

Council Minutes – June 3, 2014

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 3, 2014. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -8. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember Schmidt asked for a moment of silent meditation.

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

A PRESENTATION on the conclusion of the 2014 Legislative Session was provided by Whitney and Kathy Damron, City of Topeka Lobbyists. Mr. Damron referenced a memorandum provided to the Council on May 5, 2014, and distributed the end of the legislative session report for 2014. Highlights of the report included Mortgage Registration Fees; selling the Landon and Eisenhower State Office Buildings; Municipal Elections; Franchise Fees; Investment of Idle Funds; Transportation funding; Municipal Lobbying; Budget and Tax Policies; future issues and interim committees and topic studies.

Councilmember Harmon asked how the League of Kansas Municipalities (LKM) would formulate strategies and priorities for the 2015 Legislative session; and if the City of Topeka should address the City's legislative priorities earlier in the year, as well as, participate in LKM discussions.

Whitney Damron reported LKM has begun to have general discussions with local elected officials across the state; from these discussions they will establish specific details to be addressed. He noted if the City would like to address specific issues then they should be presented during early discussions.

Mayor Wolgast stated he serves on the LKM Board which establishes the policy for legislative priorities. He encouraged Councilmembers to attend the annual conference in the fall to interact with other cities and learn how they are addressing issues.

Councilmember Schwartz asked if any of the cities in SE Kansas testified in support of the casino bill.

Whitney Damron reported that he was unsure; however, the casino bill was a package bill to eliminate slot machines in Sedgwick County and believes it was accomplished through the creation of gaming zones for casinos in Kansas.

Kathy Damron reported the casino bill became law without Governor Brownback's signature.

Councilmember Hiller asked if the City should revise the timeline of establishing a legislative agenda.

Whitney Damron stated anytime would be appropriate and could be done in conjunction with other cities that create their own legislative agendas between the primary and general elections. He encouraged review of how other cities handle their legislative agenda process.

Councilmember Hiller asked Mr. Damron to report on what they see happening by the end of the year and how it would affect Topeka in regards to the State budget.

Kathy Damron stated the State projects a significant loss in property taxes in the budget and the long term ramifications could move City projects around.

Deputy Mayor Everhart moved to recess into executive session for a time period not to exceed 15 minutes to discuss a claim settlement and to include the Governing Body, City Manager and City Attorney. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

Deputy Mayor Everhart announced the executive session was adjourned and no action had been taken.

Councilmember Everhart moved to add a claim settlement for Justin Tomson v City of Topeka, et al., in the amount of \$32,244.10 to the Council agenda under the consent agenda. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

Mayor Wolgast announced the claim settlement would be added to the Council agenda under the consent agenda as item 4E.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8620 introduced by Councilmember Karen Hiller, granting Downtown Topeka Inc., an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8621 introduced by Councilmember Sylvia Ortiz, granting NOTO Artist Group, 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 May 20, 2014, were presented.

An Open After Midnight License application for La Fiesta Restaurant located at 1017 NE Seward Avenue was presented.

APPROVING a settlement for Justin Tomson v City of Topeka, et al., Case No. 13-4064-CM-DJW, in the amount of \$32,244.10 was presented.

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

SELECTION of Council Member to fill the unexpired term of Council District No. 2 was presented.

Mayor Wolgast stated the interview process would proceed as follows:

- Interviews would begin with the applicants for the vacant Council District 2 position in the order the applications were received by the City Clerk.
- Applicants would have four minutes to make an opening statement and two minutes to answer each submitted question asked by each member of the Governing Body.
- Follow-up questions may be asked after all submitted questions are answered.
- After all applicants are interviewed, members of the Governing Body would vote for their choice on a written ballot and submit the ballot to the City Clerk to read the results of each ballot.
- Balloting ends when an applicant receives five votes.

The following questions were asked of each applicant during the interview:

Mayor Wolgast asked Question 1: For Council Members, there is the issue of serving your district versus serving the City as a whole. Please describe your thinking about how you would address this issue.

Councilmember Hiller asked Question 2: Please state the dollar amount of the City's annual operating budget. Please react to that in terms of the responsibilities of being a city councilperson.

Councilmember Ortiz asked Question 3: Describe to me your district.

Councilmember Everhart asked Question 4: Describe your participation in any community activities and how that experience will help you as a community leader.

Councilmember De La Isla asked Question 5: How do you foresee the role of City Councilperson, policy or hands on?

Councilmember Manspeaker asked Question 6: What do you see as Topeka's top three challenges in the next 5 years?

