

Council Minutes – February 19, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 19, 2013. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Brown, Ortiz, Wolgast, Collazo, Gray and Harmon -7. Mayor William W. Bunten presided -1. Absent: Councilmembers Everhart and Manspeaker -2.

AFTER THE MEETING was called to order, Pastor Mamy Ranaizoson, Trinity Evangelical Lutheran Church, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of February 12, 2013, was presented.

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

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING regarding the proposed issuance by the City of Topeka of its Housing and Health Care Improvement Revenue Bonds, Series 2013 (Brewster Place Project) in a maximum principal amount of \$10,000,000.

ORDINANCE NO. 19795 introduced by City Manager Jim Colson, authorizing the City of Topeka, Kansas, to issue its Housing and Health Care Improvement Revenue Bonds, Series 2013 (Brewster Place Project) in the principal amount not exceeding \$10,000,000 for the purpose of financing the costs of constructing, renovating, equipping, and improving certain residential and health care facilities located on the Brewster Place Campus in the City; currently refunding the City's outstanding Series 2004 Brewster Place Project Revenue Bonds; authorizing the execution of a fifth supplemental indenture by and between the City and CoreFirst Bank and

Trust, Topeka, Kansas, as trustee; authorizing the execution of a fifth supplemental lease by and between the City and The Congregational Home, a Kansas Not-For-Profit Corporation; and authorizing and approving certain additional documents and actions in connection with the issuance of said bonds placed on first reading February 12, 2013, was again presented.

Mayor Buntten moved to open the public hearing and asked if there was anyone present who would like to speak to the matter.

Phil Wolfe, Nichols and Wolfe Chartered, City of Topeka Bond Counsel, appeared to answer questions.

Councilmember Gray asked if Brewster Place is privately owned.

Phil Wolfe stated Brewster Place is a not-for-profit organization and has no individual ownership other than in accordance with their membership.

Councilmember Gray questioned if the City would be held liable for the bonds if Brewster Place was not able to make the payments.

Pam Simecka, Budget and Finance Director, stated the City would not be held liable pursuant to Kansas State Statute 12-1743. She noted the City lends their tax status to The Congregational Home for a lower interest rate; however, the City keeps the title to the land or project. She reported Brewster Place would make payments to the City which would be used to pay the revenue bonds, allowing the City to help invest in the community and develop central neighborhoods.

Councilmember Collazo asked how long construction would take on the project and if Brewster Place anticipated hiring more employees.

Phil Wolfe stated construction could take up to three years; however, he believes it should be completed in one year. He also stated the new addition could potentially add twenty new employees.

Mayor Bunten asked if there was anyone else present that would like to speak to the matter. No one appeared.

Councilmember Wolgast moved to close the public hearing and adopt the ordinance. The motion was seconded by Councilmember Ortiz.

Councilmember Harmon stated he would abstain from voting because he serves on The Congregational Home Board of Trustees.

The motion to close the public hearing and adopt the ordinance carried. Mayor Bunten voted "yes." Councilmember Harmon abstained. (7-0-1)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Wolgast, Collazo, Gray and Mayor Bunten -7. Abstained: Harmon -1. Absent: Everhart and Manspeaker -2.

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for vacation request V12A/1 by Ruth O. Martin Trust requesting to vacate a public alley right-of-way lying between 1528 SW Central Park Avenue and 1015-1017 SW 15th Street within the City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19796 introduced by City Manager Jim Colson, relating to the vacation of a public alley lying between 1528 SW Central Park Avenue and 1015-1017 SW 15th Street in the City of Topeka, Shawnee County, Kansas, placed on first reading February 12, 2013, was again presented. (V12A/1)

Mayor Bunten moved to open the public hearing and asked if there was anyone present who would like to speak to the matter.

Dennis Barnes, Property Manager, appeared to answer questions.

Councilmember Hiller asked Mr. Barnes to comment on any objections expressed by residents in the area.

Dennis Barnes stated he spoke with the tenants at 1528 SW Central Park Avenue and neighboring property owners about the vacation request and there were no objections.

Robert Lewis, resident at 1315 SW Fillmore, spoke in opposition to the vacation because it would eliminate access to the alley for many residents. He stated he believes the residents of 1015 SW 15th Street would have limited vehicle access to their garage if the vacation request is approved, and none of the residents of 1528 SW Central Park Avenue, 1015 and 1017 SW 15th Street, would have access to the side or back of their properties. He encouraged the Governing Body to oppose the vacation request.

Councilmember Hiller asked if there were any objections from the Police Department, Fire Department or utility companies.

