

Council Minutes – January 26, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 26, 2016. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember Harmon asked for a moment of silent meditation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 12, 2016, was presented.

Councilmember Jensen moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

ORDINANCE NO. 19984 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of November 28, 2015, through January 1, 2016, and enumerating said expenditures therein was presented.

Jim Colson, City Manager, reported approval would authorize City expenditures in the amount of \$23,095,479.67.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -10.

RESOLUTION NO. 8743 introduced by City Manager Jim Colson, expressing support for housing tax credits for the Topeka Housing Authority for the Johnston Village development project was presented.

Sasha Haehn, Department of Neighborhood Relations Director, reported approval would indicate support by the Governing Body of the Johnston Village development project, an affordable housing project developed by the Topeka Housing Authority (THA). She noted the resolution is a requirement of the Kansas Housing Resources Corporation to apply for tax credits.

Governing Body members questioned if the Topeka Housing Authority has contacted area residents to help them better understand the process.

Trey George, Topeka Housing Authority, Inc., Director, reported THA projects score well; however, the process was highly competitive and final decisions are made by the Kansas Housing Resource Corporation. He stated if THA is approved, construction would begin in the spring. He reported THA has reached out to area neighborhoods and is working with community police officers to better assist the community.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

RESOLUTION NO. 8744 introduced by City Manager Jim Colson, expressing support for housing tax credits for the Topeka Housing Authority for the Ybarra Place II development project was presented.

Sasha Haehn, Department of Neighborhood Relations Director, reported approval would indicate support by the Governing Body of the Ybarra II, an affordable housing project

developed by THA. She noted the resolution is a requirement of the Kansas Housing Resources Corporation to apply for tax credits.

Councilmember Ortiz commended THA for improving local neighborhoods.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

INTERLOCAL AGREEMENT between the Board of County Commissioners of Shawnee County, Kansas, and the City of Topeka, Kansas, relating to the financing countywide infrastructure development, quality of life projects and economic development to be funded by a one-half of one cent countywide retailers’ sales tax was presented. (*Deferred from the meeting of January 5, 2016.*)

Mayor Wolgast reported the agreement has been discussed at several Council meetings resulting in a number of amendments by the Governing Body, including the amendments presented by Councilmember Hiller at the January 5, 2016 Council Meeting. He stated a motion to reconsider the action taken at the January 5, 2016 Council meeting would be required if the language approved needs to be revised.

Councilmember Coen moved to approve the interlocal agreement. The motion was seconded by Councilmember Jensen.

Councilmember Hiller expressed her appreciation to City staff members for their work to incorporate her amendments in the interlocal agreement. She referenced the memo from the City Manager and stated she would support the agreement as proposed by staff; however, she believes the Governing Body has the final decision on how to prioritize the projects as they move forward. She spoke in support of the 54/46 percent proportional split proposed by the City Manager if it was the desire of the Governing Body.

Mayor Wolgast referenced pages 7 and 8 of the interlocal agreement, and requested staff members explain the original amendment as presented by the City Manager.

Jim Colson, City Manager, reported the agreement as amended at the January 5, 2016, Council meeting was sent to the Shawnee County Commissioners for review. He stated the agreement conveys lines 191-195 as the “City Manager’s original proposal” which included the 54/46 percent proportional split identifying the prorated share distributed between the City and County structured upon the total number of projects charged to each entity; and lines 195-203 represents the new motion (Hiller Amendment from January 5, 2016) to change the disbursement to more of a prioritization method.

The City Manager’s original proposal on lines 191-193 read as follows:

“Fifty-Four Percent (54%) shall be distributed to the County to complete the improvement and projects that are number 10, 11, 15 and 16 on Exhibit A; and Forty-Six Percent (46%) shall be distributed to the City to complete the improvements and projects that are number 2, 9, 12, 14 and 17, 18 on Exhibit A.”

Councilmember Jensen questioned how circumstances would change if another economic recession would occur.

Jim Colson stated the original proposal (54/46 split) would affect each party equally each year no matter the economic climate.

Councilmember Clear asked if the Shawnee County Commission had expressed their support of the amendments as presented.

Councilmember Schwartz asked if the 54/46 proportional split would reflect how the voters want tax dollars expended.

