

Council Minutes – June 17, 2014

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 17, 2014. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Brown, Ortiz, Everhart, De La Isla, Schwartz, Schmidt and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Manspeaker -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.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Daryl Craft to the Downtown Business Improvement District Advisory Board for a term ending June 30, 2016, was presented.

BOARD APPOINTMENT recommending the re-appointment of Ken Scott to the Downtown Business Improvement District Advisory Board for a term ending June 30, 2016, was presented.

BOARD APPOINTMENT recommending the re-appointment of Stephen Smith to the Downtown Business Improvement District Advisory Board for a term ending June 30, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of Ryan Freed to the Topeka-Shawnee County Public Library Board of Trustees for an unexpired term ending April 30, 2015, was presented.

BOARD APPOINTMENT recommending the re-appointment of Rodney Miller to the Topeka Metropolitan Transit Authority for a term ending June 30, 2018, was presented.

BOARD APPOINTMENT recommending the re-appointment of Beverly Hall to the Topeka Metropolitan Transit Authority for a term ending June 30, 2018, was presented.

RESOLUTION NO. 8627 introduced by Councilmember Karen Hiller, granting Lynda Monroe an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8628 introduced by Councilmember Karen Hiller, granting Kyle Modin an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8629 introduced by Councilmember TJ Brown, granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8630 introduced by Councilmember TJ Brown, granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8631 introduced by Councilmember TJ Brown, granting Chris Martinez an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented.

RESOLUTION NO. 8632 introduced by Councilmember Chad Manspeaker, granting The Loft at College Hill 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 June 10, 2014, were presented.

Open After Midnight License applications were presented for the following:

BUSINESS NAME

The Car Wash

The Car Wash

ADDRESS

1814 SW 10th Avenue

720 SW Gage Boulevard

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

RESOLUTION NO. 8633 introduced by City Manager Jim Colson, authorizing the serving of complimentary alcoholic liquor and cereal malt beverage for the First Friday Art Walk events sponsored by ArtsConnect, Inc., was presented.

Chad Sublet, City Attorney, reported approval would allow premises that are not licensed to sell alcohol and cereal malt beverages to provide complimentary alcohol and cereal malt beverages at events sponsored by non-profit organization promoting the arts.

Sarah Fizell appeared for questions and encouraged the Council to approve the resolution.

Frances Wood spoke in opposition of serving alcohol and asked the Council to deny the resolution.

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

RESOLUTION NO. 8634 introduced by Councilmember TJ Brown, granting a waiver to the provisions of City of Topeka Municipal Code Section 10.60.120 relating to parking on unimproved surfaces was presented.

Councilmember Brown moved to approve the resolution. The motion seconded by Councilmember Hiller carried unanimously. (8-0-0)

RESOLUTION NO. 8635 introduced by Councilmember TJ Brown, approving a special event known as Our Lady of Guadalupe Fiesta Mexicana was presented.

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

ORDINANCE NO. 19909 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of April 26, 2014, through May 30, 2014, and enumerating said expenditures therein was presented.

Doug Gerber reported approval would authorize City expenditures in the amount of \$17,122,327.82.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Schmidt carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Hiller, Brown, Ortiz, Everhart, De La Isla, Schwartz, Schmidt and Harmon -8. Absent: Manspeaker -1.

ORDINANCE NO. 19910 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 at 3337 NW Lower Silver Lake Road and the west half of the property at 3311 NW Lower Silver Lake Road from “R-1” Single Family Dwelling District with a Special Use Permit (SUP) for a Vegetable Market ALL TO “I-1” Light Industrial District was presented. (Z14/4)

Bill Fiander, Planning Department Director, reported approval would allow for light industrial uses including outside storage on property located at 3311 NW Lower Silver Lake Road. He stated the Council remanded the zoning case back to the Planning Commission to consider outdoor storage screening requirements; however, the Planning Commission re-affirmed their original recommendation for “I-1” Light Industrial District and indicated the applicant should be treated in an equitable manner as other nearby industrial properties. He also

stated staff recommends approval of the “PUD” Planned Unit Development option with screening requirements.

