

Council Minutes – November 13, 2012

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 13, 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, Wolgast, Manspeaker, Gray and Harmon -7. Mayor William W. Bunten presided -1. Absent: Councilmembers Everhart and Archer -2.

AFTER THE MEETING was called to order, Reverend Carl Frazier, Southwest Baptist Church gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Toby Taggart to the Board of Building and Fire Appeals for a term ending November 30, 2014, was presented.

BOARD APPOINTMENT recommending the re-appointment of Matthew Werner to the Board of Building and Fire Appeals for a term ending November 30, 2014, was presented.

BOARD APPOINTMENT recommending the appointment of Elsie Eisenbarth to the Topeka Metropolitan Transit Authority Board to fill an unexpired term ending June 30, 2015, was presented.

BOARD APPOINTMENT recommending the re-appointment of John Opgaard to the Topeka Board of Zoning Appeals for a term ending November 30, 2015, was presented.

BOARD APPOINTMENT recommending the appointment of Robert Storey to the Topeka Public Building Commission for a term ending November 30, 2016, was presented.

APPROVAL of Worker's Compensation Settlement for Jason Harwood, City of Topeka Police Officer, in the amount of \$43,052.40 for injuries suffered in the line of duty, May 12, 2010, was presented.

MINUTES of the regular meeting of October 23, 2012, was presented.

An Open After Midnight License application for College Hill Pizza Pub located at 1418 SW Lane, was presented.

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Wolgast carried unanimously. (7-0-0)

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of City of Topeka 2012 Operating Budget funds.

ORDINANCE NO. 19777 introduced by City Manager Jim Colson, approving and adopting certain amendments to the operating budget for the City of Topeka, for the year 2012, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

Angie Kearney stated she understands certain entities attract visitors to Topeka and in return the City receives Transient Guest Tax revenues; however, she believes the City should not fund private entities. She questioned why the City allocates funds to Heartland Park of Topeka and the Kansas ExpoCentre.

Councilmember Wolgast reported the Transient Guest Tax is a tax levied on all avenues of tourism and used primarily as a tool to assist with the advertisement and marketing of tourism. He stated Transient Guest Tax revenues do not have an effect on property taxes and noted more Transient Guest Tax revenues were generated in 2012 than originally estimated.

Pam Simecka, Budget and Finance Director, reported the amendment would use the Transient Guest Tax fund balance to increase the expenditures to Visit Topeka in the amount of \$50,000, Heartland Park in the amount of \$50,000, the League of Kansas Municipalities in the amount of \$35,000, and increase transfers to the Historical Preservation fund by \$29,364.

Angie Kearney asked if businesses could be required to follow guidelines in order to receive City funding.

Councilmember Manspeaker stated he believes private entities should operate independently from City funding; however, he also believes Transient Guest Tax revenues bring business to the City through tax revenues collected from local venues.

Pam Simecka gave a brief summary of the budget amendments to the Transient Guest Tax Fund, Retirement Reserve Fund, Historical Asset Tourism Fund, JEDO Sales Tax Fund, Sales Tax Street Fund and Tax Increment Financing Fund for a total amount of \$3,016,449.

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

Councilmember Ortiz moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Bunten voted “yes.” (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Wolgast, Manspeaker, Gray, Harmon and Mayor Bunten -8. Absent: Everhart and Archer -2.

Councilmember Harmon moved to defer item 6A, an ordinance adopting the 2012 Uniform Public Offense Code until December 4, 2012. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (8-0-0)

RESOLUTION NO. 8479 introduced by Deputy Mayor Larry Wolgast, canceling Council meetings for calendar year 2013, was presented.

Councilmember Wolgast gave the staff report.

Councilmember Wolgast moved to approve the resolution. The motion seconded by Councilmember Manspeaker carried. Councilmember Alcalá voted “no.” (6-1-0)

RESOLUTION NO. 8480 introduced by Councilmember John Alcalá, granting an exemption from the annexation requirement of City of Topeka Code Section 13.10.120(a) so that water service can be provided to Lots 4 and 5 in Hinds Subdivision No. 2, and Lots 18, 19 and 20 in Hinds Subdivision, which is located outside City limits but within Shawnee County, Kansas, was presented.

