulation

Staff met with Rex Heape, Shafer, Kline & Warren, to discuss the new regulation the city will be required to comply with. It is related to runoff above stream. It will require water plant operators to be very watchful of the turbidity levels and take immediate action if a problem occurs.

Cottonwood Neosho Water Assurance District #3 Annual Report

The assurance district was formed with entities served by the Cottonwood and Neosho Rivers. Water from John Redmond and Marion Reservoirs provide the water source to the District members. This year releases were made for several weeks that ensured we had sufficient water available to us. The annual payment in 2010 was \$2,900.32; in 2011 it was \$3393.50 and \$3,497.76 for this year.

Refinancing of Water Bonds

It was determined to table the issue for now and hold a special meeting this month so there is time to gather more information and discuss the issue thoroughly.

Phase I – Rural Development – Pay Estimates

Two pay requests were received this month for the project:

LaForge Construction – Pay Estimate #9 - \$187,968.87

Rick Tucker – Legal fees on project through 12/31/11 - \$5,079.15

Rea made a motion and Brown seconded to approve both pay requests. Motion carried.

Change Order #3

When the change order was approved, an extension of time needed had not yet been established. The contractor has submitted 148 additional days to install new service lines and complete Woodcliffe Heights, the line over the Neosho River Bridge near the water plant and the replacement of the line between Illinois and Commercial streets south of Fifth St. The engineer felt this was a reasonable time frame.

Rea made a motion and Tynan seconded to approve the 148 day time extension to the contract with LaForge. Motion carried.

Attorney Items Continued

J C Cattle Company – Attorney Tucker advised the term of county residency for CMB license holders is no longer in the State law. Tucker said Ellis meets all requirements since he resides in Labette County.

Tynan made a motion and Owens seconded to grant a waiver of the distance requirement between the establishment and a church. Motion carried.

Tynan made a motion and Owens seconded to grant J C Cattle Company a CMB license. Motion carried.

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Complaint Policy

The revised “Statement of Policy and Procedures – Complaints Against Oswego City Personnel” and the corresponding complaint form were presented to the Council. Owens made a motion and Tynan seconded to approve the policy and the form. Motion carried.

Tennis Courts Lawsuit Update

Attorney Tucker reported that opposing Counsel has asked to have until mid-January because they are going to make an offer they feel the city will accept.

Housing Rehabilitation Grants

HOME Grant

Clerk Peine reported that 59 applications have been handed out and eight have been returned.

CDBG Grant

The city received word that we did not receive the grant. Susan Galemore has requested information as to why the city’s ratings were so low.

Golf Course

Included in the packet are: a financial report for the month of December, a revenue/expense comparison report for previous years and year to date as well as a cash report showing cash on hand as of 12/31/11.

City Hall, Police & Fire Departments Rehab Update

The Committee met and determined that a design-build project is the way to proceed. They interviewed two architects – one of whom will do design-build. The committee feels that before going any further, the Council needs to determine how much to spend on the project.

When Mayor Fischer asked, Clerk Peine reported that the city already has \$59,000 on hand for the project and an annual payment amount is already included the budget. Owens made a motion and Tynan seconded for the Mayor to meet with the department heads and move forward with the project for up to \$200,000. Motion carried with Lewis voting no.

Inoperable Vehicles continued

Mary Shields

Bob Shields has submitted a 6 months extension of time request to abate the vehicles on his mother’s property. Attorney Tucker quoted the conditions of the last 6 month extension. In that document (that was agreed to by Shields and her counsel), it was stated that before asking for another 6 month extension, Ms. Shields was to show what reasonable efforts had been made to rectify the situation or what circumstances occurred that kept her from doing so. Bob Shields reported that he had moved one of the eight vehicles off of the property and that he has been sick for the last several weeks. When

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asked, he said that he had not advertised them for sale or taken any other measures to rectify the nuisances.

Shields kept trying to bring up the issue of zoning of the property but was cut off each time since that issue was not the issue at hand and had already been discussed and decided long ago. Mayor Fischer had to repeatedly bring him back to the current topic and Attorney Tucker repeatedly instructed him as to what he needed to show the Council this evening – whether he had made his best efforts within the last six months to rectify the situation and if not, what circumstances kept him from doing so. Still, no other reasons were forthcoming from Shields. He did say that he was not going to give the vehicles away and that he intended to have the situation abated within the next six months. After explaining one more time that he needed to provide Council with explanation as to his best efforts within the last six months and asked whether he felt that he had made his best effort to abate the situation, Shields proceeded to say yes a few times ending in a shouted “YES”.

Owens made a motion and Lewis seconded to pass Resolution 1-9-12B allowing Shields another 6 months to abate the inoperable vehicle violations. Motion carried with Brown voting no.

After the vote, Shields made a verbal, insulting, personal attack towards Brown. Brown told Shields that was uncalled for and that he should be removed from the meeting. Shields was escorted out of the building by Police Chief Elliott for his disrespectful outbursts. When Chief Elliott returned, he reported to the Council that he instructed Mr. Shields to meet with the City Attorney and City Superintendent before doing any work in taking steps to abate the nuisances (including constructing a fence) in order to make sure that he is in compliance with City ordinances.

Agreement with Fair Board

Attorney Tucker said he would have the agreement to the Governing Body next month.

Oil Distributor – Purple Wave Sale

The oil distributor sold December 29th for \$775.

Recycling

Clerk Peine said she will get with Councilmember Edwards before the next meeting. Tynan asked if one could be moved around and used at various places such as at the fairgrounds when the fair is here or the park during Oswegofest.

NEW BUSINESS

COLA & Merit Raises

Clerk Peine said the increase amount is included in the approved budget, however, it is usually brought up again at the end of the year in case the Council wants to make a change based upon unforeseen shortfalls or problems at year end. The budgeted amounts are 1½ % COLA and up to 1½ % Merit.

