

Regular Council Meeting
October 12, 2016 6:30 p.m.
City of Oswego, KS 67356

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

Also present: City Clerk Carol Eddington, City Supt. Calvin Jurgensen, Police Chief George Elliott, City Attorney Rick Tucker, Deputy Clerk Renee Cochran, Rena Russell, Roger Daniels, Randy Kirkpatrick, Ronneca Sanchez, and Paula Kern.

OPENING PRAYER AND PLEDGE OF ALLEGIANCE

Roger Daniels, 1st Baptist Church, gave the opening prayer and Strickland led the Pledge of Allegiance.

PETITIONS AND DELEGATIONS

Public Hearing – 404 Wisconsin (building by alley) Condemnation

Mayor Cunningham opened the Public Hearing to allow comments on the condemnation of the building located by the alley at 404 Wisconsin. As no one was in attendance for the hearing the Mayor determined to leave the hearing open until a little later in the meeting.

Poker Run/Toy Drive – Ronneca Sanchez

Ronneca Sanchez was not in attendance to update the Council on her plans for a Poker Run/ Toy Drive. Chief Elliott said he had received a flyer but it didn't have any details. The Mayor determined to move the subject to later in the meeting to allow her time to arrive.

CITY ATTORNEY

Ordinance – Mowing Assessments

AN ORDINANCE MAKING AND LEVYING A SPECIAL TAX UPON ALL LOTS AND PARCELS OF GROUND IN THE CITY OF OSWEGO, KANSAS FOR THE COST AND EXPENSE OF MOWING IN SAID CITY THROUGH AUGUST 25, 2016 was presented for approval. The ordinance covers unpaid mowing charges through August 25, 2016. Newby made a motion and Vance seconded to approve the ordinance. Motion carried. Clerk assigned the Ordinance number 1371.

Deed – 408 Merchant

A deed prepared by Attorney Tucker for the property at 408 Merchant was presented for Council approval. At the September 26th Special Council meeting, Council accepted Steven Charles' bid of \$26,000 (the highest bid from the auction of this property). Attorney Tucker advised Council that they needed to authorize the Mayor's signature on the deed. Clerk Eddington reported that Realty has set the closing for tomorrow afternoon. Tynan made a motion and Newby seconded to approve Mayor Cunningham signing the deed. Motion carried.

PETITIONS AND DELEGATIONS

Poker Run/Toy Drive – Ronneca Sanchez

Ronneca Sanchez arrived and Mayor Cunningham asked her to update the Council on her plans for the Poker Run/Toy Drive on Saturday, November 5th. Last month she had asked Council's permission to close Commercial St. between 4th and 6th streets but Chief Elliott needed more

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details before determining how many streets would need to be closed. Sanchez estimated the bikers would arrive in Oswego around 1:30 – 2:00 p.m. to collect their prizes and would need a place to park their bikes. Vendors and a Car Show would also need a place to set up down town and will be finished by 5:00 p.m. Several bands will be playing inside The Crossing during the afternoon and evening but no later than 8:00 p.m.

Sanchez said the Toy Drive portion of the event would be between 2:00-7:00 p.m. and will benefit children in Labette, Cherokee and Crawford Counties. Council agreed that it sounded like a worthwhile event and asked about the plans to get bikers through the intersections quickly and safely. Chief Elliott offered some suggestions and said he would like to meet with her to discuss the details.

PETITIONS AND DELEGATIONS

Public Hearing – 404 Wisconsin (building by alley) Condemnation

As no one had arrived for the Public Hearing Mayor Cunningham asked for a motion to close the hearing. Strickland made a motion and Davis seconded to close the hearing at 6:51 p.m. Motion carried.

Clerk Eddington stated that the next step in the condemnation process is to pass a Resolution that allows the property owner, or in this case heirs of the deceased property owner, time to take care of the demolition themselves or the city will proceed. The normal time frame is 30 days and begins 5 days after the publication of the resolution. As long as the Resolution is published next week, the deadline for them to have the work done would be November 23rd. Tynan made a motion and Grassl seconded to approve the Resolution. Motion carried. Clerk assigned the Resolution #10-12-16A.

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).

Mayor Cunningham asked for any additions or corrections to the Consent Agenda. Clerk Eddington requested an addition be made to include a bill for \$2,730 from ACM for asbestos inspection on 325 Merchant. Tynan made a motion and Davis seconded to approve the Consent Agenda with the addition of the bill from ACM as requested. Motion carried.

