

## **Council Minutes – June 5, 2012**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 5, 2012. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9. Mayor William W. Bunten presided -1.

AFTER THE MEETING was called to order, Councilmember Alcalá gave the invocation.

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

A PRESENTATION on the Balanced Score Card concept was provided by Pamela S. Simecka, Interim City Manager. She reported the Balanced Score Card is a management tool that provides stakeholders with a comprehensive measure of how the organization is progressing towards the achievement of its strategic goals. The purpose of the change in management concept is to provide quality services with limited resources, align customer priorities and expectations with the customer, track progress, evaluate principles that support a strategy focused organization, using control, compliance and performance accountability to commit to a performance-based management, how the emphasis must include the mission, vision, strategic planning and balanced score card concept, customer perspective, financial and regulatory perspectives, internal business process and learning and growth of employees. She reported the focus areas for the concept include public safety, infrastructure, neighborhood infrastructure, business services and economic development.

Councilmember Wolgast stated he has received questions from social service groups asking how their budgets would fit into the new Balanced Score Card concept.

Pamela S. Simecka stated workshops have been conducted with social service agencies to educate them on the concept. She reported if agencies plan to request funds from the City they should provide the City with indicators or a more detailed outline of the services they provide the community, where they stand currently and where they plan to be at the end of 2013. She stated most agencies fit into the focus area of developing neighborhood infrastructure by enriching the lives of citizens and their communities by providing important services.

Councilmember Alcalá stated it was his understanding social service agencies are already required by City ordinance to provide service details and indicators. He asked if the indicator information would be provided to the Council prior to them making funding decisions for social service agencies.

Pamela S. Simecka stated the social service agencies do provide the City with financial information; however, they rarely provide strategy indicators which would indicate what type of programs are functioning for the betterment of the community and are an important function the Council should fund. She noted the Council would receive the detailed indicator information prior to considering social service funding requests.

Councilmember Hiller stated she likes the concept and believes social services should provide detailed strategies. She referenced the WPC Program Summary example provided and noted it appears to be the same format as previous budgets. She asked if program documents would be provided that would show the breakdown of the functionality of services so the Council could make informed decisions on programs and subprograms.

Pamela S. Simecka reported staff is working on developing tracking mechanisms and additional forms would be provided to the Council on the programs slated to be presented to the Council for review. She noted the Balanced Score Card concept allows the Council to review

what will be on the horizon, as well as, other requested initiatives that will be needed for departments to function properly.

Mayor Bunten questioned how the Governing Body would know what is being spent, or what is the detailed financial breakdown of each program. He also asked how the Governing Body would make a reduction in spending if only lump sum figures are presented.

Pamela S. Simecka reported the Governing Body would be provided a financial breakdown of each program; however, in her opinion, she would like to move away from budget line items and concentrate on an overall program budget. She stated the Governing Body would review services that are provided currently and determine what services must be provided and/or eliminated. She reported the City could not continue performing services they are currently providing at the 2012 budget level.

Councilmember Alcala stated funding City services through the new Balanced Score Card concept and requesting a mill levy increase may be difficult to promote without efficiency studies being conducted.

Councilmember Alcala requested a tort claim for Randy Wheat be added to the Council agenda.

Pamela S. Simecka, Interim City Manager requested item 6D, a Labor Agreement for AFT Kansas, Local Union No. 6406 be withdrawn from the agenda.

Upon hearing no objections, Mayor Bunten announced the tort claim for Randy Wheat would be added to the Council agenda as item 5C under Unfinished Business; and item 6D, a Labor Agreement between the City of Topeka and AFT Kansas, Local Union No. 6406 would be withdrawn from the Council agenda.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Stephen Smith to the Downtown Business Improvement District Advisory Board for a term ending June 30, 2014 was presented.

BOARD APPOINTMENT recommending the re-appointment of Daryl Craft to the Downtown Business Improvement District Advisory Board for a term ending June 30, 2014 was presented.

WORKERS' COMPENSATION SETTLEMENT for current Legal Department employee Tammy Fisher, in the amount of \$13,300 for permanent partial impairment of her right upper extremity from injuries suffered in a fall on January 12, 2010 was presented.

MINUTES of the regular meeting of May 22, 2012 were presented.

Councilmember Gray moved to approve the consent agenda. The motion seconded by Councilmember Wolgast carried unanimously. (9-0-0)

ORDINANCE NO. 19737 introduced by Councilmember Sylvia Ortiz authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for a special event pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) placed on first reading May 22, 2012 was again presented.

Pamela S. Simecka, Interim City Manager gave the staff report.

Councilmember Ortiz moved to amend the time of the event on Lines 13, 14, 18, 23, 28 and 29 of the ordinance as distributed. The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

Councilmember Ortiz moved to adopt the ordinance as amended. The motion seconded by Councilmember Archer carried unanimously. Mayor Bunten voted "yes." (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -10.

