

Council Minutes – February 17, 2015

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 17, 2015. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Brown, Ortiz, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Everhart -1.

AFTER THE MEETING was called to order, David Rudie, Student Pastor at the Topeka Baptist Church gave the invocation.

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

A PRESENTATION on the Alternative Sentencing Court (ASC) Program was presented by Victor Miller, City of Topeka Administrative Court Judge. He reported the development of Problem-Solving and Specialty Courts have increased over the past two years to include Criminal Mental Health, Domestic Violence, Drug, Driving Under the Influence (DUI), Veterans and Homeless Courts. He reported the program is funded through U.S. Department of Justice grants (with no requirement of matching funds from the City), community donations and transportation assistance from Topeka Metro. He stated the City of Topeka has worked in collaboration with the following agency representatives to establish policy, procedure, eligibility criteria and role development for the ASC program:

- Valeo Behavioral Healthcare - Lisa Hastings, Ginger Bradley, Jaylyn Beaty and Jordan Cardone
- Topeka Police Department Crime Intervention Team - Shawn Kimble
- Shawnee County Prevention and Recovery Services - Amy Arnett-German
- Shawnee County Adult Detention Center - Brian Cole and Jeff Brewer
- Topeka Municipal Court Probation - Cathy Walker
- Court Appointed Defense Attorneys - Jonathan Snyder and Kevin Cook

Judge Miller reported the purpose of the program is to improve access to services, promote participation in treatment, improve the quality of life of the defendant, promote community awareness, as well as, reduce the number of repeat offenders and the days mentally ill defendants spend incarcerated. He highlighted the following program information:

- All individuals are screened for program eligibility and criteria.
- Currently, there are eight individuals scheduled on the next ASC docket on February 8, 2015.
- ASC has a program participation cap of 20 individuals due to the intense process.
- They are in need of people to help solicit donations for the program to gather small incentives such as gift cards. He asked those interested in helping can email him at vmiller@topeka.org.

Mayor Wolgast asked what the process would be to enter the program.

Councilmember Ortiz asked what would happen to an individual if they fail the program.

Councilmember Schwartz asked if satellite adjudication is anticipated as an opportunity in the program.

Judge Miller responded as follows:

- Program eligibility and criteria includes anyone who has a diagnosed, severe mental illness and has been charged with a misdemeanor offense. An assessment by Valeo Behavioral Healthcare determines mental illness requirement eligibility and is conducted on all potential participants. If the defendant wants to complete the program their file is staffed with team members who determine their acceptance, with the final decision made by the judge.
- ASC is a one-year program, consisting of four phases, requiring involvement with mental health treatment to include attending all groups, medication therapy and payment of services, court review hearings and phase advancement (determined by completing treatment requirements).
- ASC is an incentive based program where defendants are rewarded for positive behavior and phase completion. Incentives vary from judicial praise to bus tickets and gift cards.
- Program violations are addressed by the core team with appropriate sanctions that vary from verbal judicial concern, increased substance abuse testing to short-term periods of incarceration. Repeat or major violations may result in dismissal or revocation of the program.

Mayor Wolgast stated he has been amazed at the collaboration of services by community organizations and commended Judge Miller for his efforts in implementing the program.

Councilmember Brown commended those involved in making the program work in the community. He stated he looks forward to the positive outcomes the program will have on the community.

A PRESENTATION on the 4th Quarter Financial Report was presented. Jim Colson, City Manager, reported the City's finances are looking good, allowing them to take a closer look at better projecting revenue streams and expenditures. He stated although the City is in a more solid position, there are still challenges they will face including increases in personnel and budget expenditures. He commended Governing Body members and the City Finance Team for remaining committed and disciplined over the past several budget cycles to do what is in the best interest in the long term for the City.

Brandon Kauffman, Chief Fiscal Officer, stated the report was preliminary because they have not yet received final sales tax numbers and the annual audit has not been finalized. He discussed total revenues and expenditures, growth decisions including expenditure reductions, financial recovery, increase in the mill levy and franchise fees. He reported comparisons of year-end financial results of the general fund, water, wastewater and storm water funds which have begun to stabilize since 2013. He noted there are some negatives in the utility funds; however, actions taken by the Governing Body should correct those moving forward.

Mayor Wolgast acknowledged the City's financial trend as improving in part from the increases in revenue from the sales tax, transient guest tax funds and franchise fees.

Councilmember Hiller commented on the 14% increase in property taxes in 2014. She asked if any property taxes that were subject to abatement would be returning to the tax rolls or if property tax values have improved.

Brandon Kauffman stated he does not have the specific details at this time and would report back in April when all property tax information has been updated. He reported he was not aware of any properties that have specifically returned to the tax rolls this year; however, in the near future, some of the economic development successes in the community may generate additional property taxes.