OLD BUSINESS

325 Merchant Condemnation

Clerk Eddington reported that she had been contacted by KDHE and informed that the building would have to be inspected for asbestos and any asbestos found would have to be removed before demolition of the building. In March of this year, Eddington contacted KDHE and they said the building did not have to be inspected. She contacted B-3 to let them know they could not proceed with the demolition yet. B-3 called ACM Removal, a company they work with for inspections, in hopes of getting them here soon so as not to delay the project any longer than

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necessary. ACM came the next week on Tuesday, Oct. 4th, took several samples, and called on Friday, Oct. 7th, with the results. The building has 14,500 square feet of asbestos in the walls and the ceilings that must be removed. ACM estimated their cost to do the removal at \$60- \$75,000. The cost of the inspection is \$2,730. Clerk Eddington obtained quotes from a couple of other companies but they weren't any better - \$68,000 and \$85,000.

Eddington said with the added expense of asbestos removal the cost for the project would exceed the \$150,000 bond issue. At the League meeting Mayor Cunningham found out the KDHE Brownsfield Program may also do asbestos removal in addition to their other remediation work. Clerk Eddington said the program is known for removal of contaminated soil and gas tanks, etc. She discussed the program with KDHE who was to get her more detail before this Council meeting. That didn't happen and she has not been able to reach the KDHE representative. She contacted KDHE to get more details but has not received a response. Meanwhile, ACM said they "sharpened their pencil" and provided a new quote of \$43,280. This amount would allow the city to fall within the \$150,000 bond amount.

Supt. Jurgensen said that seven inches of rain fell last week, the ceiling and walls are collapsing more and you can now see daylight through the roof. This is going to make the clean-up work more difficult and costly as the asbestos materials are falling down and mixing with non-asbestos materials. Clerk Eddington said she made certain ACM was aware of the recent rains and deteriorating condition of the building before they provided the city with their quote. Vance made a motion and Tynan seconded to accept the bid for \$43,280 from ACM for asbestos removal. Motion carried.

Downtown Demo Bond Issue/old Independent Building

Clerk Eddington reported that with the additional charges for asbestos inspection and removal, and the demolition cost for 325 Merchant there will be approximately \$16,708 remaining out of the \$150,000 bond issue. Mayor Cunningham asked staff to make sure the quotes include the cost of landfill charges. Council discussed that \$16,708 may not allow enough for the demolition of the old Independent building. The quote came in at little less than \$7,000, which includes asbestos inspection but not removal of asbestos if found.

Council asked about the deadline to get the bond issue finalized. Clerk Eddington stated the city could wait until the demo of 325 Merchant was completed according to Bond Counsel, Kevin Cowan. She also said it takes two meetings to get all the paper work done and for audit purposes it is better to get the bond work done within the same year the last of the expenses occurred. Cowan also told Eddington that any unused amount could be used to pay down the bond. Tynan made a motion and Davis seconded to proceed with finalizing the bond issue for \$150,000. Motion carried.

Fire Barn/Garage Repair Bids

Last month, Council decided to bid the project again after the bid received was well over the engineer's estimate. A new list of general contractors in this area was obtained and bid notices were direct mailed to them as well as published in the newspaper. The bids were due on October

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11th at 2:00 p.m. Only one bid was received; Decker Construction - \$47,250 base and \$37,299 alternate (roof) which is, again, well over the engineer's estimate of \$8,500 plus the cost of the roof. Councilmember Strickland said he felt the bid could be lower if the city didn't require the contract to be bonded. Attorney Tucker said it is not an option, the law requires the bonding in order to protect the interest of the cities.

The Mayor also requested an estimate on tearing down the garage building. This came in at around \$4,000 but only includes asbestos inspection, not removal. Council discussed some options on what could be done with the antique fire truck the Fire Department houses in the garage since they have no other place to keep it. Clerk Eddington also stated that if the building is removed the bank would have to do some work to the East wall of their building. Otherwise, once the shared wall is exposed to the elements it will deteriorate rapidly. Council consensus was to table the issue to allow time to check in to alternative housing for the antique fire truck.

Code Enforcement – Nuisances – photos

Council viewed photos of the four properties that had been cited for nuisance violations, 404 Wisconsin, 618 Illinois, 224 Second and 222 Illinois. Supt. Jurgensen reported that all of the properties had been cleaned up except for 404 Wisconsin. That property still had some items remaining right around the building that is set to be condemned and those items would be removed at the time of condemnation.

After viewing the photos, Council felt that 618 Illinois had abated most the nuisance violations, although there was still room for improvement. There is a trailer full of junk was still sitting on the property and an old seat out of a car was out in the yard. Council said those items still needed to be removed. Council also discussed how nice the properties looked that recently had buildings torn down and the lots cleaned off. Council said it would be nice to send thank you letters to those property owners.

At 7:37 p.m. Mayor Cunningham called for a ten minute break. The meeting resumed at 7:47 p.m.

