

Council Minutes – July 17, 2012

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 17, 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 and Harmon -8. Mayor William W. Bunten presided -1. Absent: Councilmember Gray -1.

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

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

A PRESENTATION of the Troy Scroggins Award was presented to Barry Grissom, United States Attorney District of Kansas by Margo Rangel, Topeka Human Relations Commission.

Pamela S. Simecka, Interim City Manager requested to pull item 4C, a workers' compensation settlement for Salvador Maldonado from the consent agenda.

Upon hearing no objections, Mayor Bunten announced item 4C would be withdrawn from the Council agenda.

Councilmember Wolgast requested to add a resolution adopting the conceptual design of the South Kansas Avenue Corridor to the Council agenda.

Councilmember Archer stated he believes the resolution is premature at this time and noted the Council only received the revised plan a few days ago. He also stated he does not fully understand the intent of the resolution; however, he believes it is important to determine what projects should be the City's responsibility and what projects should be funded by private investments.

Councilmember Alcalá spoke in opposition to the resolution and stated he needs time to review the revised plan.

Councilmember Wolgast stated he understands the Council's concerns and would withdraw the request to add the resolution to the agenda at this time.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Richard Weinckowski to the Topeka Public Building Commission for a term ending July 31, 2016 was presented.

BOARD APPOINTMENT recommending the appointment of Dean Ferrell to the Topeka Public Building Commission for a term ending July 31, 2016 was presented.

MINUTES of the regular meeting of July 10, 2012 were presented.

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

ORDINANCE NO. 19748 introduced by Interim City Manager Pamela S. Simecka, amending Code Sections 9.15.020 and 11.10.010 of City of Topeka Code and specifically repealing said original section, as well as, repealing in their entireties Section 11.10.020 through 11.10.210, and Chapters 11.15, 11.20 and 11.30 all concerning parks regulations and other provisions related to the former City Parks and Recreation Department placed on first reading July 10, 2012 was again presented.

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

Councilmember Everhart asked if the parks would be monitored by the Topeka Police Department or Shawnee County Sherriff's Office.

Dave Starkey, City Attorney stated Shawnee County Parks and Recreation Department establishes when parks open and close; however, the agreement authorizes the enforcement of City ordinances on park properties.

Councilmember Manspeaker asked if Shawnee County Park Police could patrol the park properties because the Shawnee County Sherriff's Office and Topeka Police Department are

already stretched too thin. He also asked why the City would be responsible for park properties they no longer own.

Councilmember Hiller asked if the ordinance addresses the property the City retained around the perimeter of the Zoo in Gage Park.

Dave Starkey reported the ordinance would apply to all areas within City limits because any law enforcement agency located within the City has the authority to enforce local laws.

Councilmember Hiller expressed concern with many of the technical terms being eliminated from the ordinance and wanted clarification that no terms have been omitted that would interfere with how the City manages park properties.

Dave Starkey stated the City has a use agreement with Shawnee County regarding the portion of Gage Park that the City still owns because it could not legally be deeded to Shawnee County.

Councilmember Alcalá moved to adopt the ordinance. The motion was seconded by Councilmember Manspeaker.

Councilmember Alcalá reported the Shawnee County Park Police have made it clear they would patrol areas as much as possible; however, most of their time and resources are used to regulate the large area around Lake Shawnee. He stated it is important to continue to monitor the process so there are no oversights in the future.

The motion to adopt the ordinance carried unanimously. (8-0-0)

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

A PROJECT BUDGET in the amount of \$4,000,000 and A RESOLUTION introduced by Interim City Manager Daniel R. Stanley, relating to and authorizing Improvement Project No. T-601020.02, which provides for street improvements to South Kansas Avenue between 7th

Street and 9th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented. The project budget and resolution were deferred from the meeting of May 15, 2012.

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

Councilmember Hiller stated it was her interpretation the consultant would provide an overview of the plan.

Councilmember Manspeaker requested the consultant provide a presentation of the plan.

Councilmember Everhart reported constituents have expressed concern with the plan and she believes the consultant should provide an overview of the plan.

Councilmember Ortiz moved to defer the project budget and resolution one week. The motion was seconded by Councilmember Alcala.

Councilmember Manspeaker asked why a presentation was not scheduled. He stated he believes the people working downtown are frustrated that the mill overlay has not yet happened which also reflects badly on the Governing Body.

Pamela S. Simecka stated it was her understanding the project budget and resolution would be tabled for at least two months; therefore, a presentation was not scheduled.

Councilmember Wolgast stated the plan was to defer the project budget and resolution at least two months and provide a presentation at the time the project was considered by the Council. He noted from his perspective project financing is clear, as well as, the number of blocks being improved. He stated it is time for the Council to take the decision seriously so the project could move forward.

