

Council Minutes – December 17, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 17, 2013. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember Campos II gave the invocation.

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

A PRESENTATION of the Historic Preservation Plan was given by Bill Fiander, Topeka Planning Department Director, and Elizabeth Watson, Heritage Strategies.

Elizabeth Watson discussed the purpose of the City of Topeka Historic Preservation Plan and highlighted key points of the advantages the plan provides the community.

Jim Colson, City Manager requested to consider the resolution relating to the new Franchise Fee Rebate Program before the ordinance repealing the previous Franchise Fee Refund Program.

Councilmember Harmon moved to consider Council New Business agenda item 6A, a resolution concerning the new Franchise Fee Rebate Program after Unfinished Business agenda item 5A, a Project Budget and Ordinance authorizing the Shunga Trail Extension Project No. 30127-12. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Kate Grover to the Citizen Advisory Council for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the re-appointment of Jessie Thompson to the Civil Service Commission for a term ending January 5, 2018, was presented.

BOARD APPOINTMENT recommending the re-appointment of James Parrish to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2015, was presented.

BOARD APPOINTMENT recommending the appointment of Danton Hejtmanek to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2015, was presented.

COMMITTEE APPOINTMENT of Tina Williams to the Citizens Government Review Committee was presented.

COMMITTEE APPOINTMENT of John Nave to the Citizens Government Review Committee was presented.

COMMITTEE APPOINTMENT of Jim Reardon to the Citizens Government Review Committee was presented.

COMMITTEE APPOINTMENT of Maynard Oliverius to the Citizens Government Review Committee was presented.

COMMITTEE APPOINTMENT of Judy Moler to the Citizens Government Review Committee was presented.

MINUTES of the regular meeting of December 10, 2013, were presented.

Dance Hall License applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
American Legion Post #400	3029 NW Highway 24
Midwest Elks Lodge #1441	1316 SE Madison Street
Jeremiah Bullfrog's	4115 SW Huntoon Street

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Everhart carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$1,300,000 and ORDINANCE NO. 19868 introduced by City Manager Jim Colson, amending and authorizing the project budget for Improvement Project No. 30127-12, which provides for the design and construction to extend the existing Shunga Multipurpose Trail, as more specifically described herein and repealing City of Topeka Ordinance No. 18721 placed on first reading December 10, 2013, was again presented.

Doug Whitacre, Public Works Director, gave a brief background of the project approved by the Council in 2006 and stated due to design issues with the design consultant going out of business the project was not constructed at that time. He reported Shawnee County Parks & Recreation would like to move forward with the construction of the trail extension and has authorized to contribute \$225,000 towards the project, Kansas Department of Transportation has also increased their funding to \$970,000; therefore, the City's costs is revised to \$105,000 for a total project budget of \$1,300,000. He noted the City has already expended \$80,000 on design; however, an additional \$25,000 from the City is needed, as well as, an additional \$25,000 from Shawnee County to complete the required match for state grants.

Councilmember Harmon asked why the additional \$25,000 is needed from the City.

Doug Whitacre stated the additional \$25,000 would meet the required match for the increase in State grants.

Councilmember Harmon asked when the Council approved the payment of \$80,000 for design.

Doug Whitacre stated the City Council approved the project budget on October 3, 2006.

Councilmember Schmidt moved to approve the project budget and adopt the ordinance.

The motion was seconded by Councilmember Schwartz.

Councilmember Hiller spoke in support of the project and stated many of her constituents have expressed support.

Alan Apel, Kaw Valley Bicycle Club Vice President and Bikeways Committee member, spoke in support of the project which would provide another dimension to the city; promote healthy lifestyles; and keep safety for families as a primary concern. He encouraged the Council to approve the project as it is a strong inclusion in the bikeways plan.

Councilmember Campos II spoke in support of the project. He stressed the importance of having connectivity throughout the city; however, he expressed concern with the outcome if Shawnee County does not provide their portion of the funding.

Councilmember Harmon stated the City has transferred over \$36 million in cash and property to Shawnee County since the Parks and Recreation consolidation and believes the County should be able to contribute their share of the additional \$25,000 for the project.

Councilmember Ortiz asked if the Council is obligated to approve the project at this time.

Doug Whitacre stated Council approval of the revised budget is needed if the project is to move forward.

Councilmember Schmidt clarified if the City and County do not contribute the additional \$25,000 each; the entities would lose the Kansas Department of Transportation Enhancement Funds in the amount of \$970,000 for the project.

