

Regular Council Meeting
April 14, 2014 6:30 p.m.
City of Oswego, KS 67356

Present: Councilmembers Kelly Vance, Susan Bringle, Bill Owens, Dee Brown, Jane Rea, Darren Tynan with Mayor Glenn Fischer presiding.

Also present: City Superintendent Calvin Jurgensen, City Clerk Carol Eddington, Police Chief George Elliott, Deputy Clerk Renee Cochran, Officer Toby Wertz, Phil Hays, Donnie and Janie Allison, John Strickland, Tom Bringle, Scott Riley, Pat Hendrickson, Carole McKinley, Paula Kern, Larry Richardson, Bill Cunningham, Rena Russell, Brenda Richardson, Karen Carpenter, Holly Powers, Marna George, Bill Schlatter, Jeff Schreppel, Richard Thompson, Caleb Strickland, JayTrower and Dave Dieker.

OPENING PRAYER AND PLEDGE OF ALLEGIANCE

Pastor Phil Hays, Oswego Christian Church, gave the opening prayer and Councilmember Rea lead the Pledge of Allegiance.

PROCLAMATIONS AND RECOGNITIONS

Donnie Allison – Retiring as Fire Chief

Donnie Allison was recognized for his service on the Volunteer Fire Department. He retired at the end of March after serving continually since 1986 and before that from 1978 to 1984. He has served as Engineer, Co-Captain and Asst. Fire Chief before becoming Fire Chief on January 1, 2009. Mayor Fischer presented him with a gift of appreciation.

Appointment of New Fire Chief

Mayor Fischer recommended appointing John Strickland as the new Fire Chief. Strickland is currently the Assistant Fire Chief and has served on the Volunteer Fire Department since 1988. He has also held the positions of Engineer and Co-Captain.

Brown made a motion and Rea seconded to approve the appointment of John Strickland as Fire Chief. Motion carried. At 6:33pm a short break was observed to congratulate Chief Strickland and to express appreciation to Allison. Refreshments were provided in honor of Allison's retirement. Meetin reconvened at 6:38.

PETITIONS AND DELEGATIONS

Fire Dept. – Automatic Aid Agreement with Neosho Township

Chief Strickland said a new agreement was needed with Neosho Township due the newly acquired plant area. Whenever there is a fire within the plant area, both the Oswego Fire Dept. and the Neosho Township Fire Dept. will be notified simultaneously by the Labette County Communications Center. The agreement was reviewed by Attorney Tucker. Owens made a motion and Brown seconded to approve the agreement. Motion carried.

Safe Routes to School- Holly Powers, SKW

Holly Powers, SRTS Grant Project Manager with Shafer, Kline & Warren, attended the meeting to present her findings after conducting meetings and neighborhood assessments. Powers said the main issues were:

- Sidewalks - There were none, too narrow or in very poor condition.

- Intersections – Majority had no ADA ramps. Need crosswalks.
- School Zones – There were no posted school zones around the school.
- Safety – Animals and personal property were in the right of way blocking the route.

Currently the project is still in Phase One. If the project advances to Phase Two, implementing the changes to the infrastructure, the cost would be \$250,000 with KDOT providing a 20-80% match. The participants are also required to pay 100% of the design costs. Powers said the design fee is normally around 10% of the project cost and would need to be paid up front.

The most costly recommendation was to add thirteen to fourteen blocks of sidewalks which would be five feet wide. The cost estimated for this is \$200,000. This would still leave some funds for the signage needed to add crosswalks, school zones around the school, change some yield signs to stop signs and change Oregon Street to a “one-way” street. Powers also felt making Second Street and Oregon a one-way stop was critical to making a safe route to school.

Council asked how many of the children are currently walking or biking to school. Powers said only about 2% and the top three reasons were; distance, the speed of traffic and the amount of traffic. Due to the failure of the half cent sales tax Council stated they did not currently have the funding. Powers said the process could take up to two years before the project would begin. Mayor Fischer asked if the city would be obligated in any way if council decided to move forward. Powers said if the application for Phase Two is submitted to KDOT and the funding is awarded and then turned down due to lack of funding we can still reapply at a later date. However, KDOT may be less likely to award the funding again. Powers pointed out that she has already been paid to draw up the plan. All that was needed at this point was to approve the plan. Council asked if the plan is approved if any changes could be made. Powers said that changes could be made but there could be no additions. A resolution would be required to submit the application. Owens made a motion and Vance seconded to approve the plan.

