

## **Council Minutes – December 4, 2012**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 4, 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 Gray 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:

BOARD APPOINTMENT recommending the appointment of Nicholas Jefferson to the Topeka Planning Commission to fill an unexpired term ending June 30, 2013, was presented.

MINUTES of the regular meetings of November 20, 2012, and November 27, 2012 were presented.

A Dance Hall License application for Lazy Toad located at 5331 SW 22<sup>nd</sup> Place, Suite 2 was presented.

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

ORDINANCE NO. 19781 introduced by City Manager Jim Colson, amending City of Topeka Code Section 9.05.080 and specifically repealing said original section, repealing Chapter 8.20 and Section .45.120 in their entirety, as well as, creating Section 9.05.090 all concerning the adoption of the 2012 Uniform Public Offense Code and amendments thereto placed on first reading October 16, 2012 was again presented. The ordinance was deferred from the meeting of November 13, 2012.

Dave Starkey, City Attorney, distributed an amended ordinance that would take the place of the deferred ordinance that would adopt the 2012 Uniform Public Offense Code except for provisions relating to Domestic Battery and Cruelty to Animals, as well as, certain Smoking provisions. He reported if the amended ordinance is passed, two new ordinances would be presented for consideration (1) an ordinance amending only certain sections of the City's current smoking ordinance which staff believes are legally defective; and (2) an ordinance that would make it unlawful to possess a firearm in the commission of certain misdemeanor crimes, helping to offset the elimination of the "transportation of a loaded firearm" provision.

Councilmember Gray thanked Chief Miller and Earl McIntosh for their collaboration in drafting the amendments. He stated the amendments would not require those citizens with the legal right to own a firearm to transport a loaded firearm in an enclosed container in their vehicle. He questioned if the Police Department has safety protocols in place relating to weapons being in plain sight when approaching a vehicle.

Ron Miller, Police Chief, stated police officers are always to assume there is a weapon in a vehicle and are to follow safety protocol accordingly. He reported all officers are trained when new ordinances are adopted, with the understanding that the safety of the citizen, as well as, the police officer is paramount.

Councilmember Ortiz asked how the amendment or law relates to the Second Amendment to the United States Constitution, the right of the people to keep and bear arms.

Dave Starkey stated Kansas State Statute authorize cities to adopt ordinances that regulate the transportation of a loaded firearm. He reported previously the law had been in effect in the City of Topeka since 2006, when the Uniform Public Offense Code was adopted; however, when the League of Kansas Municipalities drafted the 2012 UPOC it was omitted.

Councilmember Ortiz commented on the increase of crime in Council District No. 3 and expressed the importance of regulating firearms in the City of Topeka.

Councilmember Everhart expressed concern with how the law would affect regular traffic stops.

Chief Miller reported loaded firearms in vehicles are always a concern for police officers; however, the Police Department continues to seek a workable solution. He stated both parties negotiated in good faith and agree that it should not be legal to carry a loaded firearm while committing a crime and not be responsible for that action. He stated the ultimate goal is to protect everyone by figuring out a way to allow the transportation of a loaded firearm and make the possession of a weapon during the commission of a misdemeanor a municipal offense.

Councilmember Gray stated he concurs with Chief Miller and supports those who legally own a gun that have been properly trained in the use and safety of the weapon.

Councilmember Wolgast asked the City Attorney to review the changes and proposed amendments to Topeka's Clean Air ordinance.

Dave Starkey reported most of the amendments relate to technical changes and clarifications; however, it would also change the offense from an administrative penalty to a penalty that would be criminal in nature.

Councilmember Everhart asked if the domestic battery provision would be reinstated in the future.

Jim Colson reported staff continues to research what the overall effect would be to the City and community.

Councilmember Hiller moved to amend the ordinance as distributed by the City Attorney and adopt the ordinance as amended. 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.

APPROVAL of a Master Lease Purchase Agreement between the City of Topeka and US Bancorp Government Leasing and Finance Inc., for the purchase of police vehicles in the amount of \$888,955.67 was presented. (Contract No. 42529)

Ron Miller, Police Chief, reported the master lease agreement achieved an interest rate of 1.09% over three (3) years and vacancy credits would be generated to cover the cost of the first payment due on November 30, 2013. He stated approval of the lease would authorize the Police Department to purchase approximately thirty (30) vehicles.

Councilmember Harmon asked if the master lease agreement conforms to the Kansas Cash Basis law.

Dave Starkey, City Attorney, stated the agreement conforms to the Kansas Cash Basis law.

Councilmember Manspeaker questioned what type of cars would be purchased and suggested that the cars be as economical as possible and made in America.

Chief Miller stated staff has considered Dodge, Chevrolet and Ford; however, the Ford Explorer seems to be the best overall package offering 25 miles per gallon. He reported staff did research the Ford Fusion hybrid vehicle and it would not be the best long-term financial choice for the City.

Councilmember Ortiz moved to approve the master lease purchase agreement. The motion seconded by Councilmember Everhart carried unanimously. Mayor Buntten voted “yes.”

(10-0-0)

Retail Cereal Malt Beverage License applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Brass Rail	401 NE Emmett
North Topeka Golf Center	350 NE US Highway 24
Pizza Parlor	1919 NE Seward Avenue

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

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

Jim Colson, City Manager, commended Office of Utilities and Transportation Director Braxton Copley, for over 12 years of dedicated service with the City of Topeka.

Councilmember Ortiz commended Braxton Copley for his service to the City and complimented him on the Street Department’s initiative to keep streets clear during inclement weather. She requested he pass along his knowledge of snow removal to his predecessor.

Councilmember Hiller thanked Braxton Copley for the work he has performed for the City. She congratulated Leadership of Greater Topeka nominees. She commended Legal Department staff for their hard work in drafting the 2012 Uniform Public Offense Code ordinance amendments.

Councilmember Alcala commended Braxton Copley for his years of service with the City and wished him luck in future endeavors.

Councilmember Ortiz reported a record number of citizens are in need of coats this winter season and asked citizens interested in donating a coat to contact the Salvation Army at 785-233-9648 for more information. She thanked Councilmember Harmon for helping with the Community Thanksgiving Dinner and stated it was a great success.

Councilmember Wolgast expressed his appreciation to Mayor Bunten for his leadership and all that he has accomplished while serving as the Mayor of Topeka.

Councilmember Manspeaker stated he is cautiously optimistic about the relocation of the Victory Village Project and is hopeful developers have been in contact with neighbors to resolve any issues ahead of time. He stated he believes an improved process will be in place when the project is presented to the Council for consideration.

Councilmember Gray commended Braxton Copley for his years of service with the City. He referenced the SW 17<sup>th</sup> Street and Urish Road improvement project and the lack of communication between businesses and the City during the construction phase. He reported many area business owners have expressed concern with the upcoming SW 21<sup>st</sup> Street and Urish Road improvement project and encouraged the City to work to improve communications with businesses during the construction phase.

Ted Mize and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:04 p.m.

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Brenda Younger  
City Clerk