

## **Council Minutes – March 18, 2014**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 18, 2014. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Campos II, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember De La Isla gave the invocation.

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

A PRESENTATION of the Topeka Metropolitan Transit Authority (TMTA) Service Report was given by Rodney Miller, Chairman of the TMTA Board and Susan Duffy, TMTA General Manager.

Rodney Miller provided a hard copy of the FY2013 Annual Report which included the history of TMTA, service changes, community promotions, events and services. He stated there are new community partnerships, mandatory employee training, upgrades to fare boxes, new fixed buses, bike-sharing program, automatic vehicle location (AVL) technology and continued shelter projects. He also provided an overview of TMTA revenues and expenses.

Mayor Wolgast asked how much are TMTA fares and how do they compare to other cities.

Susan Duffy stated TMTA is higher than any other public bus transportation service in the Midwest with fixed route fees at \$2.00 per route, and \$4.00 for the one-way lift paratransit services. She noted she believes TMTA is overpriced and continues working to improve services.

Councilmember Ortiz stated she concurs with Ms. Duffy that fares are too high; however, she believes the fares are affected by the federal funding formula which supplements TMTA for

their services. She asked if there are smaller buses in the fleet that could be used for routes. She noted the elderly homes on SE Seward and SE Golden have requested routes be located closer to them. She reported she has spoken with the facility manager and told him to contact Ms. Duffy for more information.

Rodney Miller stated there are some newer “low floor” buses with a ramp or lifts for ADA accessibility.

Mayor Wolgast stated he strongly supports public transportation for Topeka citizens.

Councilmember Campos II asked how many full-time and part-time TMTA employees there are; how transfers could be extended; and if TMTA foresees a 24 hour transfer in the future. He commended TMTA for the creative ways they incorporate federal funding.

Susan Duffy stated there are currently 83 filled positions and a few internships and no part-time employees at this time; however, the City shares a Planner position employee with TMTA. She stated transfers are approximately 90 minutes which is very typical; however, TMTA is reviewing new fare mediums and new information from the fare boxes to see what type of changes need to be made.

Rodney Miller stated if TMTA were to route buses to outside city limits such as, the MARS North America Chocolate facility it would cost approximately \$8 to \$9 million. He stated TMTA is looking at different options at this time such as how the city of Lawrence handles their route system to outside areas.

Councilmember Schwartz stated TMTA has some of the cleanest buses she has rode in and the bus drivers interact with regular riders. She noted she has attended many Safe Streets meetings where TMTA representatives have attended. She commended TMTA for being involved in looking for ways to help the community.

Susan Duffy stated the TMTA bus operators are extremely professional and truly care about the people they are transporting throughout the city.

Councilmember Campos II moved to add a resolution granting The Brass Rail Tavern a noise exception to the consent agenda. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

Mayor Wolgast announced the resolution would be added to the Council agenda under the consent agenda as item 4C.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of March 11, 2014, were presented.

Open After Midnight License applications were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Applebee's	5928 SW 17 <sup>th</sup> Street
Brass Rail Tavern	401 NE Emmett Street
California BP	2740 SE California Avenue
College Hill Pizza Pub	1418 SW Lane Street
Cousins	1211 S Kansas Avenue
Denny's #7268	1500 SW Wanamaker Road
Denny's #7269	3210 SW Topeka Boulevard
Dillons #87	5311 SW 22 <sup>nd</sup> Place
Dillons #88	4015 SW 10 <sup>th</sup> Street
Flamingo Bar & Grill	2335 SW Clay Street
Gage Center Bowl	4200 SW Huntoon Street
Goose Again	5630 SW 29 <sup>th</sup> Street
Hy-Vee #1658	2951 SW Wanamaker Road
Hy-Vee Gas	6011 SW 29 <sup>th</sup> Street
Holiday Square Phillips	2901 SW Topeka Boulevard
Kicks 66	3300 SW Gage Boulevard
The Landmark	605 SW Fairlawn Road
Old Chicago	1231 SW Wanamaker Road
Specks Bar & Grill	2105 SW Mission Avenue
Starlite Skate	301 SE 45 <sup>th</sup> Street
Steak-n-Shake	1415 SW Wanamaker Road
Taco Bell	101 SE 29 <sup>th</sup> Street
Taco Bell	1560 SW Wanamaker Road
Taco Bell	2013 N Topeka Boulevard
The 20's	2910 SW Oakley Avenue

