

Council Minutes – March 4, 2014

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 4, 2014. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember De La Isla gave the invocation.

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

A PRESENTATION on the Nextdoor.com website was provided by Suzie Gilbert, City of Topeka Communications and Marketing Director. She stated Nextdoor.com is a private social network for neighborhoods to connect and discuss community issues, send urgent alerts, share crime and safety tips, post classifieds and announce local events.

Councilmember Schwartz asked how residents would know where the neighborhood boundaries are set.

Suzie Gilbert stated neighborhood boundaries are outlined on the website and noted many local residents are currently active on the social network.

Councilmember Campos II stated there are several social networks geared towards neighborhood communication and believes Nextdoor.com is a good idea; however, he asked how others who are not computer savvy would receive the information posted on the social network.

Suzie Gilbert stated the City broadcasts listings of community events and important information on City4. She reported she has seen a large community involvement in technology and is hopeful this forward thinking option would include more residents.

Councilmember Ortiz asked how registered sex offenders are kept from registering on the website.

Suzie Gilbert reported the social network is based off of the State of Kansas database for sexual offenders which are automatically blocked from the website. She explained how people could personally identify a person who they believe should not be allowed on the website and block them from accessing the website.

Councilmember Hiller stated she believes the social network would help build communication between neighborhoods.

Councilmember Everhart stated she believes there is good information that could be shared on the website; however, she emphasized the social network is not a City program and it is voluntary.

Councilmember Manspeaker stated he believes the website is an excellent tool for neighborhoods to communicate; however, the reality is to figure out how to get neighborhoods to work together and build stronger bonds. He reported he is working in growing the communication between College Hill neighborhood residents and would inform them of the website and its features.

Mayor Wolgast stated he believes this is a great communication tool for neighborhoods and noted many in the community are already using the website and it is very effective.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of February 18, 2014, were presented.

Open After Midnight License applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
The Celtic Fox	118 SW 8 th Avenue
Kelly Express	1001 SW Wanamaker Road
Kwik Shop #705	1114 NW Topeka Boulevard

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Kwik Shop #713	5700 SW 21 st Street
Kwik Shop #720	102 SE 37 th Street
Kwik Shop #729	1700 SW Topeka Boulevard
Kwik Shop #740	2277 SW 10 th Street
Kwik Shop #757	2619 SW 21 st Street
Kwik Shop #780	2520 SW 6 th Avenue
Kwik Shop #781	4500 SW Topeka Boulevard
Kwik Shop #788	1414 SW 17 th Street
Kwik Shop #789	746 NE Wabash Avenue
Los Charros	4111 SW Gage Center Drive
McDonald's #317	3117 SW Topeka Boulevard
McDonald's #995	1100 S Kansas Avenue
McDonald's #5596	2001 NW Topeka Boulevard
McDonald's #7244	2880 SE California Avenue
Oscar's Inc.	1424 SW Lane Street
Panchos 2, L.L.C.	3506 SW Topeka Boulevard
Sk8away Inc.	815 SW Fairlawn Road
The Spot Tavern	2202 SW Buchanan Street
Stevie Rae's	555 SW 39 th Street
Terry's Bar & Grill	522 SW 6 th Avenue
Walgreens #02846	2915 SW Gage Boulevard
Walgreens #03069	1001 SW Topeka Boulevard

Councilmember Schwartz moved to approve the consent agenda. The motion seconded by Councilmember Schmidt carried unanimously. (9-0-0)

RESOLUTION NO. 8596 introduced by City Manager Jim Colson, relating to and authorizing Improvement Project No. 70198-03B which provides for the construction of SW 21st Street from SW Urish Road to SW Indian Hills Road as more specifically described herein was presented.

Doug Whitacre, Public Works Director, reported approval would authorize the final design and construction of improvements on SW 21st Street from SW Urish Road to SW Indian Hills Road with funding from the Countywide Half Cent Retailers' Sales Tax revenues.

Patty Shield spoke in opposition of the project and stated she believes funding would be better spent in neighborhoods that would benefit a larger group of residents. She asked the

Governing Body to consider spending more money on inner-city improvements instead of the outlying areas.

Councilmember Campos II moved to approve the resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Manspeaker expressed appreciation for the comments and background information; however, many people including him have expressed concern with repairing a roadway that is much newer than the streets in Council District No. 6. He spoke in opposition of the project and stated he would continue to vote against these types of projects because the inner-city roadways should be priority.

