

Council Minutes – August 19, 2014

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 19, 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, Manspeaker, Schwartz and Schmidt -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Harmon -1.

AFTER THE MEETING was called to order, Pastor Anthony Divers, Inward Faith Outreach Ministries gave the invocation.

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

A PRESENTATION of the 2013 City of Topeka Audit and Comprehensive Annual Financial Report was given by Audrey Odermann, Mize Houser & Company. She gave a summary of the financial statement and the auditor's opinion.

Councilmember De La Isla asked if the main problem at the time of the findings made by the auditor in 2013 was because Financial Services was short staffed.

Mayor Wolgast stated based on the auditor's report there were no improvements from 2012 to 2013; however, he believes with the excellent staff now hired the improvements should be completed.

Audrey Odermann stated she believes great management and qualified staff is in place to make sure those processes are documented and internal controls are in position. She reported Brandon Kauffman, City's Chief Fiscal Officer, has been meeting with staff to go through transactions to detail how those processes are working.

Councilmember Schmidt moved to add a resolution to the consent agenda granting Specks Bar & Grill a noise exception. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

Mayor Wolgast announced the resolution would be added to the consent agenda as item 4F.

THE CONSENT AGENDA was presented as follows:

A BOARD APPOINTMENT recommending the re-appointment of Scott Gales to the Topeka Planning Commission for a term ending August 30, 2017 was presented.

A BOARD APPOINTMENT recommending the appointment of Patrick Woods to the Topeka Planning Commission for a term ending August 30, 2017 was presented.

A BOARD APPOINTMENT recommending the re-appointment of Doug Kinsinger to the Topeka/Shawnee County Riverfront Authority Board for a term ending August 30, 2017 was presented.

A BOARD APPOINTMENT recommending the re-appointment of Doug Hubbell to the Board of Plumbing Examiners for a term that would expire on August 31, 2016 was presented.

MINUTES of the regular meeting of August 12, 2014, was presented.

An Open After Midnight License application for Loyal Order of Moose Lodge #555 located at 1901 N Kansas Avenue was presented.

RESOLUTION NO. 8647 introduced by Councilmember Nathan Schmidt, granting Specks Bar & Grill an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

Councilmember Schmidt moved to approve the consent agenda as amended. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

Jim Colson, City Manager, introduced James Brown, newly appointed City of Topeka Police Chief. He reported Mr. Brown would begin employment with the City on October 1, 2014, as he currently serves as the Assistant Chief of Police for the City of Kansas City, Kansas.

ORDINANCE NO. 19917 introduced by City Manager Jim Colson, authorizing the issuance of \$5,590,000 aggregate principal amount of General Obligation Bonds, Series 2014-A of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive K.S.A. 12-110c, K.S.A. 12-6a01 et seq., and Charter Ordinance No. 89 of the city, all as amended was presented.

Brandon Kauffman, Chief Fiscal Officer, reported the three (3) agenda items relating to bond issuance includes an ordinance and companion resolution authorizing \$5,590,000 in general obligation bonds, and a resolution authorizing \$33,390,000 in temporary notes. He stated the bonds would fund one sanitary sewer line project, one fire apparatus, four street improvement projects and two zoo projects. He reported the City conducted a competitive sale and received a very good rating upgrade from S&P; including an “AA” rating for the general obligation bonds and a SP1+ rating for the temporary notes. He stated Piper Jaffray & Co., won the bid for purchase of General Obligation Bonds, Series 2014-A which was five (5) basis points better than last year; and U.S. Bancorp Investments, Inc., won the bid for purchase of Temporary Notes, Series 2014-A which was 101 basis points better than last year.

Councilmember Hiller spoke in support of the financing tool used to fund the projects. She commended Financial Services and Public Works staff for providing documentation on the projects in conjunction with 2nd Quarter Financials providing her an opportunity to make a comparison of information and an informed decision.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

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

RESOLUTION NO. 8645 introduced by City Manager Jim Colson, prescribing the form and details of General Obligation Bonds, Series 2014-A of the City of Topeka, Kansas, in the aggregate principal amount of \$5,590,000 the issuance of which were authorized by the City pursuant to its ordinance adopted and approved August 19, 2014; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

Councilmember Schwartz asked if the \$3.5 million allocated for the new fire station means the project would begin in the near future.

Jim Colson, City Manager, stated many of the projects outlined on the Temporary Note and Bond Project list have been listed for a period of time; however, there are no plans at this time to move forward with the Fire Station No. 13 project until issues with staffing and resource allocation have been addressed.

Mayor Wolgast asked for confirmation on if the fire station project would remain on the list for the purpose of bonding availability when needed.

