

Council Minutes – November 1, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 1, 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, Jensen, Schwartz and Coen -7. Mayor Larry E. Wolgast presided -1. Absent: Councilmembers De La Isla and Harmon -2.

AFTER THE MEETING was called to order, Mayor Wolgast asked for a moment of silent meditation.

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

A PRESENTATION of the Topeka Metropolitan Transit Authority FY2016 Update was given by Elsie Eisenbarth, TMTA Board Chairman and Susan Duffy, General Manager.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the reappointment of Walter Schoemaker to the Topeka Board of Zoning Appeals for a term ending December 1, 2019, was presented.

BOARD APPOINTMENT recommending the appointment of Meaghan Conant to the Topeka Sustainability Advisory Board for a two-year term ending November 2, 2018, was presented.

BOARD APPOINTMENT recommending the reappointment of Tom Wright to the Metropolitan Topeka Airport Authority Board for an expired term ending December 1, 2019, was presented.

BOARD APPOINTMENT recommending the appointment of Ariane Burson to the Topeka Planning Commission for a term ending September 30, 2019, was presented.

DENIAL of a Tort Claim submitted by Alicia Frieswyk in the amount of \$100,000 for injury to her ankle allegedly caused by Topeka Police Officers was presented.

MINUTES of the regular meeting of October 18, 2016, was presented.

A Cereal Malt Beverage License application for Chuck E. Cheese located at 2215 SW Wanamaker Road was presented.

Open After Midnight License applications for the Brass Rail Tavern, Inc., located at 401 NE Emmett Street and Tequila's Mexican Restaurant & Bar located at 520 NW Elm Row were presented.

A Dance Hall License application for The Foundry located at 400 SW 33rd Street was presented.

Councilmember Schwartz moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted "yes." (8-0-0)

ORDINANCE NO. 20034 introduced by Interim City Manager Doug Gerber, allowing and approving City expenditures for the period of September 3, 2016, through September 30, 2016, and enumerating said expenditures therein was presented.

Doug Gerber, Interim City Manager, reported approval would authorize City expenditures in the amount of \$21,776,391.80.

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

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

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, Kansas, pursuant to K.S.A. 75-2724 was presented.

Doug Gerber, Interim City Manager, gave the staff report. He stated an agreement has been reached with the adjacent property owner to accept the dedication of the vacant parcel which satisfies the requirements of the State Preservation Statutes that mandates all possible planning to minimize the detrimental effects of the demolition of the structure have been made.

Councilmember Hiller spoke in support of the appeal. She reported neighborhood residents support the demolition of the structure and extend their appreciation to City staff for working with the property owner.

Councilmember Hiller moved to approve the demolition permit appeal based upon no feasible or prudent alternatives to demolition and that the project includes all possible planning to minimize harm to the district that may result from the demolition. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (8-0-0)

APPROVAL of the Transient Guest Tax Development Agreement with The Historic Jayhawk Theatre, a not-for-profit corporation, in relation to the Jayhawk Theatre project was presented. *(Contract No. 45485)*

Doug Gerber, Interim City Manager, reported approval would grant transient guest tax funding in the total amount of \$680,000 starting in 2016, to be distributed over the next 12 years.

Councilmember Schwartz moved to approve the development agreement. The motion was seconded by Councilmember Coen.

Councilmember Jensen stated he would abstain from voting as he serves on the Historic Jayhawk Theater Board.

John Holecek, Historic Jayhawk Theater Executive Director, spoke in support of the project and reported an aggressive three-year timeline to complete the project has been set.

The motion to approve the development agreement carried. Mayor Wolgast voted “yes.” Councilmember Jensen abstained. (7-0-1)

DISCUSSION concerning proposed changes to the Special Event Procedure and Vendor licenses was presented.

Doug Gerber, Interim City Manager, reported staff is proposing an enhanced special events procedure and updates to the Topeka Municipal Code concerning vendor licenses. He commended staff for their efforts and noted it has been an extensive process involving many organizations and individuals involved in community events.

