

Council Minutes – October 18, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 18, 2011. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -8. Mayor William W. Bunten presided -1. Absent: Councilmember Alcala -1.

AFTER THE MEETING was called to order, Councilmember Ortiz provided 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 appointment of Dennis Haugh to the Topeka Planning Commission to fill an unexpired term ending December 8, 2012 was presented.

BOARD APPOINTMENT recommending the appointment of Chuck Smelter to the Board of Mechanical Examiners to fill an unexpired term ending June 30, 2012 was presented.

BOARD A0050POINTMENT recommending the appointment of Connie McFarlane to the Jayhawk Area Agency on Aging Board of Directors for a term ending October 31, 2014 was presented.

RESOLUTION NO. 8389 introduced by Councilmember John Alcala, granting Bradley's Corner Café and NOTO 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 October 11, 2011 were presented.

Councilmember Archer moved to approve the consent agenda. The motion seconded by Councilmember Gray carried unanimously. (8-0-0)

Councilmember Archer moved to add a contract amendment and supplemental agreement concerning the City-County Parks and Recreation Department consolidation to the October 25, 2011 Council agenda. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$250,000 and ORDINANCE NO. 19658 introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-841016.00 which provides for alley repair at various locations throughout the City, as more specifically described herein placed on first reading October 11, 2011 was again presented.

Daniel R. Stanley, Interim City Manager gave the staff report.

Councilmember Ortiz questioned why the alley located in the 600 to 800 block of SE Chandler and SE Lake was not included on the project lists.

Braxton Copley, Office of Utility and Transportation Operations Director stated he would have staff inspect the alley.

Councilmember Gray thanked Braxton Copley for addressing the alley repairs and providing information to the Council.

Councilmember Hiller stated the south alley improvement located along SW 12th Street between Washburn and Lane, listed on the 2010-2011 Half Cent Sales Tax Alley Rehabilitation Projects in the amount of \$73,900 could be vacated. She reported it has been in terrible shape for years and an estimate was received in the amount of \$7,500 to have City vacate the alley and infill it with dirt and grass instead of repairing it.

Councilmember Hiller moved to amend the ordinance to add the following statement starting on Line 20, "Removal shall be considered an eligible improvement in the case of any otherwise eligible alley that is vacated by City Council action." The motion was seconded by Councilmember Ortiz.

Councilmember Gray asked if half-cent sales tax funds could be used to vacate an alley. He stated he supports saving money; however, he is not sure the people voted for the half-cent sales tax funds to include vacations of alleyways.

Mary Feighny, Deputy City Attorney stated half-cent sales tax funds could not be used to vacate an alley.

Daniel R. Stanley reported he would explore and research the alley vacation to see if it could be handled administratively with the use of Street Maintenance funds.

Councilmember Manspecker stated he would not support the amendment because he has not received any complaints from constituents regarding the alley.

The Chair ruled the motion to amend was out of order due to the funding restrictions that have been placed on half-cent sales tax fund uses.

Councilmember Hiller moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Manspecker carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspecker, Archer, Gray and Harmon -8. Noes: Alcalá -1.

APPROVAL of a Settlement Proposal in the amount of \$132,500 from the City of Topeka and request for the City Council to authorize the settlement of Llizo vs. City of Topeka Case No. 11-2302 under the terms and conditions negotiated and agreed upon by the parties was presented.

Daniel R. Stanley, Interim City Manager gave the staff report.

Councilmember Harmon moved to approve the settlement proposal. The motion was seconded by Councilmember Wolgast.

Councilmember Ortiz asked what options the Council has in the matter.

Mary Feighny, Deputy City Attorney reported the case is still in the discovery phase and trial is set for July 2012. She stated the Council has the option to deny the settlement proposal which would send the case to trial or approve the settlement proposal.

Councilmember Archer asked for a recommendation from the Legal Department.

Mary Feighny stated Shelly Starr, Assistant City Attorney working on the case, is out of town for a deposition; however, she is available via teleconference if necessary.

Councilmember Ortiz made a substitute motion to defer the settlement proposal for two weeks. The motion seconded by Councilmember Archer carried unanimously. (8-0-0)

ORDINANCE NO. 19659 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of September 19, 2011, through September 25, 2011, and enumerating said expenditures therein was presented for first and final reading.

Daniel R. Stanley, Interim City Manager gave the staff report.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -8. Absent: Alcalá -1.

ORDINANCE NO. 19660 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of September 26, 2011, through October 2, 2011, and enumerating said expenditures therein was presented for first and final reading.

Daniel R. Stanley, Interim City Manager gave the staff report.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Manspeaker carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -8. Absent: Alcalá -1.

