

Council Minutes – April 10, 2012

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 10, 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, Wolgast, Manspeaker, Archer, Gray and Harmon -7. Mayor William W. Bunten presided -1. Absent: Councilmembers Alcala and Everhart -2.

AFTER THE MEETING was called to order, Councilmember Harmon asked for a moment of silent meditation.

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

Councilmember Wolgast moved to suspend the Council Rules to add a resolution declaring the City Council's opposition to a change in the Congressional Districts to the Council agenda. The motion seconded by Councilmember Manspeaker carried unanimously. (7-0-0)

Councilmember Wolgast moved to add the resolution to the Council agenda under New Business as item 6H. The motion seconded by Councilmember Manspeaker carried unanimously. (7-0-0)

Councilmember Wolgast moved to reinstate the Council Rules. The motion seconded by Councilmember Harmon carried unanimously. (7-0-0)

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Sharon Joseph to the City of Topeka ADA Advisory Council for a term ending April 10, 2014 was presented.

MINUTES of the regular meeting of April 3, 2012 were presented.

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

| <u>BUSINESS NAME</u> | <u>ADDRESS</u> |
|------------------------------------|--------------------------------|
| Bob's Carwash | 2733 SE California Avenue |
| Bob's Carwash | 3162 SE 6 th Street |
| Buffalo Wild Wings #149 | 1227 SW Wanamaker Road |
| Terry's Bar & Grill | 522 SW 6 th Street |
| Theatre Club of Topeka | 3028 SW 8 th Street |
| West Ridge Lanes Family Fun Center | 1935 SW Westport Drive |

Councilmember Harmon moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing and answering objections from taxpayers regarding the establishment of a Community Improvement District within the Holliday Square Shopping Center located at SW 29th Street and SW Topeka Boulevard.

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

Vernon Jarboe, attorney representing the applicant encouraged the Council to support the Community Improvement District (CID) and stated the project would be paid by the developer and reimbursed through the CID process.

Jim Harpool, MD Management, Inc., and Director of development stated the Community Improvement District is a relatively new process in Kansas; however, he believes it would be a fair and equitable project for the shopping center. He stated the project includes paving of the parking lot, landscaping, new signage, sign bases and sight lighting. He reported the developer would spend approximately \$2.9 million on property improvements and a sales tax increase of one (1) percent would reimburse the developer approximately \$699,000 over the CID term of 22 years.

Councilmember Ortiz questioned what types of retailers currently occupy the development and if there are any available spaces to lease.

Jim Harpool reported the BP gas station is building a new facility and taking care of some environmental issues; all the storefronts would tie into one another; and ADA ramps would be

constructed. He stated there are only a couple storefronts available for lease and noted he does not anticipate the rent to increase during improvements as the property needs to stabilize.

Councilmember Harmon stated he believes it is a great project and is interested in seeing how the CID process will work for the shopping center. He asked if the CoreFirst Bank and Trust building is included in the legal description of the improvement area.

Jim Harpool stated the legal description does not include the CoreFirst Bank and Trust property.

Councilmember Gray asked what the improvement project would cost and how would the funding be determined if CID annual projections are over what was estimated.

Jim Harpool stated the developer would spend approximately \$2.9 million on improvements to the shopping center and calculates reimbursement from the CID at about \$68,000 annually for 22 years which totals about \$1.4 million. He reported the developer has submitted a budget of \$2.9 million for the improvement project to the City and asked the City to certify costs and reimbursement of said costs, nothing over that.

Adam Feldman, MD Management, Inc., appeared to answer questions.

Councilmember Archer moved to close the public hearing. The motion seconded by Councilmember Gray carried unanimously. (7-0-0)

A PROJECT BUDGET in the amount of \$640,000 and RESOLUTION NO. 8408 introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-141012.00 which provides for traffic signal replacement at four intersections as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

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

Councilmember Wolgast moved to approve the project budget and resolution. The motion was seconded by Councilmember Hiller.

Councilmember Manspeaker asked if the City is working towards a standardized style of traffic signals.

Councilmember Ortiz questioned if the traffic signal included on the list located at the intersection of Seward, Golden and Chester Streets was located in Council District No. 3.

Councilmember Gray asked if all intersections listed would become ADA compliant.

Linda Voss, Traffic Engineer reported the standard traffic signal is galvanized steel; however, some specialty areas have black traffic signals; the Seward Street traffic signal is not located in Council District No. 3.; and all four traffic intersections listed in the project would be ADA compliant.