Lisa Robertson, City Attorney, highlighted the history of special events and vendor code regulations currently in place and noted current City Code lacks specificity, standards and clarity. She gave a brief overview of the community engagement process that involved gathering the input of many event organizers and entailed many discussions on the issues concerning events. She stated the proposed changes would update City Code while addressing many concerns expressed by event organizers and merchants affected by special events and vendors. She summarized special event procedural changes including fees, debris deposits, deadlines for submission of special event applications, notifications to properties affected by an event, online event calendar and vendors regulations involved in special events.

Councilmember Jensen questioned if the proposed changes would include neighborhood parades and expressed concern with established parade routes, notification requirements and the increase to the special event fee for parades.

Councilmember Emerson questioned the deadline for submitting a block party event application (one week) and the deadline for notifying those properties affected by an event (10 days) and asked if it could be coincided for clarity.

Councilmember Ortiz asked if the \$25 fee would apply to each separate neighborhood block party.

Councilmember Schwartz questioned if large parades and neighborhood parades would follow the same application process.

Lisa Robertson reported the language could be amended to make certain notifications and block party applications coincide with one another; block parties would be charged \$25 per block party; and language could be clarified in regards to the definition of a large parade and a small neighborhood parade.

Jenny Torrence, Al Struttman and Kevin Schmidt expressed concern with the following:

- Overall regulation of vendors in the Downtown and NOTO areas during large events in regards to debris removal and placement of vendors on sidewalks.
- The lack of notification of events to businesses, merchants and tenants by event organizers.
- Staging and re-opening of public right-of-way and accessibility to local businesses during events.

Anje Kearney thanked City staff for involving stakeholders in the process. She suggested clarifying indoor/outdoor flea markets and antique malls as well as include “estate sale” as an exemption.

Councilmember Jensen thanked staff for including stakeholders in the process. He questioned the amount of time allowed for re-opening the public right-of-way after a large event and expressed concern with ensuring there is enough time to complete the requirement properly.

Councilmember Schwartz spoke in support of a notification process as many businesses and residents would like to be informed of events that may have an effect on their business or daily lives.

Councilmember Emerson spoke in support of a notification process to support small businesses. He asked when staff would present the proposed ordinance for consideration of the Governing Body.

Councilmember Ortiz expressed the importance of making certain the proposed ordinance is fair to local businesses and citizens and requested more time to review the language.

Doug Gerber reported staff would amend the language of the ordinance based on the current discussion; additional discussion would take place at the November 15, 2016, Council meeting with the intent to finalize the ordinance and present it to the Governing Body for consideration on December 6, 2016.

Councilmember Hiller commended staff for meeting with stakeholders; engaging the community over the past eight months; and drafting ordinances in a manner that addresses many of the concerns expressed by those involved. She expressed the importance of accessibility to local businesses, planning alternative parking for the Downtown and NOTO areas; and advanced notification of events.

Lisa Robertson gave a brief overview of the proposed vendor license changes including hours of operation, licensing requirements, exemptions, fees and duration of licenses. She stated the changing nature of special events continues to make it more logistically challenging for the Police and Fire Departments as well as Street and Traffic Divisions.

Councilmember Jensen questioned if community organizations could be included as an exemption and if a minimum age limit could be listed for sidewalk vendors.

Lisa Robertson stated staff would review the requests and address in the ordinance language if practical.

DISCUSSION concerning the establishment of a Tax Increment Finance (TIF) District at SW 29th Street and SW Fairlawn Road for the proposed redevelopment of the area was presented.

Brandon Kauffman, Financial Services Director, gave a brief overview of a TIF District and how it can be used as a redevelopment tool. He reported other TIF Districts that have been approved include the Water Tower Redevelopment District, Southwest Topeka Boulevard District, Eastgate TIF District and College Hill TIF District.

Councilmember Emerson asked whether the designation of a blighted area or conservation area would benefit the proposed district.

