

Council Minutes – April 5, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 5, 2016. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Ortiz, Clear, Schumm, De La Isla, Jensen, Schwartz, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Samuel D. Abbott, Kingdom Life Church Pastor, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8751 introduced by Councilmember Sandra Clear, granting Brass Rail Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of March 15, 2016, was presented.

APPROVAL of Open After Midnight License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
Abigail's	3701 SW Plaza Drive
American Legion Post 1	3800 SE Michigan Avenue
American Legion Post 400	3029 NW US 24 Highway
Blue Moose	3030 SW Wanamaker Road
Bob's Car Wash	2733 SE California Avenue
Bob's Car Wash	3158 SE 6 th Avenue
Brass Rail Tavern	401 NE Emmett Street
Burger Stand at College Hill	1601 SW Lane Street
California BP	2740 SE California Avenue
Denny's #7268	1500 SW Wanamaker Road
Denny's #7269	3210 SW Topeka Boulevard
Fraternal Order of Eagles #4319	2941 SE Fremont Street
Goose Again	5630 SW 29 th Street
Haag's Express	1001 SW Wanamaker Road
Henry T's	1521 SW 21 st Street
Holiday Square Phillips	2901 SW Topeka Boulevard
Kicks 66	3300 SW Gage Boulevard

<u>Business Name</u>	<u>Address</u>
Last Pocket	5009 SW 29 th Street
Lazy Toad	5331 SW 22 nd Place, #2
Quinton's Bar & Deli	4121 SW Huntoon Street
Serendipity	820 N Kansas Avenue
Specks Bar & Grill	2105 SW Mission
Tailgators	2025 SW Urish Road, #108
The Barn Grill	2121 SW Belle Avenue
The Dugout	1545 SW Fairlawn Road
The 20's	2910 SW Oakley Avenue, Suite D
TPAC	214 SE 8 th Avenue
Uncle Bo's	420 SE 6 th Avenue
Wild Horse Saloon	3249 SW Topeka Boulevard

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

ELECTION of a Deputy Mayor was presented.

Councilmember Schumm moved to nominate Councilmember De La Isla to serve as Deputy Mayor.

Councilmember Schwartz moved to nominate Councilmember Hiller to serve as Deputy Mayor.

Councilmember Ortiz commended Councilmember Hiller for her service as Deputy Mayor; however, she believes it is important to be fair with annual elections and allow every councilmember to have the opportunity to serve as deputy mayor.

Councilmember Harmon and Councilmember Schumm stated they concur with Councilmember Ortiz.

Upon hearing no further nominations, Mayor Wolgast closed the nominations.

Joseph Ledbetter reminded the Governing Body the deputy mayor position is a voting member of the JEDO Board and should ensure that public input is heard.

Clark Trammell commended Councilmember Hiller on her service as Deputy Mayor and noted Councilmember De La Isla has large support from the community to serve. He suggested Councilmember Hiller consider serving as a voting member of the JEDO Board.

Mayor Wolgast asked members of the Governing Body to cast their vote.

After the tally of votes, the City Clerk announced Councilmember De La Isla received seven (7) votes and Councilmember Hiller received three (3) votes.

Mayor Wolgast announced Councilmember De La Isla would serve as Deputy Mayor.

ELECTION of two City Council voting representatives to serve a one-year term on the Joint Economic Development Organization (JEDO) Board was presented.

Mayor Wolgast explained the JEDO Board was comprised of 13 members, of which seven (7) members have voting rights, including four (4) City of Topeka Governing Body members and the three (3) Shawnee County Commissioners.

Councilmember De La Isla moved to nominate Councilmember Jensen.

Councilmember Coen stated serving on the JEDO Board has been a great experience for him.

Councilmember Jensen stated he would withdraw his nomination. He reported his personal business works to promote local businesses causing potential conflict of interest issues.

Councilmember Jensen moved to nominate Councilmember Harmon.

Councilmember De La Isla moved to nominate Councilmember Hiller.

Councilmember Harmon moved to nominate Councilmember Schwartz.

Councilmember Schwartz stated she would withdraw her nomination because in 2016 she plans to focus on working with the Topeka Zoo in the creation of the Kay McFarland Asian Garden.

Councilmember Ortiz moved to nominate Councilmember Coen.