Councilmember Schwartz asked Question 7: How would you familiarize yourself with the operations of the City – budget/departments/contracts, and then, how do you proposed to ensure that public's funds are not being spent wastefully in each specific area after this orientation?

Councilmember Schmidt asked Question 8: All of us are unique individuals and at some point you will find yourself in disagreement with everyone up here. How do you approach differences of opinion and how will you react to finding yourself in the minority viewpoint at times?

Councilmember Harmon asked Question 9: How would you complete the following sentence, "Leadership is....."?

Keri Strahler, Katrina Bayless, TJ Brown and Martin Munoz provided an opening statement and responded to the above questions.

After the interviews were complete, Mayor Wolgast asked each Councilmember to vote for one person to fill the vacancy for Council District No. 2.

After the tally of votes, the City Clerk announced TJ Brown received six (6) votes and Martin Munoz received three (3) votes.

Mayor Wolgast announced TJ Brown would serve as the new representative for Council District No. 2.

Victor W. Miller, Administrative Municipal Court Judge, administered the oath of office to TJ Brown, newly elected Councilmember for Council District No. 2.

RESOLUTION NO. 8622 introduced by Councilmember Karen Hiller, approving a special event known as Rockin' the Reunion Concert was presented.

Councilmember Hiller provided the details of the event.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

RESOLUTION NO. 8623 introduced by Councilmember Sylvia E. Ortiz, approving the special event known as NOTO Motorcycle Cruise Night-3rd Fridays was presented.

Councilmember Ortiz provided the details of the event.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Brown carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

RESOLUTION NO. 8624 introduced by Councilmember Karen Hiller, approving a special event known as Tap That: A Capitol Brew Festival was presented.

Councilmember Hiller provided the details of the event.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Schwartz carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

RESOLUTION NO. 8625 introduced by City Manager Jim Colson, authorizing and adopting the 2015-2019 Capital Improvement Program and the 2015-2017 Capital Improvement Budget and approving the project budgets attached was presented.

Jim Colson, City Manager, reported the process began in 2013 and has continued over the past several months in the form of Work Sessions, Public Forums, and Council meeting discussions. He also reported there has been significant time spent on interchange between staff and Councilmembers to address questions. He stated the haloacetic acid issue and the projects contingent on utility rates have been removed for consideration and would be discussed at a later date.

Doug Gerber, Administrative and Financial Services Director, reported the new process was intended to be a fundamental shift in how the CIP and CIB was completed and accomplish better planning of projects by approving three (3) years instead of (2) two; adopt the CIP prior to the budget to insure improved fiscal planning; and all project budgets would be approved at one time instead of separately to improve the process flow.

Councilmember Ortiz inquired on the status of Fire Station No. 13.

Jim Colson reported Fire Station No. 13 was approved last year and is still a funded project; however, they are continuing with discussions to determine how the funding of Fire Station Nos. 13 and 14 will impact operations.

Councilmember Hiller expressed her appreciation to staff for their desire for efficiency. She stated she is comfortable with some of the projects proposed; however, there are a variety of

concerns she would like the Governing Body to consider (*See Attachment A*). She asked the Governing Body to consider the following options:

- Option A – Move to approve with the deferral of the four (4) items listed (half-cent sales tax budget, snow removal, south fire station and levee funding) as outlined in her handout. (*Attachment A*)
- Option B – Consider each of the four (4) amendments separately and then move to approve as amended.
- Option C – Move to defer the entire CIP/CIB until September 16, 2014, after the operating budget has been approved.

Jim Colson stated staff has commented on the same things that Councilmember Hiller discussed; however, there has been much progress including a new finance team, improved openness and transparency, and a better understanding of the challenges the City of Topeka faces. He reported staff will continue to look at best practices and come forward with changes in policy and strive for the best return on investment for the community.

Councilmember Hiller moved to defer the entire half-cent sales tax budget until September 16, 2014, in order for reporting, budget and expectations to be discussed and reconciled before a vote is taken. The motion was seconded by Councilmember Ortiz.

Councilmember Everhart spoke in opposition of the deferral. She stated the action would create a delay in projects which she believes would be unacceptable. She reported that she has been able to receive accurate information through a clear and transparent process and believes a three (3) year plan supports long-range planning.

Councilmember Ortiz expressed concern with the financial breakdown of a three (3) year plan because projects get more expensive over time. She spoke in opposition of approving all project budgets at the same time and believes staff needs to work with them so they can better understand the change in process.

