

Regular Council Meeting  
February 8, 2016 6:30 p.m.  
City of Oswego, KS 67356

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

Absent: Kelly Vance

Also present: City Clerk Carol Eddington, City Supt. Calvin Jurgensen, City Attorney Rick Tucker, Deputy Clerk Renee Cochran, Officer Joe Royer, Fire Chief John Strickland, Tyler Dreiling, Kevin, Rochelle, Ryann & Madison Sheddric, Nicole McClure, Payton Goebel, Nick Nicholson, Beverly Virtue, Elizabeth Rucker, Rena Russell, Larry Richardson and Paula Kern.

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

Mayor Bill Cunningham led the Pledge of Allegiance.

### **SERVICE AWARD**

#### **Kevin Sheddric**

Kevin Sheddric was recognized for his 20 years of service on the Oswego Volunteer Fire Dept. He retired as of January 31<sup>st</sup>. He has been a Captain with the department since April, 2014 and served as the Secretary/Treasurer of the Firemen's Relief Association since November 2008. Mayor Cunningham presented him with a plaque commemorating his service. Sheddric recognized and thanked those that served with him and stated that he felt God had a hand in keeping him and his colleagues safe throughout the years.

Mayor Cunningham called for a 5 minute break for Council and the audience to congratulate Sheddric. Refreshments were served. The meeting resumed at 6:40 p.m.

### **PETITIONS AND DELEGATIONS**

#### **Public Hearing – CDBG Housing Grant Close-out – Susan Galemore**

Mayor Cunningham opened the public hearing and asked Grant Administrator Galemore, SEKRPC, to present any information pertinent to the close-out process of the CDBG Housing Grant. Galemore said that this was an opportunity for the public to comment on the project. She said that she felt the program had been very successful. Thirteen (13) homes were rehabilitated which included one flip home. Council discussed that the flip home had been a challenge because of the income restrictions. Galemore agreed. Council asked if there are any plans or available money in the near future to do another project. Galemore said that the pot of money has shrunk and therefore grant funds have become very competitive. She stated that one of the things they are looking at now is whether a city has a good code enforcement program. The state doesn't want to put money in to houses that are going to deteriorate because they aren't kept up. They will drive through towns that have applied for grant funding to see if there are high weeds, debri, junky yards, dilapidated houses or other nuisances. If they see the nuisance codes are not being enforced, they will knock down points on the city's grant application.

The Council agreed that the program was highly successful and would be interested in doing another project when funding becomes available. They also commended Galemore for her hard work. Clerk Eddington pointed out that the original plan called for only doing eleven (11)

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homes but because of Galemore's efforts they were able to do two additional homes. Mayor Cunningham asked if there were any additional comments from the public. The public agreed with Council that the program had been very successful. As there were no more comments Owens made a motion and Newby seconded to close the hearing at 6:52 p.m. Motion carried.

#### **CITY ATTORNEY**

##### **Ordinance – Mowing Assessment**

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 NOVEMBER 6, 2015 was presented for approval. The ordinance covers unpaid mowing charges through November 6th. Newby made a motion and Grassl seconded to approve the ordinance. Motion carried. Clerk assigned the Ordinance #1358.

#### **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**

*Labette County Solid Waste Management Committee* – Mayor Cunningham submitted for appointment Calvin Jurgensen and Danny Turner to serve on the Labette County Solid Waste Management Committee. There is no expiration on the appointments. They will replace the positions held by Calvin Strickland and Glenn Fischer.

Mayor Cunningham asked if there was any discussion or corrections to the Consent Agenda. Strickland said that the January 11, 2016 minutes records Councilmember Tynan voted to oppose approval of the final payment for the Airport Apron Project. Strickland said he also voted in opposition and asked that to be recorded.

Owens made a motion and Strickland seconded to remove the accounts payables from the Consent Agenda so that they could be discussed separately. Motion carried. Owens made a motion and Tynan seconded to approve the Consent Agenda with the accounts payables removed and the requested change to the minutes. Motion carried.

Council discussed several expenditures and expressed a desire to get rid of the items in the storage unit as soon as the weather is warmer. Council also felt that the expenses for the annual Martin Luther King event should be considered a donation and listed on the donations spreadsheet. Tynan made a motion and Owens seconded to approve the expenditures as presented. Motion carried.