Councilmember Schmidt stated he understands Councilmember Manspeaker's comments and concurs that inner-city streets should be a priority; however, there are no parks, community centers, sidewalks, curbs or gutters in this area and encouraged the Council to support the project.

Councilmember Campos II stated it would be important to start with an overall comprehensive plan that touches on all neighborhoods within the City when moving forward to consider renewing the Countywide Half Cent Retailers' Sales Tax.

Councilmember Manspeaker stated he believes his job as a councilmember is to help the City grow in a way that is effective and healthy.

Councilmember Everhart clarified the project was voted on and approved by residents county-wide; therefore, she would support the project. She noted she believes it is not the Council's decision to pick and choose projects in this instance; however, she stated she would continue to advocate for improvements to older parts of the city in need of repair.

Councilmember Hiller spoke in support of the project. She commended staff for researching what is needed for the area and noted the proposal has been amended to widening the roadway to three lanes instead five.

The motion to approve the project budget and resolution carried. Councilmembers Campos II and Manspeaker voted “no.” (7-2-0)

A PROJECT BUDGET in the amount of \$2,670,000, ORDINANCE NO. 19891 and A NOTICE OF INTENTION introduced by City Manager Jim Colson, authorizing Improvement Project No. T-281028.00 for water main extension SW 37th Street through Clarion Park to SW 41st and Wanamaker Road, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, authorizing the publication of the Notice of Intention of the Governing Body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and storm water utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101, et seq., and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City’s waterworks, sanitary and/or storm water sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the KDHE SRF Loan to pay the cost thereof placed on first reading January 28, 2014, was again presented.

Jim Colson, City Manager, gave an overview of the project and stated the Waterline Extension project would occur from SW 37th Street and SW Fairlawn Road to SW 41st Street and SW Wanamaker Road.

Cory Schoffelman, Bartlett & West Engineers Project Manager, provided an overview of how a water system operates and described the five different service zones that each operate at a different grade (pressure) and function independently of one another.

Councilmember Schmidt stated the proposed project is a redundant line that feeds the west zone; however, he asked if other lines have the similar redundancy lines.

Cory Schoffelman stated the purpose of transmission mains is to push water to other zones to meet large scale demands which are the intent of the master plan. He reported there would be no impact to individual customer services. He reported the system was not in good shape in 2000 with very little redundancy; however, attempts have been made to incorporate and fortify the system through redundancy which the City is nearly halfway complete in making these types of improvements to the big infrastructure.

Councilmember Schwartz asked for clarification on the benefits the project would provide to the city.

Councilmember Everhart asked if this project is a step towards improving the City's overall water infrastructure and when the water pressure issues on the east side of Topeka would be addressed.

Cory Schoffelman stated the project would benefit the entire west zone of the city; the improvements were created to address growth and additional demands; and the water pressure issues are part of a very big focus of the master plan. He noted this project is the first part of building on water improvements in the southeast area; however, in order for that to happen, a lot more piping and other work must to be accomplished.

Mayor Wolgast stated the City has a number of priorities; however, this is the first project to move the master plan forward.

Councilmember Manspeaker questioned if the central main already has redundancy built into the system and stated the following:

- He reported the City submitted a Request for Proposal on September 15, 2012, for a cost service analysis and the study was to be completed by April 1, 2013. He asked when the cost service analysis results would be presented to the Council.
- He reported there was a proposed water rate increase that was denied by the Council that included several projects and questioned if the City is following the 2012 Master Plan improvements without first reviewing the cost service analysis and what would it cost to distribute services throughout the community.
- He stated he would prefer to apply the analysis study to build infrastructure and maintain a sustainable level of service to City customers.

Cory Schoffelman reported the central main does have a redundancy line; however, it is small and these are much larger lines. He stated there would be a benefit to the project which would reduce energy to pump water into the system which could result in cost savings.

Don Rankin, Utilities Infrastructure Director, relates completion of the analysis relates to the 2015-2019 Capital Improvement Program and staff is currently reviewing rates and addressing funding and replacement needs.

Jim Colson, City Manager, reported staff would provide an overview of the cost service analysis on March 5, 2014, and the information would be presented to the Council in the near future.

Councilmember Everhart asked if there is a timeline for water pressure improvements to be made in Council District No. 4.

Doug Whitacre, Public Works Director, reported part of the 2015-2019 Capital Improvement Program would outline some of the projects that would address a systematic approach to move forward with improvements to the area.

Councilmember Hiller asked where the current redundancies are located.

