

Council Minutes – September 20, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 20, 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, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Collin Billau, Grace Community Church Pastor, gave the invocation.

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

A PRESENTATION on the Topeka Zoo was given by Brendan Wiley, Zoo Director.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Randy Clayton to the Topeka Public Building Commission for a term ending October 1, 2020, was presented.

BOARD APPOINTMENT recommending the appointment of Mark Burenheide to the Topeka Landmarks Commission for a term ending September 22, 2019, was presented.

APPROVAL of a Workers' Compensation Settlement for Kent L. Farr, Firefighter, in the amount of \$34,511 for the permanent partial impairment of his left knee and right shoulder for injuries suffered on November 11, 2015, was presented.

RESOLUTION NO. 8814 introduced by Councilmember Jeff Coen, granting Specks Bar and Grill 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 September 13, 2016, was presented.

Councilmember Coen moved to approve the consent agenda. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

ORDINANCE NO. 20025 introduced by City Manager Jim Colson, relating to the designation of street names more specifically authorizing a memorial designation for the segment of SE Lime Street, lying between SE 6th and SE 7th Streets as Reverend Dr. W.L. Templeton Memorial Drive was presented. (*SNC16/1*)

Bill Fiander, Planning Department Director, summarized the process and designation memorializing Reverend D. W.L. Templeton in the 600 block of SW Lime Street, and noted Mt. Carmel Missionary Baptist Church would pay for the sign installment.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast does not vote. (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 Harmon -9.

ORDINANCE NO. 20026 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 at 500 and 520 SW 27th Street in the City of Topeka, Kansas, from “O&I-2” Office and Institutional District, “R-1” Single Family Dwelling District with a Conditional Use Permit for a Surface Parking Lot and “R-1” Single Family Dwelling District ALL TO “PUD” Planned Unit Development District (O&I-2 use group and a Professional/Administrative Office) was presented. (*PUD16/2*)

Bill Fiander, Planning Department Director, gave a brief overview of the zoning application and protest petitions filed by 28% of the property owners within 200 feet of the subject property. He reported the current owners propose two phases of development (1) reconstruct the shared parking and access for better utilization by both First Assembly Church and the Newcomer Funeral Group including the closure of driveways in the Summer of 2017, and (2) construct a

new 4,300 square foot administrative office building used by Newcomer Group, a single story design with a basement. He stated the key issues included addressing the traffic impact on SW Western Street; compatibility with the residential neighborhood to the north and west; loss of historic and neighborhood character; and stormwater runoff being adequately addressed on adjacent properties.

Councilmember Jensen questioned if the PUD would affect the ability of the neighborhood to apply for historic designation and if the business plans to expand in the future.

Bill Fiander stated the PUD would not have any affect and there should be no further encroachment other than what is listed on the Master PUD Plan.

Councilmember De La Isla commended staff for working with the business to draft an acceptable plan, keeping the business in the Topeka community.

Councilmember Ortiz expressed concern with the stormwater report which requires only some improvements. She asked who would be responsible for ensuring improvements are completed with no problems; what is a dry pond; is part of the parking area a higher grade than the other property having an impact on drainage; and what is the City's budgetary impact of the project.

Bill Fiander reported the following:

- The stormwater drainage project would be submitted to the City's Engineering staff for review improving what is currently in place.
- The Newcomer property drains into a pipe and is graded to flow east to west.
- The Newcomer parking area is above grade; however, it drains into a detention area.
- 100% of the improvements will be paid for by the developer.
- The Newcomer Funeral Group would be responsible for maintaining the drainage area free of debris as well as the First Assembly Church would be responsible for maintaining the east inlet.

Councilmember Harmon stated his determination was based on the following criteria and factors that he has read and reviewed:

- The City of Topeka Planning Department Summary Report;
- The various protest petitions that were filed;
- Topeka Planning Commission Minutes dated August 15, 2016;
- Neighborhood Informational Meeting Minutes dated June 9, 2016;
- Traffic Counts dated June 22, 2016
- Maps, Master PUD Plan and Proposed Elevations
- City of Topeka Planning Department Staff Report dated August 15, 2016, setting forth various factors that have been enunciated by the *Golden v. the City of Overland Park Kansas Supreme Court Case*

Exparte communications were declared by Councilmembers Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast.

Councilmember Emerson spoke in support of the zoning amendment based on what the applicant has done and how staff has presented the facts.

Councilmember De La Isla moved to adopt the ordinance. The motion seconded by Councilmember Clear carried. Councilmember Ortiz voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

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

DISCUSSION regarding the contract amendment to provide for funding and maintenance of downtown pocket park enhancements was presented.

