

Special Council Meeting  
March 28, 2016, 6:30 p.m.  
City of Oswego, Kansas

Present: Councilmembers Darren Tynan, Bill Owens, Kelly Vance, Scott Grassl, Caleb Strickland and David Newby with Mayor Bill Cunningham presiding.

Also Present: Police Chief George Elliott, Supt. Calvin Jurgensen, City Clerk Carol Eddington, Carole McKinley, Jon Eck, Fire Chief John Strickland and Paula Kern.

## **Sales Tax Increase**

### *Fire Department*

Chief Strickland handed out a list of items that the department needs to replace. The tanker truck is a 1970's model and the frame is cracked (used, estimated to cost from \$15,000 - \$30,000). The skid unit (300 gallon self-contained grass unit also needs to be replaced as parts to fix it are no longer available it is so old (estimated \$10,000 for a used one). They also need to begin upgrading the lights on the trucks to LED's as the lights are not visible enough to provide the firemen the appropriate measure of safety (\$3,000 per truck). There are 6-8 sets of bunker gear (\$1,500 - \$2,000 each) that need to be replaced now and the others will need to be replaced in the future and on a regular basis. In the not too distant future the grass trucks will need to be upgraded as they are anywhere from 32 to 48 years old now. In 4 years, the air packs will need to be updated (\$4,500 each).

The Fire Dept. just finished paying off the lease/purchase for the 1996 Freightliner FL70 purchased in 2006. It was a 10 year lease purchase on \$88,165 at 4.75%. The Department would like to do a new lease purchase for the tanker truck and possibly the skid unit. They have been quoted an interest rate of a little over 2%. Consensus of the Council was that they were in favor of the fire department seeking a lease purchase for the truck and equipment. The officers will continue looking for a good used truck and equipment.

### *Tax Lid Information*

The tax lid will go into effect January 1, 2017 now instead of 2018 as was passed last year. What remains to be seen is what kind of exemptions will be allowed that will not count toward that CPI threshold. Otherwise, the city will be held to the CPI – consumer price index – which measures the increase in the price of mainly clothes and food - not what municipalities have to spend money on. Eddington reported that for the 2016 Budget if the city was held to the CPI, the city would have only been able to do an increase of a little over \$7,000 – for every expense line item in every taxing fund. That does not leave room for the increase in prices to the items that the city has no control over such as insurance, chemicals, fuel, electricity, gas, etc.

### *Other Items to Consider*

Other items to consider when determining whether the city should seek an increase in the sales tax were listed and handed out to the Council. Some of the items on the list are items that the Council has considered several times but the funds were not available; some are unfunded mandates (State or Federal regulations that the city must comply with but did not receive any

Federal or State assistance to implement); necessary repairs to city buildings; fire department needs; and others are items for future consideration.

Downtown Building Condemnation & Demolition

Swimming Pool – ADA regulations for baby pool

Fire Dept – Trucks & Equipment

Storm Drain Repairs

Bathroom at Schmoker Park

Dump Truck Replacement

Property Tax Relief & Future Grant Matching Funds

City Buildings Maintenance & Repairs

Public Works Barn

Swimming Pool – Slide for Older Ages

It was discussed that ½ cent sales tax increase would bring in approximately \$90,000 each year.

Council discussed at length the need for the increase in sales tax. They felt like the increase should definitely have a sunset and should include the fire department.

Tynan made a motion and Grassl seconded to put a ½ cent sales tax increase on the August ballot to be spent on the Fire Dept. and for relief on water utility rates – for a period of four years.

Motion carried with Strickland and Vance opposed. Clerk Eddington will check with the auditor and with the computer software company to see what is possible as far as water bill relief. A Resolution will be prepared for the April Council meeting.

### **Police Department – Patrol Unit**

Chief Elliott provided an itemized listing of the expenses of the new pickup and outfitting it as well as the excerpt of minutes where the Council approved up to \$27,000 for the purchases. The total expensed for the truck and outfitting is \$26,226.41.

