

Council Minutes – October 9, 2012

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 9, 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 Manspeaker asked for a moment of silent meditation.

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

Councilmember Harmon requested to pull item 4C, Minutes of the regular meeting of October 2, 2012 from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced item 4C would be removed from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8475 introduced by Councilmember Sylvia Ortiz, granting The Spot Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8476 introduced by Councilmember Sylvia Ortiz, granting Country Legends 106.9 an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

MINUTES of the regular meeting of October 2, 2012 was presented.

Councilmember Harmon requested to amend the first paragraph on Page 370 of the Minutes of the regular meeting of October 2, 2012. The amendment was read as follows: “Councilmember Harmon stated the Governing Body must make a decision based on the *Golden Factors* set out in the Kansas Supreme Court cases of *Golden vs. City of Overland Park* and *Taco Bell vs. City of Mission*. He stated he would support both the Planning Department and Planning Commission recommendations; however, he would have preferred the entire intersection be zoned as “O&I-2” Office and Institutional District.”

Councilmember Harmon moved to amend the Minutes of the regular meeting of October 2, 2012 as stated. The motion seconded by Councilmember Manspeaker carried. Councilmember Alcala voted “no.” (8-1-0)

Councilmember Alcala moved to approve the Minutes of the regular meeting of October 2, 2012 as amended. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for vacation request V12E/3 by Robert and Suzan Youse, as property owners, requesting to vacate the southerly 40 feet of the platted green space easement on property located 4422 SW Lakeside Drive, City of Topeka, Shawnee County.

ORDINANCE NO. 19767 introduced by City Manager Jim Colson, relating to the partial vacation of a platted green space easement running along the southerly 40 feet of property located at 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas, placed on first reading October 2, 2012 was again presented.

Pam Simecka, Budget and Finance Director, reported approval would vacate a green space easement that encumbers all of the lot on the south side of the home. She stated it would

allow the applicant to construct a below ground swimming pool and pergola within the vacated area.

Bill Fiander, Interim Planning Department Director, reported the property is located on a corner lot and is consistent with previous plats for Misty Harbor Subdivision No. 4. He stated there are no utilities located within the easement; therefore, staff is recommending approval of the vacation request.

Mayor Bunten opened the public hearing and asked if anyone present would like to speak to the matter. No one appeared to speak.

Councilmember Archer moved to adopt the ordinance. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

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

ORDINANCE NO. 19768 introduced by Councilmember Sylvia Ortiz, 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 Kent Nicolay Family Fundraiser placed on first reading October 2, 2012 was again presented.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Everhart carried unanimously. Mayor Bunten 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 Bunten -10.

AUTHORIZING a public hearing for November 13, 2012 for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2012 Operating budget was presented.

Pam Simecka, Budget and Finance Director, reported approval would set the public hearing date on November 13, 2012, and authorize the publication of the public hearing notice in the Topeka Metro News. She stated more detailed information regarding the amendments would be provided to the Council on October 23, 2012.

Councilmember Harmon moved to approve the publication of the public hearing notice. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.”
(10-0-0)

APPROVAL of a Joint Memorandum of Agreement concerning Group Healthcare Benefits with the FOP, IAFF, AFT, AFSCME Development Services, Water and Teamsters labor unions was presented. (*Contract No. 42395*)

Pam Simecka, Budget and Finance Director, reported approval of the joint agreement would keep the City’s 2013 budgeted contribution for healthcare benefits the same. She stated the program would be funded through the Health Insurance Fund and all employees would be required to contribute to the cost of healthcare.

Councilmember Hiller commended union members, City staff and the Healthcare Committee for working together to reach a consensus that is in the best interest of all parties involved.

Councilmember Wolgast moved to approve the Joint Memorandum of Agreement. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.”
(10-0-0)

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19769 introduced by City Manager Jim Colson, 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 properties located in the 1100 block of SE Quincy Street between SE 11th and SE 12th Streets and precisely located at 1126 and 1104 SE Quincy Street, 221 SE 11th Street, 1111 and 1113 SE Monroe Street from “C-4” Commercial District, “M-3” Multiple-Family Dwelling District, “E” Multiple-Family Dwelling District, “O&I-2” Office and Institutional District ALL TO “D-1” Downtown District placed on first reading October 2, 2012 was again presented. (Z12/9)

Pam Simecka, Budget and Finance Director, reported approval would allow for development of uses in the “D-1” Downtown District.

