

Council Minutes – June 7, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 7, 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, Emerson, Jensen, Schwartz, Coen -7. Mayor Larry E. Wolgast presided -1. Absent: Councilmembers De La Isla and Harmon -2.

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

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

A PRESENTATION on the City of Topeka 1st Quarter Financial Report was presented by Brandon Kauffman, Finance Department Director.

A PRESENTATION on the City of Topeka Capital Projects Open Data Portal Dashboard was presented by Doug Gerber, Deputy City Manager.

A PRESENTATION on the City of Topeka 1st Quarter Public Works and Utility Report was presented by Jason Peek, Public Works Department Director.

Councilmember Hiller requested to add a resolution granting a noise exception for the Kansas Avenue Celebration; and a resolution approving the special event known as the Kansas Avenue Celebration to the Council agenda.

Upon hearing no objections, Mayor Wolgast announced the resolutions would be added to the Council agenda under the consent agenda as items 4P and 4Q respectively.

THE CONSENT AGENDA was presented as follows:

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.

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.

DENIAL of a Tort Claim Appeal submitted by Francis McNeil seeking removal or money to pay for the removal of concrete debris located on his property was presented.

APPROVAL of a Workers' Compensation Settlement for Joseph Ralston, Topeka Police Officer, in the amount of \$19,711 for the permanent partial impairment of his right shoulder for injuries suffered on January 6, 2014, was presented.

APPROVAL of a Workers' Compensation Settlement for Vivian Ribordy in the amount of \$17,860.12; apportioned between permanent partial disability in the amount of \$11,360.12 and future medical in the amount of \$6,500 for bilateral carpal tunnel syndrome was presented.

BOARD APPOINTMENT recommending the reappointment of Jim Daniel to the Topeka Metropolitan Transit Authority Board for a term ending July 1, 2020, was presented.

BOARD APPOINTMENT recommending the appointment of Dr. Patricia Dahl to the Topeka Human Relations Commission to fill an unexpired term ending May 19, 2018, was presented.

BOARD APPOINTMENT recommending the appointment of Rehan Reza to the Topeka Human Relations Commission to fill an unexpired term ending June 7, 2018, was presented.

BOARD APPOINTMENT recommending the appointment of Orion Jordan to the Topeka Human Relations Commission to fill an unexpired term ending June 7, 2018, was presented.

RESOLUTION NO. 8772 introduced by Councilmember Karen Hiller, approving a special event known as the Jensen/Beckley Wedding was presented.

RESOLUTION NO. 8773 introduced by Councilmember Karen Hiller, approving a special event known as Tap That Topeka: A Capitol Brew Festival to be held on June 25, 2016, was presented.

RESOLUTION NO. 8774 introduced by Councilmember Sylvia Ortiz, granting Randy Wheat an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8775 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.

MINUTES of the regular meeting of May 17, 2016, was presented.

APPROVAL of Cereal Malt Beverage License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
California BP	2740 SE California Avenue
Dillons #47	2815 SW 29 th Street
Dillons #54	800 NW 25 th Street
Dillons #67	2010 SE 29 th Street
Dillons #87	5311 SW 22 nd Place
Dillons #88	4015 SW 10 th Street
Downtown BP	600 SE Quincy Street
East Quick Stop	3100 SE 6 th Avenue
Gas N Shop	1900 NW Topeka Boulevard
Goose Express	2901 SE Fremont Street
Herman's	823 NW Gordon Street
Haag's Express	1001 SW Wanamaker Road
Holiday Square 66	2901 SW Topeka Boulevard
I-70 BP	1000 SW Wanamaker Road
In A Pinch	706 SW Fairlawn Road
Kicks 66	3300 SW Gage Boulevard
Larry's Shortstop	3834 S Topeka Boulevard
Lakeview 66	3000 SE Croco Road
Mike's Market	2620 NE Sardou Avenue
Murphy Express #8599	1531 SW Wanamaker Road
Oakmart BP	2518 NE Seward Avenue
Tilton's Oakland Market	1905 NE Seward Avenue
Valero	2044 NW Tyler Street
White Lakes 66	931 SW 37 th Street
Woody's Express	101 NE US 24 Highway

RESOLUTION NO. 8776 introduced by Councilmember Karen Hiller, granting Downtown Topeka, Inc., and exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8777 introduced by Councilmember Karen Hiller, approving a special event known as the Kansas Avenue Celebration and approving the issuance of a special event retailer's permit was presented.

Councilmember Harmon entered the room.