Brandon Kauffman stated the City is approaching the proposal as a conservation area.

Bob Johnson, 29th Fairlawn, L.L.C., attorney, stated they are reviewing the right process and financing mechanisms for the development. He noted in order to transform the property a significant number of tenants would be required along with high quality attractive aesthetics. He reported a TIF District would be relevant for the proposal as the project will be expensive due to development challenges of the heavily blighted nature of the property; ensuring stormwater runoff is handled properly and parking improvements. He stated he anticipates presenting the project plan to the Governing Body in the first quarter of 2017.

Councilmember Clear asked if the existing buildings would be removed.

Councilmember Ortiz asked if there were any residential properties that would be affected by the project and if there was an updated aerial map available of the property.

Councilmember Jensen asked how the TIF District boundary was determined.

Bob Johnson reported the company is working with the leased tenants currently on the property and would honor their lease until the project is ready to move forward; there are no plans as of yet for the east side of SW Fairlawn Road as Phase I of the project is the large parcel in the northwest area of the proposed district; and no residential properties would be affected. He stated the boundary was extended across SW Fairlawn Road because of the unknown necessity for infrastructure improvements that may have to occur.

Mayor Wolgast asked if street entrances would need to be changed.

Councilmember Coen spoke in support of the redevelopment project and looks forward to the project plan.

Councilmember Hiller spoke in support of the redevelopment project and asked who owns the buildings on the east side of SW Fairlawn Road.

Bob Johnson stated he is unsure who owns the buildings and it is unknown at this time if or when the buildings would be developed as there are multiple project plans within the proposed district; however, it would be logical to include those properties because of their proximity to the Wheatfield Development.

Councilmember Hiller asked if those properties would be included in the proposal to protect them from property tax increases due to the new development; is there an expectation for the City to fund any infrastructure improvements to the I-470 access points if the Kansas Department of Transportation determines to reconstruct the access point because of the new development.

Bob Johnson reported the properties could be included in the proposed district and being included in a TIF District would not impact property taxes. He stated any improvements to I-470 access points would be premature at this time.

Doug Gerber, City Manager, stated extending the boundary would be a good plan in case public improvements are needed.

Brandon Kauffman stated any public improvements needed would be ascertained during the process with the developer to determine if any funding was needed.

Councilmember Schwartz spoke in support of the redevelopment project as it would vastly improve the area.

Councilmember Ortiz asked if the public improvements already made to the area have helped with traffic problems. She requested staff provide a list of completed public improvements in the area as well as the work the City has done on the property.

Doug Gerber stated staff would provide an update on the improvements and discussions with the current businesses in the area to the Governing Body.

DISCUSSION concerning recruitment and selection process for city manager was presented.

Jacque Russell, Human Resources Director, asked the Governing Body to consider the following items concerning the recruitment and selection process for city manager:

- Review the current city manager position description and revise as needed
- Determine if an executive search firm would be utilized or internal search conducted by the Human Resources Department
- If utilizing executive search firm, determine scope of work for Request for Proposal (RFP) or if internal search, develop direction of search for Human Resources
- Determine process for reviewing candidate credentials and recommending candidates for interviews by the governing body
- Determine process for interviewing candidates
- Develop candidate evaluation matrix

Councilmember Hiller stated she believes the city manager position description should be kept general and spoke in support of utilizing an executive search firm.

Councilmember Clear asked what is the cost to utilize an executive search firm versus an internal search conducted by the Human Resources Department.

Councilmember Ortiz spoke in support of an internal search conducted by the Human Resources Department as she believes staff is qualified to manage the search and it would be the most cost efficient option.

Councilmember Jensen asked Ms. Russell for her professional opinion on the best way to conduct the search for a city manager and if both options would be a possibility.

Councilmember Schwartz asked if there were any local executive search firms.

