

Council Minutes – December 6, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 6, 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 and Coen - 8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Harmon -1.

AFTER THE MEETING was called to order, Pastor Sueann Seel, Potwin Presbyterian Church, gave the invocation.

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

A PRESENTATION of the Performance Portal Demonstration was given by Leigha Boling, City Performance Analyst.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the reappointment of Keith Finney to the Board of Building and Fire Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment of Toby Taggart to the Board of Building and Fire Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment of Matthew Werner to the Board of Building and Fire Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment of Jeff Carson to the Topeka Landmarks Commission for a term ending January 1, 2020, was presented.

BOARD APPOINTMENT recommending the reappointment of Shawn Smith to the City of Topeka Board of Electrical Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment of Jim Grunewald to the City of Topeka Board of Electrical Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment to Dave Krug to the City of Topeka Board of Electrical Appeals for a term ending January 1, 2019, was presented.

DENIAL of a Tort Claim Appeal submitted by Marlesa Roney in the amount of \$453.70 for alleged damages to her vehicle from a pothole was presented.

DENIAL of a Tort Claim Appeal submitted by Esurance Insurance Company in the amount of \$37,576.33 for reimbursement to Brandon and Erika Asbell for property damage incurred as a result of a water main break near 3201 SW MacVicar Avenue was presented.

DENIAL of a Tort Claim submitted by AT&T seeking reimbursement in the amount of \$14,154.12 for repair of its fiber optic line which City crews severed while repairing a water main near 4343 SW 17th Street on January 25, 2016, was presented.

MINUTES of the regular meeting of November 15, 2016, was presented.

APPROVAL of the following Cereal Malt Beverage License applications, were presented:

<u>Business Name</u>	<u>Address</u>
Cypress Ridge	2533 SW Urish Road
Glory Days Pizza	1033 SW Gage Boulevard
Dickey's Barbecue Pit	609 NW US 24 Highway
Hooters	6100 SW 10 th Avenue
Lupita's Mexican Restaurant	732 S. Kansas Avenue
New China	201 SW 29 th Street
Porubsky's	508 NE Sardou Avenue
Sasnak	1834 N Kansas Avenue

APPROVAL of the following Dance Hall License applications, were presented:

<u>Business Name</u>	<u>Address</u>
Famous Door	1465 SE Washington Street
Los Charros	4111 SW Gage Center Drive
Sasnak	1834 N. Kansas Avenue
Skinny's Sports Bar & Grill	4016 SW Huntoon Street
Wild Horse Saloon	3249 SW Topeka Boulevard

APPROVAL of the following Open After Midnight License applications, were presented:

Business Name

Breakers Sports Bar & Grill
Gayle's

Address

5217-5235 SW 28th Court
600 NW Paramore

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

PUBLIC HEARING NOTICE

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2016 Operating Budget was presented.

Doug Gerber, Interim City Manager, reported the amendment would increase the expenditure level of the 2016 Adopted Budget in specified funds from \$41,312,719 to \$46,788,726.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Upon no one appearing, Mayor Wolgast announced the public hearing was closed.

RESOLUTION NO. 8827 introduced by Interim City Manager Doug Gerber, setting the public hearing for Improvement Project No. T-401062.00 to provide sanitary sewer service to Horseshoe Bend Subdivision No. 4 was presented.

RESOLUTION NO. 8828 introduced by Interim City Manager Doug Gerber, setting the public hearing for Improvement Project No. T-601066.00 to pave streets within Horseshoe Bend Subdivision No. 4 was presented.

Doug Gerber, Interim City Manager, stated approval would set a public hearing date on January 3, 2017, in regards to establishing a benefit improvement district for Horseshoe Bend Subdivision No. 4.

Councilmember Jensen moved to approve the resolutions. The motion seconded by Councilmember Coen carried unanimously. (9-0-0)

RESOLUTION NO. 8829 introduced by Interim City Manager Doug Gerber, setting the public hearing for Improvement Project No. T-601067.00 to pave streets within Misty Harbor Estates No. 5 was presented.

