

Council Minutes – May 3, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 3, 2016. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Clear, Ortiz, De La Isla, Jensen, Schwartz, Coen and Harmon - 8. Mayor Larry E. Wolgast presided -1. Council District No. 4 - Vacant.

AFTER THE MEETING was called to order, Pastor Johnny King, Bethel Apostolic Church, gave the invocation.

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

A PRESENTATION was given by James Brown, Topeka Police Chief. He provided a briefing on the active shooter event that occurred on April 23, 2016, and recognized Topeka police officers and firefighters for their actions during the event.

Councilmember Clear requested to remove Council agenda item 4H, denial of tort claim submitted by Bertha Sanders from the Council agenda for further discussion.

Councilmember Jensen requested to remove Council agenda item 4I, denial of tort claim submitted by Vicki Fulmer from the Council agenda for further discussion.

Upon hearing no objections, Mayor Wolgast announced the items would be removed from the consent agenda and placed on the Council agenda under Action Items as 5C and 5D.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Thomas Woltkamp to the Board of Building and Fire Appeals for a term ending June 1, 2018, was presented.

RESOLUTION NO. 8757 introduced by Councilmember Sandra Clear, approving a special event known as the Sacred Heart-St. Joseph Parish Germanfest 2016, was presented.

RESOLUTION NO. 8758 introduced by Councilmember Sandra Clear, granting Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions, was presented.

RESOLUTION NO. 8759 introduced by Councilmember Sylvia Ortiz, granting Anthony Williams an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions, was presented.

RESOLUTION NO. 8760 introduced by Councilmember Sandra Clear, granting Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions, was presented.

RESOLUTION NO. 8761 introduced by Councilmember Karen Hiller, approving a special event known as the 2016 Harley Party for the Boys and Girls Clubs of Topeka, was presented.

RESOLUTION NO. 8762 introduced by Councilmember Karen Hiller, granting Boys and Girls Clubs of Topeka an exception to the provisions of City of Topeka Code Section 9.45.150 concerning noise prohibitions was presented.

DENIAL of a Tort Claim Appeal submitted by Julie Grey in the amount of \$1,300,000 relating to injuries suffered when she attempted to cross the Kansas Avenue Bridge was presented.

MINUTES of the regular meeting of April 19, 2016, was presented.

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

<u>Business Name</u>	<u>Address</u>
La Cueva Disco Bar	2018 SE California Avenue
La Fiesta	1017 NE Seward Avenue
Louie's Lounge & Laundromat	1501 SW 21 st Street, #108
McDonald's #17628	2933 SW Wanamaker Road
The Foundry	400 SW 33 rd Street

APPROVAL of a Cereal Malt Beverage License application for Glory Days Pizza Lake Shawnee located at 3310 SE 29th Street was presented.

Councilmember Coen moved to approve the consent agenda as amended. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

ORDINANCE NO. 19996 introduced by City Manager Jim Colson, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located on the north side of SW 27th Street, approximately 368 feet east of the centerline of SW Indian Hills Road, within unincorporated Shawnee County, Kansas, and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented. (A15/3)

Bill Fiander, Planning Department Director, reported approval would allow a 1.46 acre tract located in the West Indian Hills Subdivision No. 12 located outside the city limits to be annexed. He stated all City services are in place and staff recommends approval.

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

The ordinance was adopted on roll call vote as follows: Hiller, Clear, Ortiz, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -9. (Council District No. 4 - Vacant)

ORDINANCE NO. 19997 introduced City Manager Jim Colson, concerning Planned Unit Development (PUD) districts amending City of Topeka Code Sections 18.90.010, 18.90.040 and 18.90.050 and repealing original sections was presented. (ACZR16/1)

Bill Fiander, Planning Department Director, reported approval would allow a Planned Unit Development on properties less than an acre in size promoting the reuse of existing buildings while protecting the character of neighborhoods.

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

The ordinance was adopted on roll call vote as follows: Hiller, Clear, Ortiz, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -9. (*Council District No. 4 - Vacant*)

DENIAL of a Tort Claim Appeal submitted by Bertha Sanders seeking the replacement of the storm drainage pipe behind her residence in an effort to alleviate future flooding was presented.