Don Rankin stated all zones have some type of redundancies and transmission mains located within the systems.

Councilmember Campos II moved to approve the project budget and notice of intention and adopt the ordinance. The motion seconded by Councilmember Schwartz carried.

Councilmember Manspeaker voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, Everhart, De La Isla, Schwartz, Schmidt, Harmon and Mayor Wolgast -9. Noes: Manspeaker -1.

ORDINANCE NO. 19892 introduced by City Manager Jim Colson, concerning municipal court procedures for expungement and fingerprinting, amending City of Topeka Code Sections 2.110.660, 2.110.670 and 2.110.680 and specifically repealing said original section placed on first reading February 18, 2014, was again presented.

Chad Sublet, City Attorney, reported approval would update current City ordinances to be consistent with the recent changes to K.S.A. 12-4516 concerning expungement and fingerprinting procedures. He stated forms would be posted on the City’s website at www.topeka.org to allow citizens to represent themselves if they choose to do so.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Campos II carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -9.

AN ORDINANCE introduced by Councilmember Karen Hiller concerning riding bicycles on sidewalks, amending City of Topeka Code Section 10.35.010 and specifically repealing said original section placed on first reading February 18, 2014, was again presented.

Councilmember Hiller, Bikeways Advisory Committee Chair, stated the committee has reviewed various ordinances and state laws to determine if updates were needed. She stated the proposed ordinance would change the speed limit of a bicycle on a sidewalk from five miles per hour to “travel at a speed greater than is reasonable and prudent under existing conditions” which would allow a police officer to use their judgment based on conditions; and exclude any bicycle riding on sidewalks in the central business district.

Councilmember Ortiz asked for clarification on the proposed ordinance. She stated she has experienced several encounters with bicyclists in the downtown area and believes they should not be allowed on sidewalks.

Councilmember Hiller stated the proposed ordinance would prohibit bicyclists except police officers, from riding on sidewalks in the entire central business district. She noted the specific miles per hour in the current ordinance could not be proved and stated she believes flexible language is needed to help clarify the law.

Councilmember Everhart asked if adding the language “reasonable and prudent” would be enforceable.

Chad Sublet, City Attorney, stated he has conferred with the Police Department and believes it could be proven through evidence and witnesses.

Councilmember Manspeaker expressed concern with the language being too broad. He stated he is concerned the liberty and privacy of citizens could be violated.

Chad Sublet stated “reasonable and prudent” is common language developed through case law and is a tested legal standard that has been around for many years.

Councilmember Campos II asked if the proposed ordinance would prohibit anyone under the age of 18 from riding bicycles in the downtown area and if so, he would not support the ordinance.

Councilmember Hiller stated she believes it would prohibit anyone from riding a bicycle on the sidewalk in the downtown area.

Councilmember Harmon expressed concern with removing the speed limit which he believes would make it unenforceable and lend a tendency for bicycles to ride at high speeds on sidewalks; therefore, he would not support the ordinance.

Vic Miller, Topeka Municipal Court Administrative Judge, stated the language is a current standard used in automobile violations and would be utilized in the same manner for bicycle violations. He stated when the facts are presented and considered for each case it is easy to determine if “reasonable and prudent” was observed.

Andy Fry spoke in support of the ordinance. He stated the revised ordinance eliminates an unenforceable law and encourages safer streets for bicyclists. He noted he would not recommend anyone ride bicycles on sidewalks anywhere in the city because it is hazardous and encouraged the Council to support the ordinance.

Councilmember Hiller moved to adopt the ordinance. The motion was seconded by Councilmember Schmidt.

Councilmember Schmidt spoke in support of the ordinance because he believes five miles per hour is not a reasonable standard for operating a bicycle.

Councilmember Everhart asked if there were any considerations given to age restrictions for bicyclists. She spoke in support of the ordinance; however, she expressed concern with not allowing children to ride bicycles in the downtown area and asked about other areas of the city.

Councilmember Hiller stated the Bikeways Advisory Committee debated about what areas to ride bicycles in general; however, they did not recommend an age restriction because the revision was added according to law enforcement input.

Councilmember Harmon suggested referring the ordinance to the Public, Health and Safety Committee. He suggested the language be amended to include some type of “not to exceed miles per hour limit;” however, he is not sure what exact speed it should be, and believes the Committee should debate the exact miles per hour limit.

Jim Colson, City Manager, stated he supports referring the ordinance to the Public, Health and Safety Committee for further review.

