

Council Minutes – April 23, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 23, 2013. 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 and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Gray -1.

AFTER THE MEETING was called to order, Councilmember Ortiz gave the invocation.

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

A PRESENTATION on the Countywide Sales Tax Extension was presented by Jim Colson, City Manager. He reported the Countywide Sales Tax began in January 2005 and will expire in 2016. He stated the purpose of the tax was to finance economic development efforts in Shawnee County and fund infrastructure improvements according to the schedule listed on the 2004 ballot. He reported that five (5) of the 13 projects are located within city limits, three (3) are complete, one is under construction and one is in the design stages. He noted the following questions need to be addressed:

- Shawnee County and the City of Topeka must determine if they want to support an extension of the sales tax?
- If the sales tax extension is supported, what would it look like?
- What should be funded with the sales tax extension?
- What is the expected timeframe of the sales tax extension?

Mr. Colson referenced past meeting discussions and clarified it is important that both Shawnee County, as well as, the City of Topeka, agree that there is no official position until the issue has been presented to the respective governing bodies. He recommended scheduling one or more open house meetings for Topeka-Shawnee County residents to provide feedback on the

issue followed by staff providing an update to the Council so they can make an informed decision on how to proceed with the sales tax issue.

Councilmember Hiller moved to add an ordinance authorizing the sale, consumption and possession of alcoholic liquor at the Speedfest Concert event to the Council agenda under First Readings. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

Mayor Wolgast announced the ordinance would be placed on the Council agenda under First Readings, as item 8D.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Kerry Storey to the Topeka/Shawnee County Public Library for a term ending April 30, 2017, was presented.

BOARD APPOINTMENT recommending the re-appointment of Doria Watson to the Civil Service Commission for a term ending April 30, 2017, was presented.

BOARD APPOINTMENT recommending the appointment of Judith Scherff to the Topeka Sustainability Advisory Board for a term ending April 30, 2015, was presented.

BOARD APPOINTMENT recommending the appointment of Stephanie Mott to the Topeka Human Relations Commission to fill an unexpired term ending August 31, 2013, was presented.

BOARD APPOINTMENT recommending the appointment of Joyce Rorie to the Topeka Human Relations Commission for a term ending April 30, 2015, was presented.

DENIAL OF CLAIM for Robert Shanks in the amount of \$3,100 for damage to the lawn sprinkler system during a street maintenance and improvement project near 2415 SW Crestview Street was presented.

APPROVAL of a Workers' Compensation Settlement for Rex Orton, Topeka Fire Department Captain, in the amount of \$14,985 for permanent partial impairment of his right shoulder for injuries suffered on June 11, 2011, while fighting a structure fire was presented.

RESOLUTION NO. 8509 introduced by Councilmember Karen Hiller, granting Cumulus Broadcasting an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8510 introduced by Councilmember John Campos II, granting Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8511 introduced by Councilmember Michelle De La Isla, granting Boss Hawg's an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8512 introduced by Councilmember Karen Hiller granting ESI Live, Inc., 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.

MINUTES of the regular meeting of April 16, 2013, was presented.

Open After Midnight License renewal applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
Brass Rail	401 NE Emmett Street
Dutch Goose	3203 SW 10 th Avenue
Landmark Grill	605 SW Fairlawn Road
Midwest Elks Lodge 1441	1316 SE Madison Street
The Office	124 SW 8th Avenue
Palladium Night Club	1465 SE Washington Street
Skivies Bar & Grill	921 S Kansas Avenue
Uncle Bo's	420 SE 6 th Street
Whiplash Bar & Grill	2107 SE California

A Dance Hall License application for J&J Gallery Bar located at 917 N. Kansas Avenue was presented.

Councilmember Harmon moved to approve the consent agenda. The motion seconded by Councilmember Manspeaker carried unanimously. (8-0-0)

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING concerning a plan of finance for the issuance by the City of Wichita, Kansas, (the “Issuer”) of one or more series of its health care facilities revenue bonds issued under authority of K.S.A. 12-1740, et seq., in an aggregate principal amount not to exceed \$110,000,000 (the “Bonds”).

