

Council Minutes – October 25, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 25, 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.

Mayor Bunten reported Councilmember Alcala is ill and plans to return in approximately ten days.

Councilmember Archer moved to suspend the Council Rules to add a resolution concerning the 2012 employee group health insurance plan to the Council agenda under New Business as item 6F. The motion seconded by Councilmember Manspeaker carried unanimously. (8-0-0)

Councilmember Archer moved to reinstate the Council Rules. The motion seconded by Councilmember Gray carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8391 introduced by Councilmember Chad Manspeaker, granting Shara Monhollon 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 18, 2011 were presented.

An Open After Midnight License application for Diamond Joe's located at 5235 SW 28th Court was presented.

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

ORDINANCE NO. 19661 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) placed on first reading October 18, 2011 was again presented.

Councilmember Hiller gave the staff report.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Everhart 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. 19662 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 placed on first reading October 18, 2011 was again presented.

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

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

Mike Unrein, attorney for the applicant spoke in support of the ordinance and stated approval would allow the project to move forward and be completed. He reported no protest petitions have been filed by the effected homeowner associations.

Don Ford spoke in support of the ordinance and thanked the Council and City staff for their help in repairing the pond.

Councilmember Wolgast and Councilmember Manspeaker commended the neighborhood for finding a resolution to a problem that was not theirs.

The motion to adopt the ordinance carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -9. Absent: Alcala -1.

RESCINDING action taken at the July 26, 2011 Council meeting, wherein the Council voted to table for six months the Resolution introduced by Deputy Mayor John Alcala authorizing staff to issue a Request for Proposal for an executive search firm to assist the City in attracting and hiring a City Manager was presented.

Councilmember Harmon gave the staff report and stated if he would have been present at the July 26, 2011 Council meeting he would have voted against the motion. He noted the Interim City Manager’s contract expires in January 2012 and the search to find a permanent city manager could be very time-consuming.

Councilmember Archer stated he would like to defer the request because he plans to draft an alternative resolution for the Council to consider, as well as, the entire Council should be present before they vote on the matter.

Councilmember Archer made a substitute motion to defer consideration of rescinding the action taken at the July 26, 2011 Council meeting for two weeks. The motion seconded by Councilmember Gray carried. Councilmembers Everhart and Harmon voted “no.” (6-2-0)

A RESOLUTION introduced by Deputy Mayor John Alcala authorizing City administration to issue a request for proposal as more specifically described herein was presented.

Councilmember Archer moved to defer the resolution for two weeks. The motion seconded by Councilmember Ortiz carried. Councilmember Harmon voted “no.” (7-1-0)

APPROVAL of a Supplemental Agreement to City of Topeka Contract No. 39722 which governs the terms and conditions of the employment relationship between the City of Topeka and AFT Kansas Local 6406 was presented. (*Contract No. 41665*)

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

Councilmember Wolgast moved to approve the supplemental agreement. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Buntten voted “yes.” (9-0-0)

APPROVAL of an amendment to Shawnee County Contract No. C304-2011 and City of Topeka Contract No. 41460 consolidating the operations, functions, and programs of the City of Topeka Parks and Recreation Department and Cypress Ridge Golf Course with the Shawnee County Parks and Recreation Department (the “Consolidation Agreement”), and amending the Consolidation Agreement provisions regarding accrued benefits of transferring employees was presented. (*Contract No. 41666*)

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

Councilmember Ortiz moved to approve the agreement. The motion seconded by Councilmember Archer carried unanimously. Mayor Buntten voted “yes.” (9-0-0)

RESOLUTION NO. 8392 introduced by Interim City Manager Daniel R. Stanley, establishing a process for considering a petition for the creation of a community improvement district and establishing a policy on the criteria approving such a district was presented.

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

Christopher Sook spoke in support of the policy and stated he has an applicant that intends to apply if the policy is approved.

Councilmember Wolgast moved to approve the resolution. The motion seconded by Councilmember Ortiz carried. Councilmember Archer voted “no.” (7-1-0)

ORDINANCE NO. 19663 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of October 3, 2011, through October 9, 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.

Retail Cereal Malt Beverage License Applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Glory Days Pizza	1033 SW Gage Boulevard
In A Pinch	706 SW Fairlawn Road
New China Restaurant	201 SW 29 th Street
Porubsky's	508 Sardou

Councilmember Manspeaker moved to approve the Retail Cereal Malt Beverage License applications as presented. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

RESOLUTION NO. 8393 introduced by Councilmember Bob Archer authorizing the allocation of \$1,000,000 from the City's 2011 year end fund balance in order to offset employee contributions to the employee group health insurance plan for 2012 was presented.

Councilmember Archer gave the staff report and stated the allocation would not solve the issue; however, it would help the situation. He reported he has discussed the matter with City management and would also like the opportunity to meet with union leaders to discuss cost

sharing of health insurance coverage for single employees. He stated he believes unions should be willing to help the City with the financial challenge.

Councilmember Archer moved to approve the resolution. The motion was seconded by Councilmember Manspeaker.

Councilmember Manspeaker stated he concurs with Councilmember Archer and understands the \$1 million allocation is a short-term solution; however, he would hope that every union member would be willing to assist with the financial burden. He also stated he believes the committee that oversees the health insurance fund should be given more authority and have a direct communication route to present their concerns to the Council. He encouraged solidarity between union members and City management.

Councilmember Wolgast asked if there was a proposal for single employee coverage.