Councilmember Harmon made a substitute motion to refer the ordinance to the Public, Health and Safety Committee. The motion was seconded by Councilmember Campos II.

Councilmember Schmidt questioned what the difference is between a sidewalk and a side path.

Councilmember Hiller suggested the City Attorney’s office review the definition of both and provided suggested revisions for discussion by the Committee.

The substitute motion to refer the ordinance to the Public, Health and Safety Committee carried unanimously. (9-0-0)

DENIAL of an Alarm License Appeal for Anthony Breazeal was presented.

Jalynn Copp, Topeka Police Department Legal Advisor, gave a brief overview of the case and cause for denial.

Councilmember Hiller asked if the charge could be expunged.

Jalynn Copp stated she is unsure of the circumstances since the incident occurred in Arkansas.

Councilmember Ortiz asked Mr. Breazeal what duties the license would permit him to do.

Anthony Breazeal stated he would install residential security systems. He noted he did not know it was on his record and would have it resolved on April 1, 2014. He also stated he has 30 days to receive the license or he would be terminated from his job.

Councilmember Hiller asked if Mr. Breazeal is able to work in other cities.

Anthony Breazeal stated he has been working for eight months in other cities.

Councilmember Everhart asked if Mr. Breazeal would be able to reapply for the license if he is able to have the charge expunged.

Jalynn Copp expressed concern with the conviction because it happened recently in June 2012.

Councilmember Hiller stated the Council has struggled with similar cases in the past for other license denial appeals in regards to applicants believing charges have been expunged. She suggested updating the application to clarify the background information.

Councilmember Ortiz moved to approve the denial of the alarm license appeal. The motion seconded by Councilmember Harmon carried. Councilmember Schmidt voted “no.” (8-1-0)

DENIAL of an appeal submitted by Jetson Booth for a taxi cab license denial by the Chief of Police was presented.

Jalynn Copp, Topeka Police Department Legal Advisor, provided a brief background of the case and cause of denial of the license appeal.

Councilmember Campos II moved to approve the denial of appeal. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

RESOLUTION NO. 8597 introduced by City Manager Jim Colson, expressing support for the application submitted to the Kansas Housing Resources Corporation, Inc., (KHRC) for Low

Income Housing Tax Credits by Landmark Investors, L.L.C., for the Landmark Plaza Apartments redevelopment project was presented.

Jim Colson, City Manager, reported approval would express the Council's support for an application submitted to the Kansas Housing Resources Corporation, Inc. (KHRC) for Low Income Housing Tax Credits by Landmark Investors, L.L.C., for the Landmark Plaza Apartments redevelopment project.

Jason Lundgren, developer appeared for questions.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Campos II carried unanimously. (9-0-0)

RESOLUTION NO. 8598 introduced by City Manager Jim Colson, expressing support for the application submitted to the Kansas Housing Resources Corporation, Inc., (KHRC) for Low Income Housing Tax Credits by Topeka Housing Authority for the Ybarra Place II development project was presented.

Jim Colson, City Manager, reported approval would express the Council's support for an application submitted to the Kansas Housing Resources Corporation, Inc. (KHRC) for Low Income Housing Tax Credits by Topeka Housing Authority for the Ybarra Place II development project.

Councilmember Ortiz stated she is looking forward to the new development in Council District No. 3.

Trey George, Topeka Housing Authority, appeared for questions.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Campos II carried unanimously. (9-0-0)

RESOLUTION NO. 8599 introduced by Councilmember John Campos II, expressing support for the Victory Village development project by Pridon-Topeka, L.L.C., was presented.

Councilmember Campos II reported approval would reaffirm the Council's support of the Victory Village development project by Pridon-Topeka, L.L.C.

Councilmember Campos II moved to approve the resolution. The motion was seconded by Councilmember Everhart.

Councilmember Manspeaker asked why the original application was not approved by the Kansas Housing Resources Corporation.

Don Rosemann, developer, stated it is a very competitive process and the original development team was not from this area so the project was restructured and a local contractor has been acquired, as well as, a better understanding of the veterans needs have been addressed.

Councilmember Manspeaker asked if the neighborhood was engaged throughout the process. He noted the initial application and resolution was targeted towards homeless veterans and asked if there is a different target for applicants.

Brad Reiff, Interim Housing and Neighborhood Development Director, stated because the project remained the same, the City did not require them to go through the notification process again. He reported the development is targeted towards homeless veterans which includes low income veterans.