Councilmember Coen moved to approve the consent agenda as amended. The motion seconded by Councilmember Clear carried. Mayor Wolgast voted "yes." Councilmember Jensen abstained. (8-0-1)

A PUBLIC HEARING and ORDINANCE NO. 20001 introduced by City Manager Jim Colson, relating to the vacation of the north 350 feet of public alley right-of-way lying between SW Mulvane Street and SW College Avenue and between SW 11th Street and SW Munson Avenue, in the City of Topeka, Shawnee County, Kansas, was presented.

Bill Fiander, Planning Department Director, stated the vacation would allow the applicant to better address vehicle and pedestrian traffic between their church buildings and parking area.

Councilmember Clear 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: Ayes: Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -9. Absent: De La Isla -1.

SCHEDULE a Public Hearing on June 21, 2016, for the imposition of special assessments for Pond Repair and Improvements in Lauren's Bay, Lauren's Bay Villas, Lauren's Bay Estates, Wanamaker Meadows and Brian's Addition No. 3 Subdivisions; and ratify the City Clerk's

action in publishing on June 6, 2016, the appropriate notices in the official City newspaper was presented.

Brandon Kauffman, Finance Department Director, provided an overview of the special assessment district process and the projects to be assessed in the Lauren's Bay area and Kanza Education and Science Park. He requested the Governing Body set a public hearing date of June 21, 2016, and to ratify the City Clerk's action in publishing the public hearing notices in the Topeka Metro newspaper on June 6, 2016.

Councilmember Schwartz noted the large pond special assessment district was petitioned by area residents.

Councilmember Schwartz moved to set the public hearing date of June 21, 2016, and to ratify the City Clerk's action of publishing the public hearing notices on June 6, 2016. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

SCHEDULE a Public Hearing on June 21, 2016, for the imposition of special assessments for Sanitary Sewer, Water and Street Improvement Projects in the Kanza Education and Science Park; and ratify the City Clerk's action in publishing on June 6, 2016, the appropriate notices in the official City newspaper was presented.

Councilmember Emerson stated his company provided services as a contractor for two of the three projects; therefore, he would abstain from voting.

Councilmember Jensen moved to set the public hearing date of June 21, 2016, and ratify the City Clerk's action of publishing the public hearing notices on June 6, 2016. The motion seconded by Councilmember Hiller carried. Mayor Wolgast voted "yes." Councilmember Emerson abstained. (8-0-1)

APPROVAL of the revised Topeka City Council Rules and Procedures was presented.

Lisa Robertson, City Attorney, provided an overview of the proposed amendments to the Topeka City Council Rules and Procedures.

Mayor Wolgast reported the revisions to the Topeka City Council Rules and Procedures are a result of changes made to State law. He suggested the revisions not take effect until January 2018, after the next municipal election.

Councilmember Hiller moved to refer the Topeka City Council Rules and Procedures to the Policy and Finance Committee to provide additional time to gather public input. The motion was seconded by Councilmember Ortiz.

Councilmember Clear suggested the Policy and Finance Committee consider all recommendations outlined in the 2014 Citizens Government Review Committee Report.

Joseph Ledbetter spoke in support of referring the Topeka Council Rules and Procedures to the Policy and Finance Committee for further consideration.

The motion to refer the Topeka City Council Rules and Procedures to the Policy and Finance Committee carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

ORDINANCE NO. 20002 introduced by City Manager Jim Colson, concerning bicycles, roller-skates, skateboards, repealing Topeka Municipal Code Sections 10.20.020 and 10.60.410, amending City of Topeka Code Section 10.35.010 and repealing original section, and creating new Sections 10.35.020 and 10.35.030, was presented.

Councilmember Ortiz gave the committee report. She stated the Policy and Finance Committee recommended approval of the ordinance by a vote of 2-0-1 on May 20, 2016.

Councilmember Ortiz moved to adopt the ordinance. The motion was seconded by Councilmember Schwartz.

Councilmember Clear questioned if bike racks would be installed within the dismount zone between 4th and 11th Streets along South Kansas Avenue.

Bill Fiander, Planning Department Director, reported bike racks are installed in the mid-block areas at crossings as well as along the blocks.

Councilmember Jensen stated the proposed ordinance should not be considered a ban on bicycles but an effort to improve public safety. He stated bicyclists have the option to walk their bicycles along South Kansas Avenue or detour around downtown.

Councilmember Schwartz stated she is a member of a blog at www.elected.org and reported at least six cities across the nation have implemented the same type of ordinance.

Michelle Martinez expressed concern with attaching a negative social stigma to skaters. She stated all people should be treated equally and held accountable for public safety.