## **OLD BUSINESS**

### **Condemnations – 638 Merchant, 710 Illinois, 1206 1<sup>st</sup> St and 710 Michigan**

The deadline to have the buildings torn down for 638 Merchant, 710 Illinois and 1206 1<sup>st</sup> was January 20<sup>th</sup> and the deadline for 710 Michigan is February 19<sup>th</sup>. Clerk Eddington reported that she had been in contact with the owner of 710 Michigan. The property owner has paid to get a dumpster set and has contacted B-3 about getting the work done. However, Clerk Eddington stated that it doesn't appear that she is going to be able to do the work herself.

Staff recommended Council approve going out for bids as soon as the February 19<sup>th</sup> deadline has passed, as long as none of them have already been torn down. Clerk Eddington proposed getting notices out in the mail and to the newspaper on the 22<sup>nd</sup> and having the bid opening on March 10<sup>th</sup> so that Council can award the bid at the March 14<sup>th</sup> Council meeting. Councilmember Strickland said that he wanted to disclose the fact that he and his brother planned to bid on the project so he would not be voting on the issue. Attorney Tucker also advised he not take part in any of the discussions on the issue as well. Strickland agreed that was his intent. Owens made a motion and Tynan seconded to go out for bids on all of the properties as soon as the deadline has passed. Motion carried with Strickland abstaining.

### **Alternate Water Source**

At last month's meeting, it was determined to have the Mayor and Supt. Jurgensen meet with the rural water district to find out if it would even be feasible for the city to hook onto the rural water district before making any determinations on whether to sell the water pit. Mayor Cunningham said that he had talked to John Epler and the rural water district would be willing to sell the city water at \$6 per gallon and had a 12" supply line. Eddington said that Ron Westervelt came in to her office to discuss possibly supplying the city with water as an alternate water source, however, he said that the agreement to sell the city water at \$6 per gallon would also include a minimum purchase required of the city. The monthly minimum would have to be negotiated. He thought that the line coming out of Columbus was a 6" line. Supt. Jurgensen said that at least an 8" line would be needed and it would be very expensive to maintain the chlorine level in the five miles of water contained in the pipes. Council said it would be important to know whether the line was 6" or 12".

Jurgensen said that another option would be to use flex tubing to pipe the water from the pit. In an emergency situation the pipe could be set up in 12-18 hours and remain above ground as a temporary fix. He calculated that the pit had enough water to supply the city for at least 6-9 months. Recently 2.2 million gallons was pumped out of the pit and it only lost 4 inches so it is possible the pit may be spring fed. Jurgensen offered to check into the price of the flex pipe. The consensus was to put the sale of the pit on hold.

### **Downtown Demolition Grant**

#### *Bond Ordinance*

An ordinance authorizing the issuance of general obligation bonds to pay for the city's match of the grant was presented. Bond Counsel, Kevin Cowan, prepared the bond authorization ordinance in the amount of \$150,000. Clerk Eddington stated that this is a required ordinance to

satisfy the State Law that authorizes bonds in accordance with the Kansas Cash Basis Law. Council questioned why the amount was more than the expected cost for the project. Clerk Eddington said the engineer/architect recommended council prepare for the fact that there may be a change order needed during the skinning process. Therefore, there is no way to know at this time what the amount of the bond issue will be. This is just an authorizing ordinance, the ordinance that the council does that actually issues the bond will be for the amount that the city has spent on the project. The issuing ordinance can be for less than the authorizing ordinance but not for more. The \$150,000 is the “up to” amount that Council approved before this project began. Owens made a motion and Tynan seconded to approve the ordinance authorizing a bond issuance of no more than \$150,000. Motion carried. Clerk assigned it Ordinance #1359.

### *Bids*

PLJBD, Inc. generated the project specs for the skinning according to the State Historical Society requirements. The public notice was direct mailed out to several contractors and bids were due February 8<sup>th</sup> at 1:00 p.m. Administrator Galemore reported that only one bid was received on time. Dalton-Killinger Construction Co. bid \$45,208 base bid and \$8,800 as the alternate bid for extra work to rebuild the corner of the building. There was another bidder but he did not beat the 1:00 deadline.

