

Regular Meeting  
August 8, 2011, 6:30 p.m.  
City of Oswego, Kansas

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

Also present: Supt. Donnie Allison, City Clerk Cheri Peine, Police Chief George Elliott, Deputy City Clerk Carol Eddington, Bill Cunningham, Attorney Rick Tucker, Larry and Jeannie Dalton, Dorothy Hensel, Carole McKinley, Karyn Carpenter, Steve and Debbie Nading, Dick and Mary Farris, Susan Galemore, Bill and Theresa Farris, Beth and Glen Fuller, Nicole and Stephen McClure, Terry Karlin, Janie Allison, Skip Riley, Larry Richardson and Kim Burton.

#### **OPENING PRAYER/FLAG SALUTE**

Attorney Tucker opened the meeting with a prayer and Council President Lewis lead the flag salute.

#### **PUBLIC HEARING – CDBG Grant – Housing Rehab & Demolition**

Mayor Fischer opened the public hearing.

#### **PETITIONS AND DELEGATIONS**

##### **Mayor's Proclamation – Theresa Farris**

Mayor Fischer read and presented Mrs. Farris with a proclamation honoring her as a recent recipient of the "Excellence in Teaching about Agriculture" national award and for being named the "Kansas Foundation for Agriculture in the Classroom's 2011 Teacher of the Year". A short break with refreshments followed.

##### **Mayor's Appointment of City Superintendent**

Mayor Fischer appointed Donnie Allison as City Superintendent. Lewis made a motion and Brown seconded to approve the appointment. Motion carried.

##### **CDBG Housing Rehabilitation/Demolition Project**

Susan Galemore, Southeast Kansas Regional Planning Commission, discussed the housing project. The city is applying for a CDBG grant under the housing category. The specific project application is for housing rehabilitation and demolition in a targeted area bound on the north by North Street, on the south by the north side of 6<sup>th</sup> St., on the east by the west side of Union St., and on the west by Commercial St. When asked why the target area didn't include a little more area, Galemore said that the grant area has to be less than 200 homes. The pre-applications turned into the city were concentrated within this area. The more homes that can be rehabilitated in the area increases the need and impact of the project in the application.

The estimated project cost is \$400,000 with a grant request for \$400,000. The grant is for a two year time frame. Each property that is eligible can receive up to \$20,000 to fix the deficiencies (according to HUD standards).

Mayor Fischer closed the public hearing at 6:55 p.m. Resolution 08-08-11 entitled “RESOLUTION CERTIFYING LEGAL AUTHORITY TO APPLY FOR THE 2012 KANSAS SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PRORAM FROM THE KANSAS DEPARTMENT OF COMMERCE AND AUTHORIZING THE MAYOR/COMMISSIONER TO SIGN AND SUBMIT SUCH AN APPLICATION” was presented. Owens made a motion and Tynan seconded to approve the resolution. Motion carried. Other documents submitted for the Mayor’s signature included Statement of Assurances and Certifications, Application and Residential Anti-Displacement and Relocation Assistance Plan under Section 104(d) of the Housing and Community Development Act of 1974, as Amended.

**Riverside Park on KS Historical Registry – Karyn Carpenter**

Karyn Carpenter reported that the State has approved the pre-application she has sent in. They will be sending a team here from Topeka on August 30<sup>th</sup> to take a look at the park and the buildings. She said that anyone with questions for the group can meet with them at 12:30 at the middle shelter house.

**Liquor License Change to Biennial**

“AN ORDINANCE AMENDING CHAPTER 3, ARTICLES 3, 4, AND 5, ALCOHOLIC LIQUOR LICENSE OF THE CITY CODE OF THE CITY OF OSWEGO, KANSAS” was presented. The ordinance will bring the city in line with the State licensing since they made their change to biennial licensing. Lewis made a motion and Owens seconded to approve the ordinance. Motion carried. Clerk assigned it Ordinance #1274.

**Standard Traffic Ordinance**

“AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OSWEGO, KANSAS; INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,” EDITION OF 2011, PROVIDING CERTAIN PENALTIES, AMENDING SECTIONS 14-101, 14-102 AND 14-103 OF THE CODE OF THE CITY OF OSWEGO, KANSAS AND REPEALING ORDINANCE NO. 1264” was presented.

Brown made a motion and Rea seconded to approve the ordinance as presented. Motion carried. Clerk assigned it Ordinance #1275.

**Uniform Public Offense Code**

“AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF OSWEGO, KANSAS; INCORPORATING BY REFERENCE THE “UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,” EDITION OF 2011, WITH CERTAIN OMISSIONS, CHANGES AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; AMENDING SECTIONS 11-101 AND 11-102 OF THE CODE OF THE CITY OF OSWEGO, KANSAS, AND REPEALING ORDINANCE NO. 1263” was presented.

