

Council Minutes – September 8, 2015

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 8, 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, Coen and Harmon -9. Mayor Larry E. Wolgast presided -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.

A PRESENTATION on the Veterans Legal Assistance Clinic, a program in collaboration with the City of Topeka Municipal Court was provided by Joseph Pilgrim and Nichole Southall, Washburn University Law students.

A PRESENTATION on the Hi-Crest Neighborhood Plan was provided by Bill Fiander, Planning Department Director.

Mayor Wolgast commended staff for introducing new programs to address concerns in the Hi-Crest area.

Councilmember Ortiz questioned how streets lights would be maintained by the City.

Councilmember Hiller commended City staff for creating a program to address rental housing problems as well as reaching out to all Hi-Crest residents and engaging the entire neighborhood in the process.

Bill Fiander stated maintenance costs for street lights would be expended from the City of Topeka operational budget.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of September 1, 2015, was presented.

An Open After Midnight License application for 6th Street Back Door located at 610 SW Wayne Street was presented.

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

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. (*Deferred from the September 1, 2015 Council meeting*)

Councilmember Schwartz reported the language amendments proposed were based on the discussion of the Governing Body at the September 1, 2015, Council meeting. She expressed the importance of the issue and encouraged additional discussion from the Governing Body and citizens.

Mary Feighny, Interim City Attorney, provided a brief overview of the language amendments and reported the intent of the language amendments was to make the process more transparent and grantees more accountable to the Governing Body.

Teresa Miller spoke in opposition of allocating Transient Guest Tax (TGT) funds for a downtown plaza and spoke in support of allocating TGT funds for the newly proposed Evel Knievel Museum.

Councilmember Jensen asked when the Topeka Lodging Association would have an entity in place to manage TGT funds as well as the application process.

Councilmember Schwartz asked Mr. Glenn to comment on the operation of the downtown plaza park and funding of the downtown plaza site analysis. She referenced language as outlined in Section 3(c) beginning on line 53 of the resolution and asked Mr. Glenn if the association agrees with the language amendments as presented.

Grant Glenn, Topeka Lodging Association President, stated the association has discussed at length who would be responsible for the receipt of TGT funds and who would oversee the application process; however, it has not yet been determined. He reported when sites are identified they would hire a professional to determine the best site for the downtown plaza and noted they have had discussions with Shawnee County in regards to allocating the \$19,000 needed to conduct a site analysis. He commented on the language amendments and noted most businesses have asked to use TGT funds as necessary to revitalize the downtown area.

Scott Ringham expressed his appreciation to the TGT Committee and thanked them for protecting the tourism industry.

Councilmember Schwartz stated most cities allocate all or the majority of visitor tourism dollars to local visitor bureaus for distribution; however, the City of Topeka application process provides an opportunity to spend the funds responsibly over the next 12 years.

Mayor Wolgast stated all the projects are in different stages of development generating a number of questions; however, they have time to ensure responsible allocation of TGT funds.

Councilmember Clear spoke in opposition of allocating funds for a downtown plaza and reported taxpayers have spent over \$13 million in the downtown area to date, between the area of 6th and 10th Streets.

Councilmember Ortiz expressed concern with the overall application process being too complicated for new organizations and used as an “extension” for incomplete projects.

Councilmember De La Isla expressed her appreciation to the TGT Committee for their work in the application process. She reported those that generate and promote tourism funds support the process and allocations as recommended by the TGT Committee as well support the revitalization of downtown because it has the biggest impact on tourism.

Councilmember Schumm expressed concern with other project designs such as the Riverfront Park that also include a plaza in the plan. He also expressed concern with Shawnee County operating the downtown plaza park and believes it should be handled by a professional that would promote tourism.

Councilmember Hiller commended the TGT Committee for their work and recommendations; however, she believes there needs to be additional language amendments outlining project specifics in the resolution before moving forward.

Mayor Wolgast stated he believes specifics of each project should be included in the project agreement.

Councilmember De La Isla spoke in opposition of including administrative details in the resolution and noted the resolution as presented, addresses all necessary specifics on a policy board level.

Councilmember Clear requested the Governing Body vote on each project separately.

Councilmember Jensen expressed concern with how funding delays would affect the projects and asked to defer the resolution until a date certain.

Councilmember Ortiz moved to defer the resolution until October 13, 2015. The motion seconded by Councilmember Clear carried. Councilmembers Jensen and Schwartz voted “no.”
(8-2-0)

AN ORDINANCE introduced by Councilmember Jonathan Schumm concerning aggressive panhandling, creating new City of Topeka Code Section 9.45.110, was presented. *(Deferred from the September 1, 2015 Council meeting)*

Councilmember Schumm reported the ordinance was deferred from the September 1, 2015, Council meeting to allow for additional citizen input. He reported the ordinance would address “aggressive” panhandling only.

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

Davis Hammet, Judy Nickelson and Nathan Schmidt spoke in opposition of the ordinance.

