

Council Minutes – March 5, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 5, 2013. 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, Everhart, Wolgast, Manspeaker, Collazo, Gray and Harmon -9. Mayor William W. Bunten presided -1.

AFTER THE MEETING was called to order, Col. David Jenkins, Military Chaplain, gave the invocation.

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

A PRESENTATION of the Topeka Military Relations Committee 2013 Topeka Armed Forces Personnel of the Year awards was presented by David H. Fisher, Jr., Topeka Military Relations Committee Chairman and representatives of the Kansas Army National Guard, United States Army Reserve, United States Marine Corps, Kansas Air National Guard, United States Coast Guard and the United States Coast Guard Reserve.

Councilmember Ortiz requested to pull item 4C, a resolution granting a noise exception to The Office and Celtic Fox from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced item 4C would be pulled from the consent agenda and placed on the Council agenda under New Business as item 5G.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Derrick Carpenter to the Topeka Sustainability Advisory Board for a term ending February 28, 2015, was presented.

BOARD APPOINTMENT recommending the appointment of Janel Warmington to the Topeka Sustainability Advisory Board for a term ending February 28, 2015, was presented.

MINUTES of the regular meeting of February 19, 2013, was presented.

Open After Midnight License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
Dillons #87	5311 SW 22 nd Place
Dillons #88	4015 SW 10 th Street
Hy-Vee #1658	2951 SW Wanamaker Road
Hy-Vee Gas	6011 SW 29 th Street
Kwik Shop #705	1114 NW Topeka Boulevard
Kwik Shop #713	5700 SW 21 st Street
Kwik Shop #720	102 SW 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
Wal-Mart Supercenter #1802	1501 SW Wanamaker Road
Wal-Mart Supercenter #2131	1301 SW 37 th Street
Wal-Mart Supercenter #5441	2600 NW Rochester

Councilmember Manspeaker moved to approve the remainder of the consent agenda.

The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

ORDINANCE NO. 19799 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of December 29, 2012, through February 1, 2013, and enumerating said expenditures therein was presented for first and final reading.

Jim Colson, City Manager, stated approval would authorize City expenditures in the amount of \$17,643,854.91.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, Wolgast, Manspeaker, Collazo, Gray and Harmon -9.

A PROJECT BUDGET in the amount of \$2,460,000 and RESOLUTION NO. 8497 introduced by City Manager Jim Colson, authorizing Improvement Project No. T-601033.00,

which provides for street improvements to SW 17th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Mike Teply, Interim Public Works Director, stated approval would authorize construction of improvements on SW 17th Street between SW Washburn Avenue and SW MacVicar Avenue. He reported the project would widen the pavement to three standard lanes and provide landscaped medians between Mulvane Street and Jewell Avenue, as well as, sidewalks, lighting, storm sewer and inlets, landscaping and irrigation.

Councilmember Manspeaker spoke in support of the project and stated the street between SW MacVicar Avenue and SW Washburn Avenue is in dire need of improvements; the improvements would address standing water issues in the area; and the alleys would be improved to accommodate large vehicles, such as trash trucks. He asked when the project would be complete, and if the increased traffic flow due to the construction of the new Washburn University Visitor Plaza in 2014 would put undue stress on the newly constructed road.

Mike Teply stated the project would not start until May 2013 after classes have ended and hopefully completed by mid-August 2013. He reported the project consists of total reconstruction of the street with stormwater replacement, inlets and new piping to assist with drainage problems. He reported the project is considered urgent due to the necessity of the street repairs, as well as, the many improvements being planned by Washburn University in 2014. He noted the current road standards would be able to withstand the additional construction traffic in 2014.

Councilmember Everhart questioned why medians and landscaping were included in the project and how was it determined to include these facets.