Council questioned Galemore about the alternate bid. Galemore said one of the corners is missing a lot of bricks. The alternate bid is additional work to that corner before attaching the metal to it from the side to be skinned. Council asked if it was going to be required or just a recommendation. Galemore said she hadn't had a chance to talk to the engineer about it yet. She said she believes more bricks have fallen and the corner has become more unstable but she didn't know if it was structurally necessary. Council asked about the city's liability if they don't opt to do the corner. Administrator Galemore said stabilizing and covering the exterior is the only requirement the city has. This is a stop gap measure and we are not guaranteeing it will save the building. Galemore added that the state will not let us close out the project until the wall is skinned. As far as the State is concerned, the city has no choice but to complete the project as set out in the initial grant applications. Owens made a motion and Tynan seconded to award the bid to Dalton-Killinger Const. Co for the base bid of \$45,208. Motion carried.

Galemore added that so far, the city has paid \$48,262 and with their half of the additional \$45,208 the total expenses for the project - \$70,866, will still be much less than the \$122,934 that was anticipated.

### **Water Tower Lights Replacement - CDL Electric**

Council asked Supt. Jurgensen about a bill from CDL Electric that was included in the January Consent Agenda to replace water tower lights. Supt. Jurgensen was not able to answer their question last month since he was unable to attend the meeting. Jurgensen said they couldn't get some of the lights changed out when the water tower maintenance was done because five of the fixtures were corroded. Neither the city nor Utility Maintenance has a bucket truck tall enough to reach the fixtures. Utility Maintenance suggested contacting CDL since they were the only ones in the area that did have. The \$5,046.05 included use of a 120' bucket truck and labor and

materials to change out 36 bulbs and five fixtures. Strickland asked why the project wasn't bid out. Jurgensen said that he viewed the project as a maintenance issue. Council asked whether this should have been covered under the water tower maintenance agreement. Clerk Eddington said that agreement is only for the integrity of the tower, not the Christmas lights.

## **NEW BUSINESS**

### **Individual C&D Dumpster Policy**

Clerk Eddington said her office has run into a need in town that was not being met. Property owners are doing small remodeling jobs themselves but have no way of disposing of old demolition materials when they have no truck or trailer. The city does not pick up this type of materials. Staff has discussed the issue and drafted a policy that would allow residential customers use of a 3 cu yard dumpster for their project. It was proposed that there would be no fee to set the dumpster, but a fee of \$45 would be charged per dump. After reviewing the policy Supt. Jurgensen said that shingles needed to be added to the list of items that would not be allowed. Strickland said he did not think this was a good idea and the \$45 fee was not enough. Supt. Jurgensen said the city would use the old refuse truck to pick up the dumpsters. Council felt that the refuse truck could sustain damage from compacting the materials and it would be difficult to monitor whether any prohibited items were enclosed.

Clerk Eddington said another refuse problem is with bulk trash pick-ups. The city used to pick up all items people put out by the street. People were supposed to call it in but if the guys saw it sitting out by the street, they would go ahead and pick it up. Due to one household utilizing the free bulk pick-up just about every week, Council limited them to three – after that, there would be a \$15 fee each time. The problem now is that some individuals either don't want to pay the fee or neglect to contact the city office about a pickup. The city has received complaints about a couple of places where the junk has been sitting out by the street for weeks. The city does have a nuisance ordinance against junk in the yard. Does Council wish to reconsider charging for the pick-ups, issue nuisances, develop a new policy? After some discussion, Council asked the Department Heads to work on it and tabled the issue until next month.

### **2015 Year End Transfers to Municipal Equipment**

Council reviewed the list of year end transfers to Municipal Equipment. Clerk Eddington reported that these are unused budget balances and by transferring the amounts it will allow the funds to be set aside for a specific purpose. This way the city won't have to borrow so much when they need to purchase equipment. Eddington stated that the city has always done similar transfers at the end of the year but now the auditors advised that the Council needs to officially approve the transfers. Newby made a motion and Owens seconded to approve the transfers into Municipal Equipment. Motion carried.