ORDINANCE NO. 19738 introduced by Interim City Manager Daniel R. Stanley, concerning cereal malt beverages, amending City of Topeka Code Section 9.15.020 and specifically repealing said original section, as well as, creating new Section 5.55.025 placed on first reading May 22, 2012 was again presented.

Pamela S. Simecka, Interim City Manager gave the staff report.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

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

DENIAL OF TORT CLAIM for Randy Wheat in the amount of \$6,434.40 for cleanup and repairs to the residence located at 1003 SE Long as the result of a water main break which occurred on December 11, 2011 was presented. The tort claim was deferred at the May 22, 2012 Council meeting.

Dave Starkey, City Attorney gave the staff report and stated after the review of facts it was determined the City was not liable and the claim was denied.

Councilmember Alcalá moved to approve the denial of the tort claim. The motion was seconded by Councilmember Ortiz.

Councilmember Alcalá made a substitute motion to approve the tort claim up to the amount of \$6,434.40 based on all receipts for repairs and cleanup provided by the claimant.

Dave Starkey ruled the substitute motion was out of order pursuant to Council Rules and Procedures 5.3(b)(viii) which states, "Substitute motions shall not be used for purposes of

confusing the issue and shall not be motions directly contrary to the original motion but shall be confined to other substitute actions with respect to the original motion.”

Councilmember Alcala stated he would not support the denial of the tort claim. He noted if denial of the claim is approved he would present a resolution to the Council requesting approval of the claim based on receipts provided by the claimant.

Councilmember Hiller expressed her appreciation to Mr. Wheat for his efforts; however, she stated she would support the denial of the tort claim because she believes City staff responded as quickly as possible and within the required guidelines.

Councilmember Ortiz stated she would not support the denial of the tort claim because the valve was stripped which prohibited staff from shutting the water off and the property owner had no control over the situation.

The motion to approve the denial of the tort claim carried. Councilmembers Alcala, Ortiz, Manspeaker and Archer voted “no.” (5-4-0)

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) The demolition permit request was deferred from the April 10, 2012 Council meeting.

Pamela S. Simecka, Interim City Manager gave the staff report.

Larry Hopkins distributed an evaluation of the scope of work and cost estimates for the property. He stated he would support any person who would realistically rehabilitate the property to keep it historically viable.

Councilmember Hiller questioned the cost to rehabilitate the inside of the house and the base figures.

Larry Hopkins reported there was extensive damage to the house and it would cost over \$70,000 to rehabilitate the inside to a livable condition and the base price to rehabilitate the entire structure would be closer to \$100,000.

Alice Bartlett urged the Council to approve the demolition of the property. She reported the home is structurally unsound and has a significant negative impact on the neighborhood. She requested the Council confirm the capital of any person interested in rehabilitating the structure.

Pat DeLapp spoke in opposition to the demolition and stated only \$2,600 of delinquent property taxes are owed on the property. He stated he believes there has been a lot of misinformation distributed and the Neighborhood Improvement Association has been uncooperative regarding the advertisement of the property to attract interested people who may want to rehabilitate the house. He distributed a protest petition signed by area neighbors who were in favor of rehabilitating the house. He stated he believes the neighboring properties want to split the property after the home is demolished.

Councilmember Alcala asked for clarification on what the Council would be voting on.

Dave Starkey stated the Governing Body must determine that 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.

Shirley Galbraith spoke in support of the demolition request and reported the Historic Holliday Park Neighborhood Improvement Association voted unanimously in favor of the demolition on May 17, 2012.

Councilmember Wolgast commented on the poor condition of the structure and stated the neighborhood worked together to determine the best alternative. He noted historically, the Council supports the neighborhood's decision in preserving neighborhood structures.

Dave Starkey clarified the Council should make the determination of the demolition based on the consideration of all documents, reports and testimony presented.

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

Councilmember Hiller expressed her appreciation to neighborhood residents for their hard work and to the Council for allowing the extra time to consider all options.

Councilmember Alcala spoke in opposition to the demolition. He stated he believes Mr. DeLapp provides a viable alternative option to the demolition.

The motion to approve the demolition permit request based on the determination that there are no feasible or prudent alternatives to the proposed demolition and that all planning to minimize harm to the historic property have been made carried. Councilmembers Alcala, Ortiz and Manspeaker voted “no.” Mayor Buntten voted “yes.” (7-3-0)

APPROVAL of the real estate reports and method of disposal for three Housing and Neighborhood Development parcels was presented.

Pamela S. Simecka, Interim City Manager gave the staff report.

Councilmember Ortiz moved to approve the real estate reports and method of disposal. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$141,310 and RESOLUTION NO. 8434 introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. 13156.00, which provides for renovations to the Fire Academy Building, as more specifically described herein was presented.

Pamela S. Simecka, Interim City Manager gave the staff report. She stated the project could be funded through general obligation bonds for 20 years at a payment of \$20,000 annually; or over a 3-year period through general obligation bond temporary notes at a higher payment of \$54,000 annually. She stated the City would realize a cost saving of approximately \$50,000 to \$70,000 in interest costs with the 3 year payment option.