Upon hearing no further nominations, Mayor Wolgast closed the nominations.

Joseph Ledbetter expressed concern with not having voting rights for all Governing Body members on the JEDO Board. He stressed the importance of implementing the Garner Economics Report in regards to public trust and municipal government accountability.

Clark Trammell stated he believes each nominee is a good candidate for the JEDO Board and would do a great job in the interest of the community. He commended Councilmember Jensen for his honesty to withdraw his nomination to serve on the JEDO Board.

Carol Marple stated all nominees are excellent candidates and understand the need to do what is best for the community as a whole.

Mayor Wolgast asked members of the Governing Body to cast their vote.

After the tally of votes, the City Clerk announced Councilmember Coen received eight (8) votes, Councilmember Schumm received seven (7) votes and Councilmember Hiller received five (5) votes.

Mayor Wolgast announced Councilmember Coen and Councilmember Schumm would serve as the Joint Economic Development Organization (JEDO) Board members.

A PUBLIC HEARING and ORDINANCE NO. 19987 introduced by City Manager Jim Colson, relating to the vacation of a 14-foot wide north-south utility easement on property located at 1221 SW Gage Boulevard, within the City of Topeka, Shawnee County, Kansas was presented. (VI6/2)

Bill Fiander, Planning Department Director, reported approval would allow the applicant to construct a new 1,809 square foot fast food drive-through restaurant, parking and outdoor play area on the property.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak to the matter. No one appearing, the public hearing was closed.

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

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

ORDINANCE NO. 19988 introduced by City Manager Jim Colson, amending City of Topeka Code Section 9.05.080, concerning adoption of the 2015 Uniform Public Offense Code and specifically repealing said original section was presented.

Chuck Kitt, City Chief of Prosecution, reported approval would update the current 2013 version of the Uniform Public Offense Code to the 2015 version.

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

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

ORDINANCE NO. 19989 introduced by City Manager Jim Colson, amending City of Topeka Code Section 10.15.010 and 10.15.020, specifically repealing said original sections concerning the option of the 2015 Standard Traffic Ordinance and amendments was presented.

Chuck Kitt, City Chief of Prosecution, reported approval would update the current 2013 version of the Standard Traffic Ordinance to the 2015 version.

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

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

ORDINANCE NO. 19990 introduced by City Manager Jim Colson, concerning expungement of certain convictions in municipal court, amending City of Topeka Code Section 2.110.660 and repealing original section was presented.

Chuck Kitt, City Chief of Prosecution, reported approval would make the expungement ordinance consistent with the state law by reducing the waiting time for expungements for convictions for ordinance violations regarding knives (now three years) and convictions for first time Driving Under the Influence (DUI) or test refusals (now 10 years).

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

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

AN ORDINANCE introduced by City Manager Jim Colson, concerning department heads and assistance from employees of other governmental entities, amending City of Topeka Code Section 2.25.090 and repealing the original section was presented.

Lisa Robertson, City Attorney, reported approval would continue to require Governing Body approval for employment agreements with department heads and severance agreements with employees; however, it would clarify that such approval is not required for short term contracts with employees from other governmental entities.

Councilmember Clear expressed concern with the events leading up to the proposed ordinance and asked if staff could draft the ordinance to state that Governing Body approval would be required for employee contracts with other governmental entities.

Lisa Robertson stated the ordinance language could be amended as requested by Councilmember Clear.

Jim Colson, City Manager, stated the proposed ordinance addresses City Code where it is silent and more importantly operational matters for the Topeka Fire Department.

Councilmember Schumm stated he understands the opposition on the issue because of how it occurred; however, if the ordinance is not approved there would still be no guidance on the issue for the Governing Body. He referenced the proposed language amendment to the ordinance requiring at least 20 days notification by the City Manager to the Governing Body prior to approval of a contract. He stated he believes the language is still too vague.

Councilmember Ortiz stated she concurs with Councilmember Schumm and believes it is important to work to build trust between the Governing Body and the City Manager while ensuring transparency to the public.