RESOLUTION NO. 8513 authorizing the execution of an amendment to the interlocal cooperation agreement between the City of Topeka, Kansas, and the City of Wichita, Kansas, and the issuance of certain health care facilities revenue bonds by the City of Wichita, Kansas, in the principal amount not to exceed \$110,000,000, pursuant to such interlocal cooperation agreement. (*Contract No. 42856*)

Phil Wolfe, Nichols & Wolfe Chartered, gave a brief background of the Presbyterian Manor facilities located throughout communities in Kansas. He stated Presbyterian Manor has requested cities to authorize the City of Wichita to issue up to \$110 million in revenue bonds to do the following:

- 1) Finance \$60 million of improvements to the Wichita facility.
- 2) Finance approximately \$7 million of improvements to its facilities throughout Kansas, including approximately \$1.5 million to the Topeka facility.
- 3) Refund all or a portion of the bonds issued in 2004 and 2007.
- 4) Pay the costs of issuance.

Councilmember Harmon stated Presbyterian Manor has been a very valuable corporate citizen within the Topeka community; however, he questioned if the City had any liability towards the issuance of the bonds.

Phil Wolfe stated the City of Topeka has no obligation or financial liability towards the issuance of these bonds.

Mayor Wolgast opened the public hearing and asked if there was anyone present that would like to speak to the matter. No one appeared.

Councilmember Harmon moved to close the public hearing and approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

ORDINANCE NO. 19812 introduced by Councilmember Karen Hiller, authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for the 8th Avenue Friday Concert Series pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) placed on first reading April 16, 2013, was again presented.

Councilmember Hiller gave the staff report.

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

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

ORDINANCE NO. 19813 introduced by Councilmember John Campos II, authorizing the sale, consumption and possession of alcoholic liquor at specified locations and times for the Sacred Heart-St. Joseph Parish 2013 Germanfest celebration on June 1 and 2, 2013, pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) placed on first reading April 16, 2013, was again presented.

Councilmember Campos gave the staff report.

Councilmember Schwartz asked for accountability from the community during community events so that public safety is not threatened.

Councilmember Campos moved to adopt the ordinance. The motion seconded by Councilmember Everhart carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

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

ORDINANCE NO. 19811 introduced by City Manager Jim Colson, authorizing the issuance of \$35,985,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2013-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-116A and K.S.A. 10-1201, et seq., and all amendments thereto placed on first reading April 16, 2013, was again presented.

Jeff White, Columbia Capital, reported six bids were received through a competitive sale process and Hutchinson, Shockey, Erley & Co., from Chicago, Illinois, was awarded the bid at a 2.75% interest rate. He stated the City would achieve an estimated net present value savings of \$3.2 million and the loan was front loaded which means the savings will accrued in 2013, realizing \$20,000 a year in savings through maturity. He noted the bonds are supported through the Combined Utility Fund.

Mayor Wolgast asked what the previous interest rate was on the 2005-A Series Bonds that are being refunded.

Councilmember Campos asked when the bonds would sunset.

Jeff White stated the previous interest rate on the bonds was 5% and the life of the bonds was not extended and would be paid off in 2031.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Everhart carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

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

RESOLUTION NO. 8508 introduced by City Manager Jim Colson, prescribing the form and details of Combined Utility Refunding Revenue Bonds, Series 2013-A of the City of Topeka, Kansas, in the aggregate principal amount of \$35,985,000, the issuance of which was authorized by the City pursuant to its Ordinance No. 19811 passed and approved April 23, 2013; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

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

DEMOLITION PERMIT REQUEST for the church sanctuary located at 700 SE Lime Street in the City of Topeka, Shawnee County, Kansas, pursuant to City of Topeka Code Section 18.255.030 was presented.

Bill Fiander, Planning Department Director, provided a brief background on the history of the property and noted it is the oldest church building structure located in the City, and the second oldest located in Shawnee County. He reported the church sanctuary does not have sewer or water service; however, the newer annex building located next to the sanctuary does. He stated the Planning Department and Topeka Landmarks Commission recommend the Council deny the demolition permit request based on the determination that demolition to the structure would encroach upon, damage, or destroy the historical integrity of the environs of East Topeka Jr. High School, and finds that prudent and feasible alternatives exist other than demolition.