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Owens made a motion and Tynan seconded to accept the amounts that are in the budget. Motion carried.

2012 Holidays

Clerk Peine reported that the employees were wondering if they could give up the President's Day holiday and take Christmas Eve off instead since it falls on a Monday this year. This would make it much easier to fit in Christmas celebrations with their families by having a long weekend.

Owens made a motion and Brown seconded to allow Christmas Eve as a holiday and remove President's Day as a holiday for this year only. Motion carried.

Dental Insurance Renewal

Blue Cross provided the city with renewal rates for the city's dental insurance. The renewal rate would cost the city \$1.43 more than what was budgeted. Clerk Peine reported that the department heads and employees would rather pick up the balance of the increase versus having a much less useful plan.

Rea made a motion and Owens seconded to accept the renewal rates from Blue Cross and have the employees pay the cost of the increase above the budgeted amount. Motion carried.

Bowl for Kids – Big Brothers/Big Sisters

Big Brother, Big Sisters of Labette County is seeking donations for their 2012 Bowl for Kids Sake. Last year the city donated \$50. Owens made a motion and Brown seconded to donate \$50. Motion carried.

South Kansas and Oklahoma (SKO) Railroad Crossing Signals

The Kansas Dept. of Transportation (KDOT) is submitting proposals, to the Federal Highway Administration, for the installation of new straight post signals and gates at a grade crossing on 4th St. just west of Highway 59 as well as the crossing on Ohio St. The projects will be funded 100% by Federal funds.

Agreements between the SKO Railroad, the Secretary of Transportation of the State of Kansas and the City of Oswego for each crossing were submitted for Council approval. The agreements require the city to install and maintain advance warning signs. The city already maintains advanced warning signs at the railroad crossings.

Brown made a motion and Lewis seconded to approve the agreements with the SKO Railroad and KDOT and authorizes the Mayor to sign them. Motion carried.

Refuse – Waste Connections of Kansas – Rate Increase

Waste Connections provided the city with notice that they will increase rates at the transfer station effective January 1, 2012. According to the agreement between them and

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the Labette County Solid Waste Management Committee, the rates can increase annually up to 3%. The increase of 3% brings the new rate to \$37.11 per ton. Over the course of a year, this will be an increase of approximately \$1,250.64. Clerk Peine reported that at this time the refuse fund can handle the increase without raising rates. Councilmember Lewis asked about the length of term of the agreement. Peine will check on it.

Planning & Zoning Training Dates

It has been quite a few years since the city has held planning and zoning training. There are many new members on the Planning Commission as well as the Council and a new zoning administrator since the last training period was provided. The training session will be held on a Saturday from around 8:30 a.m. to 2:30 p.m. Council determined to hold the training on March 31st.

Brush/Construction Demolition Site – Revise Hours

Supt. Allison asked about having the site open one day a week again for the convenience of the citizens. Right now, the only day it is open for public use is the third Saturday of the month from 8:00 a.m. – noon. The city has received numerous complaints about it being difficult to make use of the site.

Staff recommends having the site open on Thursdays from 11:00 a.m. to 6:00 p.m. from the Thursday after daylight savings begins to the Thursday prior to daylight savings ending. The employee working the site will leave early on Friday so there will be no overtime required. During weeks there is a holiday, the site would not be open due to the change in trash pick-up schedule. After some discussion, it was determined to have it open until 6:30 or 7:00 depending upon the usage.

Strategic Planning Meeting Follow-up

Mayor Fischer would like to hold a follow-up meeting. Rocco Mallardi, Lutheran Church minister, offered the use of their building for the meeting. Mayor asked staff to check for available Saturday dates.

INDIVIDUAL REPORTS

Brown – asked what the owner of the old Chimes building had planned for the building. Chief Elliott said O'Briens own the building and plan to clean it up and put up pole-barn type storage units. Brown stated the building looks bad.

Owens – requested information on the cost to rent the Community Center.

- said the site of the new hospital looks bad since it is so overgrown with weeds. Supt. Allison said he has not been able to catch Dan Hiben to speak to him about it.

-asked why the road at the Crain Park bridge was closed and whether the bridge is ok.

Supt. Allison said they were doing some maintenance to the road but that the bridge was ok. He said that he plans to tear up the road and go back to rock since asphalt is difficult to maintain. As far as the bridge, the city put it in but it was an agreement with the Rec Commission that they would maintain it.

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Peine – The city adopted a rural water policy in 2007. Doug Smith is building a new home outside the city limits on Wallace Rd. The rural water line does not quite reach his house site. He is asking if the city would extend the water line to his property. Supt. Allison said it was probably less than 100 ft. from the end of the water main to Smith's property.

When John Williams asked to have the city's water extended out to his house outside the city limits, he paid half and city paid half of the cost for extending the main. It was noted that the city would require Smith to sign a consent to annex form (which goes with the property when it sells) if the city extends the main and an agreement would need to be made up setting out the ownership of the main.

The city will ask the contractor about cost of 2" line and meter. Costs for the city and Smith will be determined based upon the city paying for ½ of cost to run line and Smith paying for ½ of the cost to run line and the cost of the meter tap.

-just for information – the subcontractor for LaForge hit the water line at Trenton Franklin's house. Peine talked to the city's insurance and LaForge has filed a claim with their subcontractor. Trenton has damage to his home and is trying to find out whether the water caused the damage.

ADJOURNMENT

Lewis made a motion and Tynan seconded to adjourn the meeting at 9:21 p.m. Motion carried.

Mayor Glenn Fischer

Attest:

Deputy City Clerk Carol Eddington