

Council Minutes – October 18, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 18, 2016. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Clear, Ortiz, Emerson, De La Isla, Jensen, Coen and Harmon -7. Mayor Larry E. Wolgast presided -1. Absent: Councilmembers Hiller and Schwartz -2.

AFTER THE MEETING was called to order, Pastor George Goddard, Wanamaker Seventh Day Adventist Church, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the reappointment of Jim Edwards to the Topeka and Shawnee County Public Library of Trustees for a term ending May 1, 2019, was presented.

MINUTES of the regular meeting of October 11, 2016, was presented.

Councilmember Clear moved to approve the consent agenda. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (8-0-0)

ORDINANCE NO. 20032 introduced by Interim City Manager Doug Gerber, 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 1701 SW 37th Street by amending and expanding the boundary of the Master PUD Plan for the Carriage House Apartments located at 1601 SW 37th Terrace (Multiple-Family Dwelling Uses) to include property currently zoned “R-1” Single-Family Dwelling District, located at 1701 SW 37th Street was presented. (Z66/20D)

Bill Fiander, Planning Department Director, gave the staff report and stated approval would allow the currently vacant and unoccupied single family residence at 1701 SW 37th Street to be remodeled for use as a leasing and management office.

Councilmember De La Isla moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (8-0-0)

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

ORDINANCE NO. 20033 introduced by Interim City Manager Doug Gerber, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road, within unincorporated Shawnee County, Kansas, and adjacent to the City of Topeka corporate limits, and said land being annexed for all city purposes was presented. (A16/2)

Doug Gerber, Interim City Manager, reported approval would annex a 15-acre tract intended for a 40-lot single-family home subdivision in the City. He distributed a cost benefit analysis for total property tax revenue of streets (+\$1,793,270) and utilities (-\$780,637).

Councilmember Jensen spoke in support of the ordinance and thanked staff for providing the cost benefit analysis.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. Mayor Wolgast voted “yes.” (8-0-0)

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

APPROVAL of an employment agreement with Doug Gerber to serve as Interim City Manager for the City of Topeka until such time as a permanent City Manager commences employment was presented. (*Contract No. 45458*)

Lisa Robertson, City Attorney, reported approval would set the terms required to perform the duties and responsibilities of serving as Interim City Manager until such time as a permanent city manager commences employment.

Councilmember Ortiz commented on previous city manager employment agreements. She expressed concern with the amount of annual salary and questioned if personnel policies concerning the use of City vehicles for personal use and cellphone use should be addressed in the agreement.

Councilmember De La Isla moved to approve the employment agreement. The motion was seconded by Councilmember Jensen.

Councilmember Ortiz moved to amend the agreement in Section 2(a) to add the language, “City employee further agrees that employee serves at the pleasure of the City Council of the City of Topeka, Kansas, and may be terminated by the City Council at any other time without cause upon receiving 30 days written notice.” The motion died due to a lack of a second.

Lisa Robertson, City Attorney, stated Section 7(a)(1) of the agreement addresses termination by the City at any time without cause by providing the employee with 30 days written notice.

Councilmember De La Isla asked if the second paragraph of the employment agreement would satisfy Councilmember Ortiz’s concerns specifying the agreement would be in accordance with the City of Topeka Personnel Code and City of Topeka Administrative Rules and Regulations.

Councilmember Ortiz stated the paragraph addresses personnel policies; however, she expressed concern with the amount of salary and “serving at the pleasure of the City Council” statement not being inserted in the agreement.

Councilmember De La Isla commented on the employment agreement and stated the Governing Body wanted to ensure the salary was competitive with other cities, operating under best practice standards and be attractive enough to prospects that are qualified for the position.

Councilmember Coen stated he concurs with Councilmember Ortiz and expressed concern with the proposed salary.

Councilmember Clear spoke in support of the employment agreement and stated she believes the position holds a high level of responsibility as reflected in the proposed salary range.