BUSINESS NAME  
Theatre Club of Topeka  
United Outlets  
United Outlets

ADDRESS  
3028 SW 8<sup>th</sup> Avenue  
2315 NW Topeka Boulevard  
4732 SW Topeka Boulevard

RESOLUTION NO. 8602 introduced by Councilmember John Campos II, granting Brass Rail Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

Councilmember Schmidt moved to approve the consent agenda as amended. The motion seconded by Councilmember De La Isla carried. Councilmember Ortiz voted “no.” (8-1-0)

ORDINANCE NO. 19895 introduced by City Manager Jim Colson, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located at the northeast corner of SW 17<sup>th</sup> Street and SW Urish Road within unincorporated Shawnee County, Kansas, and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading March 11, 2014, was again presented. (A14/I)

Bill Fiander, Planning Department Director, reported the applicant requested annexation in order to develop property located at the northeast corner of SW 17<sup>th</sup> Street and SW Urish Road, with a mixture of commercial, office and multi-family residential land uses. He stated all essential public utilities, services and facilities are presently available and would not be overburdened by the annexation and the applicant would be responsible for paying for the infrastructure within the proposed development.

Mayor Wolgast distributed a letter from Nancy and Paul Kindling, area residents, who expressed concern with the property becoming an empty commercial development. He asked Mr. Fiander to clearly state the action being considered by the Governing Body.

Bill Fiander stated the Governing Body is considering the annexation request at this time. He reported the applicant would be required to follow the planning process to determine the type of land uses and receive approval from the Council.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried. Mayor Wolgast voted “yes.” Councilmember Manspeaker voted “no.” (9-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, Everhart, De La Isla, Schwartz, Schmidt, Harmon and Mayor Wolgast -9. Noes: Manspeaker -1.

APPROVAL of an amendment to the Interlocal Cooperation Agreement between the City of Topeka and Shawnee County relative to the Joint Economic Development Organization (JEDO) was presented. (*Contract No. 43522*)

Mary Feighny, Deputy City Attorney, reported approval would amend the current interlocal cooperation agreement to change the contract term for economic development from a one-year term to a three-year term. She noted the Shawnee County Commissioners approved the amendment on March 3, 2014.

Councilmember Ortiz moved to approve the interlocal cooperation agreement. The motion was seconded by Councilmember Schmidt.

Joseph Ledbetter expressed concern with the amendment because it would extend past 2016 when the sales tax sunsets. He spoke in support of the Request for Proposal process because it allows for good competition. He stated he believes there is no transparency, benchmarks or public trust in GO Topeka.

Councilmember Campos II asked Mr. Ledbetter to provide suggestions on how to follow Kansas Open Records Act (KORA) regulations without jeopardizing the details of potential economic development with large corporations.

Joseph Ledbetter stated KORA allows for exceptions to specific information; however, those exceptions should not be abused and noted the public is interested in the financial workings of GO Topeka not the details of potential economic development. He reported there has never been any attempt that he is aware to include language in the contract that would reference any KORA regulations.

The motion to approve the interlocal cooperation agreement carried. Mayor Wolgast voted “yes.” Councilmember Manspeaker voted “no.” (9-1-0)

DISCUSSION only relating to the Countywide Half-Cent Sales Tax was presented.

Jim Colson, City Manager, stated the objective of the discussion is to provide the Council with the latest information on the Countywide Half-Cent Sales Tax that expires in 2016, as well as, provide an opportunity for the Council to discuss the issue and how to proceed. He reported public meetings were held and a non-scientific survey was conducted with a total of only 554 participants. He stated street improvements would continue, as well as, economic development; however, other ideas were brought forward in the survey including funding improvements to the Kansas Expocentre, Topeka Zoo and bikeways. He asked the Governing Body to discuss the number of years they would support for an extended sales tax program; terms of expenditures; how the City should move forward with the program; and what type of language should be included for the ballot question. He reported the extension of the Countywide Half-Cent Sales tax question could be placed on the August or November 2014 ballot.

Chad Sublet, City Attorney, stated he concurs with the statements made by the City Manager and noted the format in the which the sales tax question will be presented to voters will remain the same.

Councilmember Schwartz questioned if the amendment (three-year extension) to the interlocal agreement with Shawnee County for the Joint Economic Development Organization would be null and void if the sales tax is not extended past 2016.