NO Retail Cereal Malt Beverage License Applications were presented.

RESOLUTION NO. 8390 introduced by Interim City Manager Daniel R. Stanley, authorizing initiation of condemnation proceedings to acquire permanent public easement interests for the following public purposes: pedestrian and public access easement and fee simple interest to repair the existing pond at Lauren's Bay Villas Subdivision and Lauren's Bay Estates, Project No. T-151011.00 was presented.

Daniel R. Stanley, Interim City Manager gave the staff report and background on the pond project. He reported the property owners in the subdivision sought the City's help in finding a resolution for restoring the pond and maintenance. He stated the pond repair would help stabilize the property value within the subdivision.

Councilmember Gray asked who currently owns the pond.

Robert Kennedy, City Engineering Right of Way Agent reported the pond consists of two parcels, one to the north which includes the dam and most of the lake, and one to the south which includes the tailwaters. He stated the property owner of the north parcel is J.D. Pritchard, Lauren's Bay, L.L.C.; and the south parcel is owned by CoreFirst Bank and Trust; and the pedestrian walkway is owned by McGivern Realty.

Councilmember Archer moved to approve the resolution. The motion seconded by Councilmember Gray carried unanimously. Mayor Buntzen voted "yes." (9-0-0)

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing the initiation of condemnation proceedings to acquire permanent public easement interests for the following public purposes: pedestrian and public access easement and fee simple interest to

repair the existing pond at Lauren's Bay Villas Subdivision and Lauren's Bay Estates, Project No. T-151011.00 was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-141011.00 which provides for various improvements, including pedestrian features, improved traffic signals, and bike markings to intersections throughout the City as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC) by providing for certain changes in zoning on property located on the west side of SW Clay Street, approximately 230 feet south of the intersection of SW Clay Street and SW 10th Avenue from "E" Multiple Family Dwelling District TO "R-2" Single Family Dwelling District was presented for first reading. (Z11/15)

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC) by providing for certain changes in zoning on property located on the northwest corner of SW Hillside Street and SW 15th Street from "E" Multiple Family Dwelling District TO "M-1" Two Family Dwelling District was presented for first reading. (Z11/18)

AN ORDINANCE introduced by Councilmember Karen Hiller, designating the Big Gage Shelter House as temporarily exempt from the provisions of K.S.A. 41-719(c) and TMC 9.15.020(d) was presented for first reading.

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

Daniel R. Stanley, Interim City Manager pulled Council agenda item 7B, an ordinance concerning Complete Streets Improvement Project T-141011.00 under First Readings as requested by staff.

Councilmember Hiller congratulated Councilmember Archer and Shawnee County Commissioner Shelly Buhler on being awarded the 2011 Individual Award of Excellence presented by the Community Resource Council. She thanked the Council for their support to repeal misdemeanor domestic battery from the City's UPOC ordinance and noted it seems cases are being handled in the same manner as before. She announced the Metropolitan Topeka Planning Organization's Complete Streets policy is completed and requested a work session be scheduled to inform the public of the policy. She reported she attended the American Planning Association Kansas Chapter conference and presented a session on Bikeway Projects. She requested an update on the bikeway projects in Topeka be discussed in a future work session. She also announced the Arty Party event was a great event and well attended.

Councilmember Ortiz announced the Human Relations Commission would host a town hall meeting concerning Diversity Balance on October 10th from 6:00 p.m. to 8:00 p.m. at the Brown v. Board of Education building located at 1515 SE Monroe and encouraged the community to attend.

Councilmember Everhart thanked Police Chief Ron Miller for participating in the Law Enforcement Partnership Panel Meet and Greet event at Highland Park High School. She stated the panel provides a bridge between citizens and the Topeka Police Department. She noted the City's website has a link for more information on the Law Enforcement Partnership Panel at www.topeka.org and encouraged citizens to become involved with the panel.

Councilmember Wolgast announced the grand opening of Echo Ridge, affordable and energy-efficient housing units located at 2010 SE California. He encouraged the community to

visit Echo Ridge which was 97% built by local contractors and an outstanding addition to the community.

Councilmember Manspeaker expressed concern with the crime issues in Topeka and requested more information and time to discuss how neighborhoods can be protected.

Councilmember Archer thanked the Community Resources Council staff for hosting the 2011 Awards of Excellence event and stated he was honored to receive the 2011 Individual Award of Excellence.

Reva Wywadis appeared to speak under public comment.

Councilmember Archer moved to adjourn the Council meeting. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:44 p.m.

Brenda Younger
City Clerk