Councilmember Brown spoke in support of the “PUD” option with screening requirements.

Councilmember Schmidt stated the Planning Department is in the process of introducing upgraded standards for the Council to consider in the near future; therefore, the “PUD” is the best option at this time.

Councilmember Schmidt moved to adopt the ordinance. The motion was seconded by Councilmember De La Isla.

Councilmember Brown made a substitute motion to adopt the ordinance authorizing the “PUD” Planned Unit Development option as recommended by the Planning Department. The motion was seconded by Councilmember Schmidt.

Councilmember Harmon stated the ordinance recommended by the Planning Commission included the statement “no material shall be stacked higher than the fence”; however, the ordinance recommended by the Planning Department did not include the statement and asked for clarification on the issue.

Councilmember Schmidt stated by classifying the property as “PUD”, it has a restriction that anything stored or stacked could not exceed six (6) feet.

Mayor Wolgast referenced the Planning Commission Meeting Minutes and stated support was expressed by the surrounding properties for the “PUD” zoning classification.

Councilmember Hiller gave a brief summary of the area and stated the area has been steadily improving along Lower Silver Lake Road. She noted she looks forward to the new code changes.

Bill Fiander stated the current land use plan for the City evaluated the area as industrial and being located right on the edge of a transitional area from industrial to residential.

The substitute motion to adopt the ordinance authorizing "PUD" Planned Unit Development option as recommended by the Planning Department carried unanimously.
(9-0-0)

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

Councilmember Hiller moved to go into executive session to discuss potential litigation for a time period not to exceed 15 minutes and to include the Governing Body, City Manager, Administrative and Finance Services Director and Chief Financial Officer. The motion seconded by Councilmember Schwartz carried unanimously. (8-0-0)

Councilmember Hiller moved to extend the executive session for 15 minutes. The motion seconded by Councilmember Schmidt carried unanimously. (8-0-0)

At 7:10 p.m., Mayor Wolgast announced the Council meeting would reconvene into open session and no action had been taken.

APPROVAL of a Workout Agreement, effective April 25, 2014, between CoreFirst Bank and Trust, Lender, and the Jayhawk Racing Properties, L.L.C., Heartland Park Raceway, L.L.C., the City of Topeka, Kansas, and Raymond Irwin was presented. (*Contract No. 43732*)

Jim Colson, City Manager, reported the workout agreement and the memorandum of understanding are the beginning of a process to continue and enhance the viability and stability of Heartland Park Topeka to assure the economic benefit created by Heartland Park activities. He stated two formal public meetings would be scheduled so the Governing Body and the

community are fully engaged in the process. He noted there is no tax increases associated with the project; however, the issue is to reallocate and redistribute taxes from the State to the City based on a formula. He also stated there are not enough revenues to pay the obligation of \$10.8 million of STAR bond debt; therefore, the City would use general obligation bonds to repay the STAR bonds which would allow the City to service current and incremental debt.

Chad Sublet, City Attorney, gave a brief summary of the workout agreement and memorandum of understanding. He stated approval would not authorize issuance of STAR bonds; however, it would allow the City the benefit to capture the State's portion of taxes and move forward with the bond process. He reported the financial projections in the approximate amount of \$17 million (*Attachment A*); the workout agreement would require 17 steps before the process is complete; and would allow Mr. Irwin to operate Heartland Park through February 2015.

Councilmember Schmidt stated the workout agreement is the first step in the process and would eventually save approximately \$9 million over the next 12 years as opposed to paying the interest on the current bonds and risking the loss of a business that generates a significant amount of economic development funds.

Councilmember Hiller stated the workout agreement and memorandum of understanding are contingent upon one another. She commended the work that has been done to resolve an issue that seemed nearly impossible.

Councilmember De La Isla expressed appreciation to staff for the work done and stated there has been a lot of concern voiced by the community regarding Heartland Park and the City's involvement. She commented on neutralizing the City's (taxpayer) debt and how these actions help the City remain in a neutral financial state.