Doug Gerber, Interim City Manager, stated approval would set a public hearing date on January 3, 2017, in regards to establishing a benefit improvement district for Misty Harbor Estates No. 5.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

RESOLUTION NO. 8830 introduced by Interim City Manager Doug Gerber, expressing support for housing tax credits for Pioneer Group, Inc., for the Madison Street Apartments development project was presented.

Doug Gerber, Interim City Manager, reported approval would indicate support by the Governing Body of affordable housing projects within the City of Topeka by the Pioneer Group, Inc.

Rick Kready, Pioneer Group, appeared for questions.

Councilmember Ortiz spoke in support of the development and questioned if there would be additional entries into the facility as well as parking upgrades. She expressed concern with the lack of parking accommodations for people on a fixed income.

Rick Kready reported the project would consist of apartments in the south end of the facility as well as an additional entry area; the east wing would be used for two-bedroom apartments along with additional parking, ADA accessible units and the installation of elevators.

Councilmember Jensen questioned the need of parking meters along SE Madison and if an overall parking study should be conducted of the surrounding area.

Doug Gerber stated he is unsure if the area on SE Madison has been researched; however, staff is moving forward with the overall parking analysis for the city.

Councilmember Hiller spoke in support of the development project and stated she looks forward to a resolution about the parking accommodations at the facility.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

ORDINANCE NO. 20036 introduced by Interim City Manager Doug Gerber, providing for the renewal of a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka which replaces the franchise ordinance codified at City Code Appendix B, Article 6 that will expire December 31, 2016, was presented.

Doug Gerber, Interim City Manager, reported approval would extend AMR's franchise agreement for one year until December 31, 2017.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. (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 Mayor Wolgast -9. Absent: Harmon -1.

RESOLUTION NO. 8831 introduced by Interim City Manager Doug Gerber, setting forth the City of Topeka Policy for Capital Improvement Planning and rescinding Resolution No. 7553 was presented.

Doug Gerber, Interim City Manager, reported approval of a capital improvement planning policy would assist City staff with developing future capital improvement projects. He highlighted two changes to the resolution, (1) move to a 10-year capital improvement plan (CIP)

from a five year CIP; and (2) move to a \$27 million cap over three years versus a \$9 million annual cap which would allow more flexibility for projects.

Councilmember Clear asked for clarification of the proposed 10 year CIP process.

Doug Gerber stated the City has been operating on a 10 year projection; therefore, the proposed policy would work better with current practice and bond rating agencies would prefer the City move to a long-range planning process.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember De La Isla carried. Councilmember Ortiz voted “no.” (8-1-0)

APPROVAL of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2017 Special Alcohol Fund was presented.

Doug Gerber, Interim City Manager, reported the recommended amount of grant dollars are slightly higher than 2016 and was based on the projected liquor tax collected by the State of Kansas and required to be allocated to alcohol and drug programs.

Councilmember Clear moved to approve the 2017 Special Alcohol Grant recommendations. The motion seconded by Councilmember Coen carried unanimously. (9-0-0)

ORDINANCE NO. 20037 introduced by Interim City Manager Doug Gerber, concerning merchant private police license regulations, amending City of Topeka Code Sections 5.90.010, 5.90.110, 5.90.120, 5.90.130, 5.90.140 and 5.90.170 and repealing original sections and repealing Section 5.90.050 in its entirety was presented.

Councilmember Ortiz, Public Health and Safety Committee Chair, reported the Committee approved the ordinance as amended by a vote of 3-0-0 on November 4, 2016.

Luther Ganieany, Assistant City Attorney, gave a brief overview of the proposed amendments:

1. Remove all reference to firearms regulations because state law preempts cities from regulating firearms, including possession
2. Amends the definition of 'conviction' to eliminate expungements, juvenile adjudications and diversions
3. Changes timelines for felonies; will remove 'in the past 20 years' and instead ask if they have ever been convicted of a felony. For misdemeanors it would shorten the timeline to 10 years and would clarify the language of what kinds of misdemeanors are considered.