Jim Colson stated the County and City have generally agreed to what projects should be funded and the timelines for each. He noted he believes the amendments are very consistent

with the ballot question in terms of the expectations of the voters, what projects should be accomplished and how much funding would be allotted to each project.

Councilmember Jensen moved to reconsider Councilmember Hiller's amendment to lines 195-203 of the interlocal agreement as specified below. The motion seconded by Councilmember De La Isla carried. Mayor Wolgast voted "yes." Councilmember Schumm voted "no." (9-1-0)

Councilmember Hiller's Amendment on lines 195-203 reads as follows:

"Distributions shall be made to the County and the City (for purposes of completing the improvements and projects set out on Exhibit A) in the percentages, and during the time frames, specified below.

- *Year 1-10 – Thirty-six Percent (36%) shall be distributed to the County and Sixty-Four Percent (64%) shall be distributed to the City;*
- *Year 11 – Ninety Percent (90%) shall be distributed to the County and Ten Percent (10%) shall be distributed to the City; and*
- *Years 12-15 – Ninety-two Percent (92%) shall be distributed to the County and Eight Percent (8%) shall be distributed to the City."*

Councilmember Jensen moved to delete lines 195-203 (Hiller Amendments) and insert lines 191-195 (City Manager Amendments) to approve the 54/46 percent proportional split proposal. The motion seconded by Councilmember De La Isla carried. Mayor Wolgast voted "yes." Councilmember Schumm voted "no." (9-1-0)

Councilmember Schumm expressed concern with deleting lines 174-175 (Section 5(b)(i) regarding workforce development and 179-181 (Section 5(b)(iv) regarding job development programs as he believes his constituents have been underserved in these areas and would like the language to remain in the agreement.

Councilmember Schumm moved to reconsider the amendment to strike lines 174-175 (Section 5(b)(i) and lines 179-181 (Section 5(b)(iv) of the interlocal agreement. The motion was seconded by Councilmember Ortiz.

Jim Colson stated the language was deleted because workforce development and job training could be handled through performance matrixes of a contractor managed by JEDO, allowing the City to focus on the infrastructure portion of workforce development.

The motion to reconsider the amendment to strike lines 174-175 (Section 5(b)(i) and lines 179-181 (Section 5(b)(iv) of the interlocal agreement failed. Councilmembers Hiller, Clear, Ortiz, De La Isla, Jensen, Schwartz, Coen and Harmon voted “no.” Mayor Wolgast voted “yes.” (2-8-0)

Councilmember Schumm distributed a handout of suggested amendments to the interlocal agreement.

Councilmember Schumm moved to amend the interlocal agreement to delete lines 87-91 “(e) This agreement shall be operative upon final approval of this Interlocal Agreement by the County and the City; as well as the Attorney General’s Office, and shall be in existence for the duration of the January 1, 2017 countywide retailers’ sales tax plus one (1) year; or for so long as reasonably necessary to administer obligations relating to the economic development project; and” and move the language in its entirety to lines 241-245 under “9. Termination.” The motion was seconded by Councilmember Hiller.

Councilmember Hiller offered a friendly amendment to change Section 9 “Termination” to “Term of Agreement” and renumber “Termination” as Section 10.

Lisa Robertson, City Attorney, stated she would prefer the amendment be a separate section titled “Term of Agreement.”

Councilmember Schumm agreed to the friendly amendment. The second concurred.

The motion to amend the interlocal agreement to delete lines 87-91, “(e) This agreement shall be operative upon final approval of this Interlocal Agreement by the County and the City; as well

as the Attorney General's Office, and shall be in existence for the duration of the January 1, 2017 countywide retailers' sales tax plus one (1) year; or for so long as reasonably necessary to administer obligations relating to the economic development project; and" and move the language in its entirety to lines 241-245 under "9. Term of Agreement" carried. Mayor Wolgast voted "yes." Councilmembers Clear, Ortiz and Harmon voted "no." (7-3-0)

Councilmember Schumm moved to amend the interlocal agreement on lines 93-95 to include the statement, "Any property, including real property, held or titled in the name of a JEDO contractor shall revert to the JEDO upon termination." The motion was seconded by Councilmember Coen.

Councilmember Harmon questioned if JEDO has the legal authority to own property.

