

Council Minutes – June 14, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 14, 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, De La Isla, Jensen, Schwartz and Coen -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Harmon -1.

AFTER THE MEETING was called to order, Mayor Wolgast asked for a moment of silent meditation in remembrance of the victims and families affected by the mass shooting in Orlando, Florida.

Pastor Terry Canady, Apostolic Church of Jesus Christ PAW, gave the invocation.

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

A PRESENTATION on the Topeka Metropolitan Transit Authority/Capitol Federal Bank Bikeshare Program was conducted by Susan Duffy, TMTA General Manager; Karl Fundenberger, TMTA Bicycle Operations Director, and John Dicus, Capitol Federal President and CEO.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8778 introduced by Councilmember Sylvia Ortiz, granting Anthony Williams an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8779 introduced by Councilmember Sylvia Ortiz, granting Gladis Jimenez an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

APPROVAL of a Workers' Compensation Settlement for Gregory Vogue in the amount of \$14,859.90 for the permanent partial impairment of his right shoulder for injuries suffered on January 30, 2013, was presented.

BOARD APPOINTMENT recommending the re-appointment of Lorean Williams to the Topeka Human Relations Commission for a term ending June 1, 2018, was presented.

MINUTES of the regular meeting of June 7, 2016, was presented.

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

<u>Business Name</u>	<u>Address</u>
Seabrook Apple Market	1945 SW Gage Boulevard
Walmart #1802	1501 SW Wanamaker Road
Walmart #2131	1301 SW 37 th Street
Walmart #5441	2600 NW Rochester Road
Walmart #6392	2630 SE California Avenue
Walmart #6585	335 SW Macvicar Avenue

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

ORDINANCE NO. 20003 introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located along the north side of SW 27th Street and approximately 500 feet east of SW Indian Hills Road from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District, was presented. (Z16/3)

Doug Gerber, Deputy City Manager, reported approval would allow the property to develop under a more restrictive zoning district consistent with single-family uses inside the city limits.

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

A PUBLIC HEARING and ORDINANCE NO. 20004 introduced by City Manager Jim Colson, relating to the vacation of a north-south 20 foot wide public alley right-of-way lying

between NW Topeka Boulevard and NW Harrison Street and NW Curtis Street and NW Railroad Street, in the City of Topeka, Shawnee County, Kansas, was presented. (VI6A/3)

Doug Gerber, Deputy City Manager, reported approval would allow the Topeka Rescue Mission to better accommodate future expansion plans.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Upon no one appearing, Mayor Wolgast announced the public hearing was closed.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Absent: Harmon -1.

AN ORDINANCE introduced by City Manager Jim Colson, concerning merchant private police license regulations, amending City of Topeka Code Sections 5.90.010, 5.90.110, 5.90.120, 5.90.130, 5.90.140 and 5.90.170 and repealing original sections and repealing Section 5.90.050 in its entirety was presented.

Doug Gerber, Deputy City Manager, reported the following responses to the questions generated from the discussion regarding merchant guard licenses at the June 7, 2016, Council meeting:

- The City issues merchant guard licenses because the City has access to the Kansas Bureau of Investigations Criminal Database and security companies do not, allowing the City to conduct a more thorough background check.
- The City has no liability in issuing or approving a merchant guard license,
- Security companies support the proposed ordinance.

Mr. Gerber stated approval would retain the conviction disqualifier for a license; amend the definition of “conviction” to remove expungements, diversions and pardons; and remove references to firearms as State law now preempts cities from regulating the carrying of firearms.

Councilmember Clear asked if language could be added to the ordinance relating to a felony diversion.

Luther Ganieany, Assistant City Attorney, reported language could be added; however, a diversion would be at the discretion of the prosecutor and typically a high level felony would not be granted a diversion.

Mayor Wolgast stated he believes the City should stand by the decision of the court in regards to diversions and expungements.

Councilmember Ortiz spoke in opposition of the proposed ordinance because of the diversion language included. She expressed concern with public safety and stated it would be a different matter if the individual was a minor when the crime was committed.

Councilmember De La Isla stated the merchant guard license application is clear regarding the disclosure of diversions and expungements.

Councilmembers Coen and Jensen spoke in support of the ordinance and proposed language amendments being reviewed by the Public Health and Safety Committee.

Doug Gerber stated staff could revise language as needed or would support referring the ordinance to committee for further review.

Councilmember Emerson questioned if the gun regulation language in the proposed ordinance needs to be addressed by a certain deadline.

Luther Ganieany stated there is no timeline in regards to the removal of firearms regulation language from the ordinance due to the fact the City already follows State law which prevents cities from regulating the carrying of firearms.

Councilmember Hiller expressed concern with removing juvenile convictions and would prefer reducing the amount of time to disclose diversions or expungements to possibly five years. She requested further review of the language in the ordinance throughout pages 7-10 for more clarification. She requested a list of licenses along with applicable regulations issued by the Topeka Police Department for comparison purposes.