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

Councilmember Clear.

Luther Ganieany suggested reinserting lines 196-208 in the ordinance to cover situations where an applicant is subject to a restraining order as the licensing ordinance was not intended to assure applicants that they are qualified to possess a firearm; however, the intent is to deny licenses to applicants who are found during the background check to be disqualified under other laws.

Councilmember Hiller moved to amend the ordinance to reinsert lines 196-208. The motion seconded by Councilmember De La Isla carried unanimously. (8-0-0) Mayor Wolgast did not vote. *(This is a home rule ordinance for which the mayor has no vote.)*

Councilmember Hiller suggested adding background checks to the City's legislative agenda to ensure they are uniform throughout the State with other cities and municipalities.

The motion to adopt the ordinance as amended carried unanimously. Mayor Wolgast did not vote. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz and Coen -8. Absent: Harmon -1. *(This is a home rule ordinance for which the mayor has no vote.)*

ORDINANCE NO. 20038 introduced by Interim City Manager Doug Gerber, repealing in their entirety Topeka Municipal Code Sections 10.50.010, 10.50.050 through 10.50.150 and

12.05.010, as well as, creating Chapter 12.70, all concerning special events, parades and block parties was presented.

Lisa Robertson, City Attorney, provided an overview of the language revisions to date. She reported the language outlined on lines 406-412 of the ordinance arose out of discussions with NOTO District representatives; however, the language has not been vetted by the Governing Body. She noted staff supports removing the language if that is the will of the Governing Body and staff can monitor the progress over the next year.

Councilmember Ortiz stated event coordinators and sponsors must communicate with downtown residents and businesses about community events that affect their daily activities.

Councilmember Harmon entered the room.

Lisa Robertson stated notification requirements have been included in the ordinance with a stipulation if the process is not followed it could affect issuance of an event permit the following year.

Councilmember Jensen spoke in support of the City's website listing special events as an additional communication tool for businesses and residents. He commended staff for working with merchants and event coordinators to draft a successful policy.

Councilmember Jensen moved to adopt the ordinance. The motion was seconded by Councilmember De La Isla.

Councilmember Hiller moved to strike lines 406-412 of the ordinance. The motion seconded by Councilmember Ortiz carried. Councilmember Clear voted "no." Councilmember Harmon abstained. (7-1-1) Mayor Wolgast did not vote. (*This is a home rule ordinance which the mayor has no vote.*)

Councilmember Hiller spoke in support of the ordinance and stated she is hopeful administrative regulations will be put into place to address parking plans, blocked streets and notifications to those affected by the street closures due to special events.

The motion to adopt the ordinance as amended carried. Councilmember Harmon abstained. (8-0-1) Mayor Wolgast did not vote. *(This is a home rule ordinance which the mayor has no vote.)*

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz and Coen -8. Abstain: Harmon -1. Mayor Wolgast did not vote. *(This is a home rule ordinance which the mayor has no vote.)*

ORDINANCE NO. 20039 introduced by Interim City Manager Doug Gerber, revising Chapter 5.115 of the Topeka Municipal Code concerning peddlers, solicitors and itinerant merchants, amending City of Topeka Code Sections 5.115.010 through 5.115.160 and repealing original sections and creating Sections 5.115.170 through 5.115.220 was presented.

Lisa Robertson, City Attorney, reported the proposed changes would go into effect January 1, 2017.

Councilmember De La Isla moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0) Mayor Wolgast did not vote. *(This is a home rule ordinance which the mayor has no vote.)*

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz, Coen and Harmon -9. Mayor Wolgast did not vote. *(This is a home rule ordinance which the mayor has no vote.)*

DISCUSSION related to the ordinance establishing a service fee levy for 2017 relating to the Capital City Downtown Business Improvement District was presented.

Vince Frye, Downtown Topeka Inc. President and CEO, provided a brief overview of the Business Improvement District and the services provided as well as the proposed changes in the method of funding.