The motion to approve project budget and resolution carried unanimously. (7-0-0)

A PROJECT BUDGET in the amount of \$300,000 and RESOLUTION NO. 8409 introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-141011.00 which provides for improvements for complete streets measures including a connecting trail, pedestrian crossings, parking and signage throughout the City as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

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

Councilmember Archer stated he would have preferred to discuss the project in a work session. He asked how the \$300,000 would be spent.

Linda Voss, Traffic Engineer stated the \$300,000 was generated from the Complete Streets budget and the concept was approved by the Council to provide transportation services to all users including bicyclists, pedestrians and vehicles. She reported the largest part of the proposed project would be connecting the trail on SW 37th Street and Randolph to SW 37th Street and Wood Valley Road which equates to about a ¼ mile of sidewalk, pedestrian and bike crossings and back-in parking.

Councilmember Archer asked what process was used to determine the needs of the City and if the public was involved in the decisions; were there any alternatives to the use of the funds; and if the \$300,000 could be used towards downtown development.

Linda Voss reported she reviewed the Bikeway Master Plan and looked for areas that could be repaired relatively inexpensive, as well as, some of the locations were chosen due to the amount of citizen complaints received over the years. She stated they listed all the crossings the City would like to repair; however, not all repairs could be made because of the need for more funding. She stated the decision to spend the \$300,000 on downtown improvements instead of improvements throughout the city would be a policy decision for the Council to make.

Councilmember Wolgast reported the Council developed the Complete Streets concept proposal in 2009 and approves \$100,000 annually to develop streets that are user friendly and safe. He spoke in support of the project and stated the concept is a goal for the City to work towards for future generations.

Councilmember Manspeaker asked if the entire City was taken into consideration.

Linda Voss stated they reviewed the City as a whole for areas of improvement with the amount of funds available, then they determined what areas could be repaired for the least amount of money, and then those results were combined to generate the list.

Councilmember Hiller spoke in support of the project and thanked City staff for their work. She stated citizens are encouraged that the Complete Streets concept is being brought forward because there are projects that need to be completed to connect trail systems together.

Councilmember Gray suggested a work session be scheduled to allow more input from the Council. He expressed concern with back-in parking being safe for the public.

Linda Voss noted back-in parking could be compared to parallel parking and is favored by bicyclists.

Councilmember Manspeaker expressed concern with the negative comments about the project and encouraged the Council to move towards a more progressive thinking and concepts.

Alan Apel reported Topeka has been ranked as one of the top ten cities in the nation for obesity; therefore, bicycling trends need to be embraced in the area and improvements should be made to bike paths. He also reported bicycling would reduce energy consumption and traffic congestion.

Councilmember Manspeaker asked if Mr. Apel rides his bicycle to work and if so, are there major encumbrances that he faces.

Alan Apel stated he rides his bike to work and some of the major problems are the road conditions and entrances and exits from bike trails to connecting streets.

Nancy Johnson, Heartland Healthy Neighborhoods thanked Linda Voss for her devotion to the Complete Streets concept and project lists. She stated the Heartland Healthy Neighborhoods is continually raising private funding and grants for many of these types of projects and hopes some of the money could be used as matching funds to make the initiatives go further and help provide a better quality of life for Topekans. She encouraged the Council to approve the project.

Ted Mize spoke in support of bicycle lanes and stated the City is marking the lanes clearly for multiple transportation uses.

Andy Fry stated he would prefer to live in a city concerned with citizens and progressing towards the future by utilizing park systems and recreational riding trails for families. He spoke in support of the project and stated he believes it is a positive step towards developing biking infrastructure for people who choose wellness in their lives. He noted he is speaking on behalf of various bicycling enthusiasts and the Topeka Cycle Project program.

Councilmember Manspeaker stated the Topeka Cycle Project is a program dedicated to giving bicycles to people who don't have access or could not afford a bike.

Councilmember Wolgast moved to approve the project budget and resolution. The motion seconded by Councilmember Manspeaker carried. Councilmember Archer voted "no." (6-1-0)

A PROJECT BUDGET in the amount of \$11,705,000 and RESOLUTION NO. 8410 introduced by Interim City Manager Daniel R. Stanley, relating to and authorizing Project No. T-841017.00 which provides for City-wide maintenance and improvements to existing city streets as more specifically described herein was presented.

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

Councilmember Hiller spoke in support of the project and noted the project list is the same initial list presented by City staff in January.

Councilmember Hiller moved to approve the project budget and resolution. The motion was seconded by Councilmember Manspeaker.

Councilmember Manspeaker asked if the updated plan for half-cent sales tax projects was posted on the City's website.