The motion to approve the employment agreement carried. Mayor Wolgast voted “yes.” Councilmembers Ortiz and Coen voted “no.” (6-2-0)

DEMOLITION PERMIT APPEAL of a structure located at 1112 SW Western Avenue, located within the boundaries of the Holliday Park National Historic District within the City of Topeka, pursuant to K.S.A. 75-2724 was presented.

Bill Fiander, Planning Department Director, gave a brief overview of the property and stated the Planning Department recommends that no prudent or feasible alternatives exist to the proposed demolition of the property located at 1112 SW Western Avenue and that all possible planning has been made to mitigate any potential harm that could occur resulting from the property’s demolition. He noted the cost to renovate the structure is over \$80,000 and the Shawnee County Appraiser has valued the structure at \$1,800. He reported the property owner to the south of 1112 SW Western Avenue will take ownership of the property once the appeal has been approved.

Mayor Wolgast asked if the property owners have agreed to the demolition.

Bill Fiander stated the property owners have consented to demolish the structure.

DISCUSSION for the purpose of providing an overview of the Topeka Municipal Court and the results of “Clean Slate Day” was presented.

Jason Geier, Municipal Court Administrative Judge, gave an update of the Topeka Municipal Court and its renewed focus to provide a more efficient and effective court process for citizens. He commented on revising forms and letters so they are clear and comprehensible, dockets, alternative sentencing court, defense counsel and related issues, an updated webpage and making information readily available to the public, increased communication between the court and attorneys, creating an “open door policy” with staff and future projects. He gave an overview of “Clean Slate Day” and listed the following results:

- 173 people appeared before the judge
- 125 people had 164 warrants pulled
- 5 people owed jail time and set up new jail dates
- 20 people received expungements
- 60 people entered pleas
- 15 people were put on a payment plan

Judge Geier noted the Kansas Department of Motor Vehicles assisted 207 drivers, including collecting \$650 in fees and issuing 25 restricted licenses, the defense counsel helped 40 clients and 250 people participated in the resource fair held by non-profit organizations in the community. He thanked Municipal Court staff, Department of Neighborhood Relations staff, non-retained counsel and local organizations for their participation in the event which assisted many people in the community. He announced the second “Clean Slate Day” would be scheduled in spring 2017 with the goal of hosting two events per year.

Mayor Wolgast commended City staff and community organizations for the hard work to make it a successful day for many individuals in the community.

Councilmember Harmon commended City staff for their hard work and dedication to fairness, partiality, accountability, dignity and mercy to all individuals in the Topeka community.

Councilmember Ortiz thanked City staff and community organizations for providing the help and information to people who needed assistance. She suggested a hotline be established for people who may have questions or need assistance.

Councilmember De La Isla commended City staff, community organizations and the anonymous donor for participating in the event and making a positive impact in the community.

Councilmember Jensen offered the help of the Governing Body to assist in getting the information to everyone in the community so more people are informed of the process.

DISCUSSION concerning the Transient Guest Tax Development Agreement with The Historic Jayhawk Theater, a not-for-profit corporation, in relation the Jayhawk Theater project was presented.

Lisa Robertson, City Attorney, reported the development agreement would provide transient guest tax funds to the Historic Jayhawk Theater project in the total amount of \$680,000 over a 12-year period.

Jeff Carson, Jayhawk Theater Board of Directors President, appeared to answer questions.

Councilmember Jensen commented on the project and stated it is an excellent time for the Jayhawk Theater to push the project to completion.

Councilmember Clear commended the Jayhawk Theater 2016 Business Plan, Operational and Construction Budgets and stated she is excited for the project to be completed.