Councilmember Ortiz asked if aggressive panhandling was considered an issue in the Topeka community.

Brian Desch, Deputy Chief, Topeka Police Department, reported aggressive panhandling was not considered a serious issue within the community.

Councilmember Clear questioned the necessity of the ordinance and stated there are many programs already in place to help address the problems associated with panhandling.

Councilmember Schumm reported many other cities are in the process of trying to figure out the best way to address the problem and commended the City of Topeka Governing Body for discussing and considering possible resolutions to the problem. He asked the City Attorney to comment on case law surrounding the issue.

Mary Feighny, Interim City Attorney, referenced U.S. Supreme Court case *Reed v. Town of Gilbert* and stated the Supreme Court has been sending other similar cases back to the Court of Appeals for a ruling. She advised the Governing Body to postpone action on the ordinance and allow time for her to monitor case law on the issue and report back to the Governing Body on how they should proceed.

Councilmember Schumm made a substitute motion to postpone the ordinance indefinitely. The motion seconded by Councilmember Jensen 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.*)

ORDINANCE NO. 19968 introduced by City Manager Jim Colson, imposing a real estate lien, pursuant to K.S.A. 12-808c, upon certain lots and pieces of ground in Shawnee County,

Kansas to pay the cost of utility services where such payments to the City have not been made due to neglect, failure or refusal to pay was presented.

Mary Feighny, Interim City Attorney, reported State law provides the authority for cities to impose a lien against property owners for delinquent utility accounts.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Hiller 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.

DISCUSSION for the purpose of providing an informational presentation on the City of Topeka Stormwater Program and Utility was presented.

Stephen Miller, Office of Utilities and Transportation Water Treatment Plant Stormwater Engineer, provided an overview of the City of Topeka Stormwater and Utility Program.

Councilmember Jensen asked how stormwater would be billed for two businesses at the same location or building.

Stephen Miller stated the City was currently working on creating a system to bill each customer separately; however, at this time billing is based on square footage.

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

Brenda Younger, City Clerk, gave a brief overview of the September 15, 2015 Council agenda.

Jim Colson, City Manager, announced the Make A Splash Water Festival event sponsored by the Kansas Association for Conservation and Environmental Education would be held on September 19, 2015, from 9:30 a.m. to 2:00 p.m. at Garfield Park Community Center; Coffee on Your Corner would be held on September 9, 2015, at 10:00 a.m. at Annie's Place with focus on

the Topeka Police Department Youth Explorers Program; and the Highland Park High School Rock the Park event in partnership with the City of Topeka would be held on September 12, 2015, from 11:00 a.m. to 2:00 p.m.

Councilmember Schwartz referenced an article in the Kansas Government Journal concerning the Downtown Topeka Revitalization Fund-raising Campaign which has raised approximately \$2.4 million. She stated this week's "gem" of Topeka is the fans of Kansas University, Kansas State University and Washburn University.

Councilmember Harmon announced the 24th Annual Race Against Breast Cancer would be held on September 12, 2015, at Topeka West High School.

Councilmember Hiller stated the Kansas Discovery Center's Discover the Edge was a great event. She encouraged the Governing Body to consider electing city delegates from among the City's officers to represent the City in the conduct and management of the affairs of LKM and to attend the conference and leadership classes being offered in October. She also announced the Annual Kansas River Float Trip sponsored by the Kansas Department of Wildlife, Parks and Tourism would be held on September 29, 2015, from 8:00 a.m. to 1:00 p.m.

Councilmember Clear announced Sertoma would host the Great Topeka Duck Race on September 12, 2015, at Lake Shawnee. She requested staff draft a resolution to be placed on an upcoming Council agenda concerning "No Parking" signs along the Oakland trail (*Chester to Center Streets on the east side and Chester to Forest Streets on the south side*).

Councilmember Ortiz commended City staff for organizing the Highland Park High School Rock the Park event to be held on September 12, 2015, and encouraged all Governing Body members to attend. She commended the Silverbackks organization for the food they provide to the community and encouraged Governing Body members to support their cause.

Councilmember Schumm reported the Kansas Black Expo was a great event and he thanked the individuals and community organizations that are a positive force in Topeka.

Deborah Edwards and Teresa Miller 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 labor negotiations and to include the Governing Body, City Manager, Deputy City Manager, Budget Manager, Human Resources Director, Municipal Court Judge Victor Miller, Topeka Police Deputy Chief Brian Desch, Topeka Police Major Scott Conklin, Interim City Attorney and staff. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

At 9:10 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced that no action was taken.

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 and City Manager. The motion seconded by Councilmember Ortiz carried. Councilmembers De La Isla and Harmon voted "no." (8-2-0)

At 9:30 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced that no action was taken.

Councilmember Harmon left the room.

Councilmember Coen moved to recess into executive session for a time period not to exceed 20 minutes to continue discussion of non-elected personnel and to include the Governing Body and City Manager. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

At 9:50 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced that no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:50 p.m.

Brenda Younger
City Clerk