Bill Fiander, Planning Department Director, stated staff sent notices to the affected area that could potentially use the alley and did not receive any objections from the residents, Fire Department, Police Department or utility companies.

Councilmember Harmon expressed concern with the statement made by Mr. Robert Lewis in regards to the residents located at 1015 SW 15th Street having no vehicular access to their garage. He asked staff to respond to Mr. Lewis' concern.

Bill Fiander stated the property owners located 1015 SW 15th Street would receive an increase of 7 ½ feet to their back lot, as well as, access to their garage and side lot.

Mayor Buntun asked if there was anyone else present that would like to speak to the matter. No one appeared.

Councilmember Hiller moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Collazo carried. Mayor Bunten voted “yes.”

Councilmember Ortiz voted “no.” (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Wolgast, Collazo, Gray, Harmon and Mayor Bunten -7. Noes: Ortiz -1. Absent: Everhart and Manspeaker -2.

ORDINANCE NO. 19797 introduced by City Manager Jim Colson, providing a non-exclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka which replaces the franchise ordinance codified at City Code Appendix B, Article 6, that expires December 31, 2012, placed on first reading February 12, 2013, was again presented.

Councilmember Brown referenced discussions he had with City of Topeka firefighters expressing their concern with American Medical Response operating under a separate communication system than other Topeka-Shawnee County emergency responders.

Jim Colson, City Manager, reported he was not aware there was an issue.

Greg Bailey, Topeka Fire Chief, stated he is not familiar with the issue. He requested that after the Council meeting, he meet with Councilmember Brown to further discuss the issue.

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

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

ORDINANCE NO. 19798 introduced by City Manager Jim Colson, authorizing the initiation of condemnation proceedings to acquire both temporary and permanent public

easement interests for the following public purposes: to construct and widen SW 21st Street to 5 lanes with curb and gutter, sidewalks and storm drainage between SW Wanamaker and SW Urish Road, Project No. 70198-02, Part B, placed on first reading February 12, 2013, was again presented.

Dave Starkey, City Attorney, distributed an amendment to the ordinance. He stated ten of the 13 property owners have settled with the City to convey easements for the project; therefore, the ordinance is amended to reflect the remaining three properties.

Councilmember Ortiz moved to amend the ordinance as distributed. The motion was seconded by Councilmember Gray.

Councilmember Harmon asked what the next step would be in the condemnation process.

Dave Starkey stated approval of the ordinance would authorize condemnation action to be filed in Shawnee County District Court; however, the City's property acquisition officer continues to be available to property owners if they wish to settle out of court.

Robert Kennedy, City Engineering Right-of-Way Agent, stated he has had many discussions with the remaining three property owners and would be willing to meet with them February 20, 2013, if they choose to discuss a settlement.

Councilmember Harmon asked how often the City settles with property owners out of court and if the temporary easements would revert back to the property owners.

Shawn Bruns, City Engineer, stated only a few properties under condemnations are generally pursued through court action.

Dave Starkey stated temporary easements are only needed for the duration of project construction then the easements are reverted back to the property owner.

The motion to amend the ordinance carried unanimously. (8-0-0)

Councilmember Gray moved to adopt the ordinance as amended. The motion seconded by Councilmember Brown carried unanimously. Mayor Bunten voted “yes.” (8-0-0)

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

A PROJECT BUDGET in the amount of \$640,000 and RESOLUTION NO. 8494 introduced by City Manager Jim Colson, authorizing Improvement Project No. T-141013.00, which provides for traffic signal replacement at four intersections, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Mayor Bunten asked what the current interest rate is on general obligation bonds.

Pam Simecka, Budget and Finance Director, stated the interest rate is slightly over 2% for general obligation bonds and approximately 1% to 1.5% for temporary notes.

Councilmember Wolgast asked when the traffic signal improvement project would begin.

Shawn Bruns, City Engineer, reported the traffic signal replacements would occur between the Fall and Winter season of 2013.

Councilmember Ortiz asked what the general lifespan is of a traffic signal.

Shawn Bruns stated the lifespan of a traffic signal ranges between 25 to 30 years, which is why a few signals are scheduled for replacement annually to maintain good operational status.

Councilmember Wolgast moved to approve the project budget and resolution. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

A PROJECT BUDGET in the amount of \$450,000 and RESOLUTION NO. 8495 introduced by City Manager Jim Colson, authorizing Improvement Project T-241016.00, which provides for city-wide infill sidewalks as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

Councilmember Hiller asked if bundling the sidewalk projects would save the City money and if it would allow smaller construction companies to bid the projects.