Daniel R. Stanley stated the list was removed from the website because an updated 2013 half-cent sales tax project list would be posted online soon.

The motion to approve the project budget and resolution carried unanimously. (7-0-0)

A PROJECT BUDGET in the amount of \$120,000 and RESOLUTION NO. 8411 introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-241012.00 which provides for city-wide 50/50 sidewalk repairs, as more specifically described herein was presented.

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

Councilmember Wolgast moved to approve the project budget and resolution. The motion seconded by Councilmember Hiller carried unanimously. (7-0-0)

DEMOLITION PERMIT REQUEST for the home located at 1211 SW Western Avenue in the City of Topeka, Shawnee County, Kansas, pursuant to City of Topeka Code Section 18.255.030 was presented. (CLGR11-24)

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

Alice Bartlett, adjacent property owner stated she represents the neighbors on the block and encouraged the Council to support the demolition request. She reported the property has been neglected for years eventually causing an electrical fire in 2010 due to noncompliance with City Code. She reported the property has been vacant for over two (2) years and expressed concern that the property reflects badly on the neighborhood she and others have taken so much care and time to rehabilitate.

Councilmember Gray asked Ms. Bartlett if she has had any contact with the property owner.

Alice Bartlett stated she has tried to contact the property owner numerous times and was not successful.

Councilmember Wolgast spoke in support of the demolition request and complimented the neighborhood and the houses that have been rehabilitated.

Councilmember Hiller stated she knows this was a hard decision for the neighbors to support; however, she believes all alternatives have been exhausted.

Pat DeLapp distributed a handout regarding the history of the home. He stated he is trying to save the property from demolition because it is listed on the Kansas State Historical Registry. He noted he believes there are some discrepancies in the Code Enforcement Cost Estimate of Repairs for the property totaling \$47,000 that are not necessary. He referenced *William R. Hickman Trust vs. City of Clay Center* court case and stated there is a potential buyer for the property; however, he requests the City work with buyers in dealing with the delinquent property taxes.

Councilmember Gray asked Mr. DeLapp what interest he has in the property and why the property owner is unavailable to speak with the neighbors.

Pat DeLapp stated he has made repairs to the home with the full permission of the property owner. He noted he did not know the neighbors were trying to contact the owner and stated the Neighborhood Improvement Association has not taken a stance on the demolition.

Mayor Bunten reported the neighbors have expressed concern with rodents and delinquent property taxes.

Councilmember Harmon asked what legal standard or factors the Council should consider when presented with a demolition request that the Landmarks Commission has determined would encroach upon the historic district.

Dave Starkey, City Attorney stated under K.S.A. 75-2724 the Landmarks Commission makes the finding then the demolition request is presented to the Council to consider the information and evidence submitted by all parties to make the ultimate determination on all relevant factors. He referenced *Friends of Bethany Place vs. City of Topeka* court case and the relevant factors listed in K.A.R. 118-3-1. He stated the Council must determine whether there are feasible or prudent alternatives to the demolition.

Councilmember Harmon stated Mr. DeLapp questioned some of the costs and feasibility of the improvements to the property and asked if those observations could be taken into consideration.

Dave Starkey stated the Council must determine the quality and quantity of the conferee's account and the basis of staff's calculations.

Patty Burkholder, Code Enforcement Manager stated Code Enforcement uses the Hometech Program which is a yearly updated manual on replacement and construction costs of structures.

Councilmember Harmon asked if the Hometech Program specifies costs for historical properties.

Patty Burkholder stated the Program does not specify costs for historical properties.

Councilmember Manspeaker spoke in opposition to the demolition permit request because he believes the property is an investment opportunity. He expressed concern with staff not being consistent in selecting what properties need to be demolished.

Councilmember Gray stated he concurs with Councilmember Manspeaker and believes taxpayer money should not be used to demolish private property.

Councilmember Hiller stated there are different facts for every case; however, she believes the neighbors are knowledgeable about rehabilitating homes in the area and are active in the appearance of the neighborhood.

Patty Burkholder stated the property owner did start the demolition process; however, it was stopped because the request had to pass through the Landmarks Commission. She stated the cost of demolition would be obtained through the request for proposal process and then the City would place a lien against the property.

Councilmember Wolgast spoke in support of the demolition request and stated he believes the neighbors understand the situation.

Councilmember Wolgast moved to approve the demolition based on the determination there are no feasible or prudent alternatives to the proposed demolition and that all planning to minimize harm to the historic property has been made. The motion was seconded by Councilmember Hiller.

Councilmember Gray stated property taxes have not been paid since 2004 and questioned why the property has not been sold in a public auction.

