

Regular Council Meeting  
April 13, 2015 6:30 p.m.  
City of Oswego, KS 67356

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

Also present: City Attorney Rick Tucker, City Clerk Carol Eddington, Police Chief George Elliott, Deputy Clerk Renee Cochran, Joe Royer, Heather Brown, Larry Richardson, Bill Cunningham, Carole McKinley, Paula Kern, John Davis, Caleb Strickland, Pat Hendrickson, Kenny Gott and Clifford Brewster.

### **OPENING PRAYER AND PLEDGE OF ALLEGIANCE**

Kenny Gott, Oswego Christian Church, gave the opening prayer and Councilmember Brown led the Pledge of Allegiance.

### **PETITIONS AND DELEGATIONS**

#### **High Speed Internet Provider – Clifford Brewster, Rural I-Net**

Clifford Brewster, Rural I-Net, from Miami, OK, attended the meeting to inform the Council about their service and seek Council approval to lease space on the water towers. Brewster said their service is a “fixed based” wireless internet service and stated they have the fastest and most reasonably priced service in the area. He also said they plan to upgrade in the fall to increase their speed without increasing the customer’s monthly rate.

Council asked about whether it would be a problem to share the water tower with another internet provider? The city currently has a lease agreement with Wave Wireless, however it is not exclusive. Brewster said that he shares tower space in other cities without any problems. He has also checked and he does not operate on the same bands as Wave Wireless. Council asked if he wanted to use both of the towers or just one. Brewster said he would need to inspect what equipment was already on the towers. The Mayor gave him permission to climb the water towers and then return to the meeting to finish the discussion. The discussion was continued until later in the meeting.

### **PROCLAMATIONS AND RECOGNITIONS**

#### **Housing Committee Proclamation**

Mayor Fischer recognized the Housing Committee for their dedicated service to the City in working with the many housing grants and projects for the last several years in a proclamation prepared in their honor. Mayor Fischer read the proclamation aloud to the assembly and said each member of the Housing Committee will be presented a copy. The proclamation will also be sent to Labette Avenue for publication.

#### **Arbor Day Proclamation**

A proclamation recognizing Friday, April 24<sup>th</sup> as Arbor Day was provided in the Council packet. The Tree Board has invited the public to attend the tree planting ceremony at 1:00pm on the 24<sup>th</sup> at the Community Building. The invitation and proclamation will be sent to Labette Avenue for publication. Kindergarteners from Neosho Heights have also been invited to attend and take part in the planting ceremony. The proclamation is a requirement for Tree City USA recognition. The City of Oswego has proudly received the Tree City designation for the past 25 years.

### **Fair Housing Proclamation**

A proclamation recognizing April as Fair Housing month was provided in the Council packet. As part of CDBG funding the city must conduct a fair housing activity and is encouraged to issue this proclamation annually. For the fair housing activity this year Fair Housing Flyers were placed in the city's lobby, the Courthouse and the Library.

Owens made a motion and Tynan seconded to approve the Housing Committee, Arbor Day and Fair Housing Proclamations. Motion carried.

### **CITY ATTORNEY**

#### **Ordinance – Zoning Change for 2262 13000 Rd**

An ordinance to change the zoning for 2262 13000 Rd was submitted for approval. Clerk Eddington stated that the Planning Commission held a public hearing to consider changing the zoning for this recently annexed property (Vails Automotive) from R1, Single Family Residential zoning to CP3, Planned Highway Commercial (the only zoning district within city limits that allows this type of business). All of the surrounding property owners were notified of the public hearing as required by law. There was no one in attendance on the issue and the Planning Commission has recommended approval of the zoning change. Attorney Tucker has reviewed and approved the ordinance. Brown made a motion and Tynan seconded to approve the ordinance to change the zoning for Vails Automotive at 2262 13000 Rd to CP3. Motion carried. Clerk assigned the Ordinance #1341.

#### **Ordinance – Conditional Use Permit for 2269 13000 Rd**

An ordinance to issue a Conditional Use Permit to 2269 13000 Rd was submitted for approval. Clerk Eddington stated that at the same public hearing held by the Planning Commission, the issue of a Conditional Use Permit allowing the recently annexed veterinary clinic within the city limits was heard. All of the surrounding property owners were notified of the public hearing as required by law. There being no opposition to the conditional use permit, the Planning Commission has recommended the Conditional Use Permit be approved without restrictions. Attorney Tucker has reviewed and approved the ordinance. Brown made a motion and Rea seconded to approve the ordinance to issue a Conditional Use Permit to the veterinary clinic at 2269 13000 Rd without restrictions. Motion carried. Clerk assigned the Ordinance #1342

#### **Ordinance – Amending Utility Ordinance**

An amendment to the Utility Ordinance to provide the option for businesses to put up a surety bond in lieu of a security deposit when applying for utility services was submitted for approval. Clerk Eddington stated that the city has had this option in the ordinances since 1988. It came to light, when a business asked about putting up a surety bond, that the last time the Code Book was revised, that particular paragraph had been mistakenly left out. This ordinance puts that option for businesses back into the city codes and has been approved by Attorney Tucker. Tynan made a motion and Brown seconded to approve the ordinance as presented. Motion carried. Clerk assigned it Ordinance #1343.