Councilmember Ortiz stated she has received feedback from residents expressing concern with demolishing a piece of Topeka history. She asked when the church sanctuary was last occupied.

Bill Fiander stated the church sanctuary was used until July 2012.

Councilmember Ortiz expressed concern with preserving the building. She reported the church has served as a hub to the community by providing many valuable outreach programs.

Councilmember Campos expressed concern with the short timeframe of the proposal and stated that he believes there was not sufficient time to gather public input on suggested alternate use proposals. He noted the church has been a pillar of the community and he does not want to see the building demolished.

Councilmember Campos moved to defer the demolition permit request for two weeks to allow time for public input. The motion was seconded by Councilmember Ortiz.

Bill Fiander clarified the City Planning Department and Topeka Landmarks Commission recommends the Governing Body deny the demolition permit request.

Councilmember Hiller spoke in support of the deferral because she believes the notifications did not allow enough time for public input.

Neil Gately, Pastor of the Eastern Conference United Methodist Church, stated he believes the issues have been addressed and no prudent or feasible alternatives exist. He expressed concern with the dangers of fire or vandalism due to the close proximity of the church sanctuary to the newer annex building. He referenced a letter written on behalf of the Board of Trustees of the Kansas East Conference of the United Methodist Church, stating they believe razing the church is the best option for the neighborhood to move forward and the only viable option for the occupants of the other structure on the property.

Councilmember Everhart stated she understands the concerns raised by Mr. Gately; however, she expressed concern with protecting the historic nature of the community.

Neil Gately stated he recognizes the historical significance of some structures in the community; however, he believes the congregation is the church, not the building, and they do not want to see the building decay or be susceptible to vandalism. He reported the deed would revert back to Faith and Fellowship Ministry whether it is demolished or not; however, if the demolition is not approved the congregation would be tied to a property with a vacant building. He also stated he believes demolition of the church sanctuary would not in any way negatively affect the art deco style of the East Topeka Jr. High School building.

Sarah Bremer-Parks distributed a packet explaining the history of the East Topeka United Methodist Church, and spoke in support of allowing time to further explore options for the structure. She reported the church has provided support to the community for many years and there are many beautiful architectural aspects to the church sanctuary. She stated she understands the limitations financially for the church; however, she believes the structure has potential.

Sylvester Rice expressed the importance of history and distributed a pocket copy of the United States Constitution to the Governing Body. He spoke in support of deferring the matter to allow citizens to discuss a resolution for the property.

Vernon McFalls stated he believes the structure holds many creative and imaginative possibilities that could be implemented for the community and noted Topeka citizens have a lot to offer in finding ways to repurpose the building.

The motion to defer the demolition permit request for two weeks to allow time for public input carried. Mayor Wolgast voted “yes.” Councilmember Manspeaker voted “no.” (8-1-0)

A FINAL PLAT for Theracon Subdivision No. 2, located at the southwest corner of NE 43rd and NE Meriden Roads, located outside the city limits and the City's Municipal Service Area, located within the City's three-mile extraterritorial jurisdiction, all within unincorporated Shawnee County, Kansas, was presented. (P12/15)

John Ladson, Bartlett & West Engineers, appeared for questions.

Councilmember Ortiz moved to approve the final plat. The motion seconded by Councilmember Schwartz carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

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

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Section 10.20.080 concerning the right-of-way of emergency vehicles during escorted funeral processions and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, creating Chapter 18.270 of the Topeka Municipal Code concerning Neighborhood Conservation Districts was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, concerning petitions for vacating streets, alleys or public reservations, amending City of Topeka Code Section 12.60.010 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by Councilmember Karen Hiller, authorizing the sale, consumption and possession of alcoholic liquor at specified locations and times for the Speedfest Concert on May 16, 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, reported the Neighborhood Summit Collaboration and Empowerment meeting on April 20, 2013, was well attended by the community and many ideas were shared with City staff. He stated the second Neighborhood Summit meeting would be scheduled within 90 days to follow up on the questions and ideas shared to move forward with the partnership between the community and City to make neighborhoods successful.