NEW BUSINESS

KDOT Grant Agreement – Airport Beacon

At the August Council meeting Council approved the purchase of the airport beacon. Clerk Eddington said she was still going to see if the project would qualify for a grant. She was able to obtain a grant with KDOT Aviation that covers 90% of the allowable cost of the beacon. Council reviewed the agreement that was included in the packet and was very pleased. After the agreement is signed it will go to the Secretary of Transportation for final approval and signature.

Fees Resolution

An updated Fees Resolution, which lists the fees the city charges, was presented for Council approval. Last month the Council made changes to the fees for the Community Center and camping fees. Those changes are now reflected on the Fees Resolution. No other fees were

changed. Tynan made a motion and Newby seconded to approve the Fees Resolution. Motion carried. Clerk assigned the Resolution # 10-12-16B.

Downtown Business Façade Program

Clerk Eddington reported that Theresa Smith had contacted the city asking if there were any programs available to assist downtown business owners with painting their buildings. Smith said that she and Chesnutt would like to get their buildings painted before the city begins celebrations for the 150th birthday next year. She has spoken to a few others that were also interested in painting their buildings if the city would be able to help in some way, especially if they could get a “bulk” price from the same contractor. Jerry Chesnutt received an estimate of \$6,800 to power wash and paint his building.

As previously discussed, the Downtown Revitalization dollars can be used for such a project but there is only \$1,607 in the fund. With approximately 45 buildings downtown (depending on what streets are designated as downtown) that would not go very far. Mayor Cunningham suggested Council consider utilizing some of the proceeds from the sale of the building at 408 Merchant for a program to help revitalize downtown.

Clerk Eddington provided Council with information detailing how the City of Girard partnered with the Girard Area Chamber of Commerce to establish a program to assist property owners with improvements to their downtown storefronts. She had also asked Clerk Cochran to see if the Oswego Chamber would be interested in spear-heading a similar program. At the recent Chamber meeting Cochran asked members if this was something they would be interested in supporting. She reported that everyone agreed it would be worthwhile if the city could come up with the funding since the Chamber did not have the financial means to support the project. Council discussed ideas on how to generate funds for the program. Consensus of the Council was that this is a program that should be spearheaded by the Chamber as it benefits businesses. Staff will discuss it with the Chamber.

Zoning Regulations – Shipping Containers as Building Materials.

Clerk Eddington reported that the Planning and Zoning Commission heard comments from Randy Kirkpatrick who would like to build a building using shipping containers. Currently, the city’s zoning regulations specifically prohibit shipping containers as building materials in residential areas. To make the change to allow shipping containers as building materials the zoning regulations would have to be changed. Dave Yearout, Zoning Consultant, has estimated the cost to be around \$2,000 as each residential section would need changes and additions made. Eddington stated that The Planning Commission is not making a recommendation at this time. Before they spend any more time on the issue they want to know whether the Council was willing to spend the \$2,000 to make changes to the zoning regulations for shipping containers.

Randy Kirkpatrick attended the meeting and told Council he wants to construct the building to have a private library, storage facility and craft area. This will not be his residence. He wants to bury a couple of shipping containers for his basement, stack two more on top of those for his first level and one on top of those two and put a roof over them. At the Planning Commission

meeting he was not able to answer their questions about the costs of the various aspects of transporting them, reinforcement for underground use, retrofitting them for plumbing, electrical, etc. He had not looked into those details yet.

Clerk Eddington said she had checked with other cities in Kansas to see whether they allow shipping containers to be used as building materials. Only one city responded that they do allow them, everyone else said they do not. The city that said they allow them only allows them to be used for residences. They require plans for the structure to be approved and stamped by an engineer as use of these structures for a residence takes knowledge that most people do not possess. Once they find out the requirements and what it takes the city has never had anyone build a home with containers. Another city said they did not have any regulations prohibiting them so they have had them appearing all over town as storage buildings. They had so many complaints about these containers that they have placed a moratorium on building permits until they can amend their zoning regulations.

After some discussion Council agreed that they do not want to allow shipping containers to be used for storage of any kind. Council commented to Kirkpatrick that this would be a problem for him as his building would not be his residence. Council also discussed that they didn't think the taxpayers would like the city paying \$2,000 to change the zoning regulations to benefit just one person, if that. They did agree that if they were allowed as building materials for residences there would have to be a lot of regulations to protect the property owner and community. Some containers are used to ship hazardous materials and can also be treated with hazardous chemicals or paint that would have to be removed. Council consensus was to table the issue and ask the Planning and Zoning to do some more research and provide Council with their recommendation as to whether, with proper regulations, allowing shipping containers as building materials is a good idea or not.