## **CONSENT AGENDA**

The Consent Agenda including minutes from regular and any special meetings, accounts payables check registers for the month, payroll checks and utility deposit refund checks for the month were presented. (Copies of the warrants were available for review).

### **Appointments – Planning & Zoning Commission**

Mayor Fischer submitted for approval the re-appointments of Dan Chapman and Roger Vance to the Planning & Zoning Commission. These appointments expire May, 2018. Mayor Fischer also submitted the appointment of Bill Farris to fill the vacant position on the Planning & Zoning Commission. This appointment expires May, 2016.

Brown made a motion and Rea seconded to approve the Consent Agenda as presented. Motion carried.

## **OLD BUSINESS**

### **Housing – Stone Hill Estates**

Clerk Eddington said that the city has still not received figures from Westar on what they would charge the city for installation of service so the subject was tabled until the information is received.

### **Streambank Project – Filter @ Water Plant**

An invoice from Shafer, Kline & Warren for \$4,465.70 was submitted for engineering services from December 2014 to March 2015. Clerk Eddington stated that Rural Development has approved of the change order to the SKW contract on the project covering these charges. Supt. Jurgensen has reviewed and recommended approval of payment. Eddington also said that the Structural Engineer is coming on Tuesday to inspect the filter. Tynan made a motion and Rea seconded to pay the invoice. Motion carried. Clerk Eddington noted that the city will include this amount in the next grant drawdown request.

### **High Speed Internet Provider – Clifford Brewster, Rural I-Net - continued**

Clifford Brewster returned to the meeting after inspecting the wireless internet equipment currently installed on at the city's water towers. He said that he would like to install his equipment on the west water tower for now and may be interested in the downtown water tower at a later date. He said he did not believe his equipment would interfere with the equipment already installed by Wave Wireless. Council asked what the range would be for his equipment. Brewster said that it depends on the line of sight. He should be able to reach customers seven to eight miles out but at least four to five miles. He said the type of equipment he uses pushes more speed so it doesn't go out as far as some other types. He prefers to give fewer customers premium quality of service rather than offering more customers service of a lesser quality. Rea said it would be good for Oswego customers to be able to have a choice. Brewster offered to pay \$200 per month to use the west water tower with exclusive rights to 5ghz bands. Tynan made a motion and Vance seconded to accept Brewster's offer and approve the lease agreement for \$200 per month. Motion carried.

### **Restroom at Schmoker Park**

Council has previously discussed the need for a restroom at Schmoker Park and requested cost information be presented to them again in the spring. Clerk Eddington reported that Supt. Jurgensen estimated the cost for a small, ADA compliant, one person restroom with stainless steel sink and toilet at \$7,000. The stainless steel sink and toilet are what cities are using in defense of vandalism. Some cities reported they still had problems with vandalism but with the sturdier facilities, they no longer have the extensive repairs and replacements as they did with the porcelain fixtures. Supt. Jurgensen had told her that the initial cost would be less for the building and fixtures if porcelain was chosen.

Clerk Eddington said that if the Council decides to move forward with the project, it could be expensed out of the Sales Tax – Parks fund. The city had anticipated expenses for repairs of the parks buildings roofs and canopy at the Community Building that was much less than expected or not needed. Currently, there is \$50,117 in the Sales Tax – Parks fund. Bringle pointed out that \$170,000 in repairs were needed at the swimming pool that those funds could be used for as well. After further discussion Owens made a motion and Tynan seconded to table the issue until Supt. Jurgensen could be present to answer more questions about the construction of the building. Motion carried.

### **NEW BUSINESS**

#### **AMS Collection Agency – Utility and Municipal Court Collections**

Two contracts from American Municipal Services (AMS) to provide Utility and Municipal Court Collections services were presented for approval. Clerk Eddington reported that the city currently utilizes the State Set-off Program for collecting bad debts. However, the customer has to remain in the state and have a tax refund to utilize this program. For those bad debts that the Set-off Program does not reach, Eddington said they would like to be able to utilize a collection agency. In consulting with other cities around the state to see who they use, AMS Collection Agency out of Texas received very good references. AMS will go back four years on utilities and charge a 30% fee for collections (which is the same as Set-off). For municipal court collections they charge a 33% fee (which can be added to the total amount that is sent in to collections). Eddington reported there is no time frame on how far back the city would be able to attempt to collect on outstanding court balances.