Mayor Wolgast noted there were significant increases in the sale of properties in bankruptcy which would benefit the City and Shawnee County.

Councilmember Hiller moved to add two resolutions to the Council agenda under Action Items, a resolution approving a special event known as St. Patrick's Day Street Party; and a resolution approving a special event known as Mater Dei's Irish Fest. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

Mayor Wolgast announced the resolutions would be placed on the Council agenda under Action Items as items 5D and 5E, respectively.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8667 introduced by Councilmember Denise Everhart, granting Diana Burns an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

BOARD APPOINTMENT recommending the appointment of Robert Fitzgerald to the Topeka Sustainability Advisory Board for a two-year term ending February 28, 2017, was presented.

BOARD APPOINTMENT recommending the reappointment of Derrick Carpenter to the Topeka Sustainability Advisory Board for a two-year term ending February 28, 2017, was presented.

BOARD APPOINTMENT recommending the reappointment of Shawn Geil to the Topeka Sustainability Advisory Board for a two-year term ending February 28, 2017, was presented.

BOARD APPOINTMENT recommending the reappointment of Olivia Marshall to the Topeka Sustainability Advisory Board for a two-year term ending February 28, 2017, was presented.

BOARD APPOINTMENT recommending the reappointment of Mary Powell to the Topeka Sustainability Advisory Board for a two-year term ending February 28, 2017, was presented.

MINUTES of the regular meeting of February 10, 2015, was presented.

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Schmidt carried unanimously. (8-0-0)

AN ORDINANCE introduced by City Manager Jim Colson, concerning fees and procedures for record requests, amending City of Topeka Code Sections 2.20.090, 2.20.110, 2.20.120 and 10.10.050 and specifically repealing said original sections was presented.

Chad Sublet, City Attorney, stated approval would allow fees pursuant to the Kansas Open Records Act (KORA) to be set administratively. He reported the following:

- The City of Topeka KORA Request Fee Schedule has not been considered in 15 years.
- The intent of the proposal is to allow the City to recoup actual costs to reproduce requested documents.
- An overview of the fees charged by other cities along with a draft of the proposed fee schedule for the City of Topeka.
- Not all public records are available online and some requests take more than five hours of staff time to research and correlate.
- Policereports.com the company that provides police accident reports have increased their processing fee from \$2.50 to \$5 per report.

In conclusion, City Attorney Sublet stated the proposed ordinance reflects the change in fee to recoup the costs of police accident reports; is transparent on the proposed costs by the City of Topeka; and staff recommends adoption of the ordinance.

Councilmember Schmidt asked if the fee schedule would be posted online.

Chad Sublet stated the fee schedule would be available in the City Clerk's office, as well as, posted online.

Councilmember Ortiz questioned when the Police Department started outsourcing police reporting services and if the Police Department recently increased the cost of accident reports.

Jim Brown, Topeka Police Chief, stated police accident reports have been outsourced for the past several years and are generated by policereports.com at a fee of \$5.00 per report, an increase from \$2.50. He reported the total cost of services for 2014 was \$4,700.

Councilmember Hiller expressed concern with the amounts listed in recouping administrative costs, as well as, the proposed increase in fees for police accident reports would have to be absorbed by the victims.

Jim Colson, City Manager, stated there is a specific cost to fulfill requests and there should be a cost recovery for these types of clerical activities or the cost will be passed to the taxpayers. He reported staff has presented a cost recovery model based on best practices around the state taking into consideration the many changes in the process over the past 15 years.

Councilmember Brown asked if there is an estimate of unrecovered costs for fulfilling KORA requests excluding the police reports; and how many requests fall within the extensive staff time requirement.

Chad Sublet stated he does not have the exact amount at this time; however, the current rate of \$13 an hour for staff time would not cover the cost of legal review, information technology research or engineering staff reviews.

Councilmember Brown spoke in support of the proposal; however, many of his constituents have expressed concern with the increases prohibiting them from getting public information.

Councilmember Ortiz moved to defer the ordinance until March 17, 2015 to gather more information on unrecovered costs and the amount the Topeka Police Department pays to outsource services. The motion was seconded by Councilmember Brown.

Councilmember Hiller asked staff to report on the total number of police accident reports and how much staff time was involved in fulfilling the requests.

Councilmember Brown asked if information could be provided on efficiencies or changes to the process of making documents available to the public, as well as, review different ways to handle police accident reports.

Councilmember Manspeaker stated compact discs (CD) and digital versatile discs (DVD) are available media types for requested documents; however, he asked if flash drives could also be utilized by the public.

Chad Sublet stated flash drives could be used by requestors to obtain public records.

The motion to defer the ordinance until March 17, 2015 to gather more information on unrecovered costs and the amount the Topeka Police Department pays to outsource services carried unanimously. (8-0-0)

ORDINANCE NO. 19940 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of November 29, 2014, through January 2, 2015, and enumerating said expenditures therein was presented.