Councilmember Hiller stated she believes the City Manager acted with the best intentions; however, the search process was outside the normal process along with communication issues and public concern. She distributed an amendment to the ordinance which stated the following: “2.25.090 Agreements: Department heads, short-term assistance from employees of other governmental entities; severance. (a) Approval by the governing body shall be required prior to the city manager signing any employment contracts ~~with a department head.~~ outside of the normal hiring process. ~~(b) Notwithstanding subsection (a) above, approval by the governing body shall not be required for signing any contract with an individual employed by another governmental entity to provide assistance on a short term basis, not to exceed six months in duration. Such contract shall not be subject to the procurement ordinances, TMC Chapter 3.30.~~

Councilmember Schumm questioned if the Governing Body should delay vote on the proposed ordinance to allow more time to discuss and gather public input.

Councilmember Harmon stated he concurs with Councilmember Schumm and believes that more time is needed to examine the ramifications of the proposed ordinance and language amendments.

Councilmember Harmon moved to defer the ordinance for one week. The motion was seconded by Councilmember Ortiz.

Clark Trammell stated he believes the City Manager has the responsibility to report key decisions to the Governing Body; however, he expressed appreciation for the motion to defer to fully clarify the intent.

The motion to defer the ordinance for one week carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

DISCUSSION for the purpose of providing an update on the City of Topeka Health and Wellness Center was presented.

Ari Bram and Daniel Stafford, Healthstat, provided a brief overview of the new City of Topeka Health & Wellness Center. The overview included the importance of convenient, effective, life-changing and affordable healthcare as well as health risk assessment results of City employees and follow-up resulting in an 82% employee participation rate. It was reported the plan for 2016 is to maximize utilization and/or outreach and wellness initiatives for all employees.

Councilmember Schwartz commended Nickie Lee, Budget and Performance Manager, for her guidance in starting the program and learning from the City of Olathe, Kansas. She

suggested improved healthcare outcomes could result in bonuses being awarded as well as the addition of spouse and family programs.

Councilmember Jensen asked when the health and wellness program would result in savings for the City.

Daniel Stafford stated the clinic should provide a 1 to 1 return on investment in the first 12 months; however, he believes the savings are already occurring for the City in the form of preventive care.

Councilmember Ortiz stated she believes employees are happy with the program and she looks forward to involving families in the program.

Councilmember Schumm commended the representatives for providing a great program to employees.

Councilmember Hiller commended the Health & Wellness staff for their work on the program and moving forward in helping employees become healthier as well as saving the City money. She asked if staff assists with making sure employees maintain a relationship with their regular physicians.

Daniel Stafford reported there are many ways staff has reached out to primary care physicians when needed to help continue to build relationships; however, it is the patient's responsibility to keep the health clinic informed. He noted referrals to specialist are not required.

DISCUSSION regarding consideration of an extension of time for submission of development agreements from Constitution Hall, Historic Jayhawk Theater and Downtown Plaza was presented.

Grant Glenn, Constitution Hall, requested a 90-day extension be considered based upon the need to attempt to perform the improvements with the funds sooner rather than later and by

financing the improvements through a bank loan or similar financing mechanism. He reported the most anticipated improvement to Constitution Hall (replacement of the east façade on Kansas Avenue) must be completed at one time and could not be completed in phases over a 12-year period.

Jeff Carson, Jayhawk Theater Board of Directors President, requested an additional 90 days be considered as they are in discussions with local banks to arrange financing for the improvements and determine if the proposed language of the agreement with the City is sufficient to permit possible financing of all or part of the total TGT allocation. He reported the committee is in the process of hiring an executive director to help develop a more professional and successful path toward restoration and operation.

Kurt Young, Topeka Lodging Association Executive Director, requested more time to finalize an agreement to leverage funds to get the project off the ground. He reported the committee is reviewing architectural services and in discussions with an organization to underwrite the majority of the annual operating expenses estimated to be in a range of \$300,000 per year.

Councilmember Clear expressed concern with the lack of progress made by the applicants in the last six months and asked what would happen to the projects if the extensions are not granted.

Councilmember Schumm expressed concern with the delay in the process and 75% of the applicants not being ready to move forward. He questioned if the application process needed to be revised as well as changes made to the TGT process or operation to determine where the fault lies so the problem is not repeated. He also questioned supporting an extension for the downtown plaza as many of his constituents have expressed concerns with the project.

Lisa Robertson, City Attorney, reported the primary obstacle for all applicants has been the financing component.