Councilmember Clear requested further discussion of the appeal to facilitate a resolution to mitigate the flooding in the area. She suggested deferring the tort claim appeal for one week to allow City staff time to resolve the matter.

Doug Gerber, Deputy City Manager, reported staff is working to find a resolution; however, he is unsure that a week would be long enough to make a determination.

Mayor Wolgast cautioned the Governing Body in regards to discussing details of the tort claim in a public meeting.

Jim Colson, City Manager, stated staff would address the issue in an executive session in two weeks.

Councilmember Ortiz moved to defer the denial of a tort claim appeal submitted by Bertha Sanders for two weeks. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

DENIAL of a Tort Claim Appeal submitted by Vicki Fulmer in the amount of \$6,450 for reimbursement of damages sustained to her property when the Topeka Police Department executed an arrest at the residence was presented.

Vicki Fulmer, claimant, expressed concern with the extent of damage sustained to her residence and noted that she spent approximately \$8,000 on repairs. She asked the Topeka

Police Department to consider revising their procedures to include contacting the owner of a home prior to damaging property.

Councilmember Jensen moved to defer the denial of a tort claim appeal submitted by Vicki Fulmer for two weeks. The motion seconded by Councilmember Ortiz carried. Mayor Wolgast voted “yes.” Councilmembers Clear and Coen voted “no.” (7-2-0)

DISCUSSION of a Lease Agreement Renewal with Cingular Wireless for use of Montara Water Tower (6900 SW Crestwood) was presented.

Mary Feighny, Deputy City Attorney, reported Cingular Wireless has leased space on the Montara Water Tower since 1994 and uses the space for telecommunication equipment which is necessary for cellphone service to its customers. She stated Cingular Wireless currently pays \$18,975 annually; however, the current agreement expires in July 2017 and if the lease is renewed it would increase to \$24,000 annually.

Councilmember Hiller asked if the new lease agreement terms accommodate the possibility of relocating or building a new water tower.

Mary Feighny stated language in the new lease agreement addresses possible demolition and/or relocation of the water tower in the future.

DISCUSSION concerning bicycles, roller skates, skateboards on sidewalks and pocket parks in the area bounded by SW 4th Street, SW 11th Street, SW Jackson and SE Quincy Streets was presented.

Bill Fiander, Planning Department Director, reported the proposed ordinance would substantially reduce the prohibited area downtown to 4th, 11th, SW Jackson and SE Quincy and would include roller-skating and skateboarding on sidewalks, public parking facilities and pocket

parks. He stated the violation would be a criminal misdemeanor punishable by a fine determined by the municipal court.

Councilmember Jensen encouraged signage options to welcome bicycles while educating them on safe routes throughout the city.

Councilmember Ortiz questioned if staff has considered banning all types of scooters, roller-skates and skateboards.

Aly Van Dyke, Media Relations Director, provided an overview of outreach efforts in educating the public and planned social media campaigns.

Linda Windler and Merle Windler expressed concern with the damage sustained to property and/or objects in the entire downtown area by jump-trick bikers and skateboarders. They spoke in support of the concept of the ordinance; however, it is important to address the issue of destroying property.

Vince Frye, Downtown Topeka Inc., Executive Director, stated he concurs with the statements made by Mr. and Mrs. Windler and spoke in support of the concept of the ordinance.

Ramin Mahmoudian spoke in support of the concept of the ordinance and encouraged the Governing Body to approve restrictions that support a mobile community. He suggested a skate park be constructed in the downtown area.

Councilmember Hiller stated she believes there are three main issues which include:

- 1) Safety on sidewalks which is addressed by the proposed ordinance.
- 2) Criminal damage which is separate from the proposed ordinance. She asked if the Governing Body or City Manager should ask the Police Chief to step up enforcement to eliminate damage to property.
- 3) Skateboards and scooters are not allowed on streets. She asked if the ordinance would also enforce this in the downtown area.