Doug Gerber, Administrative and Financial Services Director reported approval would authorize City expenditures in the amount of \$21,449,855.42.

Councilmember De La Isla asked staff to provide details on the USA Kilts, Inc., expenditure in the amount of \$4,999.88.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -8. Absent: Everhart -1.

No Cereal Malt Beverage or Scrap Metal Dealers License applications were presented.

RESOLUTION NO. 8668 introduced by Councilmember Karen Hiller, approving a special event known as the 2015 St. Patrick's Day Street Party was presented.

Councilmember Hiller reported approval would allow the sale, consumption and possession of alcoholic beverages at the St. Patrick's Day Street Party event on March 14, 2015, in designated barricaded portions of SW 8th Street between S. Kansas Avenue and SW Jackson Street.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Brown carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

RESOLUTION NO. 8669 introduced by Councilmember Karen Hiller, approving a special event known as the 2015 Mater Dei Irish Fest was presented.

Councilmember Hiller reported approval would allow the sale, consumption and possession of alcoholic beverages at the Mater Dei Irish Fest event on March 14, 2015, in designated barricaded portions of SW 8th Street between SW Jackson and SW Van Buren Streets.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

DISCUSSION of the Land Use and Growth Management Plan (LUGMP) 2040 an element of the City’s Comprehensive Plan was presented. Jim Colson, City Manager, gave a brief overview of the process to date and stated the Plan would be presented to the Governing Body for consideration at the March 10, 2015, Council meeting.

Bill Fiander, Planning Department Director, summarized the next steps of the process which would be to present the 2040 LUGMP to the Governing Body for consideration on March 10, 2015, and include two companion ordinances implementing both subdivision and utility regulations for properties outside the city. He reported the objectives of the LUGMP are to plan for and promote fiscally responsible growth, sustainable and compact development, and add value to the existing city (Tier 1). He noted staff has contacted parties outside the city to help dispel misinformation and educate stakeholders, along with conducting many public meetings. He reported the following public meeting outcomes:

- The City’s first priority for growth is within city limits (Tier 1) and the City’s Urban Growth Area (UGA) is only 5% (Tier 2).
- Increased flexibility of annexation requirements for 20-acre standards.
- The City would not extend building permits outside city limits.
- Existing lots would be grandfathered in for subdivisions standards.
- The need to reserve 20-acre standard areas for future urbanization so that the city does not get “boxed in” and taxpayers are not overly burdened by the cost of growth.
- The plan provides annexation exceptions for less than 20 acres provided new lot designs allow for future city growth and urban-type developments are not encouraged ahead of having all city services in place.

In conclusion, Bill Fiander provided a visual of how the new rules would effect a 20-acre development by reserving a majority of the land for urbanization to set up a standard for a future

city block. He stated the Planning Commission and Topeka Planning Department recommend approval.

Councilmember Brown asked if any of the information gained at the public meetings was incorporated into the plan; if the plan sufficiently addressed Tier 1; and how would the plan assist with half-cent sales tax and capital improvement projects.

Councilmember Schmidt commended staff for creating a plan that focuses resources within city limits instead of outside expansion efforts. He asked for an outline of why compact and affordable is good; and the implications regarding the five public services (water, wastewater, storm water, police and fire services).

Councilmember Hiller referenced the Urban Growth Area (UGA) map and asked if development outside the city would be considered in the future and are they realistically expecting the City to annex beyond the green areas (Tier 3) in the next 50 years.

Bill Fiander reported the following:

- Public input resulted in the changes made to subdivision regulations including the grandfather clause for existing subdivision lots, and made staff sensitive to the issues of neighborhood health to help prioritize and promote Tier 1 while considering the core neighborhoods.
- The plan would be used as an integral part in decisions made for half-cent sales tax and capital improvement projects.
- The term “Return On Investment” was included in the plan because as a community we have made a investment on services and infrastructure in current city limits; therefore, when we are not at full return that area becomes an area of need or priority to undertake.
- It is a fiscal and cost effective plan that takes a look at the compact pattern where all public services are available.
- The subdivision standard for new lots is being applied to the UGA (Tier 2) and anywhere utilities are located as it is a good chance in the future that those areas will be urbanized; however, beyond that the standards remained the same keeping the three acre standard and added enough frontage requirements for city blocks in future growth.
- Tier 3 was planned as the potential area for city limits in the future; however, there would be no way of knowing at this time.

DISCUSSION regarding the proposed Johnston Village Development Project located at SE 21st Street and Golden Avenue was presented. Jim Colson, City Manager reported the Topeka Housing Authority is seeking to development Johnston Village as a new affordable housing development in the community and in order to apply for tax credits the Kansas Housing Resource Corporation requires developers to obtain a resolution of support from the local governing unit. He stated approval of this project does not impact other LIHTC projects approved in 2014 because they have a two year life cycle of support and will be resubmitted for consideration in 2015.