Rea made a motion and Lewis seconded to approve the ordinance as presented. Motion carried. Clerk assigned it Ordinance #1276.

### **Mowing Assessment Ordinance**

“AN ORDINANCE MAKING AND LEVYING A SPECIAL TAX UPON ALL LOTS AND PARCELS OF GROUND IN THE CITY OF OSWEGO KANSAS LIABLE FOR THE COST AND EXPENSE OF MOWING IN SAID CITY DURING THE PERIOD OF JUNE 1, 2011 THROUGH JUNE 30, 2011” was presented. Brown made a motion and Edwards seconded to approve the ordinance. 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 an appointment to the Housing Committee to fill the unexpired term of Sheri Goodnight who has resigned. Mayor Fischer appointed Bob Harris to the Housing Committee. This term expires October 2011.

Rea made a motion and Edwards seconded to approve the Consent Agenda. Motion carried. It was noted that the water loss is high. Clerk Peine said they are looking into this to try and determine the reason for the loss. Supt. Allison has contacted a KRWA field representative and asked them to check the rural water district meters for accuracy. The usage has dropped significantly in use as compared to the past several years, which could be part of the problem.

### **OLD BUSINESS**

#### **Nuisance Code Violations**

Courtesy letters have been sent out to a few property owners: 404 Wisconsin (junk); 224 Second (junk); 304 Indiana (dead tree). If they have not alleviated the violation before the next regular Council meeting, further action will be required.

#### **Building Permit – Farrow**

The building permits have been returned and a meeting has been scheduled with her for 8:00 tomorrow morning to go over these and the zoning amendment process.

#### **Airport Grant Update**

Joe Engle, KDOT contacted the city and said that the highway permit calls for the old road to be torn out up to the highway and they will not accept the work as being completed since there is a strip of about 3-4 feet of the old road left along the highway. Chris Flageolle with Lochner/BWR said the plans and specifications did not show the

area that was included in the KDOT permit – the permit was approved after the project was bid - but KDOT is holding tight to the permit that was issued. Sprouls' is willing to come back and complete the work for approximately \$4,000. Flageolle advised it should be an eligible expense with FAA. However, since FAA has furloughed all of their employees, we are not sure when the city will be able to speak to them about this. As an alternative, if it cannot be included in the project, Supt. Allison is going to visit with Mr. Engle to see if this may be something the city crews could work with KDOT to get completed. If KDOT could possibly break up the roadbed, city crews could haul it off. Council asked about the Engineer taking on the responsibility of this added expense since it was the Engineer that missed getting it included in the plans and specs. It was determined to wait to hear from FAA and if they do not approve of the expense being included in the project, a letter will need to go to the Engineer.

A \$92,110.07 pay request from Sprouls, for the work to date, was included in the packet for approval. There is also a supplemental agreement with Lochner/BWR for additional services (additional inspection work required because the contractor took longer to complete the project than permitted in the contract documents). Change Order #1 was also included in the Council packet. The Change Order covers the added cost of paving the parking area as well as the liquidated damages amount being subtracted.

Lewis made a motion and Rea seconded to approve all three documents, the pay request, supplemental agreement and the change order. Motion carried.

### **Water Projects Updates**

#### **Phase I – Water Distribution Project (Rural Development)**

A construction meeting will be held on Wednesday, August 10<sup>th</sup> at 10:00 a.m. LaForge submitted Pay Estimate #4 in the amount of \$299,689.00. Rea made a motion and Brown seconded to approve the pay estimate. Motion carried.

A grant agreement with Rural Development was included in the packet. Once the loan funds have been spent, the city will begin making draw downs from grant funds. Owens made a motion and Rea seconded to approve the grant agreement. Motion carried.

Change Order #2 – The change order (for \$18,869.50) has already been approved by the Council, however, the total figure on the change order was incorrect due to an addition error on the part of the engineer. Staff asked the engineer about it when they found a discrepancy between the figure on the engineer's invoice and the total of the amounts previously reported. The engineer provided a typed copy of the change order with the correct total of \$21,144.50. Rea made a motion and Owens seconded to approve the change in the total amount of Change Order #2. Motion carried with Brown voting no.

#### **Emergency Water Plan**

Mayor Fischer informed the Council that the city needs to begin the first phase of the Water Emergency Plan. In this phase, the city will not be flushing fire hydrants and will ask customers to be mindful of their water use, fix any leaks they might have and report

any leaks they notice in town. Rea made a motion and Tynan seconded to begin Water Watch Stage 1 of the city's Emergency Water Plan. Motion carried.