New Signs – Danny Elliott Park, Town Well, Riverside Park

Supt. Jurgensen asked Council if they were interested in having signs made for the parks that were similar to the one at Schmoker Park. Clerk Eddington said the cost for that sign was \$850. Council wanted to see some designs and quotes before making a decision and also wanted to consider a sign recognizing Ted Watts. Strickland made a motion and Newby seconded to proceed with getting samples of designs and prices for the signs. Motion carried.

City Property – 2nd & Kansas

The city received an offer of \$20 from Al Wimp for a 40' wide strip of land along the west side Kansas St. from Second St. north approximately 345'. Clerk Eddington stated that in 2014 when the city began working on getting rid of property they didn't need, the Fair Board was contacted to see whether they were interested in this property. Since they weren't, a letter was sent to the adjacent property owner but there was no response. The city mows it and pays taxes on it but does not use it for anything. Strickland made a motion and Davis seconded to accept the offer of \$20 for the property. Motion carried.

INDIVIDUAL REPORTS

Attorney Tucker – said he had sent a letter to the railroad about the poor conditions of the track and complaints about blocking the crossings. Clerk Eddington has a phone number for people who need to file a claim from damage. Paula Kern said she called Union Pacific to complain and they told her they are going to start in January repairing every crossing between Parsons and Oklahoma. The Mayor thanked Attorney Tucker.

Jurgensen – asked the Council to grant an extension to Mark Stapleton to get his vacation time used. He is training a new employee and won't be able to take time off for several weeks. Tynan made a motion and Davis seconded to allow the extension. Motion carried.

- said Craw-Kan had approached him about providing internet access to Dr. Bortmes office. They wanted to know if they would need an easement. They recently installed the cable to the hospital and since the doctor's office is right across the street it would only require boring under the street. Tynan made a motion and Grassl seconded to grant an easement to allow Craw-Kan to bore under the street to provide internet service to the doctor's office. Motion carried.

Strickand – asked who to contact for nuisances. There is a property by the Coop that needs to have a letter sent to them. Clerk Eddington said they could call the City Office and talk to Tracy or email her and she will get it to Tracy. Clerk Eddington also asked Council how they would like the new Code Enforcement Officer to proceed. Whether they would like for her to start on one end of town and make their way to the other end, or if they would prefer she starts with the most visible properties, such as those along the highway and most traveled streets. Consensus of the Council was to focus on the most heavily traveled streets first.

- appreciated the Oswegofest pictures and asked how someone could get a copy. Clerk Cochran said they are posted on Face Book and could be downloaded them from there.

Newby – said it looked like the fly-in was great. Eddington said they had a slow start because of the foggy weather but it turned out really well with over 75 getting a free plane ride.

Vance – asked if the ½ block where the old Junior High School used to be was for sale. She said she was interested in building a 2,000 sq. ft. home and would be interested in purchasing it. Clerk Eddington said that the city has retained that property for more housing similar to the Townhomes that is in the same block.

Tynan – asked if the city could extend the time on The Crossing's liquor license. Clerk Eddington said the problem was just that staff had not noticed the change in the expiration date when their new State license was received and had already taken care of the clerical error.

Eddington – said the surveyor is now working on the survey for the property for A&A Seed and asked if Council wants the deed drawn up as soon as it is finished so there won't be a delay. Council said yes.

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- said the employees Wellness Fair will be held the morning of Oct. 26th

Executive Session

At 9:15 p.m. Mayor Cunningham asked to go into Executive Session for five minutes to discuss personnel matters of non-elected personnel. Vance made a motion and Newby seconded to go into Executive Session for five minutes with the Mayor, Council and City Clerk to discuss matters of non-elected personnel. Motion carried. The meeting resumed at 9:20 p.m.

Eddington – said the LMI Survey had been mailed out with last month’s utility bills.

- said she had asked staff to see if the Chamber would be interested in promoting Christmas lights in the park this year by judging the displays and providing prizes. Clerk Cochran attended the Chamber meeting and said they were very interested. They also suggested having a special event called “The Night of Lights” to invite the public to come and view the lights. Hot chocolate and candy canes would be provided. Chamber President Lance Smith said they could cover 3- \$50 prizes. There would be a first place for each category - fantasy or religious for business and organizations entries and a first place for individual or families entries.

- Westar has invited the Mayor and Councilmembers to a breakfast on Friday, Oct. 21st to discuss their merger. If anyone is interested she has details.

Mayor – said some of the City Staff is participating in the annual Trunk or Treat event on Oct. 31st at 6:30 p.m. He encouraged everyone to come out and support the event.

ADJOURNMENT

Mayor Cunningham asked if there were any comments from the public on city business. There were none.

There being no further business Strickland made a motion and Davis seconded to adjourn the meeting at 9:23 p.m. Motion carried.

Mayor F. W. Cunningham, Jr.

Attest:

Deputy City Clerk Renee Cochran