Councilmember Ortiz stated it was her understanding the City would not be required to partner with Shawnee County to extend the Countywide Half-Cent Sales Tax; however, the City could approve the Citywide Sales Tax extension. She noted she voted against the Countywide Half-Cent Sales Tax which included the keyword 'existing' because Council District No. 3 and others do not have 'existing' curbs, gutters and sidewalks; therefore, constituents pay for projects those areas would never be eligible for. She stated she would bring this issue to the table to make sure all citizens would benefit.

Councilmember Campos II stated he concurs with Councilmember Ortiz and believes there is an opportunity to fill the gap in the City. He expressed concern that there is no language addressing economic development and asked if staff has reviewed the ballot language being proposed by Shawnee County. He stated sales tax affects all people, including low-income households and as a Governing Body they should consider the effects the extension would have on constituents in Council District No. 2.

Jim Colson stated he would make sure the city is represented well as a whole, and street projects would continue to support the growth of the city's core and outer edges. He reported that the City could implement a sales tax; the City has taken no action on the issue; he has not seen the draft language being proposed by Shawnee County; and Shawnee County has recently

discussed a 20 year time period. He explained moving forward the sales tax issue would go to a vote of the people, and if approved, the tax would begin in 2017, replacing the existing tax for a period of 15 to 20 years. He reported the JEDO contract amendment includes language that makes the contract null and void if the tax sunsets; and it was his understanding, the \$5 million currently earmarked for economic development would remain that way and include Zoo improvements and other projects.

Mayor Wolgast suggested a certain percentage of sales tax funds could be set aside for economic development instead of a set dollar amount.

Councilmember Manspeaker asked if the City could propose a sales tax to the voters for approval without a list of proposed projects. He stated the percentage the City receives is a portion of the funding set by state statute and the Federal government uses a formula for disbursement. He noted the City has exempted itself of sales tax increases in the past through interlocal agreements. He expressed concern with a 20 year commitment and how it relates to the timeline for proposed projects.

Chad Sublet, City Attorney, stated the City is not required to identify projects when proposing a sales tax and noted the City would still receive a portion or percentage of sales tax revenues under the formula used for disbursing funds required by state statute.

Jim Colson asked Governing Body members if they would support a 15 or 20 year time period and noted bonding projects would correspond by priority and life span of each project.

Councilmember Manspeaker stated he struggles with the City not being included in discussions with Shawnee County in regards to extending sales tax. He stated there are things missing in the community and he believes what is being presented would maintain the status quo; therefore, he would prefer creative thought is given to how the sales tax extension could



impact and benefit citizens. He noted quality of life can also include infrastructure and if spent efficiently, could create a return moving forward. He spoke in opposition of the current form of Countywide Half-Cent Sales Tax because he believes there is no value for the homeowners.

Councilmember Harmon spoke in support of the discussion and committed to continuing to work on the issue. He stated he approves of the three categories: Quality of Life; Economic Development; and Infrastructure/Road Projects and is pleased with the bikeways, trails and Zoo receiving high marks. He stated that he was amazed at the number of citizens that utilize trails and would like to see it expanded, such as the pedestrian path along the Kansas River Levee and hopes work would continue in this area. He asked how Public Works plans to coordinate projects if the extension of the Countywide Half-Cent Sales Tax is approved.

Councilmembers Everhart and Campos II questioned why there were street improvement projects for SE California Avenue and NE Seward Avenue included on the proposed list of projects to be funded with sales tax revenues when the projects are already included in the upcoming Capital Improvement Program.

Doug Whitacre, Public Works Director, reported the project list was created from town hall meetings priorities and also by reviewing major routes where improvements would be most beneficial to all citizens. He stated the project list would have to be revised depending on what funds are available. He noted there are no projects that are included in the Capital Improvement Program that are also included on the proposed list; however, there may be some projects that need to be extended beyond what is include in the Capital Improvement Program.

Councilmember Schmidt stated the current sales tax does not fund quality of life issues; therefore, it is important for the Governing Body to understand how economic development and quality of life intertwine and are linked to a successful community that grows. He encouraged

the Governing Body not to separate these two areas because parks, trails and recreation areas are what attract and retain citizens in a community. He suggested the Governing Body study the impact of these projects from each standpoint before presenting the list to voters.