Councilmember Tynan entered the meeting at 7:12pm.

Oswego Golf Course – Scott Riley, Golf Association President

Scott Riley, Golf Association President, attended the meeting to discuss the Golf Course getting another bond issue to replace old equipment at the Oswego Golf Course. Much of the equipment that needs to be replaced was purchased with the last bond issue so the equipment is well worn. Volunteers have been loaning mowers and other tools as well as their time.

Riley said they still owe approximately \$20,000 from the previous bond issue and would like to roll that amount into a new bond issue. Clerk Eddington said that after discussing the issue with Kevin Cowan, the city’s bond counsel, the Golf Course can get a \$130,000 bond issue for 20 years, through the Public Building Commission, and keep the payment about the same as what they have now. Brown made a motion and Bringle seconded to move forward with the bond issue. Motion carried.

Condemnation - Richard Thompson – 22 N. Commercial St.

Richard Thompson attended the meeting to ask for another extension to make repairs to his property at 22 N. Commercial. Thompson's previous six month extension was up as of March 9th. The repairs were not made and he did not ask for an extension prior to the deadline. Council asked that he be sent a letter asking him to attend the April meeting to inform them of his intentions.

Thompson said he had completed some rewiring, was putting a bath upstairs, lowered the ceiling and also plans to paint. The cold weather, broken water lines and a reduced crew has delayed progress but felt he could make the repairs if he was allowed a ninety day extension. Tynan made a motion and Owens seconded that Thompson be allowed a ninety day extension. Motion carried. The new deadline will be July 14th, 2014.

ORDINANCES, RESOLUTIONS and AGREEMENTS

Resolution – Sales Tax Renewal Question

A resolution for the renewal of the one-cent city sales tax and ballot question was presented. The current one-cent sales tax; 75% for street maintenance, repair and parking and 25% for improvements to city parks and recreational facilities has a 5 year sunset and will end June 30, 2015. The tax will be coming up for election in August. Clerk Eddington said the County Clerk will need to have the resolution and official election question submitted to them by the middle of May.

These funds have been used for: street projects, playground equipment, bleachers, concrete work at Riverside Park, street lamps for Riverside Park and Community Bldg, etc., as well as the yearly bond payment for the Community Building. Plans are to utilize the funds for more park equipment, maintenance of the shelter houses, street overlay, sealing and striping.

Clerk Eddington said that Council will need to decide if they want to present the renewal question as is or make changes. The city recently received the grant that was applied for to remove the Professional and Branson Buildings downtown. The grant is for \$122,000 and requires a 50% match. Funding for the city's match of \$122,000 was to come from the half-cent sales tax but since that did not pass Council will need to consider what to do next. If the grant is turned down the city would not be able to apply for it again and may have trouble receiving any CDBG grants in the future. Mayor Fischer stated that adding funding for this project could jeopardize the renewal of the sales tax. Council agreed. Vance made a motion and Owens seconded that they approve the resolution as is. Motion Carried. The resolution was assigned number 4-14-14A.

Ordinance – No Access to Retaining Wall @ Riverbank

An ordinance was presented to prohibit access to the retaining wall that was erected on the south side of the riverbank as part of the stream bank project. It is a couple of feet wide, making it wide enough for people to stand on. Upon recommendation from the contractor, Mayor Fischer instructed Attorney Tucker to draw up an ordinance prohibiting this dangerous behavior. The ordinance also included a section from the City Code stating that swimming or diving within 300

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yards above or below the Oswego City Dam was unlawful. Council stated that they felt a 100 yard limit was sufficient. Rea made a motion and Tynan seconded to approve the ordinance with the change of 100 yards rather than 300 yards. Motion carried. Clerk assigned it Ordinance #1318.