Councilmember Coen asked if businesses requested the fee increase.

Vince Frye stated business owners understand the purpose of the Business Improvement District and services needed in the downtown area.

Councilmember Clear asked how the service fee works in conjunction with the contract regarding maintenance of the pocket parks as it would appear DTI would be paid in duplicate for services provided in the same area along S. Kansas Avenue.

Vince Frye reported all services are different in nature and compensated respectively; however, there is no duplication in payment as they receive the funds at different times of the year.

Councilmember Jensen spoke in support of the service fees as a property and business owner in the downtown area.

Councilmember Emerson questioned if the owners of larger parcels and businesses support the service fee increases.

Vince Frye stated all businesses in the area affected by the business improvement district are supportive of the increase and believe it is long overdue.

Councilmember Hiller spoke in support of the increase as she believes it improves the value of the buildings as well as services in the downtown area.

DISCUSSION of a Real Estate Purchase Agreement for the purchase of real property located at NW Topeka Boulevard and NW Curtis Streets, Topeka, Kansas was presented.

Kelly Ryan, City of Topeka Levee Engineer, gave a brief overview of the City of Topeka Flood Risk Management Plan which includes the Oakland Levee Unit, the South Topeka Levee Unit and the North Topeka Levee Unit Phase 1 and 2. He reported the acquisition of 0.46 acres of vacant land in the amount of \$85,000 is required for the U.S. Army Corps of Engineers project. He noted the purchase price will count towards the City's cost share portion of the levee project.

Councilmember De La Isla questioned if repair of the Oakland Levee Unit would be beneficial to any of the surrounding property owners specifically in regards to flood insurance.

Kelly Ryan stated they anticipate area properties will benefit from the levee improvements.

DISCUSSION to receive input from Governing Body members regarding updates to the Job Description for City Manager was presented.

Jacque Russell, Human Resources Director, stated staff is seeking a general consensus on position responsibilities such as performance expectations or topics for interview questions.

Mayor Wolgast stated he believes there is value in hiring a national executive search firm to handle the search for a city manager.

Councilmember De La Isla stated she believes the current job description is solid; however, she suggested reviewing and possibly revising performance measures for the city manager at a later date.

Councilmembers Hiller and Clear stated they concur with Councilmember De La Isla and would like the original job description to be used to start the Request For Proposal (RFP) process.

Councilmember Schwartz stated she believes suggestions made by Governing Body members will be helpful and result in good candidates for the position.

Councilmember Harmon asked if the job description should be a “working document” and given to a search firm.

Jacque Russell stated that is the intent of the process as staff would prefer input from the search firm as they are leading the recruitment process.

Upon hearing no objections, Mayor Wolgast announced the consensus of the Governing Body was to use the current job description to move forward with the Request for Proposal process to hire an executive search firm and submit all comments compiled by Governing Body members to the search firm chosen for consideration.

Councilmember Hiller suggested scheduling a special meeting to address the process for the city manager position as she believes it will generate a significant amount of discussion.

DISCUSSION concerning compensation for the mayor and councilmembers was presented.

Councilmember Schwartz requested Governing Body members consider the matter and have discussion to determine what is fair in regards to comparison cities and a firm effective date. She noted the Governing Body has not received a raise in 12 years.

Councilmember Clear stated each councilmember is responsible for approximately 14,000 constituents and all Governing Body members go above and beyond to work diligently to serve the public.

Councilmembers Jensen and Coen expressed concern with the cost of health insurance compared to compensation received as well as the increased cost of conducting business.

Councilmember Hiller stated she has mixed feelings on the issue; however, she has received many comments from constituents stating they believe Governing Body members deserve a pay increase.

Councilmember Harmon expressed his appreciation to Councilmembers Hiller, Schwartz and Clear for working on the issue. He reported that he believes a pay increase should be delayed until the next elected officials take office because it is the right and ethical thing to do. He presented an amendment to the Governing Body to implement an increase for incoming Governing Body members in 2018.