Neil Dobler, The Greater Topeka Chamber of Commerce Board Chair, stated the sales tax discussion needs to represent the cooperation between the City, County and private sector entities to educate the public on good initiatives that affect quality of life which is very important. He reported the Topeka Boulevard Bridge project started the process and has been completed successfully.

Councilmember Campos II asked if the private sector would support the purchase of fire and police equipment with the sales tax revenues.

Neil Dobler stated he believes it is a balance of how funding is allocated and the types of projects listed. He spoke in support of good initiatives supported by both the City and County Governing Bodies.

Councilmember Manspeaker stated he agrees that quality of life issues, street projects and public safety should be reviewed although he is unsure about funding police and fire vehicles with sales tax revenues. He noted it makes sense to fund projects that are bricks and mortar with a long-term sales tax; however, he believes if it is planned poorly roads could be built that are not needed. He encouraged the Shawnee County Commission to support the entire county, not just the area outside city limits.

Councilmember Hiller stated she is excited and agrees with many of the comments made concerning the sales tax. She explained she prefers that money is spent in the City, as well as, review projects the City is funding on the edges of town for possible development. She noted she has always been interested in ways the City could become debt free moving towards the

future and is comfortable paying cash for Capital Improvement Program projects when possible. She suggested a seven (7) year program at this time for a manageable life span while the City and County are restructuring major programs (Capital Improvement Program, master plans etc.). She noted she has looked at some specifics and drafted preliminary figures of the following projects:

- \$5 million to finish the Bikeways Plan
- \$10 million to complete the Trails System in 5 to 7 years
- \$600,000 to purchase Way-finding signs to be placed in the city and county
- \$1.9 million to build a Velodrome
- \$30 million for Street Improvement projects with 70% of street miles improvements being implemented within city limits

Councilmember Hiller also listed larger projects in the Capital Improvement Program that could possibly be rescheduled. She reported the list totals \$85 million for a large variety of investments and could allow the City to lower the mill levy cap from \$9 million to \$4 million for those seven years which could potentially save taxpayers approximately \$16 million in financing costs. She encouraged the Governing Body to review the perspective and provide input.

- New Fire Station -\$3.7 million serving citizens and potential growth
- South Water Tower -\$4.5 million to serve industrial growth
- South Topeka Fire Station -\$4.3 million
- Kansas Expocentre -\$25 million

Councilmember Everhart stated Shawnee County is drafting the ballot question not the City; however, there are people across the County expressing the importance of infrastructure as the most important issue. She noted there has been good discussion on the issue but there are projects needed all across the county which includes the city of Topeka.

Councilmember Manspeaker stated he does not believe bikeway projects, trail projects, way-finding signs, and the velodrome are a priority because, in his opinion, some of these are not

the City's responsibility. He spoke in support of infrastructure projects; however, he noted it is important to plan ahead to make sure all areas of the city are receiving equitable services.

Mayor Wolgast stated economic development is an important component which was started ten years ago. He asked the Council to look at the total city-county perspective and to be aware of streets in need of repair in every district, as well as, quality of life issues. He stated compromise must happen and open communication will have a significant impact. He thanked the City Manager for initiating the discussion.

Councilmember Schwartz stated citizens want to provide more input even though the survey results were very low. She suggested spending money to communicate with the public and get citizen involvement.

Councilmember Schmidt stated many of the sales tax projects are fairly basic infrastructure which benefits the community as a whole and quality of life and economic development projects affect everyone.

Joseph Ledbetter spoke in opposition of a 20 year sales tax extension and expressed concern with the decrease of jobs in the community from the current economic development program. He suggested scheduling more town hall meetings to involve small business owners to gather public input and include the ballot question in the General election in November because it would have a larger voter turnout and provide additional time to engage the public in the process. He reported he understands the Kansas Expocentre is in need of some repairs; however, he would suggest including social services in the sales tax proposal to support quality of life. He stated a seven (7) year extension is not a bad idea; however, the City should discuss where projects would have the most benefit. He suggested the Governing Body also discuss the levees which have not been fixed, widening SE California Avenue to five lanes, adding turnpike access

on California Avenue and affordable housing. He also stated he believes the last sales tax was a failure because there was no clear plan for economic development and it was too ambiguous. He distributed statistics regarding economic development job losses and asked the Governing Body to carefully consider the statistics and accomplish true economic development, quality of life and infrastructure.

Jim Colson asked the Governing Body to provide direction on how the City should proceed in regards to engaging Shawnee County on the Countywide Half-Cent Sales Tax.