Doug Gerber, Deputy City Manager, gave the staff report and provided a brief background of the process beginning in 2013. He summarized the anticipated 20-year maintenance schedule to assist Downtown Topeka Foundation (DTF) with the costs of maintenance. He stated the first payment would commence on July 1, 2017, in the initial amount of \$47,032, with annual payments each July 1 subject to appropriate funding in the annual operating budget within the

approximate amount of funding totaling \$1,263,767. He noted the City has accepted the completed improvements and the improvements are insured under a City of Topeka liability policy as the improvements are located within the public right-of-way.

Vince Frye, Downtown Topeka Inc. (DTI), President and Chief Executive Officer, stated DTI has been a membership organization since 1964 and DTF was created as a non-profit 501c3 branch of DTI.

Councilmember Clear asked how much the liability insurance would cost the City to cover the downtown improvements; if landscaping maintenance was included; and why is the agreement for 20 years. She expressed concern with the annual costs increasing to \$90,000 and requested a breakdown of the costs.

Doug Gerber reported the following:

- Maintenance costs are included in the 2017 Public Works Administration budget.
- As part of the maintenance agreement the City will provide liability insurance as part of the City's general insurance policy costing approximately \$9,000 a year.
- There have been discussions between the City and Schendel Lawn & Landscaping concerning the maintenance of the landscaping for the first year.
- Staff supports a 20-year commitment because it makes more sense in regards to ongoing maintenance to cover the lifespan of particular enhancements as well as the long term commitment would ensure dedication to DTF to preserve the enhancements.
- Bartlett & West drafted the maintenance schedule and costs in an attempt to assist in understanding what it would take to maintain each type of enhancement.

Mayor Wolgast commented on the streetscape plans along S. Kansas Avenue from 4th to 11th Streets and how the enhancements have developed into great works of art. He reported there is a much higher level of maintenance required for the preservation of the pocket parks to ensure the downtown area remains attractive and well maintained.

Jim Rinner, Bartlett & West Inc., stated the proposed schedule and costs of maintenance for the new assets downtown include review of each enhancement; the care and duration of labor

and materials; schedule of weekly, monthly, semi-annual and annual maintenance as well as the impact expected for inflation over 20 years.

Councilmember Ortiz asked who would maintain the fountain in front of the Capital Federal building. She stated it was her understanding companies would maintain their own pocket parks to contribute to the downtown area and remain active in the community.

Doug Gerber stated DTF is solely responsible for maintaining the enhancements in the original development agreement.

Councilmember Jensen asked if incidents with the enhancements are covered in the maintenance agreement, covered through the City's liability insurance or through the City's budget. He expressed concern with the proposed 20-year timeline due to widely variable maintenance costs.

Councilmember Emerson expressed concern with the significant financial risk to DTF. He suggested reviewing maintenance costs in five year increments to allow DTF to have a better idea of the maintenance costs as well as it would make the process more workable for both entities.

Councilmember Hiller spoke in support of the proposed 20-year agreement and believes it is a good timeframe as estimates are listed for more preventative maintenance and protects both entities. She suggested annual reporting of performance and financial costs by DTF as well as including who is responsible for the insurance deductible in the maintenance agreement.

Doug Gerber stated the City's insurance would cover any incidents relating to the enhancements; staff would be open to the concept of a five-year agreement; and the maintenance agreement could include all of Councilmember Hiller's suggestions if the Governing Body

agrees. He also suggested a 20-year maintenance agreement with an option to reopen the agreement in five years to review maintenance costs.

DISCUSSION of the City of Topeka Debt Policy and Reserve Policy was presented.

Brandon Kauffman, Chief Fiscal Officer, reported the Debt and Reserve Policies should be periodically reviewed and updated to ensure they are relevant to changes made by rating agencies. He stated the City's Reserve Policy is not comprehensive and is buried within the current Debt Policy speaking only to the General Fund; and it is important to consider adopting a thorough Reserve Policy for the City's long term financial health and assist staff through the budget process each year. He reported the City's Debt Policy was adopted in 2004 and may minimize borrowing costs in the future due to rating agencies favorable outlook on such policies; therefore, the newly proposed policies reflect the indicators that bond rating agencies review to assist in modeling their rating methods.

Councilmember Harmon asked how the proposed policies correlate with the City's Capital Improvement Plan (CIP) and the \$9 million cap as well as how the City can further improve the bond rating to continue improving the credit rating within economic facts.

Brandon Kauffman stated there are no stipulations regarding the \$9 million cap used when calculating projects in the CIP; however, the cap is considered when the CIP is proposed each year and suggested it be included in the CIP policy. He noted the City's Debt Policy does not flow with the \$9 million cap as it depends when CIP projects are completed and bonds are usually issued more in the range of \$25 million. He commented on the City's standing in regards to General Obligation Bonds and stated the City rates in the highest categories; however, there are other economic indicators where staff would like to see the City improve such as per capita salaries.