Jim Colson stated the actions taken were as close as the City could come to “risk-free”, as well as, it helped all parties involved.

Raymond Irwin, owner of Heartland Park, commended the Kansas Secretary of Commerce, Topeka City Manager and Topeka City Attorney because they were able to capture an area contiguous to the area for economic development purposes. He reported Heartland Park generates economic development dollars throughout the city; however, the Park is not geographically situated to capture economic funds in the same manner as the Kansas Speedway located in Kansas City, Kansas.

Jack Woelfel stated he believes this is a government bailout to pay the financial obligations of the Heartland Park organization. He questioned the urgency of the situation and asked if the City would do the same for small businesses. He encouraged the Council to disapprove the workout agreement.

Kurt Young, Topeka Lodging Association, thanked all the people involved in the deal and stated the Topeka Lodging Association has a long history of supporting Heartland Park. He reported Heartland Park generates approximately 250 event days annually for the lodging industry and the loss of the Park would create major hurdles for Topeka.

Tod Bunting, former Adjutant General of Kansas, spoke in support of Heartland Park and the continued operations of the Park. He stated the military fully supports Heartland Park and encouraged the Governing Body to find a way to retain this local and national treasure.

Joseph Ledbetter expressed concern with the agreement and transparency of the process. He spoke in support of Heartland Park; however, he asked if projections have been fully reviewed; why is the matter so urgent; and if there would be public forums to discuss the issue. He stated he believes it is not in the City’s best interest to own Heartland Park.

Councilmember Schmidt stated he agrees mistakes have been made in the past regarding Heartland Park; however, the projected numbers are based on the collected revenue which make the agreement much less risky and offers a solution to the issue. He spoke in support of the proposal and noted the intent moving forward should be as transparent as possible.

Councilmember Everhart stated she concurs with Councilmember Schmidt and disagrees that it is a government bailout but rather a solution for the citizens of Topeka.

Councilmember Hiller asked the City Manager to comment on proposed public meetings.

Jim Colson stated meetings would be announced on the City's website, as well as, all documents associated with the issue would be posted on the City's website to assure the public is well informed.

Councilmember Schmidt moved to approve the workout agreement. The motion seconded by Councilmember Harmon carried. Councilmember Ortiz voted "no." (7-1-0)

APPROVAL of a Memorandum of Understanding between the City of Topeka, Kansas, a municipal corporation of Shawnee County, Kansas, Visit Topeka, Inc., Jayhawk Racing Properties, L.L.C., and the Kansas Department of Commerce was presented. (*Contract No. 43733*)

Raymond Irwin, owner of Heartland Park, expressed concern with Heartland Park's employees and contracted services totaling \$900,000 and operations totaling \$1 million and stated the issue is important to the economy and citizens of Topeka.

Jack Woelfel expressed concern with the City having no legal recourse in the memorandum of understanding and believes that the entertainment business is not a core function of local government.

Joseph Ledbetter commented on JEDO meeting minutes from August 25, 2004, and cautioned the City to become educated in the process. He stated he understands this is a tough situation; however, he believes there should be transparency and public input in the process.

Councilmember Everhart spoke in support of the memorandum of understanding and stated it is the best approach to the situation. She noted the City should fully explore an end to the situation so the City is not acquiring additional debt.

Councilmember Hiller asked what the next step in the process would be.

Jim Colson, City Manager, stated the sale of Heartland Park would be to an operator under an independent agreement as the City has no intent to operate the facility.

Councilmember Schmidt moved to approve the memorandum of understanding. The motion seconded by Councilmember Brown carried. Councilmember Ortiz voted "no." (7-1-0)

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

<u>Business Name</u>	<u>Address</u>
Hy-Vee #1658	2951 SW Wanamaker Road
Hy-Vee Gas	6011 SW 29 th Street
Superstore	2121 SW Wanamaker Road
Topeka Fuel	1320 SW 6 th Avenue

Councilmember De La Isla moved to approve the retail cereal malt beverage license applications as presented. The motion seconded by Councilmember Brown carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

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

The City Clerk provided a brief summary of the July 1, 2014, Council agenda.