Jim Colson stated approval would give the City the ability to move forward with the project provided a decision was made that would be acceptable in terms of overall allocation of resources; however, it would not be the same as taking the actual financial steps to start the project.

Councilmember Everhart moved to approve the resolution. The motion seconded by Councilmember Brown carried. Councilmember Schwartz voted “no.” (7-1-0)

RESOLUTION NO. 8646 introduced by City Manager Jim Colson, authorizing and directing the issuance of Temporary Notes, Series 2014-A (General Improvements) of the City of Topeka, Kansas, in the aggregate principal amount of \$33,390,000 for the purpose of providing funds to pay the cost of (i) renewing a portion of the Series 2013-A Temporary Notes of said City dated September 10, 2013, and (ii) pay a portion of the cost of certain improvements in said City was presented.

Councilmember Hiller asked for clarification that the funds earmarked for Fire Station No. 13 are being carried forward because the money was borrowed last year.

Doug Gerber, Administrative and Financial Services Director, stated Councilmember Hiller was correct.

Councilmember Schmidt moved to approve the resolution. The motion seconded by Councilmember De La Isla carried. Councilmember Schwartz voted “no.” (7-1-0)

ORDINANCE NO. 19918 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of June 28, 2014, through August 1, 2014, and enumerating said expenditures therein was presented.

Jim Colson, City Manager, reported approval would authorize City expenditures in the amount of \$19,047,045.93.

Councilmember Everhart moved to adopt the ordinance. The motion seconded by Councilmember Brown carried. Councilmember Schwartz voted “no.” (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, De La Isla, Manspeaker and Schmidt -7. Noes: Schwartz -1. Absent: Harmon -1.

APPROVAL of an amendment to the current labor agreement between the City of Topeka and Local 1294 Missouri-Kansas State Council 72, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO was presented. (*Contract No. 43845*)

Catherine Walter, Assistant City Attorney, reported the 2014-2017 labor agreement provided for a reopener to negotiate wages and an extra personal leave day for 2015. She stated the amendment provides for a 1.5% increase to the wage schedule; longevity for eligible employees; and no additional personal leave day. She noted the 2015 City Operating Budget has sufficient resources to accommodate the agreement as presented, and staff is recommending approval.

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

A Retail Cereal Malt Beverage License application for BoBo’s Bar & Grill located at 1630 SW Arvon Place was presented.

Councilmember De La Isla moved to approve the cereal malt beverage license application as presented. The motion seconded by Councilmember Schmidt carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

DISCUSSION of Zoning Matrix Calibration (*ACZR14/1*) amending Division 4 Zoning Code of the Topeka Municipal Code was presented.

Bill Fiander, Planning Department Director, gave an overview of the comprehensive updates of the zoning matrix, and the foundation of the zoning code consisting of 25 districts with 105 land uses. He reported the last update to the zoning code was in 1992 and Planning Department staff has been working with the development community and citizens to reflect more

modern and relevant codes for today's needs that are clear and consistent. He described the residential, office/commercial, civic/cultural and industrial district matrixes and land uses, as well as, summarized the major updates included in the amendment. He stated staff took into consideration reviewing every use/district and rebuilding the zoning code to meet the following objectives:

- Clear and predictable terminology to minimize interpretations.
- Improve compatibility for residential neighborhoods.
- A more user-friendly matrix format.

Governing Body members asked the following questions:

- (1) Is the downtown area more flexible in regards to zoning?
- (2) Does the amendment address mobile home parks and Recreational Vehicles (RVs), pet grooming/boarding services and payday/check cashing centers?
- (3) Will there be more discussions on changes to the downtown zoning districts?
- (4) If the City of Topeka is familiar with performance-based zoning? (*Note: Councilmember Manspeaker believes they should research the option.*)
- (5) If people participating in community gardens agree with the proposed amendment to the zoning code?
- (6) What are the proposed storage property requirements?

Bill Fiander provided the following responses to the questions.

- The downtown district consists of two zoning districts "C-5" or "D-1" and the proposed amendment would implement stricter guidelines for parking lots, as well as, dwelling units on the ground floor in the downtown zoning districts.
- RVs are not allowed in mobile home parks under City Code and staff is trying to work through the issues to make sure mobile home parks do not include permitted RVs in the future. Pet grooming/boarding services are expanded to allow in office/commercial districts; however, they are not allowed in residential districts and never have been. Payday/check cashing centers were treated as retail before; however, they are now distinguished as commercial and there is a corresponding definition included in the amendment.
- They plan to engage downtown stakeholders in discussions to look at historic districts to make sure there is no repetition in the code and that guidelines will not overlap what is already restricted.
- Performance-based zoning does not define "uses" as much as it defines "how" a structure looks.