Councilmember Everhart spoke in support of the resolution and stated the same type of development has been very successful in Leavenworth, Kansas, and is badly needed in Topeka.

The motion to approve the resolution carried unanimously. (9-0-0)

RESOLUTION NO. 8600 introduced by City Manager Jim Colson, expressing support for the application submitted to the Kansas Housing Resources Corporation, Inc., (KHRC) for Low

Income Housing Tax Credits by Herman and Kittle Properties, Inc., for the Cottages at Urish Hills development project was presented.

Tedd Witt, developer appeared for questions.

Councilmember Schmidt moved to approve the resolution. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0)

Councilmember Campos II left the room.

ORDINANCE NO. 19893 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of January 4, 2014, through January 31, 2014, and enumerating said expenditures therein was presented for first and final reading.

Jim Colson, City Manager, reported approval would authorize City expenditures in the amount of \$17,783,425.14.

Councilmember Ortiz 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, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -8. Absent: Campos II -1.

NO retail cereal malt beverage or scrap metal dealers' license applications were presented.

AN ORDINANCE introduced by City Manager Jim Colson, concerning Neighborhood Planning, pertaining to an amendment to the text and map of the Topeka Comprehensive Plan for the Oakland Neighborhood Plan was presented for first reading. (CPA13/3)

Councilmember Campos II entered the room.

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

Mayor Wolgast announced there would be no Citizen Government Review Committee meeting on March 6, 2014. He gave a brief overview of the public input provided to the Citizen Government Review Committee at the February 20, 2014, public hearings and encouraged Councilmembers to provide their input to the Committee. He noted the Committee anticipates completing the process by the end of March making their recommendations soon after. He distributed a letter of response he sent to the United States Postal Service (USPS) concerning the sale of the Main Post Office building located at 424 S. Kansas Avenue. He stated the letter encourages the USPS to strongly consider the historical and architectural significance of the building when selling the property. He welcomed Councilmembers input on the matter.

Councilmember De La Isla announced ambassadors from Thailand and Vietnam would be visiting Topeka to observe City functions and encouraged Governing Body members to make arrangements to spend time with them. She also announced in the spirit of transparency a presentation would be made by the City of Topeka on their partnership with Topeka Habitat for Humanity, her employer.

Councilmember Manspeaker stated he is excited about the City's new snow plan and expressed his appreciation to Doug Whitacre, Public Works Director, and Jim Colson, City Manager, for taking a leadership role in meeting with the snow crews and drafting a reasonable plan. He suggested this same process be used in other City departments to help resolve key problems.

Councilmember Schwartz reported she attended a Breakfast Buzz Networking Breakfast hosted by GO Topeka's Entrepreneurial and Minority Business Development. She noted it was a great event and would encourage Governing Body members to get involved in this, as well as, other Greater Topeka Chamber of Commerce events. She commended local event organizers for

the Operation Soup Line, sponsored by Doorstep, Inc., and The Spirit, Mind and Body Fair at the Kansas Expo Centre. She stated she also attended a meeting with U.S.D. 501 Wellness Committee and believes the City could benefit from a similar wellness incentive program.

Councilmember Schmidt spoke of the S. Kansas Avenue improvement project presentation given on February 18, 2014, and encouraged the Governing Body to be supportive to the community during the construction period. He announced a new branding project sponsored by Visit Topeka would be taking place shortly to find better ways to brand the City of Topeka for tourism and economic development. He noted a survey regarding branding Topeka would be released soon on Visit Topeka's website at www.visittopeka.com; as well as, Downtown Topeka Inc.'s website at www.downtowntopekainc.com and the Greater Topeka Chamber of Commerce's website at www.topekachamber.org. He encouraged everyone in the community to participate in the survey.

Councilmember Hiller stated many people in the community have inquired about the SW 10th Street improvement project and if it was set aside. She asked if the SW 10th Street improvement project would be presented before the Governing Body soon.

Jim Colson, City Manager, stated the SW 10th Street improvement project would be presented to the Council shortly with a recommendation based on the proposal that was brought forward.

Councilmember Campos II stated he concurs with Councilmember Schmidt about the need to better brand the City of Topeka. He noted he recently traveled across the state and observed many signs advertising other cities but not Topeka. He also noted the Downtown Topeka Foundation project presentation had some exhibits depicting what people want in S. Kansas

Avenue pocket parks and pavilions; however, he believes it should be inclusive to every segment of our population and should represent all prominent people of Kansas.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:04 p.m.

Brenda Younger
City Clerk