Mayor Buntten asked if there was a representative present to provide an overview of the plan to the Governing Body.

Pamela S. Simecka recommended the project be deferred one week. She stated she would schedule a presentation that would provide a clear overview of the plan.

Councilmember Manspeaker stated he would prefer to vote on the issue at this time.

Councilmember Hiller requested the consultant be allowed to make a presentation to provide the Council a quick overview in hopes the Governing Body will make a commitment to the plan so the project could move forward. She stated she appreciates the step by step process outlined in the plan so the Governing Body could make an informed decision.

Councilmember Archer stated he believes the City needs to make a commitment to repair the infrastructure and the private sector should finance all other enhancements to Kansas Avenue. He requested a plan be drafted that clearly outlines how much money the City needs to bring forward to repair the infrastructure.

Mayor Bunten noted there have been different versions of plans presented to reach this stage in the process and the initial \$2 million has been earmarked for the project. He requested a presentation be made at this time.

Councilmember Harmon requested citizen testimony be heard before they vote on the motion to defer.

The motion to defer the project budget and resolution for one week failed.

Councilmembers Hiller, Everhart, Wolgast, Manspeaker, Archer and Harmon voted “no.”

Mayor Bunten voted “no.” (2-7-0)

Zack Snethen, HTK Architects provided a brief overview of the plan. He reported the plan makes an objective assessment of the downtown and conceptual plan by serving as a tool to educate how to develop projects from the plan. He stated the master plan would be used to evaluate specific projects and allow private and public projects to work together from one plan to reach the end goal. He expressed the importance of the City taking a lead in determining what

pieces support the redevelopment of downtown and lay a basis for further enhancement of downtown while developing economic sustainability.

Councilmember Hiller asked if the document was significantly different in terms of concept plans and what are the implementation steps.

Mr. Snethen reported the plan was basically the same with the exception of sidewalk widths. He stated the plan outlines priorities relating to project sequencing, working underground in conjunction with infrastructure improvements, pedestrian use and landscaping.

Councilmember Manspeaker asked if the plan provided an honest assessment of the downtown infrastructure.

Dan Holliday, Cook, Flatt & Strobel reported the plan provides comprehensive guidelines that take into account the limited resources and the need to prioritize real issues including the replacement of water, electric and gas lines.

Mr. Snethen stated the City must decide what the most important end result should be for the money.

Councilmember Manspeaker asked if the bonded indebtedness was paid off for the paved bricks downtown.

Vince Frye, Downtown Topeka, Inc., CEO and President stated he was very excited about the plan and noted corporate leaders voted unanimously to support the plan. He reported the private sector has invested over \$118 million in downtown redevelopment to date; however, he would support deferral to allow more time to raise additional private funds.

Councilmember Everhart stated she would support deferring the project to allow more time to raise private funds.

John Dicus, Capitol Federal Bank President and CEO stated Capitol Federal has made a significant investment downtown with renovations scheduled to be complete at the end of 2012.

He noted he is looking forward to being a part of the Kansas Avenue streetscape plan and was glad to make a contribution to the overall success by partnering with DTI and Heartland Visioning. He expressed the importance of allocating public funding for infrastructure improvements.

Councilmember Harmon commended Capitol Federal Bank for being a part of the overall plan and their recent renovations. He asked if the engineers on the Capitol Federal Bank building project ever identified inadequacies in the infrastructure.

Mr. Dicus stated he was not notified of any structural issues during the renovation.

Mark Ruelle, Westar Energy CEO expressed the importance of updating the downtown area to attract young professionals to their headquarters. He stated private businesses need assurance the City is committed to infrastructure improvements.

Pat Trion, Westar Energy reported he believes there are serious issues with the water lines and electrical systems in the downtown area.

Angel Romero, Washburn University stated they support deferral of the project to allow time to work with local businesses and develop a commitment to move forward with the plan.

Bill Pfeifer stated he believes downtown redevelopment is vital to area companies, as well as, new businesses relocating to the city. He stated it is time to build on the plan instead of delaying the process further.

Judy Pfeifer thanked Capitol Federal Bank and Westar Energy for their investment in downtown. She stated she believes the increase in sidewalk width would cause problems. She expressed the importance of approving a conceptual plan to form a positive end result.

Anje Kearney asked if there was a project budget and plan in place for infrastructure repairs by the City. She stated in her opinion people seem to be more concerned with the appearance of the downtown area instead of the needs of downtown.

Councilmember Wolgast thanked citizens for their testimony and stated he believes it will be helpful in the decision making process. He stated he believes the project is too important for the City's future to settle and make a decision at this time. He reported DTI is now playing a more significant role in the process and representing downtown businesses.