Councilmember Alcalá asked what the City's total current outstanding debt service is.

Pamela S. Simecka stated the City's outstanding debt service is approximately \$166 million.

Mayor Bunten questioned if the project was essential at this time.

Mike McGee, Buildings and General Services Director stated in his opinion the project would be essential at this time because the project will provide high efficiency windows and insulated stud walls to make the building more energy efficient. He listed the following issues with the Fire Academy Building:

- No insulation
- Single pane windows with no alternative for repair
- Window glazing and rubberizing has deteriorated (windows cover three sides of the building)
- Only  $\frac{3}{4}$  inch of the masonry remains
- Difficult environment to maintain regarding heating and cooling

Councilmember Harmon asked if the City could capture enough energy savings to pay for the cost of the project.

Mike McGee stated an Energy Audit was conducted for this purpose and it was determined by replacing the windows it would save up to \$10,000 annually.

Councilmember Alcalá moved to approve the project budget and resolution to be paid for over a three (3) year period. The motion was seconded by Councilmember Gray.

Councilmember Hiller asked if there were alternative buildings the Fire Department could utilize. She stated she would like to be able to pay cash for these types of projects and noted the funds not used to pay interest could be used for other expenditures.

Councilmember Ortiz spoke in support of the project and stated the building is used by citizens and the Fire Department for many different reasons.

Greg Bailey, Fire Chief stated the Fire Academy building houses the Fire Department's administrative offices and there are no other buildings available for use at this time.

The motion to approve the project budget and resolution to be paid over a three (3) year period carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$179,222 and RESOLUTION NO. 8435 Introduced by Interim City Manager Daniel R. Stanley, authorizing Improvement Project No. T-301040.00, which provides for boiler replacement in the Animal and Man Building at the Topeka Zoo as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Pamela S. Simecka, Interim City Manager gave the staff report. She stated the project could be funded through general obligation bonds for 20 years at a payment of \$13,000 annually; or over a 3-year period through general obligation bond temporary notes at a higher payment of \$60,000 annually. She noted the three (3) year option would be the best financial choice for the City.

Councilmember Wolgast moved to approve the project budget and resolution to be paid over a three (3) year period. The motion was seconded by Councilmember Gray.

Councilmember Ortiz questioned if the project was necessary and if there is a backup system if the boiler fails.

Brendan Wiley, Topeka Zoo Director reported the boiler is very old; fails routinely; and is extremely difficult to repair. He expressed concern with occasionally having to close the building and use temporary heaters to maintain the temperature due to the outdated boiler. He stated the boiler replacement is a serious issue that must be addressed because if the Association of Zoos and Aquariums (AZA) were to inspect the Zoo when the boiler was failing it would be a serious problem.

Mike McGee, Building and General Services Director reported the boiler is fifty (50) years old, and has operated twenty (20) years past its useful lifespan. He stated the project would include replacing the existing 80hp steam boiler with a smaller unit for heating only; provide domestic hot water improvements and two new gas instantaneous water heaters to separate the hippos from other animals. He stated the improvements are very important and should be addressed before the upcoming AZA inspection of the Zoo.

Councilmember Archer commended Mr. Wiley for the savings that was generated as a result of the improvements made to the Rainforest Building. He asked Mr. Wiley if the boiler project was analyzed in a similar manner.

Brendan Wiley stated it was not feasible to get a replacement for this type of boiler because it would not meet code. He reported they researched the most economical option with Hoss and Brown Engineers, Inc., to help separate the cleaning system and the hippo pool system.

The motion to approve the project budget and resolution to be paid over a 3-year period carried unanimously. (9-0-0)

ORDINANCE NO. 19739 introduced by Interim City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of April 28, 2012, through May 11, 2012, and enumerating said expenditures therein was presented for first and final reading.

Pam Simecka, Interim City Manager gave the staff report.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

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

A Retail Cereal Malt Beverage License application for Topeka Fuel Center located at 1320 SW 6<sup>th</sup> Avenue was presented.

Councilmember Ortiz moved to approve the Retail Cereal Malt Beverage License application as presented. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

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

Councilmember Hiller distributed a handout concerning City licenses that require background checks and requested that staff research if all applications requiring this information could be uniform. She commended the City for the Ward-Meade area infill-housing project and she congratulated the Historic Old Town Neighborhood on their successful community garden located near the 700 block of SW Fillmore Street.

Councilmember Alcalá asked what the financial impact would be for the 58 properties originally omitted from the billing cycle for stormwater runoff.

Councilmember Ortiz expressed concern with overgrown grass at Sumner School and the Jackson Spray Park being closed indefinitely. She commented on child passenger safety and distributed child safety information to the Council.

Councilmember Everhart reminded citizens not to leave children and pets unattended in vehicles during the hot summer months.

Carol Westerdale, Patrick Mulling and Ted Mize appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:34 p.m.

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Brenda Younger  
City Clerk