

Council Minutes – December 2, 2014

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 2, 2014. 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, Everhart, Manspeaker, Schwartz, Schmidt and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember De La Isla -1.

AFTER THE MEETING was called to order, Mayor Wolgast asked for a moment of silent meditation.

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

Councilmember De La Isla entered the room.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Toby Taggart to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of Keith Finney to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of Matthew Werner to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of William Brown to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of Jim Grunewald to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016, was presented.

BOARD APPOINTMENT recommending the appointment of David Heit to the Topeka Landmarks Commission an unexpired term ending January 31, 2016, was presented.

MINUTES of the regular meeting of November 25, 2014, was presented.

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

ORDINANCE NO. 19931 introduced by City Manager Jim Colson, amending City of Topeka Code Section 3.40.030, establishing a service fee levy for 2015 relating to the Capital City Downtown Business Improvement District and specifically repealing said original section was presented.

Doug Gerber, Administrative and Financial Services Director, reported approval would authorize the 2015 service fee for the Downtown Business Improvement District and noted there would be no increase for 2015.

Vince Frye, Downtown Topeka Inc., provided brief comments on Downtown Topeka Inc.'s (DTI) history and the Capital Business Improvement District Advisory Board which oversees the Downtown Business Improvement District. He discussed DTI's Vision, duties and downtown events which brought over 100,000 people to the downtown area. He reported DTI has created and launched a new website at www.downtowntopekainc.com to promote the District and its many activities, as well as, social media promotions Facebook and Twitter. He stated DTI has also produced two CBID newsletters to all downtown businesses providing timely information on activities in the Business Improvement District (BID).

Councilmember De La Isla questioned if research has been done to see how the tax is being assessed so BID service fees could possibly assist in occupying the vacant buildings in the downtown area.

Vince Frye stated DTI is working with investors and organizations such as Visit Topeka to look for opportunities to bring more businesses to the downtown area.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Brown carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Brown, Ortiz, Everhart, De La Isla, Manspeaker, Schwartz, Schmidt, Harmon and Mayor Wolgast -10.

RESOLUTION NO. 8657 introduced by City Manager Jim Colson, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8567 was presented.

Chad Sublet, City Attorney, reported approval would fulfill the state requirement that the boundary of the city is declared by the end of each year when area has been added to the city limits.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Schmidt carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

APPROVAL of funding recommendations by Alcohol and Drug Abuse Advisory Council in the amount of \$600,000 for the 2015 Special Alcohol Fund was presented.

Jim Colson, City Manager, reported the recommended amount of \$600,000 is based on the projected Liquor Tax collected by the State. He stated the funds are required to be allocated to alcohol and drug programs and is the same amount allocated in 2014.

Max Wilson, Alcohol and Drug Abuse Advisory Council Chair, briefly discussed the recommendations by the Alcohol and Drug Abuse Advisory Council. He reported they would watch the 2015 Legislative Session closely in regards to loss of funding as it would have a direct impact on social detoxification programs such as Valeo, as well as, Medicaid dollars.

Councilmember Ortiz asked why the United Way and Kansas Children's Service League Successful Connections Drug Endangered Child (DEC) Program went from \$0 in 2014 to \$14,000 for 2015; and if CASA would receive funding in 2015.

Max Wilson stated the United Way's Successful Connections DEC Program operates as a point of early identification and referral for DEC Case Management services for pregnant women and families with children 0-5 years old living in Shawnee County who are currently or have recently used substances. He noted CASA would not receive funding in 2015 because they do not provide any programs with a primary response to alcohol or drug treatment.

Councilmember Brown asked about the scoring used to determine the funding recommendations.

Max Wilson stated the Advisory Council determines the scores based on priority of evidence-based programs, local boards of control and oral presentations.

Councilmember De La Isla moved to approve the funding recommendations for 2015. The motion seconded by Councilmember Schwartz carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

RESOLUTION NO. 8658 introduced by City Manager Jim Colson, authorizing and providing for the public sale of taxable full faith and credit STAR Bonds, Series 2014-A (Heartland Park) of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive K.S.A. 12-17, 160 et seq., all as amended and supplemented was presented.

Jim Colson, City Manager, stated it is his intent to ensure the Governing Body fully understands the process and result.

Doug Gerber, Administrative and Financial Services Director, reported approval would allow the City to move forward with the necessary actions to permanently finance the costs to

acquire certain interest in real estate in the Heartland Park Redevelopment District and approve the proposed addition to the existing redevelopment district. He stated the bond would fund part of the costs of constructing and completing certain improvements in the district. He noted the sale of the STAR Bonds would be presented to the Governing Body for approval at the December 16, 2014, Council meeting.

Chad Sublet, City Attorney, stated this action is consistent with the Memorandum of Understanding between the City of Topeka, Visit Topeka, Inc., Jayhawk Racing Properties, L.L.C., and the Kansas Department of Commerce, as well as, the Workout Agreement moving forward.

Councilmember Harmon questioned what would happen if the appeal is successful and the bonds have been issued.

Chad Sublet reported state statute outlines in order to prevent the City from moving forward with issuing the bonds, there would have to be a Stay in Proceedings issued by the Shawnee County District Court, which has not yet been filed. He noted the appeal filed by Mr. Imming's attorney does not have any effect on the City moving forward with the bond sale. He stated if the Council would like to discuss potential litigation that it would be best to recess into executive session.