Councilmember Schwartz spoke in support of the requests. She stated she believes no fault lies with the grantees it just takes time to work through new processes.

Councilmember Jensen spoke in support of one 90-day extension to accomplish what is needed to get the projects started and make excellent progress. He stated he looks forward to a progress report at the end of the 90 days.

Councilmember Hiller expressed her appreciation of the work completed to date by the TGT Committee as well as the applicants. She spoke in support of an extension of time that would be sufficient for all involved due to the size of the projects, the details involved, and the fact Transient Guest Tax funding will continue to be generated.

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

Brenda Younger, City Clerk, gave a brief overview of the April 12, 2016 Council agenda.

Jim Colson, City Manager, announced the City's Finance Department was awarded the 2015 Certificate of Achievement for Excellence in Financial Reporting Program Award by the Government Finance Officers Association. He offered his condolences to the family of City of Topeka employee Duane Overfield.

Governing Body members thanked Councilmember Hiller for serving as Deputy Mayor in 2015 and congratulated Councilmember De La Isla for being elected as Deputy Mayor for 2016. They also congratulated Councilmember Schumm and Councilmember Coen for being elected to serve on the JEDO Board.

Councilmember Ortiz commended City staff on the implementation of the Topeka Way to Work Youth Employment Program and stated she believes it is an essential program for the young people in the community. She announced TMTA in conjunction with National Volunteer

Week, will celebrate local volunteers by offering free rides April 11-16, 2016. She commented on the many programs TMTA offers and believes they are doing an outstanding job of recognizing people who make a positive impact on the community.

Councilmember Schumm announced an Anti-Crime Summit is scheduled for Council District No. 4 on April 26, 2016, at Highland Park High School from 5:30 p.m. to 8:15 p.m.

Councilmember De La Isla commended the Topeka Police and Fire Departments on their continued service to the community. She commented on the Capital Improvement Plan (CIP) Bus Tour that occurred on April 2, 2016, and stated it was a great opportunity to learn and better understand the improvement projects happening in each part of the city. She thanked Governing Body members for electing her to serve as Deputy Mayor and she looks forward to working with the Governing Body and staff as a team.

Councilmember Schwartz gave a brief update on the Kay McFarland Asian Garden at the Zoo and Coffee with a Cop community events. She stated this week's "gem" of Topeka is the "Tulip Time" event at Old Prairie Town and the various tulip plantings at Shawnee Lake, Gage Park and downtown Topeka.

Councilmember Coen announced the community pool project has begun at SW 21st Street and SW Urish Road as well as many other major construction projects in Council District No. 8.

Councilmember Hiller thanked everyone for their support while serving as Deputy Mayor. She commented on the CIP Bus Tour that occurred on April 2, 2016, and stated it was a great learning experience. She announced a Crime Summit for Council District No. 1 is scheduled for April 16, 2016, from 9:30 a.m. to 12:00 noon at the Law Enforcement Center.

Councilmember Clear announced the second planning meeting for the NOTO District would be held on April 6, 2016, at 6:30 p.m. at Serendipity located at 820 N. Kansas Avenue; and a

public meeting is scheduled for the Seward Project Phase B on April 7, 2016, at 6:30 p.m. at the Oakland Community Center.

Mayor Wolgast announced the State of the Community Luncheon sponsored by the Greater Topeka Chamber of Commerce would be held on April 11, 2016, from 12:00 noon to 1:30 p.m. at the Maner Conference Center, Capitol Plaza Hotel located at 1717 SW Topeka Boulevard.

Reverend Joshua Longbottom and Clark Trammell appeared to speak under public comment.

Councilmember Hiller moved to recess into executive session for a time period not to exceed 10 minutes to discuss employee-employer negotiations and to include the Governing Body, City Manager, Deputy City Manager, Finance Director, Budget & Performance Manager, Human Resources Director, Water Services General Manager, City Attorney and staff. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

At 8:56 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Hiller moved to recess into executive session for a time period not to exceed 30 minutes to discuss the Topeka-Shawnee County Interlocal Agreement and to include the Governing Body, City Manager, Deputy City Manager, Finance Director and City Attorney. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

At 9:38 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:38 p.m.

Brenda Younger
City Clerk