Teresa Miller spoke in opposition of a 100% pay increase; however, she would support a fair pay increase and noted the City of Lawrence elected officials make less than the City of Topeka elected officials.

Councilmember Emerson spoke in opposition of the pay increase based on the fact that Governing Body members' duties have not changed from 2004 as well as he has only been serving in his position for six months; however, he respects his colleagues and the work they do.

Councilmember Schwartz suggested Governing Body members' salaries stay consistent with the Consumer Price Index if opposed to the proposed increase.

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

Doug Gerber, Interim City Manager, announced the City received two awards from the Kansas Association of City/County Management, the 2016 Innovation Award for Tweet-A-Longs and the City Public Improvement Award for improvements to Kansas Avenue. He announced the Be the Bridge event would be held December 15, 2016, to commemorate the \$51.1 million bond payoff of the Topeka Boulevard Bridge project. He congratulated Corrie Wright, Housing Services Director; Topeka Police Department Lieutenant Jana Harden and Lieutenant Colleen Stuart for successfully completing the University of Kansas Certified Public Manager Program.

Mayor Wolgast announced December 5, 2016 was the 162nd birthday of the City of Topeka. He commended Facility staff for repairing the lighting in front of City Hall.

Councilmember Clear inquired on the status of the security plan for City Hall. She encouraged the community to attend the Topeka Bible Church Light Show from December 9-11, 2016; TARC's Winter Wonderland at Lake Shawnee open through December 31, 2016; and Ronald McDonald's House Charities of NE Kansas Cookie Walk and Confectionery Delights Sale on December 9, 2016.

Councilmember Ortiz asked Brendan Wiley, Topeka Zoo Director, to comment on recent zoo events. She commended Mr. Wiley and FOTZ for being creative with new events and challenged all Governing Body members to participate in the new Friends of Topeka Zoo - Giving Zoo Day 2016. She recognized the Topeka Fire Department for participating in Project Warmth which donated \$2,000 to make quilts for foster children.

Brendan Wiley, Topeka Zoo Director, reported the Giving Zoo Day 2016, is a FOTZ campaign asking the community to help those less fortunate by purchasing a Friends of the Topeka Zoo Membership as a gift to be given to a family in need. He noted the campaign would run November 29-December 20, 2016, and the goal is 500 donated memberships would be doubled by FOTZ to equal 1,000 total thus giving the gift of the Topeka Zoo to thousands in the community that would last an entire year.

Councilmember Emerson recognized the good deeds performed by City employees on a weekly basis and commended the City's Engineering staff for their quick response to a recent issue with an improvement project along SE 37th Street.

Councilmember De La Isla commended the individuals that participated in the Holiday Heroes Program sponsored by KVC Behavioral Healthcare, Inc., to make sure each child in foster care has a happy holiday.

Councilmember Schwartz announced the Red Stocking Breakfast event sponsored by the Kansas Children's Service League on December 10, 2016, from 7:30 a.m. to 10:30 a.m. at Carlos O'Kelly's Restaurant located at 3425 S. Kansas Avenue. She stated this week's "gem" of Topeka is the local merchants and encouraged everyone to buy local during the holiday season.

Olga Hennessey, Pam Ensley, Roger Smith, Carol Babcock, Jane Williams, Ray Robinson and Stephen Schiffelbein, members of JUMP, appeared to speak under public comment.

Mayor Wolgast provided an update on the organizations that address housing needs in the city of Topeka.

Councilmember Jensen moved to recess into executive session for a time period not to exceed five minutes regarding potential litigation. To assist the Governing Body in discussion, the following individuals were requested to be present: Interim City Manager, City Attorney and Human Resources Director. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

At 9:17 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember De La Isla moved to recess into executive session for a time period not to exceed 10 minutes to discuss employer/employee negotiations. To assist the Governing Body, the following individuals were requested to be present: Interim City Manager, City Attorney, Human Resources Director and Budget and Performance Manager. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

At 9:27 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 9:30 p.m.

Brenda Younger
City Clerk