Jim Colson, City Manager, recognized Ginny Burghart, City Council Assistant, and Miriam Berke, Development Services Director for their service to the City and congratulated them on

their retirements. He stated the City's goal is to build an organization that values its employees, is productive and serves the community well. He reported Shawnee County Commissioners took action on the countywide retailers' half-cent sales tax and appears that they have considered the City's request. He noted he would bring the matter to the Council for discussion and consideration in July.

All Councilmembers commended Ginny Burghart on her years of service, dedication and loyalty to the City and being a great asset to Councilmembers over the years. They also thanked Miriam Berke for her professionalism, hard work and dedication to the citizens of Topeka.

Councilmember Hiller asked the City Manager to send a memo to the Council to inform them on how Council office duties would be handled during the interim of selecting a new Council Office Assistant.

Councilmember Brown thanked Councilmember Ortiz for assisting his constituents while the Council District No. 2 position was vacant. He announced the Fiesta Mexicana events would start with the parade on July 12, 2014, and community events are scheduled for July 15-19, 2014.

Councilmember Ortiz invited citizens to enjoy the Movies in the Park event, on June 27, 2014, at Ripley Park.

Councilmember Everhart announced a Budget Committee meeting is scheduled for June 24, 2014, at the Law Enforcement Center at 6:00 p.m. and encouraged the community to attend. She asked the community to keep the military in their thoughts and prayers during this difficult time.

Councilmember Schwartz stated she participated in the conservation tour of Lake Shawnee and encouraged everyone to visit the lake and enjoy the many great amenities.

Mayor Wolgast commended the Council for the discussion regarding Heartland Park which begins a very important process to protect the future of the City.

Joseph Ledbetter appeared to speak under public comment.

Councilmember Harmon moved to recess into executive session to discuss labor negotiations for a time period not to exceed 20 minutes and to include the Governing Body, City Manager, Administrative and Finance Services Director, City Attorney and staff, and the Human Resources Director. The motion seconded by Councilmember Everhart carried unanimously.

(8-0-0)

At 8:55 p.m., the Council meeting was reconvened and Mayor Wolgast announced that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:00 p.m.



Brenda Younger
Brenda Younger
City Clerk

February 10, 2014

Option 2 - Final

HEARTLAND PARK**Expanded District -** extend Topeka Blvd. north to Croix St.

2012 Revenues	\$6,259,669.00
2005 Revenues	<u>\$4,841,806.00</u>
Increment available for STAR Bonds	<u>\$1,417,863.00</u>
Years remaining on District - 12	<u>x 12 years</u>
Total projected amount available for debt service	<u>\$17,014,356.00</u>

Existing Bonds -

Debt Service - \$10.8M owed on original bonds

New Bonds -

Existing Debt - (CoreFirst, KDOC, SBA) -	\$2,304,476.39
Irwin Loans (reduced by 20%) -	<u>\$2,465,409.82</u>
Total amount of bonds to acquire track	<u>\$4,769,886.21</u>

Estimated 5% interest rate over 12 years - Annual Payment	\$528,149.83
	<u>x 12 years</u>
Total debt service	<u>\$6,337,797.96</u>

Cumulative-

Debt service existing bonds	\$10,800,000.00
Debt service new bonds	<u>\$6,337,797.96</u>
Total debt service	<u>\$17,137,797.96</u>

Total debt service	\$17,137,797.96
Less projected revenue	<u>\$17,014,356.00</u>
Remaining city obligation	<u>\$123,441.96</u>

Existing District -

2013 Revenues -	\$165,000.00
	<u>x 12 years</u>
Total (amount available from STAR revenues)	<u>\$1,980,000.00</u>
Amount of city obligation	\$10,800,000.00
Less projected STAR revenues	<u>\$1,980,000.00</u>
Total city obligation if no new district	<u>\$8,820,000.00</u>
Total city obligation with new district	<u>\$123,441.96</u>
Benefit of new district	<u>\$8,696,558.04</u>