### **Downtown Building Demolition Project**

Clerk Eddington read the following information from Attorney Tucker on questions that arose during the regular council meeting that he wanted to address with the council during their discussion of the building.

1. Is the city liable if it does nothing? Under the Kansas Tort Claims act, KSA 75-6104, the city is not liable for failure to enforce an ordinance as that is an administrative function. An exception to that would be if the city acts willfully in its failure. Since the city knows of the hazards to occupants, pedestrians and passersby as well as drivers of cars passing by, the city should at a minimum barricade the structure.
2. Could the city have liability to the landlord? If the city has a sufficient and proper Statement of Enforcing Officer the city would not incur liability to the landlord for its actions in enforcing its ordinance as long as the city follows the law and its ordinance and does not act arbitrarily or capriciously.
3. Is the Statement of Enforcing Officer sufficient to deny turning on utilities, deny occupancy or cause occupants to vacate? In my opinion, the statement could have been worded more strongly, however, it seems to me to be adequate and sufficient to do so. Based upon the statement, the City Code provisions are sufficient to cause discontinuance of utility service and ability to refuse to reinstate utility service until the structural problems, mold and other issues with the property are “brought up to code.”

4. Should the property be “posted?” In my opinion, yes. It should be posted as being condemned and order no trespassing.

She also relayed information from KDHE that the city does not have to have asbestos testing done on the building if it is a residential building consisting of four or less apartments. The County has it listed as having 3 apartments. When Lush owned it, there were either three or four. That is one less expense to be considered if the city were to move forward with condemnation of the building. Eddington provided the Governing Body with a budget from Grant Administrator Galemore showing the known expenses of the project and estimated expenses from the contractor. At the highest end of the total expenses for the project, the city would spend \$65,323.12 as our local match side of the grant.

The city has previously approved up to \$150,000 in a bond issue for the grant match expenses. The yearly payment amount already included in the budget is figured upon the full \$150,000. Bond Counsel said the cost of the bond issue would be \$4,500 or less, thereby leaving at least \$80,176.88 left over in the bond issue to apply to the condemnation of 325 Merchant. The contractor estimated it would cost between \$60,000 & \$70,000 to demo the building. Supt. Jurgensen said that was with the city filling in the basement and capping off the site with good dirt (which the city has). Discussion was held on whether to actually move forward with the condemnation. Concerns were voiced about the safety of the public, city liability and the safety of the newspaper building if the city did not condemn and demolish the building.

Tynan made a motion and Vance seconded to post 325 Merchant for no-occupancy and begin the condemnation process. Motion carried with Newby voting no. Clerk assigned it Resolution #3-28-16A.

Councilmember Owens excused himself from the meeting at this time.

### **Stone Hill Estates Property**

Council had asked for information on the amount that the city had in the property. Clerk Eddington presented figures on what the property was purchased for, the engineering expenses and bond issue costs minus the amount the city received when 14 acres were sold off which left a balance of \$142,671 unrecovered. Councilman Strickland asked how much was still owed on the bond issue. Eddington reported there was \$157,000 still owed on the bond issue. The Council had not determined what they wanted done with the proceeds of the sale of the 14 acres so that had not been applied to the outstanding bond. It was put in a special housing fund. Council asked what the real estate agent had recommended the Council drop the price to – it was \$132,500. Newby made a motion and Strickland seconded to lower the asking price for the property to \$132,500. Motion carried.

### **Concession Stand – Electrician**

The person who has volunteered to do the electrical work on the concession stand is a licensed electrician for CDL Electric. He is not bonded or insured for work that he does out on his own. Does the city wish to require him to provide the city with either a bond or proof of insurance or waive the bond/insurance requirement for this work – realizing that if they do waive the requirement, they will hold harmless the individual if there should be any problem with the

electrical in the future? Strickland made a motion and Tynan seconded to waive the bond or insurance requirement for the electrician. Motion carried with Vance voting no.

**Adjourn**

Vance made a motion and Newby seconded to adjourn the meeting at 8:47 p.m. Motion carried.

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Mayor F.W. Cunningham, Jr.

Attest:

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City Clerk Carol J. Eddington