Councilmember Manspeaker stated he concurs with Councilmember Gray; however, he believes no person would purchase the property if there are back taxes owed and a property lien placed on the property due to demolition. He expressed concern with the property becoming a vacant lot in the neighborhood.

Councilmember Harmon made a substitute motion to defer the demolition permit request 45 days. The motion was seconded by Councilmember Gray.

Councilmember Hiller asked if Mr. Brian Teel is the buyer.

Pat DeLapp reported Mr. Teel has made an offer on the property, as well as, there are two other interested parties.

The substitute motion to defer the demolition permit request 45 days carried.
Councilmembers Hiller, Archer and Mayor Bunten voted “no.” (5-3-0)

ORDINANCE NO. 19719 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of March 17, 2012, through March 23, 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 Manspeaker carried unanimously. (7-0-0)

The ordinance was adopted on roll call voted as follows: Ayes: Hiller, Ortiz, Wolgast, Manspeaker, Archer, Gray and Harmon -7. Absent: Alcalá and Everhart -2.

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

RESOLUTION NO. 8412 introduced by Deputy Mayor Larry Wolgast declaring the City Council’s opposition to the removal of a portion of the City of Topeka from the 2nd Congressional District for placement into the 1st Congressional District was presented.

Councilmember Wolgast gave the staff report.

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

Councilmember Manspeaker encouraged the City’s Lobbyist to keep the Council informed on the issue and expressed the need to engage people in the process. He spoke in

opposition of the proposed division and believes it would not make sense to divide the Capitol City.

The motion to approve the resolution carried unanimously. (7-0-0)

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing the issuance of \$31,300,000 aggregate principal amount of General Obligation Refunding Bonds Series 2012-A of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 10-427 et seq., all as amended was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing the issuance of \$1,690,000 aggregate principal amount of Taxable General Obligation Refunding Bonds, Series 2012-B of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 10-427 et seq., all as amended 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 by providing for certain changes in zoning on property located at 1001 SE 21st Street (Area A), 1015 SE 21st Street (Area B), and 2110 SE Virginia Avenue (Area C), from “C-2” Commercial District TO “PUD” Planned Unit Development District was presented for first reading. (*PUD10/12*)

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 by providing for certain changes in zoning on property located at 206 NW Norris Street from “X-3” Mixed Use District with a Conditional Use Permit for warehousing TO “X-2” Mixed Use District was presented for first reading. (*Z12/5*)

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, establishing a Community Improvement District (CID) located within the Holliday Square Shopping Center and levying a CID sales tax of one percent (1%) within the CID was presented for first reading.

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

Councilmember Hiller commended NOTO for hosting the North Topeka Market event on April 7, 2012 and noted it was a great event that was well attended.

Councilmember Ortiz announced a Take Over/Make Over event is scheduled April 14, 2012, for residents located east of Topeka Boulevard. She stated debris must be placed on the curb by 6:00 a.m. as there would be no call backs for pick-ups; she suggested bi-lingual volunteers call residents to notify them of the clean-up event; and she asked city-wide residents to be courteous and use appropriate dump sites. She announced that a Health Fair is scheduled April 14, 2012, from 10:00 a.m. to 2:00 p.m. at the Highland Park High School. She reported she has had discussions with Police Chief Miller regarding ways to make neighborhoods crime-free and noted she is looking forward to fully funding the Topeka Police Department in 2013.

Councilmember Manspeaker announced there would be an informational meeting regarding the Victory Village Apartments held April 12, 2012, at 7:00 p.m. at the First Congregational Church located at SW 17th and Collins. He announced ReThink Topeka would host an art event showcasing local artists on April 14, 2012, in downtown Topeka. He noted people could visit their website at www.rethinktopeka.com for more information. He stated Westar has contracted Wright's Tree Service and Aspen Tree Service to trim trees that overhang electrical lines and asked residents to call Westar if contractors leave limbs and debris behind on their property.

Councilmember Ortiz requested she be provided with the Westar Company contact information and noted many residents in Council District No. 3 have had tree limbs and debris left behind by contractors.

Councilmember Manspeaker stated he would provide the contact information to Councilmember Ortiz. He thanked Raubin Pierce, WIBW 580 Radio personality for serving on the Parks and Recreation Advisory Board.

Councilmember Gray expressed concern with Zercher Photo closing after many years of service to the community. He stated he believes Topeka has failed in taking care of local businesses and hopes the Joint Economic Development Organization (JEDO) would contribute more tax money towards the sustainability of local businesses.

Jason Chaika and Ted Mize appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:37 p.m.

Brenda Younger
City Clerk