Councilmember Wolgast moved to defer the project budget and resolution for four (4) months. The motion was seconded by Councilmember Harmon.

Councilmember Manspeaker spoke in opposition of deferring the matter. He stated the infrastructure needs fixed now with or without a downtown conceptual plan in place.

Councilmember Hiller asked if the proposal would preclude any decisions to be made regarding infrastructure repairs in the next four months.

Councilmember Wolgast questioned if they should move forward with the infrastructure projects without a conceptual plan in place because the downtown area has unique development needs.

Councilmember Manspeaker stated they could move forward with downtown infrastructure improvements in the same manner as any other area of the city.

Councilmember Alcalá stated he believes different areas of the city have different personalities and the Governing Body has always wanted feedback from the people who invest in an area. He also stated in his opinion the most important aspect they need to address is the impact the redevelopment project will have on the downtown businesses and how they will survive the construction phases.

Councilmember Harmon expressed his frustration with the absence of staff recommendations regarding infrastructure issues. He questioned if utility funds could be used to replace the infrastructure and if half-cent sales tax funds could be used for street improvements.

Councilmember Manspeaker stated he believes the electrical utilities in the downtown area are maintained and working fine.

Mayor Bunten expressed concern with delaying the project an additional four months. He stated the process has taken over 3 years to complete and he believes it is time for the Governing Body to make a decision and move forward on the project so the community knows they are committed.

The motion to defer the project budget and resolution for four (4) months carried. Councilmember Manspeaker voted “no.” (7-1-0)

AUTHORIZING a public hearing date for the City of Topeka 2013 Operating Budget on August 14, 2012 and authorizing the publication of the Notice of Public Hearing was presented.

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

Councilmember Alcalá asked if the \$1 million included in the City Manager’s proposed 2013 budget would have an impact on the general fund’s bond rating.

Pamela S. Simecka stated Councilmember Alcalá’s question was forwarded to the City’s bond counsel and their opinion was attached in the Council’s weekly report. She reported there are many factors that contribute to the City’s bond rating; however, if the Governing Body consistently spends down the ending fund balance and does not maintain at least 10% of the City’s expenditures, it would very likely lower the bond rating.

Councilmember Wolgast moved to approve the publication of the notice of public hearing and set the mill levy cap at 5.166 mills. The motion was seconded by Councilmember Harmon.

Councilmember Alcalá stated he supports the publication of the notice of public hearing; however, he clarified the Council is setting the mill levy cap at 5.166 mills and he does not

support such an increase. He expressed concern with the interest rate the City would be offered when borrowing money and the possibility the bond rating could drop.

The motion to approve the publication of the notice of public hearing and set the mill levy cap at 5.166 mills carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19749 introduced by Interim City Manager Pamela S. Simecka, 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 the southeast corner of SW Huntoon Street and SW Hillsdale Street, from “O&I-2” Office and Institutional District ALL TO “C-2” Commercial District placed on first reading July 10, 2012 was again presented. (Z12/7)

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

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, Alcalá, Ortiz, Everhart, Wolgast, Manspecker, Archer, Harmon and Mayor Bunten -9. Absent: Gray -1.

A CHARTER ORDINANCE introduced by Interim City Manager Pamela S. Simecka, amending Charter Ordinance 94, codified at Topeka Municipal Code Section A2-30 concerning council rules and procedure, specifically the ordinance publication requirement was presented for first reading.

A CHARTER ORDINANCE introduced by Interim City Manager Pamela S. Simecka amending Charter Ordinance 94, codified at Topeka Municipal Code Section A2-53 concerning conditions of appointment for a City Manager was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Pamela S. Simecka, amending City of Topeka Code Section 2.110.010, concerning imposition of warrant fees to existing court costs and fees and specifically repealing said original section was presented for first reading.

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

Councilmember Hiller stated she attended the dedication of the Kaw River as a National River Trail in partnership with the U.S. Department of Interior and National Park Service. She reported the dedication would ensure ongoing technical assistance to the City for the development of amenities.

Councilmember Manspeaker reported there have been 78 watermain breaks to date in 2012 and expressed concern with the increase in infrastructure problems. He noted the water rate increases were voted down because the increase did very little to address the older neighborhoods. He requested a cost service analysis be conducted to address the ongoing water infrastructure issues.

Mayor Bunten referenced an article in the Capital Journal newspaper reporting high temperatures as the cause for the increase in watermain breaks around the City and expressed concern with the serious need to repair aged water infrastructure.

Pamela S. Simecka reported a request for proposal process has been implemented for a cost service analysis.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:20 p.m.

Brenda Younger
City Clerk