Clerk Eddington said there is no charge to the city unless AMS collects and there is no minimum amount of collections that would be required to send in to them. The contracts, one for utility collections and one for municipal court collections have been reviewed by Attorney Tucker. Attorney Tucker said he feels they are good agreements. Rea made a motion and Brown seconded to approve the contracts as presented. Motion carried.

#### **Oswego Recreation Commission – “Music in the Park”**

Clerk Eddington stated that she had been contacted by Lance Smith, with the Oswego Rec Commission, and was asked to present information to the Council about a free event they would like to sponsor for the public on Saturday, May 2, 2015 in Riverside Park from 2:00 p.m. – 4:30 p.m. They would like to have a band, a snow cone vendor and a small concession stand where

the Rec Commission will sell candy and pop. They are not bringing in a platform for the band or any type of seating. Smith said the band will set up on ground level and the Rec Commission will advertise the fact that people need to bring lawn chairs. They are asking for permission to hold the event, use the electricity and allow parking at the swimming pool parking area. The city will set out some extra trash receptacles.

Chief Elliott said that the Rec Commission mentioned possibly using the area near the tennis courts instead. Council expressed concerns about setting up any chairs or stages on the tennis court. Clerk Eddington will discuss this with Mr. Smith. Tynan made a motion and Rea seconded to approve the Rec Commission's use of the park for the event. Motion carried.

### **INDIVIDUAL REPORTS**

**Owens** – asked about the zoning for the old middle school. Clerk Eddington said currently the zoning was a conditional use for a school and that the owner had not made application for any changes to date.

**Brown** – asked if the owner had obtained a building permit. Clerk Eddington said that as long as all of the building is remodeling only on the inside no building permit is required. The last time she spoke to Mr. Kelly, he was still trying to determine what business he would like to open but had said he planned to come in this week to get the zoning paperwork filled out.

**Elliott** – said he planned to talk to the schools about taking down the school signs but intends to leave up the 20 mile speed limit signs for now.

**Bringle** – asked whether you can ask to change zoning on a piece of property if you don't own it yet. Attorney Tucker said that the person interested in purchasing the property should work with the owner. The owner (in anticipation of selling the property) would need to be the one to request the zoning change, but it could be added to the contract that the agreement to sell would be contingent on obtaining the desired zoning change.

**Elliott** – said he had taken pictures of the roof and inside the building of the SEK Museum. The photos were shown to the Governing Body. Elliott said there was 8" of water on the roof and the downspouts were plugged. He said the north-west building roof was in bad condition but the rest are in reasonable shape. Pictures showed that there are many items that still remain in the building although the deadline to have them removed has passed. Elliott said if the mounts are donated to other facilities they may have mites that could spread. Council discussed that there could be legal issues since some of the items are federally protected or may belong to individuals. Larry Richardson said they did have the paperwork on the Condor. Council discussed extending the deadline to have the items removed. Owens made a motion and Brown seconded to allow the Museum Board until June 1<sup>st</sup> to have the items removed and the building broom clean. Motion carried.

Elliott said he would clear the remaining downspouts and Attorney Tucker asked Larry Richardson if he would continue to work toward acquiring signatures on the deed. Tucker said he

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has recorded the two affidavits which are enough to have it officially revert back to the city, so it is not crucial to receive the deed, just desired.

**Eddington** – said that if anyone needs to update their Statement of Substantial Interest to let her know and she will get them the forms. This needs to be done if the Governing Body members had any business changes in the last year.

- said that it is time to pay the Chamber of Commerce dues for staff and Council members. She needs to know if anyone has already paid them through their business so we don't pay for someone twice. Bringle said that she had already paid the dues. Rea made a motion and Vance seconded to approve paying the Chamber dues. Motion carried.

- said the LKM Conference for the Governing Body and Mayor is May 15 & 16 in Topeka. If anyone wants to attend they need to let her know by April 24<sup>th</sup> so she can get reservations and accommodations made on their behalf.

- said that LCC had expressed appreciation for the donation of a Family Swim Pass for their fundraiser. However, the person that purchased it thought they were purchasing a Pool Party and asked if it could be exchanged. Eddington said they could have up to 73 swimmers for the same price as a Family Swim Pass. Owens made a motion and Rea seconded to allow the exchange for a Pool Party. Motion carried.

**Vance** – asked if a Pool Manager had been hired. Clerk Eddington said the city had received one application and another one was passed out on Friday. Mayor Fischer remarked on the lack of leadership and management at the pool.

#### **PUBLIC DISCUSSION**

Mayor Fischer asked if there were any comments from the public. There were none.

#### **ADJOURNMENT**

There being no more comments or further business Owens made a motion and Vance seconded to adjourn the meeting at 7:36 p.m. Motion carried.

Attest:

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Mayor Glenn Fischer

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Deputy City Clerk Renee Cochran