Supt. Jurgensen will order a sign to be placed on the wall letting people know that access is prohibited.

CONSENT AGENDA

The Consent Agenda includes minutes from regular and any special meetings since the last regular meeting, accounts payables check registers for the month (copies of the warrants were available for review), payroll checks for the month and utility deposit refund checks for the month.

Appointments – Planning and Zoning Commission

The Consent Agenda included the re-appointment of Brenda Willis and Ted Hornung for a three year term each, expiring May, 2017. There are still two vacancies remaining on this board

Arbor Day Proclamation

An Arbor Day Proclamation was presented recognizing Friday, April 25th as Arbor Day. The Tree Board has invited the public to attend a tree planting ceremony at the Community Building at 2:30pm. Kindergarteners from Neosho Heights have been invited to attend and take part in the planting ceremony. It was also announced that Oswego was named a Tree City USA for the 24th year. The Tree Board plans to have a tree sale on May 3rd in conjunction with the city-wide garage sale.

Councilmember Brown stated that the March 10, 2014, minutes needed to be corrected. In the section regarding “Unfunded Mandates” at the swimming pool she did not say that the ADA required zero entry into the baby pool or suggest that the baby pool be closed. She said that the big pool has two entries so the ADA requirements were met. The discussion about the zero entry for the big pool was that would solve the problem with the constant patching of the bottom but there was no funding for that. She stated that Clerk Eddington said the ADA required zero entry in to the baby pool.

Brown made a motion and Bringle seconded to approve the Consent Agenda with the correction to the March 10, 2014, minutes as stated. Motion carried.

OLD BUSINESS

Planning & Zoning Update

Three ordinances were presented to update the Planning and Zoning Regulations, the Subdivision Regulations, the Manufactured Home and RV Regulations. Also presented for the Council’s review were the revised zoning map and the final data base used for the mapping. Dave Yearout, Zoning Consultant and the Planning Commission recommended Council approval.

Clerk Eddington stated Yearout went over every parcel and made sure everything was listed correctly in the database. This is what was used for the map. Council felt the verbage was difficult to understand and it was their understanding that the Planning Commission was not happy with the document. Eddington said that it is a legal document and not that easy to use but the consultant wrote it to meet all of the statute requirements and laws for the zoning process. The only option would be to hire another consultant since neither she nor the Planning and Zoning Committee has the expertise in laws to re-draft the document. It was suggested that the Council and Planning Commission meet to address the councils concerns.

Bringle made a motion and Rea seconded that they table the decision. Motion carried.

Water Project – Streambank/Dam Project

Pay Request

R.A. Knapp presented their third pay estimate for the project - \$159,989.40. The engineer on the project, Matt Eblen signed off on the pay request and Supt. Jurgensen reviewed the request and approved it as well. Mayor Fischer expressed concern about the pressure on the stem wall in the curve and stated he was going to check this out with the engineer. Brown made a motion and Bringle seconded to approve the pay request. Motion carried.

Change Order #3 (rip rap & water plant work)

Scott Williamson and Matt Eblen, with Shafer, Kline & Warren, provided estimates for the additional work that needs to be done at the water plant. Previous change orders brought the contract amount down by \$196,476.00 and this change order added \$196,555.00. By including this work in the project, the city can take advantage of the grant/loan money already committed from Rural Development.

The Change Order adds “1101 yards of additional riprap along the channel; replaces filter discharge piping and actuators at water plant, and adds open/close indicator lights to the filter console”.

Council agreed that they needed more detail on the items before approving. Jurgensen said although the work at the water plant could wait, for the project to be completed by the May 21st date the rip rap work would need to be approved of before the next scheduled Council Meeting. Council instructed staff to ask the Engineer for more detail and determined they would hold a special meeting as soon as they received the information.

Project Construction Conference 4/10/14

After a construction conference held on 4/10/14 with the Mayor, City Superintendent, City Clerk, Contractor, Inspector and Engineer, it was determined that there were a couple of issues that needed to be addressed. With the recent rains, the river level raised and the contractor noticed the water swirling below the upper apron that caused some undermining. He felt the void needed to be filled. Supt. Jurgensen said since that meeting the contractor went ahead and filled the void with concrete due to the potential for a serious problem if the water level should rise again soon.

