

Council Minutes – September 1, 2015

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 1, 2015. 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, Schumm, 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, Councilmember De La Isla gave the invocation.

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

Walter H. Fredrick III, Employer Support of the Guard and Reserve Chair for Kansas, presented James Brown, Topeka Police Chief the Seven Seals Award.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8715 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. 8716 introduced by Councilmember Karen Hiller, approving a special event known as Topeka Brunchin' was presented.

MINUTES of the regular meeting of August 18, 2015, was presented.

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)

A RESOLUTION introduced by Councilmembers Elaine Schwartz, Brendan Jensen and Jeffrey Coen sitting as the Transient Guest Tax Committee, allocating transient guest tax funding for a period of 12 years to certain designated recipients was presented.

Councilmember Schwartz, TGT Committee Chair, gave the staff report. She stated the 1% was determined using the grant allocation process resulting in \$3.4 million for a Downtown Plaza, \$300,000 for an Evel Knievel Museum, \$355,000 to Constitution Hall and \$680,000 to the Jayhawk Theatre for the next 12 years. She requested the Governing Body hear all public comment prior to making a decision on the funding allocations as recommended by the TGT Committee.

Councilmember De La Isla moved to approve the resolution. The motion was seconded by Councilmember Schwartz.

Kayla Bitler, Kurt Young, John Hunter, Kevin Smith, Jim Ogle, Grant Glenn, Vince Frye, Robert Ross, Curtis Sneden, Mike Patterson and Brett Oetting spoke in support of the funding allocations as presented by the TGT Committee and the important role the projects will play in growing the core of the community.

Councilmember Schwartz noted this is the first time the City has recommended the funding of a for-profit organization and noted funding goals could be stipulated in the contract for each organization.

Mayor Wolgast spoke in support of a downtown plaza and asked if Shawnee County would oversee the operations of the plaza and if so, would they contribute funds for the project. He noted there were a number of specifics about the projects that need to be clarified and questioned if the resolution should be deferred for one week.

Councilmember Schwartz stated most cities fund the maintenance portion of a project through several different entities.

Councilmember Jensen spoke in support of outlining goals or stipulations in each contract to make organizations more accountable.

Councilmember Ortiz spoke in support of deferring the resolution for one week. She questioned the status of on-going projects such as Constitutional Hall and the importance of completing the projects. She suggested defining “downtown plaza” and noted it was not initially in the downtown revitalization plan; therefore, citizens are questioning the project. She requested a copy of all applications that applied for funding so she can make an informed decision.

Councilmember De La Isla stated the organizations receiving funding allocations would allow those projects such as Constitution Hall to be completed. She spoke in support of the allocations and noted it was crucial they move forward with the recommendations to support the revitalization of the city’s core.

Councilmember Clear expressed concern with the many projects that have been proposed over the years and not yet completed. She questioned if the County would be managing the downtown plaza; how they plan to keep businesses in the downtown area; and how both the Topeka Performing Arts Center (TPAC) and the Jayhawk Theatre could successfully operate in the downtown area.

Councilmember Jensen commented on the plans over the years for downtown revitalization and noted the plans have always included a public space and/or plaza; however, it has always been eliminated due to lack of funding. He reported the Jayhawk Theater plans to operate as a movie theatre which is not an entertainment venue offered by TPAC.

Councilmember Schumm expressed appreciation to the Transient Guest Tax Committee members for their work; however, he believes the resolution should be deferred for one week to allow additional public input to address concerns.

Councilmember Schumm moved to defer the resolution for one week. The motion was seconded by Councilmember De La Isla.

Councilmember Hiller expressed her appreciation to the applicants and Transient Guest Tax Committee members for their work. She requested to explore some language amendments to the resolution to include more parameters to clarify what was being funded and list restrictions because not all projects are fully mature and could change over time. She requested the Governing Body have a discussion regarding funding options for those projects that were not funded to get some perspective on the process. She suggested including the following items in the resolution:

- (1) Clarify the entity that has the primary responsibility of the project
- (2) All TGT funds must be used for permanent improvements to the property
- (3) TGT funding should be matched at least 2 to 1 for a project moving forward; and at least 4 to 1 for an overall project if it is different than initially listed for funding
- (4) Stipulate that the entire development or redevelopment plan is complete for each particular project with partners and funding sources identified as well as making sure the operating plan is in place and approved by the appropriate owners, board members or partners – all with the goal that each plan meet the overnight visitor projection of the original proposal and is a solid workable plan
- (5) Stipulate all conditions must be met within 5 years of the date the resolution is passed for each grantee and if the stipulations are not satisfied than the funds would be released for reconsideration by the TGT Committee and the Governing Body. The stipulations would provide a check point for projects to mature or be completed within five years.
- (6) Corresponding language to address “overage of funds.” Use overage of funds to fully fund projects that were underfunded and then place the remaining funds in another fund to be used as advised by the TGT Committee
- (7) Use funds to apply for grants to double or triple investments for projects

Councilmember Harmon entered the room.

Councilmember Jensen noted the TGT Committee considered the resolution as Phase 1 of funding allocations with the intent of reviewing the projects as they move forward. He cautioned the Governing Body in making it too difficult for people to move forward with the projects and noted most organizations work on a volunteer basis.

Jim Colson, City Manager, stated staff would prepare an updated resolution outlining language amendments based on discussion for the September 8, 2015, Council agenda.

The motion to defer the resolution for one week carried unanimously. (10-0-0)

CHARTER ORDINANCE NO. 116 introduced by Councilmembers Elaine Schwartz, Brendan Jensen and Jeffrey Coen sitting as the Transient Guest Tax Committee, amending Section A15-17 of the Topeka Municipal Code concerning the transient guest tax levy was presented.

Councilmember Schwartz reported approval of the charter ordinance would extend the current 1% transient guest tax levy for an additional 12 years starting in 2016 and continuing through December 31, 2027.

Councilmember Jensen asked if the extension would give Topeka a competitive edge from surrounding cities.

Brandon Kauffman, Financial Services Director, reported the current 7% transient guest tax breakdown as follows:

- 5% Base
- 1% for projects approved by the City Council in 2002 involving the Great Overland Station, Riverfront Park and Historic Preservation
- 1% for the Sunflower Soccer Association

Councilmember Ortiz spoke in opposition of the charter ordinance because she believes 12 years was too long; however, she would support a five or six year extension.

Councilmember Hiller spoke in support of the charter ordinance. She stated the request was well under what similar cities are charging as well as it would allow Topeka to remain sustainable.

Councilmember Schwartz moved to adopt the charter ordinance. The motion seconded by Councilmember Jensen carried. Councilmembers Clear and Ortiz voted “no.” (8-2-0)

The charter ordinance was adopted on roll call vote as follows: Ayes: Hiller, Schumm, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -8. Noes: Clear and Ortiz -2.

ORDINANCE NO. 19966 introduced by Councilmember Jonathan Schumm concerning sound amplification systems in vehicles, amending City of Topeka Code Section 10.20.090 and repealing original section was presented.

Councilmember Schumm reported approval would prohibit the sound amplification system in vehicles from emitting audible sounds 50 feet or more from the vehicle and impose a mandatory fine of \$250 for repeat offenders.

Councilmember Schumm moved to adopt the ordinance. The motion was seconded by Councilmember Clear.

Councilmember Jensen spoke in support of the ordinance; however, he expressed concern with enforceability and questioned if the ordinance would help solve the problem.

Luther Ganieany, Assistant City Attorney, stated currently, a court appearance was not required; however, if the ordinance was approved all citations would have a required court appearance.

Councilmember Ortiz moved to amend the ordinance by deleting Section E, lines 49-52, “(e) Penalty; Subsequent Violations. Upon a second or subsequent offense committed within six (6) months after the previous offense, upon conviction thereof, a fine of at least \$250 shall be imposed. The court may impose a lesser fine if the person establishes that the sound amplification system has been removed from the vehicle.” The motion was seconded by Councilmember Clear.

Councilmember Clear questioned how a person would prove the sound system has been removed.

Luther Ganieany stated the individual could show a service receipt for removal of the system and/or a picture.

James Brown, Topeka Police Chief, stated approval of the ordinance would mandate a court appearance and track the number of citations. He reported a public awareness effort would be made to inform the public prior to citations being issued.

Councilmember Hiller spoke in support of the ordinance.

Johnny Jackson expressed concern with the lack of enforcement by Police officers for current situations and the need for increased fines to resolve the issue.