Shawn Bruns, City Engineer, reported reduced unit prices could be achieved by bundling the projects; however, projects that total under \$50,000 include a different group of contractors that would not be required to follow the Davis-Bacon Act.

Councilmember Harmon expressed concern with constructing new sidewalks and having to replace them in a short amount of time due to street improvement projects. He encouraged staff to implement sidewalk projects in conjunction with street projects. He inquired about the SW 17th Street sidewalk project between MacVicar Avenue and Campbell Avenue and stated he believes SW 17th Street was going to be widened in 2013.

Shawn Bruns reported nine locations were identified for the infill sidewalk project and five of those would be combined with street repair projects to be considered as one project. She stated the SW 17th Street widening project would occur north of Washburn University between MacVicar Avenue and Washburn, and the sidewalk project would occur farther west.

Councilmember Wolgast stated the area along SW 37th Street between Mulvane Street and Burlingame Road is very busy and this project would be a tremendous improvement because there are no sidewalks on either side of the street.

Councilmember Wolgast moved to approve the project budget and resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Brown asked what percentage of infill projects would be completed.

Shawn Bruns stated the nine locations included in this project would complete the current list; however, these locations are located on arterial and collector streets only.

Mayor Bunten asked for clarification that the City of Topeka's debt management policy was being followed regarding annual bond issuance.

Pam Simecka, Budget and Finance Director, stated the City's current debt management policy is being followed as instructed.

The motion to approve the project budget and resolution carried unanimously. (7-0-0)

No Retail Cereal Malt Beverage or Scrap Metal Dealers License applications were presented.

AN ORDINANCE 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 generally located at the northeast intersection of SW Misty Harbor Drive and SW 45th Street was presented for first reading. (Z12/11)

AN ORDINANCE 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 on a 10 foot strip of land along the northeastern property line of 2107 SW Crest Drive from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District was presented for first reading. (Z13/1)

AN ORDINANCE 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 amending the Master Planned Unit Development Plan ("I-1" Light Industrial and "C-4" Commercial use groups) on property located at the southeast corner of SE 29th Street and SE Fremont Street to allow three additional self-storage warehouse buildings, with a

maximum total of 14,400 combined square footage for all three buildings on property located at 311 SE 29th Street and to expand the PUD plan on to property located at 3000 SE Fremont Street to allow for boat and recreational vehicle storage enclosed within the building was presented for first reading. (Z02/24B)

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

Jim Colson, City Manager, stated he would provide an overview to the Council of the City's Code Compliance Division procedure timelines in March. He reported staff is reviewing City Code regarding the ordinance that requires the City Manager to provide a report of the City's financial condition of the previous fiscal year to the Council by February 28th of each year. He stated the financial information is not available until March; therefore, the ordinance needs to be amended. He announced a presentation on the City's financial condition for fiscal year 2012 would be provided to the Council on March 19, 2013.

Councilmember Hiller announced the Alvin Ailey Dance Company would be performing at Highland Park High School on February 22, 2013. She stated the event is free to the public and encouraged the community to attend.

Councilmember Brown announced the Oakland Neighborhood Improvement Association is hosting a fundraiser to support the Police Athletics League on February 23 and 24, 2013. He commended Topeka Police Lt. Joe Perry for working to develop a mural pilot program to address graffiti problem areas throughout the city.

Councilmember Ortiz commended the 19 police officers that graduated on February 8, 2013. She requested a list of the graduate names so she may commend them personally for the accomplishment.

Ron Miller, Police Chief, stated he would send the list of graduates from the Police Academy to the Council on February 20, 2013. He gave an overview of the timeline of selecting an applicant to graduation of a police officer.

Councilmember Wolgast acknowledged the Hi-Crest Neighborhood Improvement Association and their contributions to the community.

Councilmember Collazo asked the community to be proactive in preparation of the inclement weather approaching Topeka.

Councilmember Gray stated he attended the Police Department Graduation Ceremony and commended each police officer for the accomplishment. He expressed concern with an email correspondence he received from a constituent reporting mail being stolen and counterfeit checks being used at local businesses.

Councilmember Harmon asked the City Manager if the City's contingency plan was in place for the upcoming inclement weather.

Jim Colson reported Public Works staff members, as well as, all safety personnel are preparing for inclement weather conditions.

Councilmember Ortiz announced there would be no City Council meeting February 26, 2013, due to the primary election and encouraged citizens to vote.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:03 p.m.

Brenda Younger
City Clerk