The motion to approve the project budget and adopt the ordinance carried.

Councilmember Manspeaker voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Hiller, Campos II, Ortiz, Everhart, De La Isla, Schwartz, Schmidt and Harmon -8. Nos: Manspeaker -1.

RESOLUTION NO. 8575 introduced by City Manager Jim Colson, authorizing the restructure of a program to provide assistance to low-income households with gas, electric, and water/wastewater utility bills was presented.

Jeff White, City of Topeka Financial Advisor, reported the City is proposing a change in the administrative process of the Franchise Fee Utility Rebate Program. He stated the program criteria would remain the same as in previous years; however, it would be more cost-effective to outsource the administrative services while addressing the Council's goal to help low-income households pay their major utilities. He stated the City would contract with the Community Resource Council for administration of the program which includes eligibility, monitoring and processing of payments, and administering rebates directly to the utility companies.

Councilmember Ortiz asked what amounts are budgeted for water refunds and where the water and wastewater refunds are appropriated.

Jeff White stated the City Water and Wastewater fund have funded the rebate program and have been included in the operating budget.

Councilmembers raised the following concerns and questions relating to the new Franchise Fee Rebate Program:

- Inquired why the Jayhawk Area Agency on Aging (JAAA) would not be administering the program since they have been partnering with the City in assisting people through outreach and information
- Why the Community Resource Council (CRC) has not named a Director for 2014 at this time
- Inquired why the service did not go through the Request for Proposal process
- Inquired if the Roundup Program could help streamline the two programs to be simplified
- Inquired how many other organizations the City has contacted about administering the program

- Review the program in 2014 to optimize services
- Community Resource Council does not presently provide tangible services to gauge how they could handle this type of program
- Suggested an intern program to help administer the program

Jeff White stated the City discussed the administration responsibilities of the program with JAAA; however, they felt they would not have the staffing capability to support verifying eligibility requirements and administration of the program on their own. He reported the City has discussed the program with both organizations; however, CRC responded affirmatively because they could address the needs of the entire population; has the organizational capacity and the ability to track applicants through the process. He also noted the City no longer has the internal staff capacity to handle the administrative process.

Joselyn Lyons, Jayhawk Area Agency on Aging Executive Director, stated there have been many discussions with the City on the administrative role in the program and proposed changes. She reported she had discussions with CRC and learned they would take on the role and are very aware of the amount of work involved in partnering with utility agencies and processing applications. She reported JAAA is not willing to administer the program in the same manner the City has done in past years because JAAA does not have the staff to support the administration of the program; however, JAAA is willing to partner with CRC to serve as an outreach point and make referrals, as well as, have an area at JAAA's office during income tax time to accept applications.

Councilmember Harmon moved to approve the resolution. The motion was seconded by Councilmember De La Isla.

Councilmember Manspeaker asked if the new program would reduce the amount of refunds.

Jeff White stated the City is only reducing the amount of administrative costs.

Councilmember Campos II questioned if the City would be reducing rebates when transitioning to the new program which includes flat rebates per household based on previous averages by utility.

Jeff White stated the total amount of money paid from the City's general fund would be consistent with past years.

The motion to approve the resolution carried. Councilmembers Hiller, Campos II, Ortiz and Schwartz voted "no." (5-4-0)

ORDINANCE NO. 19869 introduced by City Manager Jim Colson, repealing City of Topeka Code Sections 13.05.070 and 13.05.080, eliminating the gas and electric franchise fee refund program and the water and wastewater utility rate refund program placed on first reading December 3, 2013, was again presented.

Jeff White, City of Topeka Financial Advisor, reported approval would repeal the current program, enabling staff to restructure the Franchise Fee Rebate Program so that administrative costs are reduced and result in improved service delivered to low-income households with utility bills.

Councilmember Schmidt moved to adopt the ordinance. The motion seconded by Councilmember Harmon carried. Councilmembers Campos II and Ortiz voted "no." (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -7. Noes: Campos II and Ortiz -2.

ORDINANCE NO. 19870 introduced by City Manager Jim Colson, pertaining to an amendment to the text and map of the Topeka Comprehensive Plan for the Historic North Topeka Neighborhood Plan placed on first reading December 10, 2013, was again presented.
(CPA13/2)

Bill Fiander, Planning Department Director, reported Historic North Topeka East was selected to receive Stages Of Resource Targeting (SORT) funds for infrastructure and housing improvements in selected target areas. He stated prior to determining the projects, the neighborhood plan is updated to identify both the target areas and necessary improvements. He noted residents participated in community meetings and focus groups to update the plan.