Daniel R. Stanley, Interim City Manager stated it has not yet been determined; however, the allocation of \$1 million would help ease the financial burden for employees in 2012. He noted much more would need to be done in terms of a complete plan overview to support health coverage in 2013.

Councilmember Ortiz stated she questions if \$1 million would be enough; however, she knows the City Manager has worked hard on the issue and considered all options in solving the problem and making health coverage as affordable as possible for employees. She noted the Council understands employees' frustration and asked for their patience during this time.

Councilmember Archer stated he believes the \$1 million allocation should be sufficient in serving as a good faith estimate to present to union members.

Councilmember Wolgast stated he supports the City Manager's proposal; however, he questioned if the \$1 million allocation of funds would cause union members to refuse cost sharing of single employee health care coverage.

Councilmember Everhart asked what would be the City's commitment if the resolution is approved.

Daniel R. Stanley stated the City could not commit to an amount certain because there are many factors involved. He noted the Council has only one week to decide on a proposal because those City employees who have the opportunity to take advantage of other health care plans must do so during open enrollment which will close October 31, 2011.

Councilmember Everhart stated in her opinion, the City should contribute the full amount of \$1 million even if union members do not agree to contribute an additional \$500,000.

Mayor Buntin stated the \$1 million allocation is 15% of the City's ending fund balance. He expressed concern with the allocation only being a temporary fix for 2012 and reminded the Council to consider the matter when negotiating the 2013 budget.

Councilmember Hiller expressed concern with the short time period in which they have to make a decision on the issue; however, she is pleased the \$1 million contribution would provide improved preventive care options and lower co-pays than what was initially proposed. She stated she hopes union members and City management are able to negotiate changes to the single employee health coverage plan.

Councilmember Harmon commended the City Council, City Manager and staff for their collective efforts in creating the proposal. He asked why the decision has to be made by November 1st.

Jacque Russell, Human Resources Director stated a number of employers do not recognize another employers open enrollment as a qualifying event for a change in health care coverage.

Councilmember Harmon stated the timeline does not give the Council time to research and determine if the \$1 million allocation would be sufficient.

Councilmember Gray stated he is reluctant to support the \$1 million allocation based on the assumption union members will agree in good faith to allocate an additional \$500,000.

Councilmember Archer stated he concurs with Councilmember Gray. He expressed concern with the ending fund balance, as well as, the City's bond ratings; however, in his opinion the ending fund balance should be used for this type of emergency.

Clint Patty, attorney for the Union Health Care Coalition expressed the following concerns: the issue affects all City employees and could have been avoided; employees should not have to pay for the mismanagement of funds; City should take the responsibility for making the employee health insurance group plan solvent again; City employees deserve an opportunity to assist in the management of the fund; and police officers and firefighters would average about \$6 per hour in wages with the proposed increases making recruitment very difficult. He reported he has been asked to determine what happened to the health care fund balance.

Councilmember Everhart stated she concurs with the concerns expressed by Mr. Patty and believes it is a good idea for employees to serve on the oversight committee for the health care fund.

Mayor Bunten reported the cost of healthcare is growing and by not being aware of the situation the City has to respond with drastic measures. He stated he does not believe the fund has been misused.

Clint Patty stated in his opinion, there was clearly a mismanagement of funds.

Daniel R. Stanley reported Mr. Patty could determine why the health care fund is in such a critical state by researching the amount of claims paid compared to the amount of money paid into the health care fund.

Councilmember Manspeaker stated he understands this is a major problem; however, it will be very important for union members and City management to work together to find a resolution.

The motion to approve the resolution carried. (8-0-0)

ORDINANCE NO. 19664 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 placed on first reading October 18, 2011 was again presented. (Z11/15)

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

No ex parte communications were declared.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Manspeaker carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -9. Absent: Alcala -1.

ORDINANCE NO. 19665 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 Hillsdale Street and SW 15th Street from “E” Multiple Family Dwelling District TO “M-1” Two Family Dwelling District placed on first reading October 18, 2011 was again presented. (Z11/18)

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

No ex parte communications were declared.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -9. Absent: Alcala -1.

A CHARTER ORDINANCE introduced by Interim City Manager Daniel R. Stanley, repealing City of Topeka Code Sections A5-16, A5-17, A5-18, and A5-19, as established by Charter Ordinance No. 1, all concerning abandoned cemeteries was presented for first reading.

A CHARTER ORDINANCE introduced by Interim City Manager Daniel R. Stanley, repealing City of Topeka Code Section A3-1, as established by Charter Ordinance No. 58, concerning consumption of alcoholic liquor on certain municipal property was presented for first reading.

A CHARTER ORDINANCE introduced by Interim City Manager Daniel R. Stanley, repealing City of Topeka Code Section A15-4, as established by Charter Ordinance No. 28, concerning the cash basis law was presented for first reading.

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

Councilmember Ortiz announced the East Topeka South neighborhood clean up is scheduled for October 29th and all residents are being asked to place their trash at the curb by 6:00 a.m. for pick up. She reported there would also be a dumpster located at 13th and Brady on October 29th and 30th.

Councilmember Manspeaker reported the Home Invasion Workshop was a great success and was attended by over 250 citizens. He stated the information was very helpful and a positive step in the right direction to keep citizens informed and neighborhoods safe. He asked

Councilmembers and the public to contact the Legislature and express their opposition to the proposed closing of the North Topeka Postal Service Facility. He stated 150 jobs would be lost and local mail service would decline.

Councilmember Hiller announced she would attend training for the International Economic Development Corporation and encouraged other Councilmembers to join her.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:14 p.m.

Brenda Younger
City Clerk