Mayor Wolgast stated he was pleased to see a diverse group of people who represented all elements of Topeka participating in the Neighborhood Summit Collaboration and Empowerment meeting. He noted he looks forward to continuing the discussion on neighborhood collaboration and moving it forward. He commented on the Keep America Beautiful, Get Down and Get Dirty event on April 20, 2013, and reported over 1,200 individuals volunteered to pick up trash throughout the city. He acknowledged Philicia McKee, Executive Director of Keep America Beautiful, and thanked her for her hard work in organizing the successful event.

Councilmember Ortiz announced there would be no City Council meeting on April 30, 2013, as it is the fifth Tuesday of the month. She distributed the invocation schedule for Council meetings. She thanked Ginny Burghart, City Council Assistant, for her assistance to the Council. She offered her assistance to new Councilmembers to help them get acclimated to their new position and stated she is available to answer questions.

Councilmember Everhart acknowledged Ginny Burghart and Amber Cardona, City Council assistants for their hard work. She thanked City staff for being well prepared and

willing to work at the Neighborhood Summit Collaboration and Empowerment meeting and noted she has received favorable feedback from constituents who attended the meeting.

Councilmember De La Isla stated the Neighborhood Summit Collaboration and Empowerment meeting had a great amount of involvement from the community and staff was well prepared and willing to work. She expressed her appreciation for the comments made at the end of the summit from constituents, the community and local government officials and thanked the City Manager and Mayor for their continued leadership in working to improve trust in the community. She also thanked Councilmember Ortiz on behalf of a Habitat for Humanity resident for being active in Council District No. 3.

Councilmember Manspeaker expressed his appreciation to Keep America Beautiful for organizing the Get Down and Get Dirty event on April 20, 2013, which was very successful. He acknowledged the board appointments of Ms. Kerry Storey to the Topeka/Shawnee County Public Library Board, and Ms. Stephanie Mott to the Topeka Human Relations Commission, and stated he believes they will serve their respective boards well. He asked the City Manager to report to the Council the concerns heard from the community at the Neighborhood Summit Collaboration and Empowerment meeting, and all other community meetings held by the City so Councilmembers stay informed of constituent concerns. He reported the SW 17th Street Project meeting on April 18, 2013, was well attended by the community; however, some residents felt they were not notified in sufficient time and encouraged the City to continue to work towards notifying the public within a reasonable amount of time.

Councilmember Schwartz expressed her appreciation to City staff for organizing the Neighborhood Summit Collaboration and Empowerment meeting. She stated she believes the communication was excellent and very congenial. She also stated she attended the “From Farm

to You” program at the Kansas Expocentre’s Domer Livestock Arena on April 23, 2013, a great annual event that teaches students the role agriculture plays in their lives.

Councilmember Hiller reported many constituents in Council District No.1 attended the Neighborhood Summit Collaboration and Empowerment meeting and wanted to thank her fellow Councilmembers for their attendance. She expressed her appreciation to the Governing Body for emerging as a team and working on the importance of neighborhoods. She distributed flyers regarding the Tour of Topeka bicycle event, scheduled for May 5, 2013, at 1:00 p.m. and encouraged the public to participate in the event.

Councilmember Campos reported he has received positive feedback from constituents that attended the Neighborhood Summit Collaboration and Empowerment meeting. He referenced the community response to the demolition case previously considered on the agenda, and encouraged the Governing Body to approach neighborhoods well in advance to discuss issues specific to their areas. He announced a Take Over/Make Over event is scheduled for April 27, 2013, from 6:00 a.m. to 11:00 a.m. in the Oakland and Central Highland Park neighborhoods. He reported residents are encouraged to place items near the curb for pickup and asked them to call the Council office at 785-368-3710 for more information.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:33 p.m.

Brenda Younger
City Clerk