Felix Martinez expressed concern with the negative effect the ordinance would have on skaters and the community as a whole.

Lisa Stubbs spoke in support of the ordinance and implementing the regulations in the downtown area to enhance public safety.

Vince Frye, Downtown Topeka Inc., President and CEO, spoke in support of the ordinance along with the downtown merchants. He stated the downtown merchants want public safety to take precedence.

Karl Fundenberger, Topeka Metro Bikeshare Program, requested the Governing Body discuss the ordinance further to make an informed decision on the complex issue to ensure the City is prepared to welcome everyone.

Andy Fry spoke in support of embracing all individuals and discouraged segregating people from the downtown area. He asked the Governing Body to further discuss the issue on enforcing existing laws instead of adopting the proposed ordinance.

Councilmember Schwartz asked who would be liable if an individual is hurt on a sidewalk as a result of a bicycle or skateboard.

Lisa Robertson stated the City would most likely be named as the liable party; however, it would depend on the circumstances of the case.

Councilmember Emerson questioned why the proposed dismount zone begins at 4th Street when streetscape does not begin until 6th Street.

Bill Fiander, Planning Department Director, reported the dismount zone was extended to 4th Street because it seemed more feasible due to less pedestrian traffic.

Councilmember Ortiz spoke in support of the ordinance and stated the public must be educated on the issue to improve public safety.

Councilmember Hiller stated she has struggled with the issue specifically after the language relating to skateboards was added as well as ordinances alone do not solve problems. She stated she believes it is vital to ensure the ordinance is narrow enough and meaningful to address the problem. She noted the issues of public safety and damage are two separate items and reported the following:

- In regards to skateboard damage and the design element, deterrent hardware has been ordered and will be installed on currently damaged pocket park equipment and/or designs and will be included in future pocket parks.
- In regards to the current criminal damage ordinance, it will not take care of current problems as it requires proof of intent. She noted she was informed by the Legal staff it would not be advisable to add the terms “carelessness” or “recklessness” to the ordinance.
- In regards to placing street furniture or other items near doorways to naturally push people further out onto the sidewalk, she will commit to pursuing this option if needed.

- In regards to the day-to-day safety of pedestrians and damage created by skateboards, she would ask that (1) a plan for regular enforcement be implemented for the downtown area and (2) focus on a zero tolerance initiative and establish a culture that downtown sidewalks are pedestrian only.

Councilmember Jensen expressed the importance of educating the public on the positive aspects of the ordinance as well as revisiting the proposal in six months to review how it is working in the downtown area.

The motion to adopt the ordinance carried. Mayor Wolgast voted “yes.” Councilmember Coen voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz, Harmon and Mayor Wolgast -8. Noes: Coen -1. Absent: De La Isla -1.

DISCUSSION of amendments to the dangerous dog ordinance was presented.

Chuck Kitt, Chief of Prosecution, provided a brief overview of the proposed amendments and stated the purpose of the amendments is to give discretion to the court for each case.

Councilmember Ortiz questioned how the ordinance would relate to animals at large.

Chuck Kitt reported the ordinance as proposed could impound a dog at large and noted there is safety mechanisms incorporated in the language regarding dangerous dog language.

Councilmember Hiller expressed concern with striking the language on lines 119-121 stating, “(h) It shall be an affirmative defense to subsections (f) and (g) of this section that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.” She requested to review the entire City Code language relating to dangerous dogs to ensure the Governing Body does not eliminate necessary language.

Chuck Kitt stated the language on lines 119-121 was deleted because it was duplicated under the definition of “dangerous dog” in Topeka Municipal Code Section 6.05.010(b).

Dick Ketterman spoke in support of the court having discretion for each case. He requested the Governing Body review the language more closely specifically relating to leash laws.

Joseph Ledbetter spoke in support of stronger language amendments to the ordinance, specifically relating to protecting children under the age of 14.

Councilmember Harmon left the room.

DISCUSSION of proposed changes to the Merchant Guard License ordinance was presented.

Luther Ganieany, Assistant City Attorney, provided a brief overview of the proposed amendments, specifically relating to the timeline for expungements and providing a more fair assessment of the applicant.

Councilmember Ortiz expressed concern with the need of disclosing diversions on applications specifically relating to the type of service the applicant would be providing.

Councilmember Jensen asked how the proposal would affect security guard companies; and would the City be liable for the changes and/or endorsement of an applicant. He suggested the City engage in discussions with security guard companies to see how the City's process coincides with their application process.