Councilmember De La Isla spoke in support of the three (3) year plan and noted corporate America uses a five (5) year plan to develop a vision. She reported an index outlining the change in projects has been included in their information; the new process supports transparency; and the budget will be used as a benchmark for what they would like to achieve with the caveat for adjustments as needed.

Councilmember Hiller expressed the importance of knowing what they are doing and where they are going with the plan and noted final numbers have changed throughout the process.

Jim Colson asked staff to comment on the variation in final numbers.

Brandon Kauffman, Chief Fiscal Officer, reported staff provided a full five (5) year financial forecast along with cash projections and a proposed 2015 budget. He stated the information provided was not just the CIP portion it also included other project costs such as engineering staff time and design costs that are typically included in the budget and are only a few of the overall factors that cause variations.

Councilmember Schwartz reported she spoke with many constituents in her district and explained to them why the change was made. She spoke in support of a three (3) year plan and commended the new finance team members for their hard work and producing a good working budget document.

Mayor Wolgast asked if the \$16 million in sales tax repair funds includes carry-over balances from previous years.

Brandon Kauffman confirmed the cash balance has built up as a result of projects that have been pushed out to later years.

The motion to defer the entire half-cent sales tax budget until September 16, 2014, in order for reporting, budget and expectations to be discussed and reconciled before a vote is taken failed. Councilmembers Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon voted “no.” Councilmember Brown abstained. (2-6-1)

Councilmember Hiller moved to add a sentence to the language on page 75 under Project Description, “No Snow Removal will be allowed with these funds without a public vote”. The motion was seconded by Councilmember Ortiz.

Councilmember Everhart asked if snow removal would be a legal use of the half-cent sales tax monies.

Mary Feighny, Assistant City Attorney, confirmed it has been determined it would be a legal use of funds.

Councilmember Schmidt stated he agrees with the idea that snow removal is vital and an important part of street maintenance; however, he does not believe it was the intent of the voters to use sales tax funds for this purpose. He expressed the importance of adhering to the intent of the voters.

Councilmember Harmon asked if the issue could be legally posed to voters.

Mary Feighny stated the question would have to be posed from the Governing Body or proposed by petition; however, the entire ballot would have to be reconsidered by voters.

Councilmember Schwartz asked what the repercussions would be if funds for snow removal were not approved.

Councilmember De La Isla stated she understands the concerns expressed in regards to the intent of voters; however, snow removal is a huge factor in the creation of potholes and impacts deteriorating streets as a whole.

Doug Whitacre, Public Works Director, stated lack of funding would prevent the replacement and repair of much needed equipment and manpower; and snow removal helps preserve the roads and improve mobility for residents during major weather events.

The motion to add a sentence to the language on page 75 under Project Description, “No Snow Removal will be allowed with these funds without a public vote.” failed. Councilmembers Everhart, De La Isla, Manspeaker, Schwartz and Harmon voted “no.” (4-5-0)

Councilmember Hiller moved to defer action on the South Fire Station until September 16, 2014, bringing it back only if funds for equipment and operating budgets have been committed. The motion died due to a lack of a second.

Councilmember Hiller moved to amend page 47, Kansas River Levee System Rehabilitation –Phase II at No. 9 “Project Schedule and Estimate” and No. 10 “Amount by Source of Financing” to reflect that, per the staff report, \$4.86 million has been accumulated in reserves for this purpose and that \$800,000 per year is being added to that reserve, and that borrowing to complete this project should not be required. The motion was seconded by Councilmember Schwartz.

Councilmember Schwartz questioned how the motion would affect the levee project.

Doug Whitacre reported the \$8 million will be used to match federal funds needed for the levee project; however, now there are other needs relating to certification requirements by the Federal Emergency Management Agency (FEMA). He noted they may have to use the reserve funds for the other requirements and bond the \$8 million needed for the levee project.

Councilmember Everhart asked if the language amendment would restrict the use of funds.

Mary Feighny stated the language amendment would be considered more purposeful than legal bidding.

Councilmember Brown asked Councilmember Hiller if she would consider changing the language of the motion to state, that borrowing to complete this project “will not” be required.

Councilmember Hiller stated her intent was to simply remove the option of using revenue bonds to finance the project and amend the sheet to reflect the use of cash for the project.

Councilmember Schmidt stated he concurs with Councilmember Hiller in regards to paying cash for the project; however, he believes this may not be the proper way to accomplish it and suggested a resolution be drafted.

Councilmember Schwartz stated she concurs with Councilmember Schmidt and believes a resolution would be the best option because it would outline the specific purpose of funds.