Mayor Wolgast stated according to the interlocal agreement JEDO owns property. He noted both the JEDO Board and GO Topeka Board have discussed conducting more research into the legal parameters of JEDO's authority to own property.

Councilmember Schumm commended Councilmember Harmon for his legal questions regarding property and believes the issue should be resolved and answered before the interlocal agreement was approved. He stated if the JEDO Board dissolved, legal protection should be in place for taxpayers.

Jim Colson stated the language would provide an additional level of protection to the City. He discouraged further delay of approving the agreement.

Councilmember Jensen called the question.

The motion to amend the interlocal agreement on lines 93-95 by inserting the statement, "Any property, including real property, held or titled in the name of a JEDO contractor shall

revert to the JEDO upon termination.” carried. Mayor Wolgast voted “yes.” Councilmember Ortiz voted “no.” (9-1-0)

Councilmember Jensen questioned if the interlocal agreement should be delayed until the February 16, 2016 Council meeting with the intent to allow time for the City Attorney’s office to research if the JEDO Board has the authority to own property.

Councilmember Hiller suggested moving forward with the remainder of Councilmember Schumm’s amendments before voting to defer action on the interlocal agreement because she believes the rest of the amendments have no bearing on the legalities of property ownership.

Councilmember Schumm moved to amend the interlocal agreement on lines 108-111 by inserting the statement, “The JEDO Board shall meet on the second Wednesday of February, May, September and December of each calendar year. The JEDO Board may also meet as needed at the discretion of the Chair.” The motion was seconded by Councilmember Coen.

Mayor Wolgast spoke in opposition of the amendment because the meeting parameters are outlined in the current JEDO Operational Rules.

Councilmember Ortiz stated she concurs with Mayor Wolgast and spoke in opposition of the amendment. She noted the JEDO Board has increased transparency efforts over the past two years.

Councilmember Hiller spoke in support of the amendment because she believes both the City and County have expressed the desire for increased transparency and the need to meet on a regular basis.

The motion to amend the interlocal agreement on lines 108-111 by inserting the statement, “The JEDO Board shall meet on the second Wednesday of February, May, September and

December of each calendar year. The JEDO Board may also meet as needed at the discretion of the Chair.” carried. Councilmembers Clear, Ortiz, Jensen and Mayor Wolgast voted “no.”

(6-4-0)

Councilmember Schumm moved to amend the interlocal agreement on line 112 by inserting the word “separately” after “meet.” The motion seconded by Councilmember Hiller carried. Mayor Wolgast voted “yes.” Councilmembers Clear, Ortiz and Harmon voted “no.” (7-3-0)

Councilmember Schumm moved to amend the interlocal agreement on line 161 by inserting the language, “Distribution shall be” after “(\$416,666.66)” and on line 172 insert the language “Distribution shall be” after “(\$47,222.22).” The motion was seconded by Councilmember Jensen.

Councilmember Harmon spoke in opposition of the amendment and stated in his legal opinion the words, “Distribution shall be” weakens the agreement and does not clarify who would distribute funding or how much funding would be distributed.

Councilmembers Schumm withdrew the motion. The second concurred.

Councilmember Jensen made a substitute motion to defer the interlocal agreement until the February 16, 2016 Council meeting with the intent to determine if the JEDO Board has the authority to legally own property or hold funds. The motion was seconded by Councilmember Schumm.

Jim Colson requested a ten minute recess to allow staff time to research the legality of the interlocal agreement in regards to the authority by JEDO to legally own property.

Following a ten minute recess, Mayor Wolgast announced the Council meeting would reconvene into open session.

Lisa Robertson, City Attorney, reported pursuant to K.S.A. 12-2904(a)(2) any interlocal agreement entered into under the provisions of K.S.A. 12-2901 *et seq.*, has the authority to take and hold any property, real or personal, in fee simple or otherwise.

Councilmember Jensen stated based on the statement made by the City Attorney he would withdraw the motion to defer. The second concurred.

Councilmember Harmon stated he was satisfied that K.S.A. 12-2904(a) gives legal standing to JEDO. He noted it would have been helpful for clarity purposes to include the statute in the initial contract drafted years ago.