Bill Fiander, Planning Department Director, stated the area will need to be rezoned for duplex housing which will comply with the neighborhood plan. He reported a neighborhood informational meeting was held on January 22, 2015, to discuss the proposed development and a number of issues were raised by those in attendance.

Trey George, Topeka Housing Authority (THA) Executive Director, reported the proposed project is a 9.63 acre tract which would allow for the development of 38 affordable units (19 duplexes) located on the northwest corner of SE 21st Street and SE Golden Avenue. He stated the project would require rezoning from “R-1” to a Planned Unit Development District (“M-1” use group) with a proposed density of five units per acre which is consistent with the Topeka Zoning Code and Subdivision Regulations, as well as, the Land Use and Growth Management Plan 2040 element of the City’s comprehensive plan as the proposal is located in the designated Tier 1 of the City’s Urban Growth Area.

Councilmember Ortiz stated a constituent expressed concern with the lack of affordable housing opportunities in other areas of the city. She asked if the project would be similar to

Echo Ridge; if there would be access between the properties; when demolition would be scheduled for Pine Ridge; and what is the status of the Ybarra Place II Development.

Councilmember Hiller commented on the success of other low-income housing complexes throughout the city and how the developments have assisted with stabilizing neighborhoods. She asked what the projected rent range would be for the development and for further clarification of affordable housing tax credits.

Trey George reported the following:

- The project would be a scaled down version of Echo Ridge. He noted Johnston Village would not receive the \$10 million “ultra-green community” grant like Echo Ridge.
- The sidewalks would be constructed along SE 21st Street and SE Golden Avenue, as well as, a sidewalk located west of Echo Ridge to a parking lot that would connect residents to the nearest bus stop.
- A definitive demolition date has not been determined for Pine Ridge because THA is required to have sufficient affordable housing in place before displacing residents.
- The same applications have been resubmitted for tax credits this year and Ybarra Place II is still a feasible plan if accepted.
- Other locations include Marshall Square, located in southwest Topeka one block east of SW 7th Street and SW Gage Boulevard, offering 26 apartments. Public housing requirements stipulate that a development cannot be within 1,000 feet of railway, waterway or highway, as well as, they must consider environmental reviews.
- Rent is configured through HUD’s Fair Market Rates which are set by county; therefore, rent plus utilities would be \$540 per month for the one bedroom units and \$601 per month for the two bedroom units.
- Affordable housing tax credits help those individuals that have a maximum income of \$28,800.

Gary Kenney, Beverlee Schneider, Daniel Hiles, Linda Orton, Dennis Orton and Rosetta

Prall expressed opposition to the Johnston Village Development Project and expressed the following concerns:

- Expressed opposition to rental properties because private ownership promotes personal pride
- The project is being built directly across the street from a residential neighborhood which may increase traffic issues that already exist
- There is already an over-concentration of Section 8 Low Income Housing located in the area
- Property management problems include trash and overgrown grass and weeds

- The development will invite more crime and transient population to the area
- The project is too concentrated for the area and will have a negative impact on area kids

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

Councilmember Schwartz thanked the City Manager for the Department of Neighborhood Relations organizational chart distributed last week and suggested posting other City department organizational charts on the City's website. She referenced an email from a constituent expressing thanks to City employees for their actions in cleaning up a property. She reported she toured the Reser's Fine Foods plant and noted it was an awesome experience. She encouraged Governing Body members to tour local facilities and suggested the Greater Topeka Chamber of Commerce offer tours of other large companies in Topeka.

Councilmember Hiller reported HHB BBQ would relocate to 906 S. Kansas Avenue and Top City Soda Pop has relocated to Forbes Field. She announced a collective of downtown businesses will be sponsoring a fundraiser on February 28, 2015, at the Topeka Performing Arts Center to raise needed funds to help HHB and Top City Soda Pop rebuild. She noted people could contact Downtown Topeka Inc., for more information.

Councilmember Brown announced a Neighborhood Task Force Meeting would be held on February 18, 2015, at the Holliday Building, Holliday Conference Room located at 620 SE Madison from 6:00 p.m. to 7:00 p.m. He reported Jim Brown, Topeka Police Chief, and Sasha Stiles, Department of Neighborhood Relations Director, would be presenting information on Code Compliance. He stated people should contact Roseanna Haugen at 785-368-3663 for more information.

Councilmember De La Isla referenced public comments made in regards to the Johnston Village Development Project proposed by the Topeka Housing Authority and stated more

concern should be given to the lack of property management than to the individuals who live in poverty. She stated she hopes that local organizations are listening and addressing the concerns expressed by the community.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:29 p.m.

Brenda Younger
City Clerk