

## **Council Minutes – March 27, 2012**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 27, 2012. 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 Gray asked for a moment of silent meditation.

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

Councilmember Archer requested to add an employment contract amendment for Daniel R. Stanley, Interim City Manager to the Council agenda for consideration.

Upon hearing no objections, Mayor Bunten announced the contract amendment would be added to the Council agenda under New Business as item 5F.

Councilmember Ortiz requested to add a resolution granting Victor Ayala a noise exception to the Council agenda.

Upon hearing no objections, Mayor Bunten announced the resolution would be added to the consent agenda as item 4D.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Daryl Craft to the Downtown Business Improvement District Advisory Board to fill an unexpired term ending June 30, 2012 was presented.

MINUTES of the regular meeting of March 20, 2012 were presented.

2012 Open After Midnight License renewal applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
American Legion Post 400	3029 NW Highway 24
Applebee's	5828 SW 17 <sup>th</sup> Street
Blue Moose	3030 SW Wanamaker Road
Bosco's Downtown	435 S Kansas Avenue
The Burger Stand at College Hill	1601 SW Lane
California BP	2740 SE California
Famous Dave's	1625 SW Wanamaker Road
The Goose Again	5630 SW 29 <sup>th</sup> Street
Henry T's Bar & Grill	1521 SW 21 <sup>st</sup> Street
Hooter's of Topeka	6100 SW 10 <sup>th</sup> Avenue
Hy-Vee #1658	2951 SW Wanamaker Road
Hy-Vee Gas	6011 SW 29 <sup>th</sup> Street
Ichabod LaundraBar	1501 SW 29 <sup>th</sup> Street, Suite 109
IHOP #5318	1731 SW Wanamaker Road
Jeremiah Bullfrog's Bar & Grille	2940 SW Wanamaker Road
Jeremiah Bullfrog's Bar & Grille II	4115 SW Huntoon
Kicks 66	3300 SW Gage
Landmark Grill	605 SW Fairlawn Road
Lazy Toad	5331 SW 22 <sup>nd</sup> Place, Suite 2
La Fiesta	1017 NE Seward
McDonald's #317	3117 SW Topeka Boulevard
McDonald's #995	1100 S Kansas Avenue
McDonald's #5596	2001 NW Topeka Boulevard
McDonald's #7244	2880 SE California
Phillip Billard VFW #1650	3110 SW Huntoon
Robin's Nest	1620 SW 6 <sup>th</sup> Street
Ruffneck's Bar	917 N Kansas Avenue
Starlite Skate Center	301 SE 45 <sup>th</sup> Street
Steak-n-Shake	1415 SW Wanamaker Road
Tailgator's Sports Pub & Grub	2025 SW Urish Road, Suite 108
Topeka Performing Arts Center	214 SE 8 <sup>th</sup> Avenue
Uncle Bo's	420 SE 6 <sup>th</sup> Street
Wal-Mart	1301 SW 37 <sup>th</sup> Street
Wal-Mart	1501 SW Wanamaker Road
Wal-Mart	2600 NW Rochester
Whiplash Bar & Grill	2107 SE California

RESOLUTION NO. 8406 introduced by Councilmember Sylvia Ortiz, granting Victor

Ayala an exception to the provisions of City of Topeka Code Section 9.45.150, et seq.,

concerning noise prohibitions was presented.

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

A RESOLUTION introduced by Councilmember Chad Manspeaker expressing support for the application submitted to the Kansas Housing Resources Corporation (KHRC) for Low Income Housing Tax Credits by Pridon, L.L.C., for the Victory Village Apartments development project was presented.

Councilmember Manspeaker gave the staff report and stated neighborhood residents have expressed concern with the project and have many questions relating to the project. He reported representatives with Pridon, L.L.C., would conduct a public meeting to discuss and answer questions when a meeting location is determined.

Councilmember Manspeaker moved to defer the resolution for three (3) weeks. The motion was seconded by Councilmember Wolgast.

Councilmember Manspeaker referenced homelessness in the Topeka-Shawnee County area and the percentages of homeless people that are elderly, families with children and/or veterans. He stated he hopes common ground could be reached as the project progresses because the community has a need for suitable housing facilities for the homeless.

George Auten, Pridon, L.L.C., reported the nation recognizes veteran homelessness as a problem and hopes by the year 2015 to provide suitable housing facilities for all veterans. He stated there are 38 leases signed to date for the facility that would include supportive services for the veterans; each would include full-time property managers and case managers, having a positive economic impact on the community. He noted they have submitted an application to rezone the location as Planned Unit Development (PUD) zoning to be discussed at the April 16,

2012, Topeka Planning Commission meeting where citizens are provided an opportunity to speak to the issue.

Councilmember Wolgast asked if Pridon, L.L.C., was involved in determining where the residential facility would be located on the VA property; their involvement in the project; and what kind of experience do they have with this type of project in other communities.

George Auten stated the VA went through a process with the federal government to determine underutilized ground for repurposing property to house veterans. He reported the project went through a Request for Proposal process, in which two parcels on the property were identified as possible housing facility locations, and Pridon, L.L.C., pursued the project and will now plan, design, construct and operate the facility for up to 75 years. He noted the company is involved in two veteran housing facility projects at this time, one here in Topeka, Kansas, and one in Grand Island, Nebraska.