Jurgensen also reported that in the contract a 12 foot section of concrete on the lower deck of the north side was to be removed. After further inspection the complete section of concrete had to be replaced due to cracks and poor condition. The Engineer and Contractor suggested that the expense of replacing the concrete slab be swapped out with the requirement of watering the trees planted along the bank. The Mayor and City Superintendent were agreeable.

Council also agreed but requested the breakdown of the costs be included in a change order. Bringle made a motion and Brown seconded to approve swapping out the expenses if presented in a change order with a breakdown of costs. Motion carried.

Code Enforcement Update

Condemnation – Lauren West – 115 Union St.

A condemnation resolution, Code Enforcing Officers report and photos were presented for the property at 115 Union. Supt. Jurgensen report cites: there are open crawl spaces & holes in the exterior walls of the house; windows & screens are rotten or missing; the asbestos siding is falling apart; the garage and outbuildings are full of trash with broken windows and doors which could allow children access to dangerous contents. He feels it is a dangerous and unfit structure. The house has been unoccupied for quite a while.

Tynan made a motion and Rea seconded to approve the Resolution #4-14-14B to begin the condemnation process. Motion carried.

Nuisance Violation – Richardson – 9 N. Illinois St.

The City received complaints about the condition of the property at 9 N. Illinois. After checking it out Supt. Jurgensen had a courtesy letter sent to the property owner, Brenda Richardson, informing her of the nuisance code violations of junk and inoperable vehicles that exist on the property. The letter was sent on March 21st and she was given until April 7th to have the violations abated. On April 4th, Jurgensen inspected the property again and sent Richardson another letter letting her know that the violations were mostly taken care of (there is a pile of building materials still in the yard, but has been stacked up).

At the meeting Jurgensen said that he did not ask the building materials to be moved just picked up. He felt that there were no longer any junk violations. As for the inoperable vehicles, it was determined that these will be included in the inoperable vehicles being written up by the Police Dept.

The city also received a complaint against Larry Richardson for putting culverts in the street right-of-way beside the property at 9 N. Illinois. Supt. Jurgensen said Richardson had no approval from him to do so and asked him to move the culverts. The culverts have been moved and are out of sight. Council did not take any action as Jurgensen said the situation had been abated.

NEW BUSINESS

Attorney General Findings – Allegations of KOMA and Misuse of Public Funds Violations

Mayor Fischer passed out results of the investigation received from Stephen Jones, Assistant Labette County Attorney, regarding allegations of KOMA and the Misuse of Public Funds Violations. Jones findings stated that “there was no KOMA violation because there was never a majority of the City Council - so KOMA did not apply. There is insufficient evidence to show anyone knowingly misused public funds.” Jones also recommended that in the future all parties should involve the City Attorney for his knowledge and impartiality to avert another incident. Councilmember Bringle asked that the full document be attached to the minutes. (attached)

Storm Warning Siren Maintenance Contract – CDL Electric, LLC

Washington Electronics notified the city that they were going out of business not long after the city approved a maintenance agreement with them. Former Chief Allison received a proposal from CDL Electric for the same maintenance and service. He said that he and Chief Strickland have looked over the proposal carefully and both agreed to recommend Council approval. They said that the proposal covers the necessary inspection work for a better price. CDL submitted two proposals – a 1 year agreement for \$700 and a 3 year agreement for \$1,950 (a savings of \$150 over the course of the three years). The Fire Dept. recommends Council approve the three year agreement. Tynan made a motion and Brown seconded to approve the three year contract. Motion carried.

Employee Wellness Fair

Quotes were presented from Oswego Hospital and Labette Health for testing to be performed at the employee wellness fair planned for April or May. For the same tests that the city has had performed for the last several years, the quotes came back as:

Labette Health	\$69.25 per person, \$83.75 each if includes PSA test (men over 50)
Oswego Hospital	\$95.00 per person, \$115.00 each if includes PSA test

Mayor Fischer said he had been in contact with the Oswego Hospital and wanted to investigate further. He asked that the subject be tabled for now and asked for a couple of volunteers to make up a committee including the Mayor and Department Heads to meet with Labette Health and the Oswego Hospital. Tynan and Rea will serve on the committee.

