

## **Council Minutes – July 24, 2012**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 24, 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 Ortiz asked for a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

DENIAL OF CLAIM in the amount of \$17,787.29 filed by Stormont-Wail HealthCare, Inc., for medical services rendered to Juan Adan Lucio in December, 2010 was presented.

MINUTES of the regular meeting of July 17, 2012 were presented.

2012 Open After Midnight License applications for The Carwash located at 720 SW Gage Boulevard and The Carwash located at 1814 SW 10<sup>th</sup> Street, were presented.

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

CHARTER ORDINANCE NO. 109 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 placed on first reading July 17, 2012 was again presented.

Dave Starkey, City Attorney gave the staff report.

Councilmember Alcalá moved to amend the charter ordinance beginning on Line 18 by deleting the statement, “The Council may terminate or non-renew such contract only by a vote of

at least six members.” The motion seconded by Councilmember Manspeaker carried.

Councilmember Archer voted “no.” Mayor Bunten voted “yes.” (9-1-0)

Councilmember Harmon asked why Lines 15 through 17 would be deleted regarding the City Manager’s salary.

Dave Starkey stated the City Manager would serve pursuant to an employment contract which would include a salary amount.

Councilmember Harmon moved to adopt the charter ordinance as amended. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

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

CHARTER ORDINANCE NO. 110 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 placed on first reading July 17, 2012 was again presented.

Dave Starkey, City Attorney gave the staff report.

Councilmember Harmon asked how much the City spends each year on publication costs.

Pamela S. Simecka, Interim City Manager reported the City spends approximately \$250,000 annually on publication costs.

Dave Starkey stated the City would have minimal publication costs if the charter ordinance is approved. He reported ordinances are currently listed on the City’s website in their entirety and the public can request a copy of an ordinance at any time and is allowed one copy free of charge.

Councilmember Hiller moved to amend the charter ordinance on Line 64 by adding the words, “or on the City’s website” and amend Line 68 by deleting the words “one week” and inserting the words “90 days.” The motion seconded by Councilmember Manspeaker carried. Councilmember Gray voted “no.” Mayor Bunten voted “yes.” (9-1-0)

Councilmember Wolgast moved to adopt the charter ordinance as amended. The motion seconded by Councilmember Hiller 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.

APPOINTMENT of a new City Manager was presented. (*Contract No. 42273*)

Councilmember Wolgast gave the staff report and announced James H. Colson was chosen as the new City Manager of Topeka. He stated a very thorough background process was conducted and he looks forward to Mr. Colson serving as the new City Manager effective August 27, 2012.

Councilmember Wolgast moved to approve the appointment and employment agreement. The motion was seconded by Councilmember Everhart.

Councilmember Alcalá made a substitute motion to amend the employment agreement on Page 6, No. 11 - Relocation Expenses, by deleting the words “lump sum of \$28,000” and inserting the words “up to \$28,000 upon proof of receipts.” The motion was seconded by Councilmember Gray.

Councilmember Wolgast stated the employment agreement has been negotiated and questioned if the Council should recess into an executive session to discuss if any changes could be made to the agreement at this time.

Dave Starkey, City Attorney stated the Council could recess into executive session to discuss the amendment.

Councilmember Alcala stated he would like time to review the employment agreement to make sure there is accountability and clarification in the details.

Dave Starkey stated if the amendment passes, the City would have to resubmit the employment agreement to Mr. Colson for his approval.

Councilmember Harmon moved to go into executive session for a time period not to exceed ten (10) minutes and include the Governing Body and City Attorney. The motion seconded by Councilmember Alcala carried. Councilmembers Ortiz and Manspeaker voted “no.” (7-2-0)

At 6:43 p.m. the Council meeting reconvened into open session and Mayor Bunten announced no action was taken during the executive session.