Councilmember Hiller withdrew the motion to amend page 47, Kansas River Levee System Rehabilitation –Phase II at No. 9 “Project Schedule and Estimate” and No. 10 “Amount by Source of Financing” to reflect that, per the staff report, \$4.86 million has been accumulated in reserves for this purpose and that \$800,000 per year is being added to that reserve, and that borrowing to complete this project should not be required. The second concurred.

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember De La Isla carried. Councilmembers Ortiz and Manspeaker voted “no.” (7-2-0)

RESOLUTION NO. 8626 introduced by City Manager Jim Colson, declaring the necessity to repair, alter, reconstruct, enlarge or improve the City’s water, water pollution and/or stormwater utility system through improvement projects authorized by Resolution and providing Notice of Intention authorizing the issuance of revenue bonds in the manner required by K.S.A. 10-1201, et seq., was presented.

Doug Gerber, Administrative and Financial Services Director, stated notice of intent for issuance of bonds would be published at a later date in the Topeka Metro newspaper.

Councilmember Everhart moved to approve the resolution. The motion seconded by Councilmember Schmidt carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

Retail Cereal Malt Beverage License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
California BP	2740 SE California Avenue
Downtown Amoco	600 SE Quincy Street
East Quick Stop	3100 SE 6 th Avenue
Goose Express	2901 SE Fremont Street
Herman’s Beef & Sausage House	823 NW Gordon Street
Holiday Square Phillips	2901 SW Topeka Boulevard
I-70 BP	1000 SW Wanamaker Road
In a Pinch LLC	706 SW Fairlawn Road
Kelly Express LLC	1001 SW Wanamaker Road
Kicks 66	3300 SW Gage Boulevard
Lakeview 66	3000 SE Croco Road
Larry’s Shortstop	3834 SW Topeka Boulevard
Murphy Express #8599	1531 SW Wanamaker Road
Oakmart BP	2518 NE Seward Avenue
Prize Package	1420 SE 6 th Avenue
Quality Gas & Shop	1900 N Topeka Boulevard
Seabrook Apple Market	1945 SW Gage Boulevard
Villa West Express	2855 SW Wanamaker Road
White Lakes 66	931 SW 37 th Street

Councilmember Schwartz moved to approve the retail cereal malt beverage license applications as presented. The motion seconded by Councilmember Everhart carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

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

The City Clerk provided a brief summary of the June 10, 2014, Council agenda.

Jim Colson, City Manager, announced an Open House would be held at the Cyrus K. Holliday building located at 620 SE Madison on June 9, 2014, at 6:00 p.m. as an opportunity for the public to provide input on the qualities they would like to see in a new police chief.

Mayor Wolgast welcomed Councilmember TJ Brown. He commented on the Topeka Community Foundation's "Topeka Gives" event held on June 3, 2014, at Fairlawn Plaza Mall and noted over 100 non-profit organizations participated in a fun day of giving.

Councilmember Schmidt welcomed Councilmember TJ Brown and thanked him for serving Council District No. 2.

Councilmember Harmon welcomed Councilmember TJ Brown and stated he looks forward to working with him.

Councilmember Hiller welcomed Councilmember TJ Brown to the City Council. She thanked City staff and Council for spending time on the new Capital Improvement Program and Capital Improvement Budget process and appreciates the open communication.

Councilmember TJ Brown thanked the Governing Body for the opportunity to serve Council District No. 2 and commended the other applicants for being willing to step forward and serve the community. He announced the Sacred Heart-St. Joseph Parish Germanfest event would be held on June 7 and 8, 2014 in North Topeka.

Councilmember Ortiz welcomed Councilmember TJ Brown. She announced the First Friday Art Walk event would be held on June 6, 2014, from 5:30 p.m. to 8:30 p.m. at various locations throughout the City. She also announced Fiesta Mexicana Royalty Food Sales are being held at Our Lady of Guadalupe Church located at 201 NE Chandler.

Councilmember De La Isla welcomed Councilmember TJ Brown and thanked all the applicants that applied for the position. She thanked the Mayor of Garden City, Kansas, for providing great hospitality and embracing diversity in the community. She commented on the Sunflower Music Festival scheduled for June 6-14, 2014; and the Mulvane Art Fair scheduled for June 7-8, 2014.

Councilmember Schwartz welcomed Councilmember TJ Brown. She commented on Visit Topeka's Bingo game which gives people the opportunity to explore Topeka's attractions, unique events and fun activities and runs May 6, 2014, through July 31, 2014. She noted people interested in more information could contact Visit Topeka at 785-234-1030.