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

John Hunter, NOTO Arts District Project Development Board representative, reported the neighborhood fully supports the plan that is built around great collaborations within the City. He stated the plan is a benefit and opportunity to encourage growth and overall quality of life in the community. He recognized the Topeka Planning Department and thanked them for their work on the neighborhood plan.

Katrina Bayless, Historic North Topeka East Neighborhood Improvement Association Vice President, reported the neighborhood has worked very hard with many different agencies to provide a safe community. She distributed and read a letter from Debbie Dunkin, Historic North Topeka East NIA, regarding the neighborhood's issues and how the improvements would help revitalize the neighborhood.

Councilmember Hiller thanked Katrina Bayless for her contribution to the neighborhood plan and efforts to improve the area.

Councilmember Campos II thanked City staff, the NIAs, North Topeka and NOTOMA for their efforts in improving the community. He stated he believes it highlights the City moving in the right direction and encouraged the Council to support the plan.

The motion to adopt the ordinance carried unanimously. Mayor Wolgast voted “yes.”
(10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt, Harmon and Mayor Wolgast -10.

RESOLUTION NO. 8576 introduced by City Manager Jim Colson, setting the public hearing to consider the advisability of establishing a Community Improvement District (CID) for Crosswind Commons at SW 12th and SW Wanamaker Road, as more specifically described herein was presented.

Jeff White, City of Topeka Financial Advisor, reported the property owners at SW 12th Street and SW Wanamaker Road have petitioned to establish a community improvement district pursuant to K.S.A. 12-6a26 to request that the City impose a 1% sales tax on retail purchases of property and services within the district and issue special obligation bonds which would be used to pay for the redevelopment of the property. He stated a community improvement district is a self-supporting economic development tool which levies an incremental sales tax on businesses within the district.

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember Schmidt carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

Retail Cereal Malt Beverage License applications for Grover’s Smokehouse located at 1217 SW Gage Boulevard, and Lupita’s located at 732 S. Kansas Avenue, were presented.

Councilmember Campos II moved to approve the retail cereal malt beverage license applications as presented. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

ORDINANCE NO. 19871 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 1700 SW Buchanan and 1113-1115 SW 17th Street from “M-1” Two-Family Dwelling District TO “PUD” Planned Unit Development District (“C-1” Commercial uses with residential occupancy, “O&I-2” Office and Institutional District, “M-1” Two-Family Dwelling District) on 1700 SW Buchanan and 1113-1115 SW 17th Street and a vehicle surface parking lot as a principal use on 1113-1115 SW 17th Street placed on first reading December 10, 2013, was again presented.

(PUD13/2)

Bill Fiander, Planning Department Director, reported approval would allow the properties at 1700 SW Buchanan and 1113-1115 SW 17th Street to be developed for mixed use development including C-1 Commercial Uses with residential occupancy, offices, duplexes, or off-street parking. He noted there is a condition of the PUD that the request be in conformance to the Chesney Park Neighborhood Plan by limiting strip commercial characteristics along 17th Street and requiring new construction to be consistent with the plan’s design guidelines.

Councilmember Hiller expressed concern with the zoning request and asked for an explanation of the original recommendation and why it changed. She stated both the Central Park Neighborhood Plan and the Chesney Park Neighborhood Plan did not allow C-1 zoning and were against any further strip zoning; therefore, she asked if there is a way to do business without advertising the sale of guns. She noted the property owner currently has a home occupation license which allows him to conduct business but does not allow walk-in sales.

Bill Fiander reported staff recommended opting out of some C-1 uses; however, a gun store is considered a sporting goods store and is not separated out of the zoning classification so

the recommendation allowed C-1 uses. He stated the Topeka Planning Commission was not amiable to taking out uses so they came back with the recommendation to be consistent with the neighborhood plan. He noted without moving the property to a C-1 zoning, the home occupation license which is handled administratively does not allow the owner to advertise or take walk-ins and business is limited to 25% of the structure.

Councilmember Hiller referenced a similar case in the Tennessee Town neighborhood where there have been issues since the zoning change and expressed concern the issue could have similar negative effects on the neighborhood.