Bill Fiander, Interim Planning Department Director, gave a brief background on the Hinds Subdivision and noted the parcels being considered are located within the City’s three-mile extra-territorial jurisdiction.

Councilmember Gray asked if Shawnee County could provide water service to the subdivision.

Bill Fiander reported the City already has water service in the area. He noted it would be a policy decision for the Council to allow water service if the subdivision complies with City ordinances.

Mark Boyd, Schmidt, Beck & Boyd Engineering, L.L.C., reported requesting water service to lots in the subdivision was an oversight; however, it is a requirement through contractual obligation.

Councilmember Harmon asked if consent to annexation has been obtained.

Mark Boyd stated consent to annexation has been signed, recorded and documented on the subdivision final plat.

Councilmember Alcala moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Buntten voted “yes.” (8-0-0)

ORDINANCE NO. 19778 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of September 1, 2012, through October 5, 2012, and enumerating said expenditures therein was presented for first and final reading.

Pam Simecka, Budget and Finance Director, stated approval would authorize expenditures in the amount of \$19,121,231.37.

Councilmember Wolgast moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Wolgast, Manspecker, Gray and Harmon -7. Noes: Everhart and Archer -2.

A Retail Cereal Malt Beverage License application for Porubsky’s located at 508 NE Sardou, was presented.

Councilmember Ortiz moved to approve the retail cereal malt beverage license application as presented. The motion seconded by Councilmember Alcala carried unanimously. Mayor Buntten voted “yes.” (8-0-0)

AN ORDINANCE introduced by Deputy Mayor Larry Wolgast, concerning the reestablishment of the City Council district boundaries, pursuant to the provisions of Section A2-23(c) of the Code of the City of Topeka, amending City of Topeka Ordinance No. 17920 and specifically repealing said original ordinance was presented for first reading.

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

Pam Simecka, Budget and Finance Director, announced the procedure to fill Councilmember vacancies is available on the City's website at *www.topeka.org* and in the City Clerk's office.

Councilmember Hiller encouraged citizens and Councilmembers to submit the names of individuals that are interested in serving on various boards and commissions to the Mayor for consideration.

Councilmember Ortiz announced veterans ride free on the Topeka Metropolitan Transit bus system through the month of November. She also announced the free smoke alarm program is still being offered through the Topeka Fire Department and asked citizens to call 368-4000 to schedule an appointment for installation. She reminded citizens to stay aware during the holiday season and help the Topeka Police Department manage crime by keeping valuables out of sight and locking vehicles.

Councilmember Gray encouraged Councilmember Archer and Councilmember Alcalá to allow their constituents the choice of electing a representative to fill their vacancies on the Council when they leave to serve in their elected capacities.

Councilmember Harmon referenced a press release relating to portions of Belle Terrace Apartments located at 1236, 1240 and 1244 SW Belle Terrace. He stated the apartments present a substantial danger to residents and the public, and the City of Topeka has posted notice that tenants who reside in the identified apartment units must evacuate the premises before 12:00 noon on November 30, 2012, and not re-enter the premises until authorized to do so by the City Fire Marshal or designee. He thanked the Fire Chief, Fire Marshal and City Manager for being

proactive in the situation and expressed gratitude to Housing and Neighborhood Development Department staff in assisting the tenants during this difficult time.

Several Councilmembers congratulated Councilmember Alcalá for being elected to serve in the Kansas House of Representatives for the 57th District, as well as, Councilmember Archer for being elected to serve as Shawnee County Commissioner for the 3rd District.

Mayor Bunten left the Council meeting.

TJ Brown, Frank Aguilar, Elinor Cowell, William S. Gomez and Larry Cobler appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:00 p.m.

Brenda Younger
City Clerk