### **Fire Barn/Garage Repairs**

Council discussed that the fire barn and storage garage next to it are in need of some repairs. The framing around the garage doors, trim over the garage door, the garage doors need to be replaced, the cement overhang at the fire barn needs to be repaired and there is a roof leak between the storage building and the fire barn walls. Supt. Jurgensen prepared a write up of

what needed to be done, except for the roof. Clerk Eddington said that Chief Elliott has a couple of options for garage roof but he was unable to attend the meeting to provide details. Clerk Eddington said the expense could come out of the Capital Improvement Fund but there is no line item specifically for this with that much in it. The city could either use the atrazine settlement money or set up a repayment schedule. Staff has estimated the cost between \$20,000 to \$30,000 but there is no way of knowing for sure until the city receives bids.

The garage is used by the Fire Department to house the antique fire truck and the fireworks mortar shells. The Police Department also used it to impound a vehicle. Supt. Jurgensen said that both the Fire and Police Chief's need to give some additional guidance on what is needed for accessibility such as what size door is needed. Strickland made a motion and Owens seconded to have Staff get an estimate on the building repairs and roof after checking with the Police and Fire Chief's plans for use of the building.

### **Project Prom Boot Block Request**

A Book Block Request for Project Prom was presented. The fund raiser is to be held March 26, 2016 from 8:00 a.m. to noon. Clerk Eddington said that each individual participating in the event will have to provide the required proof of insurance information. They are working on obtaining those copies for us now. Owens made a motion and Tynan seconded to approve the Boot Block request. Motion carried.

### **Nuisance Violation – 403 Commercial**

Mr. Dan Eisenbrandt owns the building downtown that is attached to the Blair Insurance Agency building and the building owned by Jerry Wilson. When a strong wind blew the face off of the building early last year, Mr. Eisenbrandt was called by Clerk Eddington to let him know what had happened. He said he was aware and that he was going to get it fixed that weekend. That did not happen. He was sent a letter on February 26, 2015, by Supt. Jurgensen, asking him to take care of the issue of the loose flashing hanging from his building as soon as possible before any property damage or personal injury occurred. He pulled the rest of it down so there was nothing left hanging.

Last summer Mayor Cunningham contacted Mr. Eisenbrandt at the same time he contacted a couple of other downtown building owners about the condition of their buildings. Eisenbrandt told him that he intended to fix the building and paint the front. The city received calls from an adjoining business owner who was concerned that the elements getting into that building in the winter would damage his attached building. The business owner was told the Mayor had spoken to Eisenbrandt and he said he intended to fix and paint the building. The work hasn't been done yet, winter weather has arrived and the city has received another complaint.

Since Mr. Eisenbrandt had already been contacted several times, a violation letter was sent allowing 45 days to abate the condition or the owner can request a hearing with the Governing Body within 15 days. Mr. Eisenbrandt contacted the Mayor and asked him if he could have through the month of June to fix his building. Mayor Cunningham explained to council that he

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thought Mr. Eisenbrandt had received a courtesy letter rather than a violation notice and agreed to the time frame extension.

Clerk Eddington said that she noticed the code book states the Governing Body has to send out the Violation Notices. After checking in to the matter further she discovered this is a State Statute requirement. Previously, Council had asked the City Superintendent (also Code Enforcement Officer) to go ahead and send violations if necessary and not bring them to the Council unless there was an issue or an extension request, etc. According to the Statutes, Council cannot designate that.

After some discussion, Owens made a motion and Grassl seconded to send Mr. Eisenbrandt a congenial letter by regular mail saying that he has until the requested July 1<sup>st</sup> to get the work done on the building. Motion carried.

Attorney Tucker left the meeting at 9:14 p.m.

#### **Mower Purchase/Trade In**

A quote from O'Malley Implement Co for a John Deer Z950 (72" cut) mower- \$6,373.25 was presented. The quote includes the trade in of a John Deere Z930 (61"cut) mower. Supt. Jurgensen said he waited a year longer than he had in the past because he felt he could get another year out of the old mower. This was discussed with Council at budget time last year and Council agreed. Jurgensen also said the larger cut mower will be more efficient.