Councilmember De La Isla stated she believes the City continues to improve on finances as it is challenging to control income resources. She noted the City's bond rating is a compliment to the overall management of the City's finances.

Mayor Wolgast referenced the comparison charts and noted the City would achieve greater success with higher bond ratings.

Councilmember Emerson asked for more information regarding refunding opportunities.

Brandon Kauffman reported the proposed resolution states the City shall review at least annually its outstanding debt for economic refunding opportunities such as currently callable or callable in the future options. He stated staff would evaluate refunding opportunities on a net present value savings basis, consider the options that stand to produce present value savings as a ratio of refunded principal of no less than three percent (3%), five percent (5%) and seven percent (7%) for current, advance and synthetic refundings; however, if the refunding or restructuring options do not meet these minimum savings thresholds but are determined to produce substantive, economic, strategic, budgetary or other material benefits to the City the options could be considered.

Councilmember Hiller commented on the City's current debt and bond interest and stated it is her hope Topeka would become a debt-free City in the future.

Councilmember Jensen questioned the length of bonding projects and if 20 years is realistic in regards to street improvements.

Brandon Kauffman reviewed the purpose of the Reserve Policy, summarized the use of reserves, replenishment of reserves, governmental and special revenue fund balance policy, proprietary working capital policy and excess unreserved fund balance.

Councilmember Hiller commended staff for their hard work on the proposed new policies. She suggested amending the proposed Reserve Policy Resolution on Lines 50-60 to insert “Governing Body” as she believes the reserve funds should be used at the discretion of and authorized by the Governing Body as proposed by the City Manager so that it is presented before the public and everyone can consider the issues.

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

Mayor Wolgast announced there would be no City Council meeting September 27, 2016.

Councilmember Schwartz stated this week’s “gem” of Topeka is the medical community.

Councilmember Hiller encouraged people to visit www.visittopeka.com/events/calendar-of-events which includes many events happening throughout the city.

Councilmember Clear announced the North Topeka Fall Parade and Car Show are scheduled for October 8, 2016, at the Garfield Community Center from 11:00 a.m. to 1:00 p.m.

Councilmember Ortiz announced October is Fire Prevention Month and reminded everyone to check their smoke alarms. She invited everyone to the Crime Summit for Council Districts 2, 3 and 4 on September 28, 2016, from 5:30 p.m. to 8:15 p.m. at Highland Park High School. She welcomed Popeye’s Louisiana Kitchen located at 2905 SW Topeka Boulevard to the community.

Councilmember Emerson announced September 23, 2016, is the 100th Anniversary of Highland Park High School as well as their Homecoming Parade starting at 2:00 p.m.

Councilmember De La Isla welcomed Popeye’s Louisiana Kitchen to the community. She invited everyone to the Kansas Chocolate Festival on September 24, 2016, from 10:00 a.m. to 5:00 p.m. in downtown Topeka. She commented on mental health awareness and stated there are

many great organizations in the community with resources to help individuals who struggle with mental illness.

Councilmember Jensen stated there are many great events happening around the city and encouraged everyone to participate and enjoy the different activities.

Jim Colson, City Manager, announced he would resign from his position on October 7, 2016, at 5:00 p.m. He stated he is proud of the work that has been done during his four years with the City and is excited about future improvements. He expressed his appreciation to City staff, Governing Body and community leaders who care about the community and hopes he has made positive contributions.

Mayor Wolgast recognized the City Manager for his work in the Topeka community and expressed his sincere appreciation to Mr. Colson for his service.

Councilmember De La Isla thanked the City Manager for his service to the City, hiring an expert on street improvements and creating a partnership with Topeka citizens to have a thriving, vibrant community.

Councilmember Hiller moved to recess into executive session for a time period not to exceed 45 minutes to discuss non-elected personnel matters to address the City Manager's offer of resignation and to include the Governing Body, Deputy City Manager, City Attorney and Human Resources Director. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

Councilmember Harmon left the room.

At 9:00 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember De La Isla moved to accept City Manager Jim Colson's resignation with extreme appreciation from the City. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

Councilmember Ortiz moved to recess into executive session for a time period not to exceed 30 minutes to discuss non-elected personnel matters and to include the Governing Body, City Attorney and Human Resources Director. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

At 9:34 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Coen moved to recess into executive session for a time period not to exceed 15 minutes to discuss non-elected personnel matters and to include the Governing Body, City Attorney and Human Resources Director. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted "yes." (9-0-0)

At 9:50 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 9:50 p.m.

Brenda Younger
City Clerk