Mike Teply stated it is difficult for the City to maintain medians with plants because there is not available city staff to maintain the vegetation and the chemicals used to treat roads

has a detrimental effect on the plants; however, in this instance, Washburn University has signed an agreement with the City to irrigate, maintain and continually landscape the new medians along SW 17th Street for the next 20 years.

Councilmember Harmon referenced the many watermain breaks throughout the city in 2012. He asked if this would be an opportune time to consider replacing the watermains while the City is making other improvements to the area.

Mike Teply stated Public Works staff has determined it is unnecessary because there are so little watermain issues in this area.

Councilmember Hiller expressed concern with how the project has been presented to the Council and if it would be considered “smart comprehensive planning” by the City. She stated she wants to be assured of the reasons why it is necessary to borrow an additional \$1 million to complete the project. She noted this type of project is usually discussed in a work session and she feels that she does not have all the facts. She questioned what projects would be delayed in order to fund this project.

Jim Colson reported the SW 17th Street Improvement Project was presented to the Council for discussion during the Capital Improvement Program process, as well as, the Half-Cent Sales Tax presentation and discussions. He stated that he stands by his commitment of comprehensive planning with all projects, as well as, the need for the City to move forward and complete projects that will provide great economic benefit to the community.

Mayor Bunten stated Washburn University is a huge economic positive for the community and encouraged the Council to approve the project.

Councilmember Manspeaker moved to approve the project budget and resolution. The motion seconded by Councilmember Collazo carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$12,690,000 and RESOLUTION NO. 8498 introduced by City Manager Jim Colson, authorizing Project T-841017.00, which provides for citywide maintenance and improvements to existing city streets, as more specifically described herein was presented.

Mike Teply, Public Works Director, stated the project would provide maintenance and improvements to existing City streets, curbs and gutters and sidewalks at 12 locations throughout the city. He reported the total project budget is \$12,690,000 which includes \$740,000 for the design of projects in the 2014 Capital Improvement Program. He noted this is the first project funded with Half-Cent Special Purpose Retailers' Sales Tax funds that will include improvements to residential streets.

Councilmember Hiller asked how the residential areas slated for improvement were determined.

Stan Meyers, City Pavement Manager, referenced the pavement analysis conducted by Stantec in 2008. He reported residential street improvements were determined by incorporating the data from the pavement analysis, which identifies the areas where streets have aged and become more challenging, along with City staff member input to ensure geographic balance takes place throughout the city for all projects. He stated staff has identified the Hi-Crest area in east Topeka and some North Topeka neighborhoods that are in need of such improvements.

Councilmember Hiller noted some of the improvement areas are located within the Stages of Resources Targeting (SORT) neighborhoods. She referenced the initial Citywide Half-Cent Special Purpose Retailers' Sales Tax 10-Year Program as approved by the Council which outlined the improvement of major streets for the first six years and residential streets in the last four years. She requested the Council receive a copy of the newly modified plan.

Joseph Ledbetter stated he is pleased that some of the residential streets are slated for improvement, especially in the Hi-Crest neighborhood area. He suggested the City review all warranties on street repair work and the materials used because he believes the duration of the warranties should extend past one year.

Councilmember Brown stated he concurs with Mr. Ledbetter and stated the warranties are important for these types of projects.

Mike Teply reported the standard warranty for these types of projects is one year. He stated he would research the request and noted a change in warranty requirements may have an impact on the bids received for projects.

Councilmember Manspeaker spoke in support of the project and encouraged staff to review the warranties, materials and equipment to make sure the City is getting the best product possible. He expressed concern with constructing roads in the outer portions of the city instead of the center and encouraged the Governing Body to take this into consideration when reviewing the Citywide Half-Cent Special Purpose Retailers' Sales Tax 10-Year Program.

Councilmember Wolgast moved to approve the project budget and resolution. The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

RESOLUTION NO. 8499 introduced by City Manager Jim Colson, describing the areas to be considered priorities for 2013 Planning Target Areas for future federal and City funding as may be allocated within the 2014 and 2015 City budgets was presented.