Council asked whether he could work out a deal with the Golf Course to have them use the city's old mowers. Supt. Jurgensen said he had talked to them and they weren't interested. Owens made a motion and Tynan seconded to approve the purchase of the new mower. Motion carried with Strickland opposing.

#### **Fire Insurance Proceeds - Clower Property**

Clerk Eddington reported that B-3 had contacted the Clower family and offered to tear down the house at cost. Clower's accepted this offer and the building has already been torn down. Brad Clower brought in the receipt showing that he has paid B-3 and Supt. Jurgensen has approved the finished work. The city issued a check to Clower for the amount of the insurance that was paid to the city, plus interest.

#### **Project Prom – Donation Request**

A request for a donation was received from Project Prom. The city has donated \$200 to Project Prom for the past several years. Tynan made a motion and Owens seconded to approve a \$200 donation to Project Prom. Motion carried.

#### **INDIVIDUAL REPORTS**

**Owens**– asked why the water loss was 7-8-9%. Supt. Jurgensen said he has been working on the issue. He said that he had been taking the back wash water and showing it as raw water loss. He believes he has that corrected now. Jurgensen said ideally the water loss should be plus or minus

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2-3% and a yearly average would be better. There will always be a loss as the water loss report shows the difference between what is pumped out of the river and then sold but in between the two is the amount of water used in water production (some metered and some cannot be metered). Owens said he would like to tour the plant.

-asked whether the city is charging enough for airport fuel. Supt. Jurgensen said he believed so, that we just got hit with big credit card fees. He is also working on getting the tank certified and doing an annual analysis.

**Eddington** – said the Annual Chamber of Commerce Dinner is Feb. 24<sup>th</sup>. Council members can let her know if they will be attending and she will RSVP for them. It is also time to pay membership dues. The city pays the dues for council members unless they are already members through their business or where they work. Newby said he was already a member through his business.

- said the League of Kansas Municipalities (LKM) is having a Leadership Summit and Mayor's Conference on April 22 & 23 in Junction City. The League should put out more details later but to get in touch with her if they are interested in attending.

- said LKM is also having a photo contest. The winning city will have their photo on the cover of the KS Government Journal. Council selected a photo out of several that were viewed to submit. The deadline for submission is Feb. 17<sup>th</sup> with voting to begin the week of Feb. 23<sup>rd</sup>.

- said she had done some research on Tynan's suggestion to offer utility discounts to Council members in appreciation for their service. She said it was legal but it would be considered a taxable benefit. The city would have to figure out a way to collect taxes from the council members and submit the tax to the IRS. Another problem with doing a percentage off the water bills is that it would not be an equal compensation as not everyone uses the same amount of water. Council consensus was to table the issue.

- said the Planning & Zoning Committee is going to consider making exceptions for people with 4-H or FFA Projects to have farm animals within town. She said there is an Administrative Exception in the code that allows for this. If it is successful a text amendment could be done at a later date. Individuals would have to submit an application to the Planning and Zoning Commission and certain criteria would be considered on a case-by-case basis such as number of animals, kind of animals, how close their neighbors are, etc. to determine whether the application would be approved. The application will also have to have the signature from the County Extension Agent verifying the fact that the animals are indeed for a Fair Project. Clerk Eddington said the applications would not come before the Council. Owens asked her to send the information to the Council. Eddington asked the Council to send her questions or comments for the P&Z or they were welcome to attend the meeting on the 22<sup>nd</sup> of this month.

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- said there has been legislation introduced that would move up the time frame on the new tax lid laws. Cities and citizens have been encouraged to write their legislators in protest. Council approved the Mayor to send a letter on behalf of the city.

**PUBLIC DISCUSSION**

Mayor Cunningham asked if there were any comments from the public. Paula Kern asked for a copy of the citizen's tax lid letter. Tynan also asked for a copy. Larry Richardson suggested the city investigate the alternate water source issue thoroughly before making a decision.

**ADJOURNMENT**

There being no further business Newby made a motion and Strickland seconded to adjourn the meeting at 9:50 p.m. Motion carried.

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Mayor F. W. Cunningham, Jr.

Attest:

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Deputy City Clerk Renee Cochran