- Citizens participating in community gardens expressed no opposition; however, there was a minor change to the proposal to allow people to work in the community garden before 8:00 a.m. as long as there is no noise being made by equipment thus providing some standards and protections for the neighbors. He noted the amendment would also allow temporary sales on those properties during a specific time period.
- Storage facilities and screening requirements state, “When such storage is located in a yard that abuts or is located across the street from residentially-zoned property it shall be screened from public view by a solid, opaque screen, fence or sight prohibitive landscaping of not less than six feet in height except adjacent to driveways or intersections, where it may be reduced to comply with site distance triangles, as outlined in Section 12.20.020 TMC.” He stated the issue is that there are no permits for open storage.

Councilmember Hiller commended Planning staff members for their work and the process by which the changes were drafted.

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

Jim Colson, City Manager, reported City staff is working diligently on addressing utility rates. He announced town hall meetings are scheduled for August 25, 2014, from 11:30 a.m. to 1:00 p.m. and August 26th from 6:00 p.m. to 7:30 p.m. at the Cyrus K. Holliday Building located at 620 SE Madison in the Holliday Conference Room to engage the public in discussions regarding utility rates. He stated after the town hall meetings staff plans to summarize input received by the public and schedule a discussion with the Governing Body to bring forward a plan.

Mayor Wolgast expressed concern with the incidents that have recently occurred in Ferguson, Missouri. He stated that he hopes the Ferguson community can work together to overcome the difficult experiences. He stated he is certain Topeka has done a great deal of background work with local organizations and is prepared to handle situations because of the leadership and high level of professionalism in the community.

Councilmember Hiller stated she attended the Highland Games at Washburn Technology Institute on August 16, 2014, which was a great event with over 80 participants. She commended the Tennessee Town neighborhood which was able to register over 60 people to vote at their annual National Night Out Against Crime event. She encouraged the community to participate in the Capital City All Breed Dog Show held at the Kansas Expocentre the week of August 14 - 24, 2014. She stated people could access more information at www.ksexpo.com.

Councilmember Brown encouraged citizens to participate in their neighborhoods through neighborhood associations or community outreach opportunities. He expressed concern with the incidents occurring in Ferguson, Missouri and believes communities could be peaceful if neighbors become more involved.

Councilmember Ortiz encouraged the community to attend the Movies in the Park event on August 22, 2014, at Garfield Park at 8:30 p.m. She expressed concern with the Ferguson, Missouri community and stated she hopes the area will be peaceful again soon.

Councilmember Manspeaker questioned Topeka Municipal Code Section 2.25.090, "Approval of employment and severance agreements. (a) All employment contracts with department heads or appointive officers or employees shall be approved by the city council prior to signature by the city manager. Approval shall not be required for employment contracts of 90 days or less duration or with employees not designated as department heads." He expressed concern with the City of Topeka having the same systemic issues as a community like Ferguson, Missouri, specifically in regards to the unemployment rate of African American males (17%) and other real issues such as poverty. He stated he believes as a community we need to dedicate ourselves to how we can make folks more successful through providing the means that are

necessary, so they can determine their own future by giving them hope and the ability to be productive citizens.

Chad Sublet, City Attorney, stated the code section would only apply to department heads that are employed under contract.

Councilmember Schwartz encouraged the Governing Body to discuss economic development with Scott Smathers, Vice President of Economic Development Growth Organization Topeka. She welcomed James Brown, new Topeka Police Chief to the city and invited him to visit each council district and its citizens.

Councilmember Schmidt expressed concern for the Ferguson, Missouri community and commented on the need for citizens to participate in local elections in order to make changes in communities. He encouraged citizens to get to know their neighbors and participate in community outreach programs.

At 7:13 p.m., Councilmember Hiller moved to recess into executive session for a time period not to exceed 15 minutes to discuss potential litigation and to include the Governing Body, City Manager, City Attorney and staff and Administrative and Financial Services Director. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0)

At 7:25 p.m., Councilmember Schmidt moved to recess into executive session for a time period not to exceed ten (10) minutes to discuss a workers' compensation claim and to include the Governing Body, City Manager, Human Resources Director and staff, City Attorney and Administrative and Financial Services Director. The motion seconded by Councilmember Everhart carried unanimously. (8-0-0)

At 7:35 p.m., Mayor Wolgast announced the executive session has been adjourned and no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:35 p.m.

Brenda Younger
City Clerk