Councilmember Archer asked if Pridon, L.L.C., has experience with this type of project; how would facility staff members be paid; and who would maintain the buildings after the low income housing tax credits are concluded.

George Auten stated Pridon, L.L.C., reported they have not been involved with this type of project before; however, this is the inception of the program through the VA. He reported all staff members are experienced professionals and generally once the tax credits have concluded compensation is done through subsidized housing vouchers that are specific to veterans.

Councilmember Gray asked if the project would utilize local contractors.

George Auten stated Pridon, L.L.C., would provide construction management; however, products and services would be used locally and anticipates a \$10 million economic impact to the community through the construction phases.

Councilmember Harmon referenced the minutes of the Topeka/Shawnee County Homeless Task Force meeting held January 11, 2012. He stated comments in the minutes referenced a program targeting offenders and addicts being released from prison and integrated back into society. He also asked if the lease was 35 to 40 years.

George Auten stated the majority of the population would be veterans spanning in age from the Topeka community; and the lease details are still being drafted, including a 35-year lease with two 25-year options as the VA is operating under a 75 year authority.

Councilmember Manspeaker referenced the Topeka/Shawnee County Homeless Task Force meeting minutes and stated the statements made need to be clarified because he would like reassurance that the housing facility would provide housing to homeless veterans and their families.

Councilmember Everhart asked Nancy Johnson, Community Resources Council to clarify the Topeka/Shawnee County Homeless Task Force meeting minutes referenced by Councilmember Harmon.

Nancy Johnson, Community Resources Council stated the minutes reflect a general discussion because the VA wanted to make the community aware of the project.

Councilmember Hiller asked if the site was negotiable because she believes it is too close to SW 21<sup>st</sup> Street. She suggested Pridon, L.L.C.; provide background information about the company to the Council for better understanding.

George Auten stated the parcels being considered were identified by the VA as underutilized property and the other areas were owned by residential landowners with boundaries that could not be changed. He noted the company is working with the City's Planning Department to work out the details.

Daniel R. Stanley, Interim City Manager asked if there are specific requirements for housing applicants; if it is available exclusively to veterans; and if the program is operated through the VA.

George Auten stated the first priority would be given to veterans; however, there is a provision in the lease agreement to include others in the community if there are not enough veterans to fill the facility.

Randy Crandall, U.S. Department of Veterans Affairs and Health Care for Homeless Veterans Program Coordinator, stated the program is not a VA program and is contracted through an outside company. He listed the benefits of the housing facility being in close proximity to the VA hospital and combined services with the contractor and VA to help veterans gain independence. He noted the requirements of the provision in the lease agreement could serve others that meet similar qualifications.

Mayor Bunten asked if the contractor sets the criteria.

Randy Crandall stated the national contract was uniformly applied across all the projects establishing the threshold in terms of the population to be served.

Councilmember Archer asked if there would be a percentage of veterans required to live in the facility before others.

Randy Crandall stated he has worked with community veterans for the past 37 years and stated he does not believe it would be difficult to fill the facility with veterans because there is a need for permanent veteran housing. He noted when drafting a national contract for this type of facility there has to be some flexibility.

Councilmember Gray expressed concern with fraudulent applicants.

Randy Crandall stated the criteria for an applicant is that they must be eligible for VA services.

Councilmember Everhart noted that military housing has been privatized and she is not surprised the lease agreement includes a provision to include others in the community.

Councilmember Hiller asked if there was documentation to support the need for services for veterans and their families to justify a 75 year lease option agreement.

Randy Crandall stated the federal government has fully supported resources and housing for homeless veterans for the last three years and believes the steady flow of active military personnel would lend to future support of these types of programs.

Councilmember Wolgast asked for descriptions of the location, facilities for children, parks, landscaping, and fencing.

George Auten stated they would create a community that includes some site features such as a park, walkways with landscaping and benches; however, these details are still being worked out because the property is a constrained location.

Councilmember Manspeaker expressed concern with the need to communicate and disclose all the facts to neighborhood residents so they are informed on the facility.

Charles Berry, resident expressed concern with the project and the possibility of the detrimental effects of the zoning change to the property. He stated he supports veterans; however, he would like more time to discuss the project and make sure it is the best location for the facility.

Dwight Parham, resident stated he has many questions regarding the project and would like additional time to discuss the issue.

John Padilla, resident stated he has worked at the VA for 31 years and believes there is a housing need for veterans in the area; however, there are many apartment complexes in Topeka that currently offer these types of programs.

Bill Pauzauskie, resident thanked the Council for their questions and interest in the project. He stated he believes this is a serious issue for the neighborhood which necessitates full discussion.

Cathy Boyle, resident stated she supports veterans; however, in her opinion, the facility would change the character of neighborhood and two nearby schools. She also stated she hopes the Council would take a closer look at the issue and give it much consideration.

Barbara Wittmer, resident stated she supports veterans; however, she has many questions regarding the project and questioned low income housing tax credit requirements.