Councilmember Hiller asked if there was a plan to gather public input because she believes the City of Topeka Governing Body members, as well as, the Shawnee County Commissioners should be personally engaged in the process of educating the public and gathering input.

Councilmember Manspeaker stated he disagrees with Councilmember Hiller and would prefer City of Topeka staff members manage the public input process.

A Retail Cereal Malt Beverage License application for Super Store located at 2121 SW Wanamaker Road was presented.

Councilmember Ortiz moved to approve the retail cereal malt beverage license application. The motion seconded by Councilmember Campos II carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

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

Jim Colson, City Manager, introduced Brandon Kauffman, City of Topeka Chief Fiscal Officer and Controller. He congratulated Ron Miller, Topeka Police Chief, for his nomination as

U.S. Marshal for the State of Kansas by U.S. President Barack Obama. He reported Chief Miller plans to assist with the transition process and selection of a new Police Chief.

Mayor Wolgast stated it has been an honor and the city of Topeka and Topeka Police Department have been fortunate in having the opportunity to work with Police Chief Ron Miller. He distributed a resolution opposing the changes to local elections proposed by the State Legislature and noted many cities have verbally opposed the change. He encouraged Councilmembers to contact State representatives on the matter and provide their input on the issue.

Councilmember Manspeaker congratulated Police Chief Ron Miller for his nomination as U.S. Marshal for the State of Kansas and stated the nomination is a testimony to his hard work and dedication. He expressed concern with Councilmembers circumventing the administrative process outlined in the charter ordinance in regards to contacting City staff for information. He stated it is great to be informed and have a firm grasp of knowledge; however, he would appreciate if Governing Body members would follow the established process, as there are operational costs associated with consuming large amounts of staff time.

Chad Sublet, City Attorney, stated his office would send a memorandum to the Governing Body explaining the process for requesting information from City staff members.

Councilmember Schwartz commended Jim Green, City Emergency Management Coordinator, for hosting CPR classes and encouraged everyone to participate in taking the course. She reported Nextdoor.com is a wonderful tool to help communication throughout neighborhoods in Topeka and stated she has already established 20 contacts for her neighborhood. She thanked City staff for introducing the website and hopes many more residents will get involved in the community program.

Councilmember Schmidt thanked Topeka Police Chief Ron Miller for his service and congratulated him on his nomination for U.S. Marshal for the State of Kansas. He reported the St. Patrick's Day Parade events were well attended, and it was nice to see the downtown area vibrant. He thanked the event sponsors for their contributions and hopes more successful events are planned in the downtown area.

Councilmember Hiller thanked Topeka Police Chief Ron Miller for his services and commended him for his recent nomination of U.S. Marshal for the State of Kansas. She reported members of the Bikeways Advisory Committee would be traveling to Oklahoma City, Oklahoma, in March to participate in the "Open Streets" event. She invited Councilmembers to contact Andy Fry, Topeka Community Cycle Project at 608-1947 for more information or if they are interested in attending the event. She thanked Mayor Wolgast for presenting the resolution concerning changes to local elections and asked if there was anything the Governing Body should do in addition to contacting the State Legislature and informing them on their stance.

Councilmember Ortiz expressed appreciation to Topeka Police Chief Ron Miller for his work and dedication to the citizens of Topeka. She announced the Public, Health and Safety Committee is scheduled to meet on March 24, 2014, at 12:00 p.m. in the Executive Conference Room at City Hall located at 215 SE 7th Street to discuss the ordinance concerning riding bicycles on sidewalks.

Mayor Wolgast stated the most important thing Councilmembers could do at this time, is to speak with State Legislators and citizens about the proposed changes to local elections.

Frank Hoge appeared to speak under public comment.

Councilmember Everhart moved to recess into executive session for a time period not to exceed 30 minutes to discuss Employer-Employee negotiations and to include the City's Legal

Department, Human Resources, Financial Services, City Manager and Governing Body. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

Councilmember Everhart moved to continue the executive session for another 30 minutes to discuss Employer-Employee negotiations and to include the City's Legal Department, Human Resources, Financial Services, City Manager and Governing Body. The motion seconded by Councilmember DeLaIsla carried unanimously. (9-0-0)

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At 9:45 p.m., Mayor Wolgast announced the executive session was adjourned with no action taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:45 p.m.

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Brenda Younger  
City Clerk