Councilmember Schwartz requested the Topeka Police Department provide their opinion on the issue at the committee meeting.

Councilmember Schwartz moved to refer the ordinance to the Public Health and Safety Committee. The motion seconded by Councilmember Hiller carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

AN ORDINANCE introduced by City Manager Jim Colson, concerning dangerous dogs, amending City of Topeka Code Section 6.05.080 and repealing original section was presented.

Doug Gerber, Deputy City Manager, reported approval would further public safety by requiring the Court to destroy dogs that cause great bodily harm or death, regardless of history and remove the mandatory destruction of dogs that have a history of aggression even though they have never caused great bodily harm or death.

Councilmember Hiller expressed concern with removing language on lines 119-121 and would like to hear from Animal Control Officers and citizens before adopting the ordinance to ensure the language is consistent. She thanked staff for bringing the ordinance to the Governing Body; however, she believes it only deals with those instances ending in court.

Councilmember Hiller moved to refer the ordinance to the Public Health and Safety Committee. The motion was seconded by Councilmember Clear.

Shay Foley spoke in support of protecting children and making certain the ordinance is enforceable.

Joseph Ledbetter spoke in support of protecting citizens, especially children and the elderly from aggressive dogs as well as utility workers and City workers.

Malina Rocha spoke in support of the ordinance and explained a recent incident relating to her daughter being attacked by the neighbor's dog.

Councilmember Ortiz stated all Governing Body members share the concerns expressed by citizens and encouraged them to attend the committee meeting.

The motion to refer the ordinance to the Public Health and Safety Committee carried. Mayor Wolgast voted "yes." Councilmember Emerson voted "no." (8-1-0)

DISCUSSION of a resolution requesting the Kansas Department of Transportation to install "Home of Harry W. Colmery" signs on the interstate highway around the city limits was presented.

Bill Fiander, Planning Department Director, reported the American Legion of Kansas and the Downtown Topeka Foundation has requested the Kansas Department of Transportation (KDOT) to place "Home of Harry W. Colmery" signs to federal and state highway approaches to the city. He also reported the City is requesting a variance to the policy from KDOT to keep the "Home of Astronaut Ron Evans" signs and noted the policy only allows one sign per city.

Councilmember Schwartz noted the City of Salina, Kansas has two "Home Of" signs.

Councilmember Jensen asked if there are any costs associated with the signs to the City of Topeka.

Bill Fiander reported the signs would be installed at KDOT's expense.

Pat Michaelis spoke in support of the resolution and stated in the event the request was not approved by KDOT, he would commit to raising the private funds necessary to put a sign in a downtown pocket park possibly named the "Colmery Plaza."

DISCUSSION regarding proposed amendments to municipal court costs and fees was presented.

Doug Gerber, Deputy City Manager, reported the proposed amendments would comply with House Bill 2696 mandating an increase in municipal court fees for the Commission on Peace Officer Standards and Training Fund which takes effect on July 1, 2016.

Jason Geier, Municipal Court Administrative Judge, reported the increase in court costs and fees by \$3.00 would be for misdemeanors and moving violations. He stated the \$3 fee would cover the \$2.50 unfunded mandate by the State with the additional \$0.50 being remitted to the general fund. He stated the increase would make all fines and fees "whole numbers" which decrease transaction times for constituents, increase efficiency and enable the court to provide better service to customers as well as add \$18,500 to the general fund. He noted there would be an approximate \$35,000 hit to the general fund based on last year's numbers if the City were to absorb the mandated increase. He provided comparison information of other cities court costs and fees for moving and non-moving violations.

Mayor Wolgast and Councilmember Clear requested a breakdown of court costs.

Jason Geier stated he would provide a breakdown of court costs to the Governing Body.

Councilmember Jensen spoke in opposition of funding the general fund with court costs no matter the amount and supports the increase of \$2.50 only to cover the unfunded mandate by the State.

Doug Gerber reported municipal court fines currently generate \$3 million in revenue to the general fund.

Councilmember Ortiz spoke in support of the amendments due to the huge outstanding debt of unpaid fines.

Councilmember De La Isla spoke in support of the amendments because customer service is the number one priority and the increase would help support an unfunded mandate fee by the State.

Councilmembers Hiller and Schwartz spoke in support of the proposal and contributions to the general fund to help support the cost of overall municipal court operations.

DISCUSSION regarding the history and overview of the Riverfront Park Project was presented.

Pat Downs, Topeka-Shawnee County Riverfront Authority Economic Development Director, provided an overview of the Riverfront Park Project history and potential next steps in the project process. He noted Beth Fager, Topeka-Shawnee County Riverfront Authority Chair, was present for questions.

Councilmember Jensen requested a list of other cities with similar projects.

Councilmember Emerson expressed concern with how the park would sit visually in regards to the Kansas River levee.