Stuart Ledbetter, resident spoke in support of veterans. He noted Pridon, L.L.C., could not guarantee veterans would live in the facility because it would not exclusively be offered to veterans. He spoke in opposition to the resolution and expressed concern with safety; making certain housing program facts are discussed; the development being located in close proximity to his family and the decline of property values in the neighborhood.

Jim Reardon, resident stated he believes the program is basically a Section 8 Housing Program which is similar to the College Hill development and could possibly be abandoned within the next ten (10) years. He referenced the Topeka/Shawnee County Homeless Task Force meeting minutes and stated he tried unsuccessfully to contact the developer by the telephone number and email address listed in the minutes.

Mayor Bunten asked if the contact information listed in the minutes was correct.



Dane Whitworth, Pridon, L.L.C. stated the telephone number listed in the minutes was correct; however, the email address was misspelled.

Councilmember Archer called the question.

The motion to defer the resolution for three (3) weeks carried unanimously. (8-0-0)

Mayor Bunten requested to be notified of the public meeting when scheduled.

Councilmember Ortiz requested the City Council office be notified when the public meeting is scheduled so residents could call for information, as well as, the meeting could be posted to the City's website.

Councilmember Manspeaker stated he is working with the Housing and Neighborhood Development Division to secure a meeting location, date and time, and would notify the public when it has been scheduled, as well as, post the information on City4.

APPROVAL of Real Estate Donation Agreement between the City of Topeka and the North Topeka Drainage District (NTDD) to transfer surplus real estate to the NTDD for incorporation into their flood control system and specifically authorizing the Mayor to execute the agreement was presented. (*Contract No. 42014*)

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

Councilmember Ortiz moved to approve the real estate donation agreement. The motion seconded by Councilmember Gray carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount \$499,930 and RESOLUTION NO. 8407 introduced by Interim City Manager Daniel R. Stanley, relating to and authorizing Improvement Project No. T-291014.00 which provides for the replacement of the Halfday Creek Wastewater Pump Station No. 32 as more specifically described herein was presented.

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

Councilmember Ortiz moved to approve the project budget and resolution. The motion seconded by Councilmember Archer carried unanimously. (8-0-0)

ORDINANCE NO. 19716 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of March 3, 2012, through March 9, 2012, 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 Archer carried unanimously. (8-0-0)

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

NO Retail Cereal Malt Beverage License applications or Scrap Metal Dealers License applications were presented.

APPROVAL of Amendment No. 2 to City of Topeka Contract No. 41462 extending Daniel R. Stanley's employment with the City until commencement of employment of a permanent City Manager or May 1, 2012, whichever comes first was presented.

*(Contract No. 42015)*

Councilmember Archer gave the staff report.

Councilmember Archer moved to approve the contract amendment. The motion was seconded by Councilmember Ortiz.

At 7:17 p.m., Councilmember Wolgast moved to go into an executive session for a time period not to exceed 15 minutes to discuss non-elected personnel matters and to include elected officials and the City Attorney. The motion seconded by Councilmember Everhart carried.

Councilmembers Manspeaker, Archer and Gray voted "no." (5-3-0)

At 7:25 p.m., the City Council requested the City Manager join the executive session.

At 7:30 p.m., the Council meeting reconvened into open session and Councilmember Harmon announced no action was taken.

Councilmember Harmon moved to amend Section 1, Paragraph 6 of the contract amendment to read, "The employment of Employee shall terminate, without notice, upon the commencement of employment of a permanent City Manager. Otherwise, either party may terminate this contract at any time upon thirty (30) days written notice to the other party." The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

Councilmember Harmon moved to approve the contract as amended. The motion seconded by Councilmember Gray carried unanimously. (8-0-0)

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

Councilmember Wolgast stated the Transient Guest Tax Committee met on March 26, 2012. He referenced the Kansas Attorney General's guidelines on the Kansas Open Meetings Act and suggested the Council revisit procedures for noticing public meetings to clarify the process. He apologized to those who were not aware of the meeting; however, the City is not required to post a Committee meeting on the City's website calendar.

Councilmember Manspeaker stated he concurs with Councilmember Wolgast and suggested revising the procedures to notice public meetings for transparency and clarity. He thanked the City Manager for establishing requirements for employees to sign off on when working on projects to keep the public and employees safe and to protect the City from future liability.

Councilmember Gray stated he spoke with a constituent who expressed concern with the proposed allocation of Transient Guest Tax budget surplus. He asked if the \$100,000 of Transient Guest Tax funds would be allocated equally between GO Topeka and Heartland Park Topeka.

Councilmember Wolgast reported the Transient Guest Tax Committee on March 26, 2012, recommended \$50,000 be allocated to Visit Topeka, Inc., as well as, Heartland Park Topeka. He stated the recommendation would be presented to the Council for consideration.

Councilmember Ortiz announced a Take Over/Make Over event is scheduled for March 31, 2012 for residents located west of Topeka Boulevard. She noted residents need to have debris placed on the curb by 6:00 a.m. and noted there would be no call backs for debris pick up.

Lazone Grays appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:47 p.m.

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Brenda Younger  
City Clerk