Ted Mize appeared to speak under public comment.

Councilmember Harmon moved to recess into executive session for a time period not to exceed 20 minutes to discuss attorney/client privileged matters regarding potential litigation and to include the Governing Body, City Manager and City Attorneys. The motion seconded by Councilmember Schmidt carried unanimously. (9-0-0)

Councilmember Ortiz moved to extend the Council meeting past 10:00 p.m. The motion seconded by Councilmember Everhart carried unanimously. (9-0-0)

At 10:00 p.m., Deputy Mayor Everhart announced the executive session was adjourned and no action had been taken.

Councilmember De La Isla moved to recess into executive session for a time period not to exceed 10 minutes to discuss non-elected personnel with regard to contractual matters and to include the Governing Body, City Manager, Police Chief and Assistant City Attorney. The motion seconded by Councilmember Schwartz carried unanimously. (9-0-0)

At 10:05 p.m., Deputy Mayor Everhart announced the executive session was adjourned and no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:05 p.m.

Brenda Younger
City Clerk

CIP Comments and Motions – CW Hiller 6-3-14

First, I understand and appreciate desire for efficiency....and embrace change. I am comfortable with projects proposed, with a variety of concerns but only four deal-breaker exceptions, all of which can be handled. I do want to share both sets of points....and have an approach in mind. I will work to be brief!

Before the points..... **Appreciate time of City Manager, Legal and Finance staff to get us to this juncture.**

Issues that can wait

CIB 3 years out – Our 2004 Council-adopted Debt Management Policy, which I think is excellent, specifies 2 years. It doesn't absolutely preclude 3 years....but I think with the natural ebbs and flows of projects we will find that 2 years is more functional.

Project votes the day the budget is passed – Especially 3 years out, I think this will produce as many changes as it will efficiencies. I worry that the loss of project votes will lose us the check and balance and public notice of when projects are moving. We'll see..... an annual review may be enough.

Concern that the overview in our books was very selective about what elements of our debt management policy it highlighted - There were useful facts about what qualifies as a capital project....but then it went on to highlight how much we could borrow, without a word about the extensive language in our policy regarding minimizing borrowing and optimizing what the policy calls "pay-as-you-go" and other sources over borrowing. I hope we can reverse or at least balance that emphasis in the future.

Concern also that our book defines fire trucks as non-recurring expenses and Neighborhood Infrastructure program as recurring - We are trying to get on a 10-year cycle with fire trucks. Our neighborhood projects are typically major capital projects such as streets, alleys and so on. I would suggest they be reversed in their classification in future years.

Concern that displaying the full cost of each project, including financing, has been a past procedure and best practice when projects were approved. Full disclosure is not included in this year's Council documents, yet Council is being asked to approve three years worth of projects, all in advance, none with full disclosure. Recommend consideration of going back to project budget approvals when projects are ready to start and absolutely including full cost disclosures on each project description before approval.

Our policy says that ALL capital projects, no matter how they are to be financed, should be included in the plan. Many that were expected to be cash or grants were dropped this year. I hope they can be returned. I think Doug has a method for displaying them and color-coding by funding type. That would be fine!

Amendments to 2015-2019 CIP/CIB:

½ Cent - ½ Cent has not been adequately accounted for, so far is different each time it is delivered, includes elements that lose or veer from promises made to voters and, as proposed, is either overbudgeted or loses a year of construction activity. **Defer the entire ½ Cent Sales Tax budget until September 16 in order for reporting, budget and expectations to be discussed and reconciled before a vote is taken.**

Snow Removal –Add a sentence to language on p. 75 under Project Description, “No Snow Removal will be allowed with these funds without a public vote.”

South Fire Station (p. 7 and p. 14) – Defer action on this item until September 16, bringing it back only if funds for equipment and operating budgets have been committed.

Levee funding – Page 47 displays that this project will be fully bonded whereas staff reports a substantial amount of savings and plans to continue. **Amend #9 Project Schedule and Estimate and #10 Amount by Source of Financing to reflect that, per staff report, \$4.86 million has been accumulated in reserves for this purpose and that \$800,000 per year is being added to that reserve, and that borrowing to complete this project should not be required.**

Overall Approach:

Option A) Move to Approve with the four items above deferred to September 16.

Option B) Consider each of the 4 amendments. Move to approve as amended.

Option C) Move to defer the entire CIP/CIB until September 16, after the Operating Budget is passed.