Brad Reiff, Interim Housing and Neighborhood Development Director, gave the staff report and stated the Stages of Resources Targeting (SORT) process started in June 2012, and a workshop was conducted to discuss applications submitted by neighborhoods and the selection process. He reported the Citizens Advisory Council selected two target neighborhoods in December 2012, and designated Historic North Topeka East and Oakland as the City's next

SORT target neighborhoods. He described the SORT program as a three year process which involves several City Departments, as well as, the two neighborhoods and stated besides improved housing stock and infrastructure, the success of the SORT concept can be measured by changes in the overall health of the neighborhood. He listed the stages of SORT:

Year 1 Neighborhood Planning

- Create a Neighborhood Plan or refine an existing plan
- Identification of needs and potential resources
- Establishment of Target Areas

Year 2 “Activation Stage” sets the tone for collaboration

- Existing housing repair (Homeowner & Rental/Exterior Rehabilitation)
- Voluntary demolition
- Infrastructure improvements (streets, sidewalks, alleys, park improvements)

Year 3 “Investment Stage”

- Completion of Activation activities
- Infill development
- Homeownership opportunities
- Code enforcement

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

RESOLUTION NO. 8500 introduced by City Manager Jim Colson, granting an exemption from the annexation requirement of City of Topeka Code Section 13.20.220(c) for connection to the city sewer system to two tracts of land generally located at 6601 SW Morrill Road which is outside the city limits but within Shawnee County, Kansas, was presented.

Bill Fiander, Planning Department Director, stated approval would allow the property at 6601 SW Morrill Road to connect to the City’s sewer system on a 42.83 acre tract outside of city limits but within the City’s Municipal Services Area. He reported the applicant was expecting to be allowed to utilize a septic system for on-site sewage disposal; however, Shawnee County determined the property is within 100 feet of a sanitary sewer and; therefore, must connect to it based upon Chapter 27 of Shawnee County’s code requirements. He noted the applicant has

agreed to consent of annexation as required for the entire 42.83 acre tract. He stated if the City Council finds the applicant has established that providing sewer service to the property would avoid an unnecessary hardship in a situation not created by the actions of the applicant, then City Planning Department staff recommends approval under the following conditions:

1. The entire 42.83 acre property is platted in a manner so that no more than 2 lots are served by city sewer until such time as the property is annexed in the city; and
2. The owner executes consent for annexation on the entire property.

Councilmember Ortiz asked if the applicant is required to pay 100% of the connection fees.

Bill Fiander stated the applicant would pay all costs associated with the connection fees, charges and construction at no expense to the City.

Councilmember Wolgast expressed concern with making sure the plans for appropriate development are followed so the City would not be required to extend city services outside city limits. He asked for clarification that all requirements for the property would be met.

Bill Fiander stated the Land Use and Growth Management Plan of the City's Comprehensive Plan recommends that development follow smart growth patterns and if city services are necessary for newly developed areas then those areas should be annexed into the city limits; however, if it is not practical or desirable then it should only be done so when the City's ability to grow in a sustainable fashion is preserved. He reported the Plan recommends a 20-acre minimum lot size be required to preserve rural character, limit sprawl outside the city limits and make it cost-effective for the City to provide urban services in the future to higher-density development.

Councilmember Wolgast moved to approve the resolution. The motion seconded by Councilmember Hiller carried. Councilmember Gray voted "no." (7-1-0)

Councilmember Collazo left the meeting.

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

RESOLUTION NO. 8496 introduced by Councilmember Karen Hiller granting The Office and Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

Councilmember Ortiz expressed concern with the event interrupting Sunday mass service for the Mater Dei-Assumption Church on March 17th.

Councilmember Ortiz moved to amend the resolution to not allow amplified music on March 17, 2013, between the hours of 4:45 p.m. and 6:15 p.m. The motion was seconded by Councilmember Gray.

Councilmember Hiller expressed concern with the time frame requested and believes the request will have a major effect on the amount of people who attend the event on Sunday. She stated she has not received any requests from church representatives to change the time and asked Councilmember Ortiz if she has been contacted by church representatives.

Councilmember Ortiz stated church representatives have not contacted her.

The motion to amend the resolution failed. Councilmembers Hiller, Everhart, Wolgast, Manspeaker and Harmon voted “no.” (3-5-0)

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Hiller carried. Councilmember Ortiz voted “no.” (7-1-0)

ORDINANCE NO. 19800 introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property generally located at the northeast intersection of SW Misty Harbor Drive and SW 45th Street placed on first reading February 19, 2013, was again presented. (Z12/11)

Bill Fiander, Planning Department Director, reported the property at the northeast intersection of SW Misty Harbor Drive and SW 45th Street was annexed into the City in 2008, and currently has “RR-1” Residential Reserve District Zoning that is common to the unincorporated areas of Shawnee County; however, the parcel is located in a single-family subdivision within the city; therefore, the “R-1” Single-Family District would be more suitable for the property.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Brown carried unanimously. Mayor Buntin voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, Wolgast, Manspeaker, Gray, Harmon and Mayor Buntin -9. Absent: Collazo -1.

ORDINANCE NO. 19801 introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property located on a 10 foot strip of land along the northeastern property line of 2107 SW Crest Drive from “R-1” Single-Family Dwelling District TO “O&I-1” Office and Institutional District placed on first reading February 19, 2013, was again presented. (Z13/1)

Bill Fiander, Planning Department Director, stated approval would allow the hearing aid office located at 5101 SW 21st Street to expand their parking lot five to seven additional spaces. He reported staff recommends approval because the rezoning is only for a 10 foot wide strip of land at 2107 SW Crest Drive to allow a parking lot expansion on property to the north at 5101 SW 21st Street, and would still leave a sufficient transitional area between higher intensity office uses to the north and west, and single-family residential uses to the south and east.

Councilmember Ortiz stated she would not support the ordinance because there are drainage issues at this intersection that have not been resolved.

Bill Fiander stated the drainage issue was not discussed during the rezoning process; however, a drainage report will have to be submitted when the property is platted.

Councilmember Ortiz asked Councilmember Harmon if he recalled the drainage issue in this area.

Councilmember Harmon confirmed that he recalls there are drainage issues in the neighborhood.

Councilmember Gray moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried. Councilmembers Brown and Ortiz voted “no.” Mayor Bunten voted “yes.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Everhart, Wolgast, Manspeaker, Gray, Harmon and Mayor Bunten -7. Noes: Brown and Ortiz -2. Absent: Collazo -1.

ORDINANCE NO. 19802 introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by amending the Master Planned Unit Development Plan (“I-1” Light Industrial and “C-4” Commercial use groups) on property located at the southeast corner of SE 29th Street and SE Fremont Street to allow three additional self-storage warehouse buildings, with a maximum total of 14,400 combined square footage for all three buildings on property located at 311 SE 29th Street and to expand the PUD plan on to property located at 3000 SE Fremont Street to allow for boat and recreational vehicle storage enclosed within the building placed on first reading February 19, 2013, was again presented. (Z02/24B)

Bill Fiander, Planning Department Director, reported approval would amend the current Master Planned Unit Development Plan for Highland Crest Plaza to allow three additional self-storage buildings on property located at the southeast intersection of SE 29th Street and SE

Fremont Street and to expand the PUD boundary on property located directly to the south at 3000 SE Fremont Street to allow for the enclosed storage of boats and recreational vehicles. He stated the Planning Department recommended the applicant provide a black, ornamental fence along the street frontages of the new development area due to the principles in the Hi-Crest Neighborhood Plan designating SE 29th Street a major image corridor and visibility of the storage units; however, the Planning Commission alternatively voted to allow the applicant to use black chain link fencing along the street frontages. He noted Planning Department staff concurs with the Planning Commission's recommendation and encouraged the Governing Body to approve the zoning change.

Councilmember Ortiz asked for clarification on the property's use because she thought the property was intended for an apartment complex.

Bill Fiander stated Councilmember Ortiz is referring to property in the same vicinity located further south.

Mayor Bunten stated he believes the entire area is in need of improvements; however, he is not sure how to resolve the issues.

Councilmember Wolgast stated he believes this will be an improvement to the area based on the site plans. He reported the Hi-Crest Neighborhood Improvement Association approves of the additions.

Councilmember Brown asked if the applicant is required to follow the recommendations made by the City's Planning Department and Planning Commission.

Bill Fiander stated approval of the zoning change would require the applicant to provide fencing and landscaping on the property.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Bunten voted "yes." (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, Wolgast, Manspeaker, Gray, Harmon and Mayor Buntten -9. Absent: Collazo -1.

AN ORDINANCE introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property located at 1700 SW 7th Street, 631 SW Horne Street, 634 SW Mulvane Street, and 711 SW Garfield Street from “O&I-2” Office and Institutional District, “M-1” Two-Family Dwelling District, and “C-4” Commercial District ALL TO “MS-1” Medical Service District was presented for first reading.
(Z13/2)

AN ORDINANCE introduced by City Manager Jim Colson, authorizing the sale, consumption and possession of alcoholic liquor at a specified location and times for The Office, The Celtic Fox and ESI LIVE on March 16 and March 17, 2013, pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) was presented for first reading.

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

Jim Colson, City Manager, thanked North Topeka Business Alliance and NOTO District Board members for meeting with him and encouraged the community to attend the First Friday Art Walk events hosted monthly within the NOTO Arts District. He announced the City would host a Water Rates and You Town Hall Meeting on March 6, 2013, from 6:30 p.m. to 8:30 p.m. at the Topeka-Shawnee County Public Library Marvin Auditorium, Room 101B. He thanked Dave Starkey, City Attorney, for agreeing to extend his employment with the City until the end of April. He encouraged the community to view Topeka on Point, an informational video relating to City news and events posted on the YouTube website.

Councilmember Hiller commended City4 staff members for a job well done in producing the Topeka on Point video.

Councilmember Ortiz referenced a recent house fire and noted there was not a smoke detector installed in the home. She announced smoke detectors are free of charge to the public and encouraged citizens to contact the Topeka Fire Department at 368-4000 for more information. She thanked City Street Department crews for their hard work, as well as, the community for helping those in need during the inclement weather. She asked if there is a policy in place regarding the management of secondary streets during inclement weather conditions.

Councilmember Everhart thanked those involved with the military presentation. She encouraged Councilmembers to work to better understand the homeless veteran problem in the community; and help improve the problem by approving the Veterans Administration Housing Project to be considered on a future agenda.

Councilmember Wolgast commended City Street Department crews for their hard work during the inclement weather. He suggested reviewing the snow removal policy prior to 2014 budget discussions to ensure the necessary resources are available to staff during major inclement weather events.

Councilmember Manspeaker thanked the Governing Body for approving the SW 17th Street Repair Project near Washburn University. He commended Topeka Public Works employees for their hard work in removing snow during the inclement weather. He expressed concern with the Public Works Department not having the financial resources to make streets more passable and encouraged the Council to consider this issue when discussing the 2014 operating budget. He also expressed concern with expanding infrastructure when the City does not have the resources to serve what is already in place. He reported the neighborhood meeting regarding the Victory Village Project was a success and believes the majority of the questions

and concerns raised by residents have been addressed. He commended Monique Glaude, City of Topeka Resident Liaison, for working in collaboration with the City of Topeka Police Department in resolving the speeding issue on SW 15th Street near Randolph Elementary School.

Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:35 p.m.

Brenda Younger
City Clerk