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

Doug Gerber, Interim City Manager, reported the SW Wanamaker Road improvement project between 10th and 17th Streets has been completed two days earlier than anticipated; therefore, the street will be open to traffic. He also reported Expedition Des Moines 2016, the Greater Topeka Chamber of Commerce Inter-City Visit held October 12-14, 2016, was a great opportunity to see firsthand how a city can grow and enhance its downtown area. He announced the Metropolitan Transportation Planning Organization would hold public meetings concerning Futures 2040, the 20-year transportation plan for the Topeka and Shawnee County region on the following dates November 2, 2016, from 5:30 p.m. to 7:30 p.m. at the Topeka-Shawnee County Public Library; November 3, 2016, from 5:30 p.m. to 7:30 p.m. at Garfield Community Center; November 9, 2016, from 5:30 p.m. to 7:30 p.m. at Highland Park High School; and November 16, 2016, from 5:30 p.m. to 7:30 p.m. at Washburn Tech. He also announced a grave marker dedication ceremony for “Topeka Jack” Johnson would be held at 10:00 a.m. on October 29, 2016, at the Brown v. Board of Education National Historic Site Auditorium, First Floor, 1515 SE Monroe Street; and Boo At The Zoo events would take place October 22 and 29, 2016, from 9:00 a.m. to 2:00 p.m. at the Topeka Zoo.

Councilmember Clear reported she attended the Frugal House sponsored by Topeka Symphony and the Jackson Street Lofts and stated it was a wonderful fundraiser. She announced the Fall Festival event is scheduled for October 21, 2016, from 1:00 p.m. to 4:00 p.m. at Ripley Park; the North Topeka Halloween Street Fair is also October 22, 2016; and Mother Earth News Fair would occur October 22-23, 2016, at the Kansas Expocentre.

Councilmember Ortiz encouraged everyone to participate in the Smoke Alarm Program sponsored by a federal grant with the Topeka Fire Department. She commented on the importance of fire safety and smoke alarms in the community.

Councilmember Emerson reported the Expedition Des Moines 2016 was a great trip which demonstrated many great ideas to help a city grow. He expressed concern with city infrastructure and the lack of investment in utilities and stated these issues need to be addressed at some point in the very near future.

Councilmember De La Isla stated Heartland Park Topeka has been making many improvements to the track which has brought visitors to the Topeka area and made a positive economic impact.

Councilmember Jensen reported on Expedition Des Moines 2016 and stated it was a great opportunity to learn how Des Moines has overcome similar issues and become a successful city. He commented on the partnerships Des Moines has developed with non-profit organizations which has helped all aspects of their metropolitan area and made it a vibrant downtown that benefits the local suburbs. He announced Positive Connections would host an Open House at their new location, 2044 SW Fillmore Street on October 25, 2016, from 2:00 p.m. to 6:00 p.m.

Mayor Wolgast reported on Expedition Des Moines 2016 and commented on the vibrant city that has made positive changes and proves the City of Topeka can achieve great results as well.

Councilmember Jensen moved to recess into executive session for a period of 20 minutes to consult with the City's legal counsel regarding the acquisition of real estate. To assist the Governing Body in its discussion, the following individuals were requested to be present: Interim City Manager, City Attorney, Brett Oetting, Visit Topeka President and CEO; Vince Frye, Downtown Topeka Inc., President and CEO; Wendy Wells, GO Topeka Board Chair and Kurt Young Topeka Lodging Association Executive Director. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted "yes." (8-0-0)

At 8:20 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Jensen moved to recess into executive session for a period of 20 minutes to continue discussion with the City's legal counsel regarding the acquisition of real estate. To assist the Governing Body in its discussion, the following individuals were requested to be present: Interim City Manager, City Attorney, Brett Oetting, Visit Topeka President and CEO; Vince Frye, Downtown Topeka Inc., President and CEO; Wendy Wells, GO Topeka Board Chair and Kurt Young Topeka Lodging Association Executive Director. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted "yes." (8-0-0)

At 8:40 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Jensen moved to recess into executive session for a period of 10 minutes to consult with the City's legal counsel regarding issues that require privileged attorney/client communication in which legal advice or assistance is sought or given. To assist the Governing Body in its discussion, the following individuals were requested to be present: Interim City Manager, City Attorney and staff. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted "yes." (8-0-0)

At 8:50 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Emerson moved to recess into executive session for a period of 10 minutes to consult with the City's legal counsel regarding potential litigation that requires privileged attorney/client communication. To assist the Governing Body in its discussion, the following individuals were requested to be present: Interim City Manager, City Attorney and Chief of

Litigation. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (8-0-0)

At 9:04 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 9:05 p.m.

Brenda Younger
City Clerk