Councilmember Schumm made a substitute motion to defer the interlocal agreement until the February 2, 2016 Council meeting to allow time to review the agreement with the amendments to date. The motion was seconded by Councilmember Harmon.

Councilmember Clear spoke in opposition of deferring the interlocal agreement. She stated the agreement needs to be approved to allow the process to move forward.

Councilmember Hiller stated she believes the County would prefer a solid document approved by unanimous consent of the Governing Body and encouraged Councilmembers to support the deferral.

Joseph Ledbetter expressed concern with removing set meeting dates of JEDO because he believes the interlocal agreement should be clear to help resolve issues the public perceives with the JEDO Board. He questioned why "Section 5i." of the interlocal agreement pertaining to workforce development for unemployed/underemployed residents including veterans have been removed as GO Topeka does not have programs that serve veterans.

The substitute motion to defer the interlocal agreement until the February 2, 2016 Council meeting to allow time to review the agreements with the amendment to date carried.

Councilmembers Clear, Ortiz, Jensen and Mayor Wolgast voted “no.” (6-4-0)

DISCUSSION for the purpose of providing an overview of the Economic and Community Development Committee’s Social Services 2017 funding priorities and initial 2017 budget recommendation process was presented.

Councilmember Hiller, Economic and Community Development Committee Chair, provided a background of the social services process and how funding recommendations are determined on an annual basis while holding social service agencies accountable. She reported the 2017 funding recommendations would be considered at the February 9, 2016 Council meeting with the committee recommending a funding increase of \$800,000.

Councilmember Jensen reported the committee has started the process of researching software programs to manage the process and streamline reports.

Councilmember Ortiz asked how the funding for the Marian Clinic would be handled.

Councilmember Hiller stated the recommendation of the committee would be to allocate the funds back to the original funding sources.

Sasha Haehn, Department of Neighborhood Relations Director stated the funding would revert back to the Community Development Block Grant (CDBG) fund and the General fund for utilization.

ANNOUNCEMENTS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Brenda Younger, City Clerk, gave a brief overview of the February 2, 2016 Council agenda.

Jim Colson, City Manager, reported the 2017 City of Topeka budget process has begun and staff will continue as in past years to make it an informative process that engages the public. He stated the City continues to remain focused on street repairs and improvements in 2016 and is actively seeking to fill the Public Works Director position. He announced many City employees will be participating in the State of Kansas Polar Plunge and Strut on February 6, 2016, in support of the Kansas Special Olympics. He welcomed Amy Huginun, Chief Executive Aide and Jason Geier, Municipal Court Administrative Judge to the City.

Councilmember Hiller announced “The Voice” an African American weekly newspaper would be debuting in Topeka soon; the Shawnee County Advisory/Advocate Board is scheduled to meet on January 27, 2016, at 5:30 p.m. at the Crestview Community Center located at 4801 SW Shunga Drive. She commended the City Planning Department for conducting informational and interactive public hearings regarding the City’s Pedestrian Master Plan.

Councilmember Clear announced a community workshop is scheduled for the planning of the NOTO Arts District on January 28, 2016, at 6:30 p.m. at the Garfield Community Center and stated business and property owners, artists, civic leaders, developers, builders and residents are invited to participate.

Councilmember Ortiz announced free dental services would be offered to the public at the Kansas Expocentre on January 29th and 30th starting at 4:30 p.m. She encouraged the Governing Body to participate in the Topeka Fire Department’s smoke detector program.

Councilmember Schumm encouraged citizens to contact the Governing Body and Shawnee County Commissioners to provide input on the interlocal agreement.

Councilmember Schwartz announced the 36th Annual Designer’s Showhouse Bare Bones Preview is scheduled for January 29-31, 2016, to support Childcare Aware of Eastern Kansas.

She also announced the “gem” of the week is the youth of Topeka, specifically the Shawnee Heights High School Dance Team and Topeka Zoo Youth Advisory Board.

Joseph Ledbetter appeared to speak under public comment.

Councilmember Jensen moved to recess into executive session for a time period not to exceed ten minutes for the purpose of discussing potential litigation and to include the Governing Body, City Manager, Deputy City Manager, City Attorney and Human Resources Director. The motion seconded by Councilmember Hiller carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

At 8:28 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:28 p.m.

Brenda Younger
City Clerk