Luther Ganieany stated the proposal was based on how other cities are handling the issue.

Lisa Robertson, City Attorney, stated she does not believe the City would be liable as the City is not endorsing an applicant when it provides a license.

Councilmember Clear stated she concurs with Councilmember Ortiz and wants to ensure high standards are being met when processing applications. She asked if an age limit could be added to application requirements.

Councilmember Hiller expressed concern with only verifying criminal backgrounds and not requiring gun safety proficiencies.

Councilmember Emerson questioned why the City licenses security guards. He noted security guard companies have the resources as well as the authority to conduct more extensive background checks than the City.

Lisa Robertson stated she would research the matter further and report back to the Governing Body.

Councilmember Hiller requested a list of all licenses issued by the City of Topeka and their requirements.

DISCUSSION concerning the 2015 Visit Topeka, Inc., Annual Report was presented.

Jim Colson, City Manager, reported Visit Topeka, Inc., contracts with the City of Topeka on annual basis to promote tourism.

Brett Oetting, Visit Topeka Inc., President and CEO, provided an annual report for FY2015. He discussed the impact tourism and travel has on the local economy including an increase in 2015 of hotel rates and occupants. He also reported the new Visit Topeka, Inc., mobile app will launch in June 2016, providing tourism information and local vendor specials.

Councilmember Schwartz commended Visit Topeka, Inc., for planning future events and providing a detailed report outlining where tourism money is being spent. She suggested they find a way to better promote the Great Overland Station.

Councilmember Emerson asked Mr. Oetting to provide a brief overview of the bid fund and the constraints it puts on Visit Topeka, Inc., to attract events in the out years.

Brett Oetting stated Visit Topeka, Inc., has bid events as far as out as 2019 and 2020 and an extended contract with the City would be beneficial in attracting events requesting long-term commitments.

Councilmember Coen requested Visit Topeka, Inc., include a follow-up on the matrix of the new mobile app in their next report to the Governing Body.

Councilmember Jensen requested the City consider a longer term contract with Visit Topeka, Inc., to allow them to better plan for the future.

Councilmember Hiller commended Visit Topeka, Inc., on their service to the community and the events they promote to attract people from other areas.

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

Brenda Younger, City Clerk, gave a brief overview of the June 14, 2016 Council agenda.

Jim Colson, City Manager, announced a Budget Committee meeting would be held on June 11, 2016, at 8:00 a.m. at the Law Enforcement Center; several City employees would be participating in The Latino Collaborative of Kansas, a community leadership development program made up of El Centro de Topeka, Topeka LULAC Council and MANA de Topeka; and the Topeka-Shawnee County Public Library was awarded the 2016 Library of the Year award by the Library Journal.

Mayor Wolgast announced economic developments occurring in the community including se2 Company providing new jobs, Futamura USA acquiring Innovia Films in east Topeka as well as Great Plains Energy purchasing Westar Energy and renewing their commitment to remain in the community.

Councilmember Emerson announced Shawnee County Parks and Recreation would host a ribbon cutting ceremony for the new baseball diamonds at Lake Shawnee on June 9, 2016, at 6:00 p.m.

Councilmember Jensen congratulated the Topeka-Shawnee County Public Library on being awarded 2016 Library of the Year.

Councilmember Schwartz commended the Topeka Metropolitan Transit Authority and Susan Duffy, TMTA General Manager, in securing a grant for medical transportation. She announced this week's "gem" of Topeka is the cemeteries and memorial gardens of Topeka.

Councilmember Coen encouraged the community to participate in Topeka nightlife and attend Open Mic Night at Speck's Tavern on June 12, 2016; and an 80's Party at the Lazy Toad on June 17, 2016.

Councilmember Hiller commended City staff for the new Public Works report format. She announced the YWCA received a grant to promote new voter registration.

Councilmember Clear announced NOTOMA would host Concerts in the Park this summer; and the Pet Assistance Network of Topeka is a local organization that helps find temporary homes for pets of homeless people.

Councilmember Ortiz offered her condolences to the family of Reverend Dr. W.L. Templeton, Mount Carmel Missionary Baptist Church.

Councilmember Jensen moved to recess into executive session for a time period not to exceed 10 minutes to discuss potential litigation and to include the Governing Body, City Manager, Deputy City Manager, City Attorney, Human Resources Director and the Risk Manager. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted "yes." Councilmembers Hiller and Ortiz did not vote. (6-0-0)

Councilmember Ortiz left the room.

At 9:41 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 9:41 p.m.

Brenda Younger
City Clerk