Councilmember Ortiz commended City staff for the educational piece of the program because it is vital to the success of the ordinance.

DISCUSSION concerning a proposed ordinance that implements Charter Ordinance No. 117 which addresses election changes and governing body procedures was presented.

Lisa Robertson, City Attorney, reported Charter Ordinance No. 117 became effective April 23, 2016; therefore the proposed ordinance would implement changes arising from the Mayor's voting rights and ensuring that Charter Ordinance No. 117 is consistent with state law concerning veto and veto override.

DISCUSSION concerning the procedure of filling the vacancy of City Council District No. 4 was presented.

Deputy Mayor Michelle De La Isla reported the Governing Body will appoint a qualified elector who resides in Council District No. 4 to fill the position until the next City election in November 2017 with the term expiring January 2018. She stated the deadline for applications is 5:00 p.m. on May 9, 2016, and must be submitted to the City Clerk's Office. She commented on the application process, applicant interviews and voting requirements. She noted the proposed timeline to establish a date for interviews is at the May 10, 2016, Council meeting with conducting interviews and electing a representative at the May 17, 2016, Council meeting.

Councilmember Ortiz asked about the JEDO Board member and MTPO Board member vacancies.

Mayor Wolgast stated the appointments would take place on May 17, 2016, after a representative is selected.

Councilmember Hiller asked if there is a governing body representative that would serve as proxy at the JEDO Board meeting on May 11, 2016.

Mayor Wolgast reported he anticipates a representative will be assigned prior to the meeting.

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

Brenda Younger, City Clerk, gave a brief overview of the May 10, 2016, Council agenda.

Councilmember Ortiz commended Topeka police officers and firefighters for their service in the community.

Councilmember De La Isla encouraged citizens to participate in the City's survey regarding budget priorities found on the City's Facebook page at www.facebook.com/cityoftopeka.

Councilmember Jensen announced the City of Topeka is hosting a Budget Open House on May 9, 2016, at the Topeka-Shawnee County Public Library from 6:00 p.m. to 7:30 p.m.

Councilmember Schwartz thanked City staff for mitigating the flood conditions last week. She announced this week's "gem" of Topeka is the organizations that help and take care of children, specifically Child Care Aware of Eastern Kansas. She stated she presented Dr. John Evans of Stormont-Vail Healthcare the Kansas Children's Service League 2016 Award for Distinguished Service to Children at the Annual Meeting Awards Luncheon on April 29, 2016.

Councilmember Coen announced Fairlawn Plaza Shopping Center would host a "Topeka Gives" event on June 9, 2016, involving over 150 non-profit community organizations.

Councilmember Hiller commended City Executive staff for quarterly recognition of City employees. She announced Amtrak is now offering service to Wichita from Topeka.

Councilmember Clear stated she attended a military ball which was an amazing event and thanked the men and women for their service to our country. She announced May 2-6, 2016, is Teacher Appreciation Week and commended teachers for their service to the community.

Jim Colson, City Manager, announced the City of Topeka is hosting a Budget Open House on May 9, 2016, at the Topeka-Shawnee County Public Library from 6:00 p.m. to 7:30 p.m.; the

grand opening of the Native Butterfly Exhibit at the Topeka Zoo is scheduled for June 2016; 75,000 pounds of electronics was collected at the Topeka Shawnee County E-Cycle event on April 30, 2016; the National Life Group selected South Kansas Avenue as one of the 2016 Top 51 Main Streets Across America; and the City of Topeka Employee Picnic would be held May 4, 2016, at the Topeka Zoo.

Joseph Ledbetter appeared to speak under public comment.

Councilmember De La Isla moved to recess into executive session for a time period not to exceed 20 minutes to discuss attorney-client privileged information and to include the Governing Body, City Manager, Deputy City Manager and City Attorney. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

At 8:00 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Jensen moved to recess into executive session for a time period not to exceed 15 minutes to discuss non-elected personnel matters and to include the Governing Body and City Manager. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

At 8:15 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 8:15 p.m.

Brenda Younger
City Clerk