Bill Fiander encouraged Councilmembers to separate the issues and look at what is presented as a C-1 zoning classification which is appropriate for any commercial uses.

Councilmember Manspeaker reminded the Council the zoning case should not be a political decision but a decision on the proper type of zoning for the neighborhood.

Councilmember Hiller stated her opposition to the zoning request and referenced the Chesney Park Neighborhood Plan and residential properties versus commercial properties.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Manspeaker carried. Mayor Wolgast voted “yes.” Councilmembers Hiller, Schwartz and Schmidt voted “no.” (7-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Harmon and Mayor Wolgast -7. Noes: Hiller, Schwartz and Schmidt -3.

ORDINANCE NO. 19872 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 in the

southwest quadrant of SW 21st Street and SW Topeka Boulevard from “C-4” Commercial District and “M-1” Two-Family Dwelling District ALL TO “PUD” Planned Unit Development District (“C-4” Commercial and “C-3” Commercial use groups) placed on first reading December 10, 2013, was again presented. (*PUD13/3*)

Bill Fiander, Planning Department Director, reported Laird Noller is requesting a variance of ten (10) feet from the front yard setback along SW Topeka Boulevard on the northern parcel so the existing sales and administration building can be remodeled and expanded with the front face of the building expansion having a 15-foot setback in lieu of the standard 25-foot setback and would only conduct vehicle sales of a gross vehicle weight rating of 12,000 pounds. He stated the Planning Department recommended conditional approval of the PUD based on residential buffers along the western and southern property lines and a landscaped area along the eastern property line fronting SW Topeka Boulevard.

Councilmember Campos II moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt, Harmon and Mayor Wolgast -10.

AN ORDINANCE introduced by City Manager Jim Colson, amending the text of the Topeka Comprehensive Metropolitan Plan for the Historic Preservation Element was presented for first reading. (*CPA13/1*)

AN ORDINANCE introduced by City Manager Jim Colson, 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, 2013, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, establishing a community improvement district (CID) located at 12th and Wanamaker Road (Crosswinds Common) levying a CID sales tax of one percent (1%) within the CID, and issuing special obligation bonds was presented for first reading.

Jim Colson, City Manager, reported a new discussion item has been placed on the Council agenda which provides an opportunity to the Governing Body to have non-structured discussion on issues they may want to consider on future Council agendas or discuss in further detail.

The following items of interest were raised by the Governing Body:

1. Topeka Fire Department providing ambulance services in lieu of American Medical Response
2. Heartland Visioning
3. Downtown Façade Program
4. Costs of using an official city newspaper for notifications

In conclusion, Jim Colson stated the Governing Body must determine by consensus which items they want to discuss further in detail.

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

Councilmember Campos II commended the Policy and Finance Committee for discussing the ban on domestic abuse. He also commended the Joint Economic Development Organization Board for their efforts in educating the youth.

Councilmember Ortiz expressed sympathy to the Topeka Fire Department in the loss of Investigations Unit Accelerant Detection Canine, Boomer. She reported Boomer was placed into service in December 2005 and worked in collaborative partnership between the City of Topeka and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Greg Bailey, Topeka Fire Chief, reported Boomer was an official member of the Topeka Fire Department and was a huge asset to Topeka and surrounding communities.

Councilmember De La Isla thanked everyone who attended the vigil in remembrance of Topeka Police Corporal David Gogian and Officer Jeff Atherly on December 16, 2013, at the Law Enforcement Center.

Councilmember Hiller thanked the Topeka Planning Commission for their work on zoning case PUD13/2 for property located at 1700 SW Buchanan and 1113-1115 SW 17th Street; however, she was disappointed with the way the Planning Department handled the zoning case and how information was not shared with the Council and surrounding neighborhood.

Katrina Bayless appeared to speak under public comment.

Deputy Mayor Ortiz moved to recess into an executive session to discuss non-elected personnel matters for a time period not to exceed 20 minutes and to include the Governing Body, City Manager and City Attorney. The motion seconded by Councilmember Campos II carried unanimously. (9-0-0)

Following a 20 minute time period, Deputy Mayor Ortiz moved to extend the executive session for a time period not too exceed 1 hour and 15 minutes. The motion seconded by Councilmember Campos II carried unanimously. (9-0-0)

At 10:00 p.m., the Council meeting reconvened into open session and Deputy Mayor Ortiz announced that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:00 p.m.

Brenda Younger
City Clerk