

Council Minutes – September 25, 2012

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 25, 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, Pastor Andrew Gardner, Grace United Methodist Church gave the invocation.

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

Councilmember Harmon requested to remove item 4F, a tort claim for Cheryl Stewart from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced item 4F would be removed from the consent agenda and placed on the Council agenda under New Business as item 6E.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Debbie Briman-Latta to the Downtown Business Improvement District Advisory Board for a term ending September 30, 2014 was presented.

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

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

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

BOARD APPOINTMENT recommending the appointment of Kathie Arbogast to the Jayhawk Area Agency on Aging Advisory Council for a term ending September 30, 2015 was presented.

RESOLUTION NO. 8471 introduced by Councilmember Larry Wolgast granting Tornado Alley Entertainment an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of September 18, 2012 was presented.

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

ORDINANCE NO. 19762 introduced by Councilmember John Alcala, authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time and the special event permit pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) for the NOTO Blues and BBQ placed on first reading September 18, 2012 was again presented.

Councilmember Alcala gave the staff report.

Councilmember Alcala moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Buntzen voted "yes." (10-0-0)

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

ORDINANCE NO. 19763 introduced by Councilmember Chad Manspeaker, amending City of Topeka Code Section 3.25.100, concerning the historic asset tourism fund and

specifically repealing said original section placed on first reading September 11, 2012 was again presented. The ordinance was deferred from the meeting of September 18, 2012.

Councilmember Manspeaker gave the staff report and noted following a review of the process there were concerns with how the historic asset tourism funds were being allocated and the lack of transparency regarding Landmarks Commission meetings. He stated the proposed ordinance addresses the majority of concerns that were raised and satisfies the groups involved with the process.

Stacey Kelly, Topeka Landmarks Commission spoke in support of the proposed changes and stated the changes support the Landmarks Commission overall goals. She noted there has been successful downtown development while preserving historical assets and the proposal would allow the Landmarks Commission to make some decisions on funding allocations.

Councilmember Harmon questioned the purpose of the Topeka Landmarks Commission and asked if the proposal would dispose of the Commission.

Stacey Keller stated the proposal would not eliminate the Commission; however, it would require members to also serve on the Historic Tourism Committee. She reported the purpose of the Topeka Landmarks Commission is to advise the City Council on historic assets and to safeguard the architectural and cultural heritage of the community through the preservation of historic resources, landmarks and districts. She noted these duties may be carried out through identification, documentation and designation of historic assets; development and implementation of a historic preservation plan; assistance with educational and incentive programs; economic development and tourism; and coordination of public and private historic preservation activities.

Doug Wallace expressed concern with the proposed changes and stated he believes it would not sufficiently guide those overseeing the funding allocations for historic preservation.

He stated he believes the definitions relating to the meetings and historic public sites should be clarified.

Chris Meinhardt expressed concern with the intent of the ordinance and the recent change in the City's Planning Department Director position. He spoke in opposition of the proposal and stated he believes the facts have not been considered by the public, as well as, the Governing Body has not been fully informed of the issue or determined how the proposal would be administrated.

Greg Allen, Topeka Landmarks Commission spoke in favor of having funding opportunities for City advocacy regarding historic preservation; however, he has three main concerns with the proposed ordinance including the set up poses an inherent conflict of interest as the Landmarks Commission would compete for a portion of the overall funding along with other private projects that have the potential of taking up to 15% out of the allocated funds; a reduction of funding for bricks and mortar projects which already have limited funding; and it would alter the original intent of the ordinance and undermines project advocates that have the best intentions towards historic preservation.

Councilmember Manspeaker stated the proposal would force the Historic Tourism Committee to be more transparent by conducting open public meetings; sets a 15% cap on grant funding and/or marketing of transient guest tax funds; and solves other exiting problems as well. He noted the proposal was a consensus of all the groups directly involved in the matter.

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

Councilmember Everhart asked if current historic preservation members were involved in the proposed policy changes.

Councilmember Manspeaker stated some members spoke at the Transient Guest Tax Committee meeting; however, if they were not directly involved it was because they did not submit a change.

The motion to adopt the ordinance carried. Councilmembers Alcalá, Ortiz, Everhart and Harmon voted “no.” (5-4-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Wolgast, Manspeaker, Archer and Gray -5. Noes: Alcalá, Ortiz, Everhart and Harmon -4.

A FINAL PLAT for Hinds Subdivision No. 2 located on the northeast corner of NW Rochester Road and NW 46th Street within the City of Topeka, Shawnee County, Kansas was presented. (P12/12)

Bill Fiander, Interim Planning Department Director gave the staff report.

Councilmember Wolgast moved to approve the final plat and waste water waiver. The motion seconded by Councilmember Harmon carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

RESOLUTION NO. 8472 introduced by City Manager Jim Colson, establishing a date for a public hearing concerning the adoption of a plan pursuant to the Neighborhood Revitalization Act, K.S.A. 12-17, 114 et seq., was presented.

Jim Colson, City Manager gave the staff report.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Everhart carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

ORDINANCE NO. 19764 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of July 28, 2012, through August 31, 2012, and enumerating said expenditures therein was presented for first and final reading.

Jim Colson, City Manager gave the staff report.

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

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

NO Retail Cereal Malt Beverage License applications were presented.

DENIAL OF A TORT CLAIM for Cheryl Stewart in the amount of \$11,923.16 for water damage to the basement of the residence located at 423 SW Westchester Road, City of Topeka, Kansas, as the result of a water main break on September 1, 2011 was presented.

Councilmember Harmon stated he has known the applicant for 50 years; therefore, he would abstain from voting because he believes it would be considered a conflict of interest.

Councilmember Wolgast moved to approve the denial of the tort claim. The motion seconded by Councilmember Gray carried. Councilmember Manspeaker voted “no.”

Councilmember Harmon abstained. (7-1-1)

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Section 2.145.030, 10.60.590, and 10.60.650, concerning administrative hearing procedures and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 5.40.100, 5.40.120, 5.90.110, 5.115.110 and 5.160.020, as well as creating Section 5.115.160, all concerning business licensing requirements and specifically repealing said original section was presented for first reading.

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

Jim Colson, City Manager commended the Topeka-Shawnee County Safe Streets Program for introducing the Painted Utility Boxes initiative. He stated he attended the opening

ceremony located at SE 29th Street and SE California Avenue honoring local artist Allen Burgess. He expressed appreciation to those involved in a program that would beautify the City in a very practical way. He reported a vehicle accident caused waterline and gas line breaks and downed electrical power lines at SE 32nd Street and S. Kansas Avenue. He stated the area between SE 29th and 32nd Streets along S. Kansas Avenue should be open by Friday depending on the extent of the damage. He also reported a fish kill in Butcher Creek was believed to be caused by chlorinated water which has been reported to the Kansas Department of Health and Environment; however, the source of chlorination has yet to be determined.

Councilmember Hiller commended utility workers for their quick response in making repairs at SE 29th Street and S. Kansas Avenue resulting from a vehicle accident.

Councilmember Ortiz requested an executive session be scheduled to update the Council on the Fire Department labor union contract negotiations.

Councilmember Manspeaker thanked the City Manager and City employees for attending the Westboro Homeowners Association meeting and stated he appreciates their responsiveness to citizen needs.

Ted Mize, J. Tuckness and Roy Schroeder appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:54 p.m.

Brenda Younger
City Clerk