Councilmember Clear announced Teresa Miller, North Topeka West Neighborhood Improvement Association President, has expressed her support of the ordinance.

The motion to amend the ordinance by deleting Section E, lines 49-52, “(e) Penalty; Subsequent Violations. Upon a second or subsequent offense committed within six (6) months after the previous offense, upon conviction thereof, a fine of at least \$250 shall be imposed. The court may impose a lesser fine if the person establishes that the sound amplification system has been removed from the vehicle.” failed. Councilmembers Hiller, Clear, Schumm, De La Isla, Jensen, Schwartz, Coen and Harmon voted “no.” (1-8-0)

Councilmember Ortiz spoke in opposition of the ordinance because she believes it would inundate the court system.

The motion to adopt the ordinance carried. Councilmember Ortiz voted “no.” (8-1-0) *(Pursuant to Topeka Municipal Code Section A2-24(a)(ix) the Mayor did not vote on this ordinance because of his right to exercise veto authority.)*

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

AN ORDINANCE introduced by Councilmember Jonathan Schumm concerning aggressive panhandling, creating new City of Topeka Code Section 9.45.110, was presented.

Councilmember Schumm stated he would be agreeable to defer the ordinance for one week to allow for additional citizen input.

Councilmember Schumm moved to defer the ordinance for one week. The motion was seconded by Councilmember De La Isla.

Davis Hammet spoke in opposition of the ordinance and believes there are better alternatives to the issue.

Councilmember Schumm commented on the ordinance and noted he disagrees that panhandling would be considered a way out of poverty or a way to help improve lives. He stated he believes the Topeka Police Department was doing a great job and helping those in need of medical services.

The motion to defer the ordinance for one week carried unanimously. (9-0-0) *(Pursuant to Topeka Municipal Code Section A2-24(a)(ix) the Mayor did not vote on this ordinance because of his right to exercise veto authority.)*

ORDINANCE NO. 19967 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of July 4, 2015, through July 31, 2015, and enumerating said expenditures therein, was presented.

Doug Gerber, Deputy City Manager, stated approval would authorize City expenditures in the amount of \$24,043,893.88.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -10.

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

Brenda Younger, City Clerk, gave a brief overview of the September 8, 2015 Council agenda.

Jim Colson, City Manager, announced the City's Water Pollution Control Division will be awarded the Kansas Water Environment Association Category 3 Collection System award on September 2, 2015. He stated a press conference will be held on September 2, 2015, at 1:00 p.m. to announce a partnership between the City of Topeka and Highland Park High School.

Mayor Wolgast announced the League of Kansas Municipalities 2015 Annual Conference would be held in Topeka on October 10-12, 2015. He referenced an article in the Kansas Government Journal about fall elections and legal parameters needed to process the change.

Councilmember De La Isla thanked the Mayor for his leadership and commended City employees for their desire to help citizens. She reported she may be absent from Council meetings in upcoming weeks due to ankle surgery.

Councilmember Jensen encouraged all Governing Body members to participate in the upcoming Greater Topeka Chamber of Commerce "Expedition Topeka 2015" (inter-city visit).

Councilmember Schwartz announced this week's "gem" of Topeka is the hospitals, Stormont Vail Healthcare and St. Francis Health Center.

Councilmember Hiller thanked Mayor Wolgast for his leadership and asked Governing Body members to consider electing city delegates from among the city's officers to represent Topeka in the conduct and management of the affairs of the League of Kansas Municipalities. She announced the Shawnee County Allied Tribes, Inc., 25th Annual Traditional Intertribal Pow Wow

at Lake Shawnee would be held September 4-6, 2015; the Touch-A-Truck event in downtown Topeka would take place on September 5, 2015, and the Kansas Discovery Center's Discover the Edge event would be held September 4-5, 2015.

Councilmember Clear announced the Sheep Dog Impact Association-Kansas Chapter would host the First Annual Patriot Day Car Show on September 12, 2015, at the Kansas Expo Centre starting at 10:00 a.m. She noted the event is free for the entire family.

Councilmember Clear moved to recess into executive session for a time period not to exceed 20 minutes to discuss non-elected personnel and to include the Governing Body. The motion seconded by Councilmember Hiller carried unanimously. (10-0-0)

At 8:40 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 8:40 p.m.

Brenda Younger
City Clerk