The motion to amend the employment agreement on Page 6, No. 11. - Relocation Expenses, by deleting the words “lump sum of \$28,000” and inserting the words “up to \$28,000 upon proof of receipts” failed. Councilmembers Hiller, Everhart, Wolgast, Archer and Harmon voted “no.” (4-5-0)

Councilmember Manspeaker spoke in opposition to the appointment and stated he did not support the candidate that was chosen.

Councilmember Ortiz spoke in opposition to the employment agreement and stated the City has many budget concerns and she believes the salary has been set too high.

Councilmember Alcala spoke in opposition to the employment agreement and stated he believes the salary in the amount of \$170,000 is more than the City could afford at this time.

The motion to approve the appointment and employment agreement carried. Councilmembers Alcala, Ortiz and Manspeaker voted “no.” (6-3-0)

A PETITION, A REVISED PROJECT BUDGET in the amount of \$367,161 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8447 introduced by

Interim City Manager, Pamela S. Simecka authorizing Sanitary Sewer Improvement Project No. T-401026.00 which provides for sewer service for Horseshoe Bend Subdivision Nos. 2 and 3 and more specifically described herein and rescinding City of Topeka Resolution of Advisability and Authorization No. 8372 was presented.

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

Councilmember Ortiz moved to approve the petition, revised project budget and resolution. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

A PETITION, A REVISED PROJECT BUDGET in the amount of \$954,216 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8448 introduced by Interim City Manager, Pamela S. Simecka authorizing Street Improvement Project No. T-601024.00 which provides for paving streets in Horseshoe Bend Subdivision Nos. 2 and 3 as more specifically described herein and rescinding City of Topeka Resolution of Advisability and Authorization No. 8373 was presented.

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

Councilmember Wolgast moved to approve the petition, revised project budget and resolution. The motion seconded by Councilmember Everhart carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

A PETITION, A REVISED PROJECT BUDGET in the amount of \$213,600 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8449 introduced by Interim City Manager, Pamela S. Simecka authorizing Waterline Improvement Project No. T-281036.00 which provides for water service to Horseshoe Bend Subdivision Nos. 2 and 3 as more specifically described herein and rescinding City of Topeka Resolution of Advisability and Authorization No. 8371 was presented.

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

Councilmember Everhart moved to approve the petition, revised project budget and resolution. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Buntten voted “yes.” (10-0-0)

ORDINANCE NO. 19750 introduced by Interim City Manager, Pamela S. Simecka allowing and approving City expenditures for the period of June 2, 2012, through June 29, 2012, and enumerating said expenditures therein was presented for first and final reading.

Pamela S. 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, Manspecker, Archer, Gray and Harmon -9.

A Retail Cereal Malt Beverage License application for U Market located at 935 SE 21<sup>st</sup> Street was presented.

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

Councilmember Gray moved to approve the retail cereal malt beverage license application as presented. The motion seconded by Councilmember Everhart carried unanimously. Mayor Buntten voted “yes.” (10-0-0)

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

Pamela S. Simecka, Interim City Manager announced a Budget Committee meeting would be held August 11, 2012 from 8:30 a.m. to 11:30 a.m. in the Council Chambers to discuss infrastructure.

Councilmember Alcala reported he observed a City Water Department employee being harassed by a homeowner because their water was being disconnected. He expressed concern with the employee's safety and asked how employees are supposed to handle these types of situations, and if the Police Department was involved in the incident.

Pamela S. Simecka stated it is fairly common for a homeowner to become upset when their water is disconnected; however, she would research the incident and report back to the Council.

Councilmember Ortiz expressed concern with the Abbott Community Center closing early on certain evenings and asked where the elderly could go to get a reprieve from the heat.

Councilmember Gray expressed concern with the notification process for the JEDO Board meeting scheduled on July 25, 2012.

Mayor Bunten announced the Kansas Children's Discovery Center greeted the 100,000<sup>th</sup> visitor on July 24, 2012 and commended the people supporting the center.

Judy Carmen and Stephanie Mott appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:12 p.m.

---

Brenda Younger  
City Clerk