#### On Call Agreement for Services

Shafer, Kline & Warren has submitted an agreement for services in light of the city asking one of their engineers to provide us with some information outside the scope of any of the projects they are currently working on for the city. The work is to prepare a report for a litigation case the city is in. This agreement sets out the fees for their services for this on-call type of work. In this case, the fee will be \$125 per hour. Rea made a motion and Brown seconded to approve the On Call Services Agreement with Shafer, Kline & Warren. Motion carried.

#### **Sewer Fund Update**

Clerk Peine reported that the fund had a loss in July.

#### **Golf Course**

Included in the packet are: a financial report for the month of July, a revenue/expense comparison report for previous years and year to date as well as a cash report showing cash on hand as of July 31, 2011.

#### **HOME Grant**

Susan Galemore, Southeast Kansas Regional Planning Commission, received a call from the Kansas Housing Resource Corporation. They plan on doing a site visit here soon.

#### **City Hall, Police and Fire Renovations**

Rural Development has sent a letter saying they have reserved funds for the project. The Mayor and staff have discussed alternatives to the work that had been proposed. Chief Elliott will be trying to get some estimates on the work that needs to be done for the police and fire barns. Clerk Peine has checked with Rural Development about changing the scope of the project and the Topeka office said they would work with the city.

#### **NEW BUSINESS**

##### **Council Retreat**

Mayor Fischer said he would like to schedule a retreat for some time in the fall, however, no date or location has been set as of yet.

##### **Policy on Filling Swimming Pools**

Staff recommends the Council eliminate the current policy that allows for the Fire Department personnel to fill swimming pools. The Fire Dept. would be available to fill the pools on their meeting night, however, that is not when individuals want their pools filled. Most pools can be filled in 12-14 hours with a garden hose. Owens made a motion and Tynan seconded to eliminate the city's policy for filling swimming pools. Motion carried.

### **Proposal from Bill Trotnic for Purchase of Lot**

Bill Trotnic has submitted a proposal to purchase the lot at 618 Merchant for \$1,000. The lot size is 125' x 140' and the County has it appraised at \$2,430. After some discussion, Tynan made a motion and Edwards seconded to sell the property to Bill Trotnic for \$1,000 with a reversionary clause that states that if he does not build a house on the lot within a year, the city has the authority to purchase the lot back from him at the amount he paid for it. Motion carried.

### **2011 Audit Proposal – Jarred, Gilmore & Phillips**

Jarred, Gilmore & Phillips sent a proposal to the city for conducting the city's 2011 audit. Their proposal is to do the audit for a fee of \$4,800, which is the same price as their fee for the 2010 audit. Rea made a motion and Tynan seconded to approve the proposal. Motion carried.

### **Boot Block Request**

Project Prom has filled out an application to hold a boot block on Saturday, September 3<sup>rd</sup>, between 9:00 a.m. and 2:00 p.m. Lewis made a motion and Tynan seconded to approve the boot block request. Motion carried.

### **2012 Budget Hearing**

The budget hearing was set for Tuesday, August 23, 2011, at 6:30 p.m.

### **Illegal Dump Program**

There are two houses in this program. Supt. Allison is working up the costs for the city's part of the clean up now. The State will reimburse the city 75% of our documented costs which can in turn be used to pay for demolition of the houses.

### **Executive Session**

Rea made a motion and Brown seconded to go into executive session to discuss non-elected personnel for five minutes with the Mayor, Council, City Attorney and City Clerk in attendance. Motion carried. Executive session began at 8:35 p.m. and ended at 8:40 p.m.

### **INDIVIDUAL REPORTS**

**Owens** – stated he spoke to one of the attorney's at the League about city personnel going onto private property for the purposes of code enforcement. They said that definitely not behind someone's fence and if the property owner asks the city employee to leave, they have to leave. The city would then obtain a search warrant to go onto the property. Attorney Tucker said that the law has always been that the city has police power within the city limits to go onto individuals property with or without their knowledge, however, if asked to leave, they have to leave until they obtain a search warrant.

- asked about trash service outside city limits.

- asked to set up a time to discuss multi-user sewer charges with the Utility Billing Clerk.

**Mayor Fischer** – thanked Supt. Allison for putting up the ceiling fans in the Council room so quickly.

- reported that Supt. Allison will begin taking care of the all of the code enforcement duties and that Bill Cunningham will be a back up.

**ADJOURNMENT**

Brown made a motion and Rea seconded to adjourn the meeting at 8:45 p.m. Motion carried.

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Mayor Glenn Fischer

Attest:

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Carol Eddington, Deputy City Clerk