

Council Minutes – November 8, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 8, 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 Everhart provided the invocation.

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

Daniel R. Stanley, Interim City Manager reported four responses to the Request for Proposal for the Kansas Avenue Project were received and the proposals are on file in the City Clerk's office for review by Councilmembers.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of November 1, 2011 were presented.

An Open After Midnight License application for Abigail's Grill and Bar located at 3701 SW Plaza Drive was presented.

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

A DEMOLITION PERMIT REQUEST submitted by Hunter Glen, L.L.C., for properties located at 926, 928, 930 and 934 S. Kansas Avenue, and within the 500 foot environs established by the State of Kansas for the Memorial Building, the Gordon Building, and the Tinkam-Veale Building, all listed on the Register of Historic Kansas Places and the National Register of

Historic Places was presented. The demolition permit request was deferred from the meeting of November 1, 2011.

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

Marge Heeney spoke in support of revitalizing the downtown area and noted there are many young people interested in supplying downtown businesses with viable merchandise. She stated she has no suggestions on development; however, there are many creative people who can provide input on the project. She thanked the Governing Body for their interest in the downtown project.

Murl Riedel encouraged the Governing Body to deny the demolition permit request and provided an overview of the buildings and their historical importance. He encouraged the property owner to reconsider viable uses for the buildings.

Stacey Keller, Topeka Landmarks Commission reported denial of the demolition permit was based on the facts presented and the standards and guidelines outlined in state statutes, including not having a plan for the property or transforming the property into green space. She asked the Governing Body to question comparison costs of new building construction and noted the concept of “tear it down and they will come” has not been successful in the community. She stated there are people who feel strongly about the buildings and asked the Governing Body to consider all options, including utilization of revitalization tax credits if the buildings are included on the historical register at a later date.

Councilmember Gray questioned if the City would be liable if the Governing Body denies the demolition permit request based on the fact there is no usage plan in place for the property.

Catherine Walter, Acting City Attorney stated the Governing Body should make a determination on the demolition based on whether there are feasible or prudent alternatives not whether there is a plan in place for the property. She noted the applicant could file an appeal if the request is denied.

Councilmember Everhart asked if the buildings have to be included on the historical register to be eligible for revitalization tax credits.

Stacey Keller stated only properties listed on the historical register are eligible for revitalization tax credits.

Zach Snethen encouraged the Council to preserve downtown structures and allow the rebirth of the downtown area. He stated the buildings slated for demolition play a huge role in the history of downtown and asked the Council to delay the demolition request until the historical preservation survey is complete. He urged the Council to promote a strong policy that supports historical values as the downtown revitalization project moves forward. He noted renovation costs can be very expensive; however, funding assistance could be provided through grants.

Paul R. Schroer stated he believes the demolition would destroy vital commercial space that would directly affect the Kansas Avenue corridor. He encouraged the Council to deny the demolition or table the issue until the historical preservation survey is complete in January 2012.

Vern Jarboe stated it is important to keep in mind what the Council's role is when considering the demolition request. He stated the Council has been provided the cost to rehabilitate the buildings; however, the Council's role is to determine if there is a feasible or prudent alternative to the demolition. He reported the applicant attempted to occupy the

buildings with tenants, as well as, sell the property with no success. He reminded the Council all future improvements or proposed use of the property would have to be approved by the Council.

Councilmember Everhart asked if the property owner made any attempt to rehab the buildings.

Vern Jarboe stated the structures were purchased with the intent to demolish.

Councilmember Gray moved to approve the demolition permit request based on the determination there is no feasible or prudent alternatives to the proposed demolitions and that planning to minimize harm to the surrounding historic environs has been made. The motion was seconded by Councilmember Archer.

Councilmember Wolgast reported the historic value of the properties would be known in January 2012 when the historical preservation survey is completed. He stated the only feasible way to renovate the structures is with revitalization tax credits. He reported a new building may cost substantially more to construct because it would have to comply with the historic character of the downtown area.

Councilmember Wolgast made a substitute motion to defer the demolition permit request four months. The motion was seconded by Councilmember Manspeaker.

Councilmember Everhart stated she would support deferral because it would allow time for the historic preservation survey to be completed.

Councilmember Manspeaker stated he respects property owner rights; however, the Council must also consider community interests. He suggested the property owner sell the properties to ease any property tax burdens.

Councilmember Harmon asked if a four month delay would cause any potential harm to the property.

Councilmember Hiller questioned the cost of the demolition.

Vern Jarboe stated the applicant is ready to move forward with the request as soon as possible; and he has not discussed the actual cost of demolition with the applicant.

Councilmember Hiller spoke in support of delaying the demolition. She stated she understands the circumstances of the situation and respects the fact the property owner never intended to develop the property; however, she believes all buildings are salvageable.

The motion to defer the demolition permit request for four months carried. Mayor Bunten and Councilmembers Archer and Gray voted “no.” (6-3-0)

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 Alcalá 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.

Councilmember Archer suggested deferring consideration of rescinding the action for one week until Councilmember Alcalá could be present.

Councilmember Archer moved to defer consideration of rescinding action taken at the July 26, 2011 Council meeting for one week. The motion was seconded by Councilmember Gray.

Councilmember Everhart expressed the importance of moving forward with the matter as soon as possible. She questioned if the interim city manager was interested in the permanent city manager position and noted Mr. Stanley’s contract expires in January 2012. She suggested the Council move into executive session to discuss personnel matters relating to non-elected personnel.

At 7:15 p.m., Councilmember Everhart moved to recess into executive session to discuss personnel matters relating to non-elected personnel for a time period not to exceed twenty minutes. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

At 7:35 p.m., Mayor Bunten reconvened the Council meeting and announced that no action was taken during the executive session.

The motion to defer consideration of rescinding action taken at the July 26, 2011 Council meeting for one week carried. Councilmember Harmon voted “no.” (7-1-0)

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

The Chair ruled it was not necessary to take action on the resolution at this time.

ORDINANCE NO. 19669 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of October 17, 2011, through October 23, 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: Alcala -1.

No Retail Cereal Malt Beverage License Applications were presented.

ORDINANCE NO. 19670 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 at 1815 SW 9th Street from “M-1” Two Family Dwelling District TO “MS-1” Medical Service District placed on first reading November 1, 2011 was again presented.

(Z11/19)

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

Exparte communications were declared by Councilmember Hiller and Mayor Bunten.

Councilmember Wolgast 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.

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 two lots located at the northeast corner of SW 10th Avenue and SW Woodbridge Drive from “O&I-1” Office and Institutional District TO “M-1” Two Family Dwelling District was presented for first reading.

(Z11/16)

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 north of SW 29th Terrace, the centerline of the tract being approximately 580 feet southeast of the intersection of SW MacVicar Avenue and SW 29th Street from “E” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District was presented for first reading.

(Z11/20)

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

Councilmember Everhart encouraged citizens and Councilmembers to remember and honor veterans on November 11, 2011 in observance of Veterans Day.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:44 p.m.

Brenda Younger
City Clerk