Pat Downs stated they are working with the U.S. Army Corps of Engineers in regards to addressing urban design techniques for the park.

Doug Gerber noted there was a proposal being drafted to build a berm in the levee area; however, design options are also being reviewed.

Sasha Haehn, Neighborhood Relations Director, provided an overview of acquisition of the three remaining privately owned lots needed for the Riverfront Park Project. She discussed property appraisals, financial considerations and the next steps for the Governing Body to consider.

Councilmember Schwartz requested staff research purchasing the parcel owned by Shawnee County instead of the vacant NW Curtis lot.

Doug Gerber stated the remaining two parcels may be affected by the Kansas River Levee Project; however, they hope to have the design completed in the near future.

Councilmember Jensen encouraged Governing Body members to attend the design charrettes as it provides a great opportunity to voice opinions.

Councilmember Hiller stated the details of the project became complicated due to the consolidation of the City and County Parks and Recreation Departments. She requested staff provide a full briefing of the project from its inception and how it will develop around the Oregon Trail concept.

Mayor Wolgast stated he understands there have been some misunderstandings in regards to the ownership of parcels due to the consolidation.

Councilmember Clear questioned if the project would fall under the guise of economic development instead of a park.

Sasha Haehn reported staff's recommendation would be to follow the original plan.

Councilmember De La Isla thanked the people involved in the project for their work and how the process has transpired thus far.

Joseph Ledbetter spoke in support of the Riverfront Park being under the authority of the Shawnee County Parks and Recreation Department; however, he expressed concern with the

amount of time it has taken to move forward with the project. He suggested educating the public on the Oregon Trail history to help make the concept work.

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

Brenda Younger, City Clerk, gave a brief overview of the June 21, 2016 Council agenda.

Doug Gerber, Deputy City Manager, recognized Aly Van Dyke, Media Relations Director; Sylvia Davis, WPC General Manager; and Amber Reynolds, Technology Services Manager, for representing Topeka at a national conference for tweet-along concept. He announced LaToya Burnett-Martinez, Water Treatment Plant Administrative Officer; and Lt. Jerry Monasmith, Topeka Police Officer, were participating in the Emerging Leaders Academy hosted by Kansas University. He also announced Topeka was selected as one of 12 new cities to participate in Bloomberg Philanthropies' What Works Cities initiative, one of the largest-ever philanthropic efforts to enhance the use of data and evidence in the public sector; the Topeka Zoo would host a grand opening of the Butterfly Pavilion on June 16, 2016; and the landscaping along S. Kansas Avenue has started and would be completed by the end of the month.

Mayor Wolgast stated it is an honor for Topeka to be selected to participate in the What Works Cities initiative which includes cities and municipalities on the cutting edge of transparency and is a leader in open government. He announced the Harry W. Colmery pocket park and the Security Benefit pocket park would be dedicated on June 29, 2016.

The Governing Body offered their condolences to the victims and families involved in the mass shooting incident in Orlando, Florida.

Councilmember Emerson announced a neighborhood meeting would be held on June 15, 2016, at 4:30 p.m. at St. Matthews Catholic Church located at 2700 SE Virginia Avenue to

discuss the street improvement project along SE Massachusetts, SE Maryland and SE Pennsylvania Streets from SE 21st to 29th Streets.

Councilmember De La Isla expressed concern with the lack of funding to Kansas schools and stated economic development depends and thrives on providing excellent schools for children. She commented on the NHRA races that occurred on May 20-22, 2016, and reported the local economy was boosted by visitors from all over and hotels were occupied at 93-94%. She announced the Budget Committee would hold a meeting June 15, 2016, from 6:00 p.m. to 8:00 p.m. at the Law Enforcement Center located at 320 S. Kansas Avenue to discuss the 2017 City of Topeka Operating Budget.

Councilmember Schwartz encouraged everyone to fly their flags on the 4th of July. She stated this week's "gem" of Topeka is the "City4 staff members".

Councilmember Coen encouraged the Governing Body to visit the City's Health and Wellness Clinic and check out the services offered.

Councilmember Hiller commented on the recent tragedy in Orlando, Florida and commended the Topeka Police Department for reaching out to the LBGT community and making them feel safe and valued. She announced the Sunflower Music Festival is June 10-18, 2016; and dedication of the Rotary Freedom pocket park at Constitution Hall will be on June 16, 2016, at 5:30 p.m.

Councilmember Clear announced June 18-19, 2016, the Kansas Expocentre would host 4-H events; and Garfield Park would host Concerts in the Park on June 20, 2016.

Joseph Ledbetter appeared to speak under public comment.

Councilmember Ortiz moved to recess into executive session for a time period not to exceed 20 minutes to discuss potential litigation and to include the Governing Body, Deputy City

Manager, City Attorney and Finance Department Director. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

At 9:03 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 9:03 p.m.

Brenda Younger
City Clerk