Bill Fiander, Interim Planning Department Director, stated approval would rezone a three (3) acre block south of downtown extending through SE 11th and 12th Streets and SE Monroe Street, changing all areas to “D-1” District zoning and requiring the parking lots to be landscaped according to design guidelines. He reported the Planning Commission is recommending the property be rezoned to “D-1” Downtown District due to a property already located in the area that is designated as “D-1” zoning, as well as, the character impact the City Water Tower has on the area.

Mayor Bunten stated there are a couple of lots that are not included in the rezoning request. He asked if there is a plan for the lots and if the lots should be included in the rezoning of the area.

Bill Fiander reported there is no plan in place for the lots not included in the zoning request at this time.

Mayor Bunten requested staff review the matter further and handle accordingly.

Councilmember Hiller asked staff to briefly summarize “D-1” Downtown District zoning.

Bill Fiander stated “D-1” Downtown District zoning has been in existence approximately ten years and is consistent with the Downtown Topeka Redevelopment Plan if the Downtown Design Guidelines are strictly adhered to with any new development. He reported downtown zoning is largely “C-5” Commercial District which allows the most intense commercial uses. He stated the major difference between “D-1” and “C-5” zoning districts is design standards within “D-1” zoning districts are more restrictive and are relative to what is around the downtown area.

Councilmember Ortiz moved to adopt the ordinance. 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. 19770 introduced by City Manager Jim Colson, 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 1129 SE Quincy Street, at the northwest corner of SE 12th Street and SE Quincy Street from “M-3” Multiple-Family Dwelling District TO “D-1” Downtown District placed on first reading October 2, 2012 was again presented. (Z12/10)

Bill Fiander, Interim Planning Department Director, reported the requested zoning change is a companion request to zoning case (Z12/9) for the same property owners and is a ½ acre parcel located in the same area.

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

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

Pam Simecka, Budget and Finance Director, announced the first public meeting to gather citizen input on the Zoo's elephant program was conducted on October 9, 2012, at 6:00 p.m. at the Big Gage Shelter House. She announced the second public meeting would be held October 13, 2012, at 2:00 p.m. at the Gary K. Clarke Living Classroom located inside the Zoo. She commented on the Employee Recognition and Diversity Luncheon held October 5, 2012, and thanked City employees for their dedicated service.

Councilmember Hiller commented on recent Historic Preservation Development events including the Underground Railroad Sites bicycle tour held October 3, 2012, and the upcoming Brown to Brown cellphone tour beginning October 10, 2012. She thanked the Topeka Fire Department for hosting the Fallen Firefighter Memorial Dedication Ceremony. She reported the League of Kansas Municipalities Conference was successful and thanked the Topeka High School Drumline for providing entertainment at the conference. She stated she had been selected as a judge for the American Royalty Supreme Pageant on October 27, 2012, and encouraged ladies interested in participating in the event to contact her for more information. She stated she would submit a report on her recent Inter-city Visit to Fort Collins, Colorado. She commented on the downtown improvements in Goodland, Kansas, and stated she believes the City of Goodland may have some finance package ideas the City of Topeka should consider.

Councilmember Alcala requested an update on the Topeka firefighters labor contract negotiations.

Councilmember Ortiz commented on the free smoke alarm program provided through the Topeka Fire Department and stated she has received many calls and requests from citizens

interested in participating in the program. She encouraged citizens to call 368-4000 to schedule an appointment for installation.

Mayor Bunten stated the smoke alarm program is a great resource for the community and is free of charge.

Councilmember Everhart requested an update on the Topeka firefighters labor contract negotiations.

Councilmember Manspeaker reported he did not attend the League of Kansas Municipalities Conference because he did not agree with allocating \$35,000 of taxpayer dollars to the event; and he did not participate in the Inter-city Visit to Fort Collins, Colorado, because he believes elected officials should use private funds for these types of trips. He thanked the Topeka Fire Department for hosting the Fallen Firefighters Memorial Dedication Ceremony and stated it meant a great deal to his family. He commended staff for taking a proactive stance in providing a safe work environment for City employees.

Councilmember Archer stated he was honored to participate in the Fallen Firefighter Memorial Dedication Ceremony.

Mayor Bunten reported he has attended approximately 266 meetings to date for various boards and believes the Mayor's position is a full-time job. He encouraged citizens interested in serving as the Mayor or as a Council representative to talk with him or a Council person to fully understand the time commitments and community interaction involved with the positions.

Lazone Grays appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:43 p.m.

Brenda Younger
City Clerk