Airport

Fuel

Supt. Jurgensen reported that he has spoken with Tim Kellogg, an agricultural sprayer, who is interested in purchasing aviation fuel in bulk for a discounted price. Jurgensen said Kellogg expects to use 500 gallons every other day when spraying and may use up to 6,000 gallons this summer. He would like to pay \$4.75 per gallon. If we order a half tanker (which holds 4,000 gallons) it would be a better price. By issuing a Test Credit Card and then billing Kellogg directly the city would be able to save the credit card fees. Jurgensen also said Kellogg was interested in building a hangar at the airport. Council said that they would be in favor of selling the fuel at a reduced rate as long as they had a contract and a letter of credit. They instructed Jurgensen to negotiate the price of fuel and go no lower than \$4.75. Jurgensen said that we

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would need to get the contract done quickly because the fuel prices are expected to go up and Kellogg was ready to start spraying.

Tynan made a motion and Rea seconded to allow Jurgensen to negotiate for a minimum purchase of 4,000 gallons at the price of \$4.90 - \$4.75 per gallon to be billed every two weeks as long as a letter of credit and a contract are signed. Motion carried.

Jurgensen also requested reducing the fuel prices to \$4.95 for the period of April 18th to May 19th and advertise a “fuel sale” on the websites where our prices are posted. Brown made a motion and Tynan seconded. Motion carried.

Airport Sign

Supt. Jurgensen said they are working on a new sign for the airport. The old sign which was initially made by Mayor Fischer has been removed since it had the name Columbus on it. Columbus has not offered any support for the airport. The new sign will have Oswego Airport Robert Carpenter Memorial Field on it and be placed on the west side at an angle so it will be easily seen.

INDIVIDUAL REPORTS

Vance – said that the Fair Board had moved the fair up a week so it would not conflict with other area fairs. The Fair Board received a grant to add slabs of concrete under the bleachers and wanted to know if the city would donate a slab. Mayor Fischer said that the city met with the Fair Board a couple of years ago and discussed the possibility. Vance reported the cost would be \$1500. Owens made a motion and Tynan seconded to use the revenue from the Liquor Tax to give the Fair Board the \$1500 for the concrete slab. Motion carried.

Bringle – said the repaired signs entering the city and the culverts at the entry to Riverside Park look good.

Asked how much the sales tax election cost us. Clerk Eddington said the actual bill from the County Clerk was for \$1,476.70 since the count was done by hand.

Rea – asked when we have to let the State know about the downtown demolition grant. Eddington said she would check into it and believed we would have time to discuss it at the next regular council meeting.

15 Minute Public Discussion

Caleb Strickland – addressed the Council in regards to the Planning and Zoning regulations. He said he had done some work as a consultant in that area and recommended the Council approve the regulations. He said all zoning books are complicated. Eddington mentioned that they have an opening on the board and Strickland expressed an interest.

Mayor Fischer - Mayor Fischer read a statement in light of the the recent allegations of KOMA and Misuse of Public Funds violations. Fischer stated “Each of us was elected by the residents

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of this community to make decisions and set policy for the City of Oswego. ...Once a decision is made by the majority of the Council that becomes the decision of the Council. Even though we may not all agree, we must accept the decision of the majority and move forward... We must provide a united front.” “An accusation made in public directed toward a member or members of the council, whether made verbally or in print, is inappropriate when the concerns are not first brought to the council or discussed with our City Attorney...Generally if all facts are known and these procedures are followed...issues can be resolved.”

ADJOURNMENT

Brown made a motion and Rea seconded to adjourn the meeting at 9:42pm. Motion carried.

Mayor Glenn Fischer

Attest:

Deputy City Clerk Renee Cochran

ATTACHED

April, 8, 2014 - Letter from the Office of Labette County Attorney: