

Council Minutes – March 12, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 12, 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, Reverend Joe Eriquez, Executive Director of Heart for the City Ministry in Glendale, Arizona, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

DENIAL OF CLAIM submitted by Justin Tomson, in excess of \$100,000 for damages allegedly sustained as a result of the Topeka Police recording conversation between the claimant and his attorney was presented.

MINUTES of the regular meeting of March 5, 2013, was presented.

Open After Midnight License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
American Legion Post 400	3027 NW US Highway 24
Bullfrogs	2940 SW Wanamaker Road
Bullfrogs II	4115 SW Huntoon Street
California BP	2740 SE California Avenue
The Celtic Fox	118 SW 8 th Avenue
Cousins	1211 S Kansas Avenue
Denny's #7268	1500 SW Wanamaker Road
Denny's #7269	3210 SW Topeka Boulevard
Fairlawn Plaza BP	2101 SW Fairlawn Road
Fraternal Order of Eagles #4319	2941 SE Fremont Street
Holiday Square Phillips 66	2901 SW Topeka Boulevard
Hooters of Topeka	6100 SW 10 th Avenue
Hot Pockets	1919 NE Seward Avenue
Kicks 66	3300 SW Gage Boulevard
Panchos 2	3506 SW Topeka Boulevard
Starlite Skate	301 SE 45 th Street
Steak-N-Shake	1415 SW Wanamaker Road
Taco Bell	101 SE 29 th Street

<u>Business Name</u>	<u>Address</u>
Taco Bell	1560 SW Wanamaker Road
Taco Bell	2013 N Topeka Boulevard
Terry's Billiard Cub	3919 SW 21 st Street
West Ridge Lanes	1935 SW Westport Drive
Wild Horse Saloon	3249 SW Topeka Boulevard

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

ORDINANCE NO. 19803 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) placed on first reading March 5, 2013, was again presented.

Councilmember Hiller encouraged the community to attend St. Patrick's Day festivities hosted throughout the City of Topeka on March 16th and 17th.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Manspeaker carried unanimously. Mayor Bunten voted "yes." (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, Wolgast, Manspeaker, Collazo, Gray, Harmon and Mayor Bunten -10.

A PROJECT BUDGET in the amount of \$500,000 and RESOLUTION NO. 8501 introduced by City Manager Jim Colson, authorizing Improvement Project No. T-601034.00, which provides for streetscape improvements on NE Seward Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Mike Teply, Public Works Director, reported the City Planning Department worked with Oakland neighborhood residents in 2011 to identify possible improvements that could be made along NE Seward Avenue from NE Branner Street to NE Sumner Street, to enhance the area and encourage stability in the community. He stated potential improvements would include

pedestrian lighting, decorative crosswalks, street furniture, landscaping or hardscaping, curb extensions, and a gateway entry sign. He also reported an evaluation of community needs, as well as, a determination of final improvements to be constructed during the design phase would be conducted.

Mayor Bunten asked what the estimated interest rate would be to finance the general obligation bonds.

Pam Simecka, Budget and Finance Director, stated it would be approximately 2.5% for the general obligation bonds and 1.5% for the temporary notes.

Councilmember Manspeaker questioned neighborhood feedback on the project.

Councilmember Brown stated he has received favorable feedback from area residents.

William Gomez appeared and spoke on behalf of the Oakland Neighborhood Improvement Association, the (SORT) Committee and the Seward Action Committee. He spoke in support of the project and stressed the need to improve Oakland's main entrance into the community.

Councilmember Hiller questioned the uniformity of the plans; the size of the area to be improved; how much the project would cost; and if staff has received professional input on the project.

William Gomez stated he believes the streetscape should be addressed first, followed by a list of project improvements to form a cost-effective and logical solution. He reported the community has been granted SORT monies; however, SORT target areas have not yet been specified which may include NE Sumner Street to NE Chester Avenue, or the entire section extended to NE Chester Avenue and NE Forest. He noted all of the areas being considered house some of the oldest infrastructure in the city.

Councilmember Manspeaker asked what improvements the City would finance.

Mike Teply reported \$50,000 would be used to fund the design work and the remaining \$450,000 would be used to finance the construction of pedestrian lighting, decorative crosswalks, street furniture, landscaping and hardscaping, curb extensions and gateway entry signs.

Councilmember Manspeaker stated he is not opposed to the improvements; however, he expressed concern with spending \$500,000 without having concrete plans in place during tight budgetary times for the City.

Councilmember Ortiz spoke in support of the project and concurs with Mr. Gomez on how badly the improvements are needed; however, she believes the project costs could be significantly lower if sales tax funds are used in certain areas where curbs already exist.

Mike Teply stated the project is going to be constructed in conjunction with street projects funded through sales tax funds.

Councilmember Ortiz moved to approve the project budget and resolution. The motion was seconded by Councilmember Brown.

Councilmember Hiller expressed concern with the timing of the project proposal, the design and implementation. She stated she believes the project is not developed enough to include streetscapes and the residents deserve a concept plan to make sure every piece of funding is utilized where necessary. She asked how the City would leverage the funding and if the \$50,000 slated for design costs could be used to hire a City employee.

Mike Teply stated the \$50,000 would be used to hire a consultant for the design of the project. He noted the project is slightly different than most projects because it includes streetscapes.

Councilmember Harmon stated he concurs with Councilmember Manspeaker and Councilmember Hiller and expressed concern with rushing the project through the process and being fiscally irresponsible with the use of City funds.

Councilmember Harmon made a substitute motion to reduce the project budget to \$50,000 to be used for the design phase cost and present a complete project budget outlining the remaining \$450,000 to the Council at a later for approval. The motion was seconded by Councilmember Manspeaker.

Councilmember Everhart spoke in opposition to amending the project budget and noted the project is sorely needed in the area. She expressed concern with the Council vetting projects after the project has already been approved and included in the Capital Improvement Program (CIP). She stated she believes this type of dialogue would have been more appropriate during CIP discussions.

Mike Teply reported the City could not bond just the \$50,000 for design costs without the funds being tied to a construction project. He noted the City would have to fund the \$50,000 through operating funds.

Councilmember Manspeaker spoke in support of amending the project budget. He stated by only approving the design phase, it allows time for neighborhood residents to become involved in the process and provide input on the plan, making sure the project is approved by the community.

Councilmember Ortiz reported the Oakland Neighborhood Improvement Association has expressed their support of the project and believes all the plans are in place to move forward. She stated the area has been neglected for years and the residents want and deserve the improvements.

Pam Simecka, Budget and Finance Director, stated it would be a policy decision of the Council regarding approval of the project budget in its entirety or just \$50,000 for the design phase.

Councilmember Hiller referenced the Washburn Parkway Lighting Plan and the S. Kansas Avenue Plan and noted both concept plans were in place before the Council voted on the final design and implementation of the final project phases. She expressed concern with the complete plan not being clarified at this time.

Councilmember Brown stated he would not support the substitute motion because he believes the neighborhood has done everything required of them in the process and do not deserve a delay in the project.

The substitute motion to reduce the project budget to \$50,000 to be used for the design phase cost and present a complete project budget outlining the remaining \$450,000 to the Council at a later for approval failed. Councilmembers Brown, Ortiz, Everhart, Wolgast and Gray voted “no.” (4-5-0)

The motion to approve the project budget and resolution carried. Councilmember Manspeaker voted “no.” (8-1-0)

A PROJECT BUDGET in the amount of \$600,000 and RESOLUTION NO. 8502 introduced by City Manager Jim Colson, authorizing Improvement Project No. T-601035.00, which provides for street improvements to SE 21st Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Mike Teply, Public Works Director, reported the project would provide new curbs and gutters on SE 21st Street from SE California Avenue to east of SE Carnahan Avenue where curbs and gutters do not currently exist, as well as, a new drainage system comprised of storm sewer pipes and inlets.

Councilmember Everhart moved to approve the project budget and resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Everhart encouraged the Council to approve the project budget and resolution because the project is essential to the area and needs to move forward.

Councilmember Gray spoke in support of the project and stated it would be a great improvement to the area.

Councilmember Manspeaker expressed his appreciation to staff regarding the process and how the project was presented to the Council.

Councilmember Ortiz thanked Jim Colson, City Manager, for bringing the project before the Council and ensuring the improvement project includes what is necessary for the area.

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

A PROJECT BUDGET in the amount of \$400,000 and RESOLUTION NO. 8503 introduced by City Manager Jim Colson, authorizing preliminary design of Improvement Project No. T-701008.00, which provides for street improvements to SW 37th Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Mike Teply, Public Works Director, reported a consultant was hired in 1997 to develop preliminary design concepts for the widening of SW 37th Street between SW Burlingame Road and SW Gage Boulevard to take place in 1999; however, the City's policy at that time was to require neighboring properties to be included in the assessment district and pay 20% of the improvement costs of an arterial roadway; however, due to the negative public feedback, City management choose to stop the process before design decisions were made. He stated the existing roadway has two lanes of pavement with steep ditches on both sides and the City's Long Range Transportation Plan recommended widening SW 37th Street between SW Burlingame

Road and SW Gage Boulevard to five lanes. He reported construction is expected to begin in 2015, and completed in 2016.

Councilmember Wolgast expressed concern with the existing roadway and stated it is very dangerous for pedestrians to walk along and creates a safety hazard for drivers.

Councilmember Hiller questioned if the City could bond the \$400,000 because it would be used for preliminary design only and not tied to a construction project.

Pam Simecka, Budget and Finance Director, stated the City must move forward with the project; however, the City would not bond the project until 2014 when construction begins.

Dave Starkey, City Attorney, stated he concurs with Ms. Simecka and stated the City must have the design phase completed before the project could move forward.

Councilmember Harmon questioned if the area could be designated as a benefit district.

Mike Teply stated it was determined that a benefit district would not be reasonable due to the amount of traffic that travels the roadway that does not originate from the area.

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

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

ORDINANCE NO. 19804 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 placed on first reading March 5, 2013, was again presented. (Z13/2)

Bill Fiander, Planning Department Director, reported the proposal would amend the district zoning classification on property located at 170 SW 7th Street, 631 SW Horne Street, 634 SW Mulvane Street, and 711 SW Garfield Street which primarily contains St. Francis Hospital. He stated approval would bring the properties into zoning conformance with their Medical Services District designation in the Old Town Neighborhood Plan and noted St. Francis does have plans to rework and expand their emergency room in 2013, and there is no major change of use proposed.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, Wolgast, Manspeaker, Collazo, Gray, Harmon and Mayor Bunten -10.

AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of two public alleys located in the southeast quadrant of SW Washburn Avenue and SW 12th Street, with one alley running south from SW 12th Street for approximately 260 feet and the other alley running east from SW Washburn Avenue for about 180 feet located in the City of Topeka, Shawnee County, Kansas, was presented for first reading. (VI2A/5)

AN ORDINANCE introduced by City Manager Jim Colson, authorizing Improvement Project No. T-281060.00, which provides for water main replacement work in various locations citywide, which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue

bonds of said City to pay the cost thereof pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto was presented for first reading.

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

Jim Colson, City Manager, announced the ground breaking dedication ceremony for Fire Station No. 13 would be held on March 14, 2013, at 1:30 p.m. at 5700 SW 6th Avenue; and a Citywide Neighborhood Summit would be held on April 20, 2013, from 10:00 a.m. to 12:00 p.m. at the downtown Ramada Inn. He stated the summit would be co-chaired by Sally Zellers, Safe Streets, and Barry Feaker, Topeka Rescue Mission, and would be open to the public. He also announced the City Planning Department would host two public sessions to gather public input on updating sign codes and proposed code changes on March 18, 2013, at 12:30 p.m. and 5:30 p.m. at the Holliday Building located at 620 SE Madison.

Councilmember Hiller encouraged the community to participate in St. Patrick's Day festivities throughout the City of Topeka on March 16 and 17, 2013.

Councilmember Brown reminded citizens it is time to check the batteries in their weather radios.

Councilmember Ortiz reminded citizens it is time to check the batteries in their smoke alarms. She offered her condolences to the John A. Bausch family.

Councilmember Manspeaker expressed concern with the Watermain Replacement Program Council agenda item to be presented on next week's Council agenda. He requested staff provide additional information including a breakdown of the project budget and list of the project costs for each location. He questioned if moving forward with the Watermain Replacement Program is the best fiscally responsible decision for the City to make at this time. He noted a plan should be drafted as a result of the cost service analysis conducted by an outside

consultant to allow the City to make good financial decisions regarding infrastructure improvements.

Councilmember Gray stated he would be attending the ground breaking dedication ceremony of Fire Station No. 13 and noted the project is very important to the growing area. He encouraged the community to remain safe and be responsible during St. Patrick's Day events.

Mayor Bunten thanked members of Boy Scout Troop No. 186 for attending the Council meeting.

Ted Mize and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:15 p.m.

Brenda Younger
City Clerk