Jacque Russell provided the following responses:

- An executive search firm would help with current trends and position descriptions using current “buzz words”
- Recruitment firms generally charge 30-35% of the first year salary to conduct a search
- The distinct difference between an executive search firm and utilizing the Human Resources Department would be the advertising campaign and database used to access people who have expressed interest in a position and the ability to solicit those qualified individuals
- Utilizing both an executive search firm and the Human Resources Department may appear confusing when advertising for the position
- Her professional opinion would be to hire an executive search firm as it would be an outside entity conducting the search with a broader base
- Any local firms interested in conducting the search can apply through the RFP process to submit a bid

Councilmember Hiller spoke in support of utilizing an executive search firm because they are familiar with professional networks.

Mayor Wolgast spoke in support of utilizing an executive search firm because it is a very important decision and he wants to ensure the process is handled appropriately.

Councilmember Jensen questioned if it would create a conflict of interest if Mr. Gerber applied for the position.

Jacque Russell reported an RFP process would be conducted eliminating a conflict of interest and noted she would serve as the liaison between the executive search firm and the Governing Body.

Following discussion, it was the consensus of the Governing Body members to utilize an executive search firm in the hiring process for the city manager position.

Joseph Ledbetter requested the city manager position, duties and responsibilities include the following:

- Interaction with the Joint Economic Development Organization Board, meetings and programs on economic development
- Be actively engaged in all labor contract negotiations
- Measurable ability to solve complex problems
- Ability to be fiscally responsible
- Ability to be investigative and conduct own fact-finding
- Respond quickly to City emergencies and disasters

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

Doug Gerber, Interim City Manager, introduced Sheena Smith, City of Topeka Grant Writer. He congratulated Topeka Police Officer Mark Hershberger for receiving the Crisis Intervention Team Officer of the Year Award by NAMI. He commented on the Topeka Proud video sponsored by Heartland Visioning which features Mayor Wolgast. He announced Futures 2040 meetings would be held November 2, 2016, from 5:30 p.m. to 7:30 p.m. at the Topeka-Shawnee County Public Library; and on November 3, 2016, from 5:30 p.m. to 7:30 p.m. at the Garfield Community Center.

Councilmember Clear announced Saving Death Row Dogs would host the 3rd Annual Free Hay Giveaway to help keep animals warm this winter at Mike's IGA in Oakland on November 5, 2016.

Councilmember Ortiz reminded citizens to participate in the Topeka Fire Department Smoke Detector Program. She announced the 30th Annual Share the Warmth Coat Drive collection dates are October 17, 2016, through November 19, 2016, and noted coats can be brought to any

Topeka Scotch Cleaners location. She thanked the Topeka Police Department for hosting a Trunk or Treat event for kids. She encouraged veterans to take part in the Topeka Metropolitan Transit Authority Vets Ride Free program for the month of November.

Councilmember Emerson congratulated the Shawnee Heights' Girls Volleyball team for winning the 2016 5A State Tournament.

Councilmember Jensen requested City staff review Topeka Municipal Code Sections 6.35.030 (Swine Prohibited) and 6.05.060(d) (Exotic or Captive Wild Animals) in relation to other City codes. He encouraged everyone to vote on November 8, 2016.

Councilmember Schwartz stated this week's "gem" of Topeka is the people promoting Topeka. She referenced an article in Delta Airlines magazine "Sky" featuring the City of Topeka and stated it was a wonderful depiction of the community.

Councilmember Coen encouraged citizens to vote on November 8, 2016. He requested a report on the Expedition Des Moines Inter City Visit be provided to the Governing Body.

Ann Marshall, Linda Finch, Steve Clinkenbeard, Austin Wingerson, John Mannen, Henry McClure, Thomas Garvin, Victoria Garvin, Joseph Ledbetter and Richard Laird appeared to speak under public comment.

Councilmember Emerson moved to recess into executive session for a time period not to exceed 15 minutes to discuss attorney-client privilege information. 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 Jensen carried unanimously. Mayor Wolgast voted "yes." (8-0-0)

At 9:55 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 10:00 p.m.

Brenda Younger
City Clerk