Councilmember Harmon moved to recess into executive session for a time period not to exceed 20 minutes to discuss potential litigation regarding Heartland Park and to include the Governing Body, City Manager and City Attorney. The motion seconded by Councilmember Brown carried unanimously. (9-0-0)

At 6:50 p.m., the Council reconvened into open session and Mayor Wolgast announced no action had been taken.

Councilmember Hiller provided a brief report on the public meeting conducted to discuss the Heartland Park STAR Bond District held on December 1, 2014 at Terry's Bar & Grill. She stated there were 80 people in attendance with the focus of discussion on the risk of \$10 million net revenue loss to the entire community if racing events did not happen at Heartland Park versus the proposed plan to keep it operating. She reported of those in attendance 60% supported the current proposal by the City; and no one proposed a better plan.

Councilmember Schwartz spoke in opposition of the proposal because she believes the public did not have sufficient opportunity to voice their opinions.

Councilmember Brown stated the public meeting was conducted respectfully and believes those that attended have a greater understanding of the proposal.

Councilmember Hiller asked if the City would be responsible for more investment in the future. She expressed concern with the NHRA pre-commitment agreement which she believes is fairly standard; however, many constituents feel it is risky for the City. She questioned if the preliminary commitment would be assigned to the new operator; if the Council could preview the bids prior to the December 16, 2014 Council meeting; and if December 16, 2014, is the final deadline to approve the bonds.

Jim Colson stated it is not anticipated the City will invest additional funds in Heartland Park; the Request for Proposal is very clear that the winning bid would be responsible for all funds and responsibilities. He reported the bid date has not yet closed; however, he would endeavor to provide as much information to the Council as possible prior to December 16, 2014.

Doug Gerber stated if the Governing Body has any concerns, they should be voiced at this time. He reported on December 16, 2014, the bonds would be priced and sold; however they risk

the City's reputation for future bond transactions if there are delays in finalizing the transaction by December 31, 2014.

Jim Colson reported this bond transaction has not been any different than other bond transactions the City has completed; it just has a higher level of focus by the community.

Nick Scott spoke on behalf of those who support the proposal and bond issuance. He stated the proposal is apparently in the best interests of citizens and the City of Topeka. He noted Heartland Park brings in much revenue to the community and encouraged the Governing Body to approve the resolution.

Councilmember Schmidt moved to approve the resolution. The motion seconded by Councilmember De La Isla carried. Mayor Wolgast voted "yes." Councilmembers Manspeaker, Schwartz and Harmon voted "no." (7-3-0)

There were no retail cereal malt beverage or scrap metal dealer license applications.

DISCUSSION relating to the nomination process for two national historic districts in Downtown Topeka was presented. Jim Colson, City Manager, stated there are often questions on the implications of future development and the financial benefits of historic district designations.

Bill Fiander, Planning Department Director, facilitated the discussion and provided an overview of the historic district designation process that is currently underway. He reported there are two areas being considered for a historic district, (1) Kansas Avenue Industrial District which is the west side of Kansas Avenue at 1st Street and Kansas Avenue (6 properties); and (2) the Downtown Core which is 6th to 10th Streets, Kansas Avenue from Jackson to Quincy including the Municipal Building. He noted a historic district does not force repairs or property maintenance; however, it works similar to the process of a zoning overlay. He reported 32 cities in Kansas have historic districts, with the majority being created since 2001 when the tax credit

program was created; and the City of Topeka has four national historic districts with the age of buildings ranging from the 1880s to 1965. He commented on the benefits of a historic district which include 25% tax credits from the State and 20% tax credits from the Federal government.

Councilmember Harmon asked if consideration was given to extend the north boundary of Kansas Avenue to include the United States Postal Service building and many historical buildings on the west side of Kansas Avenue, west of the Law Enforcement Center.

Bill Fiander reported consideration was given; however, historic district areas have to be cohesive. He noted the State of Kansas has already initiated the process for the United States Postal Service building and it is already being considered as a historical building.

Councilmember Hiller commended the progress on the work done thus far and spoke in support of the wonderful opportunities that a historic district could provide. She asked how much in tax credits would a governmental entity receive from a \$1 million investment; if tax credits are available yearly; and are tax credits a better benefit to an individual or a district.

Bill Fiander stated the return on a \$1 million investment would be \$225,000, a 25% return on investment whether it is for an individual or a district. He noted tax credits are available every year and could be used repeatedly.

Councilmember Schwartz asked if there has been any follow up with the state on the designation of the Capitol Building's eligibility for the international historical registry.

Bill Fiander stated he would research the status and report back to Councilmember Schwartz.

Councilmember Hiller asked if all buildings in the district would receive tax credits.

Bill Fiander stated only eligible buildings that are at least 50 years old within a historic district would receive tax credits.

Vince Frye, Downtown Topeka Inc., spoke in support of the historic district designation which gives great opportunities for redevelopment, incentives and reinvestment in the downtown area. He reported DTI met with all downtown business owners in October 2013 to discuss the designation and they all support the process.

Mayor Wolgast stated it is a great opportunity for the downtown area and the process has come a long way.

Councilmember Harmon questioned the number of historical buildings along the Kansas Riverfront and asked if there has been any consideration given to designating a second district in this area. He suggested expanding the focus and tax incentives along the riverfront for development opportunities in the future.

Bill Fiander reported the riverfront area was not in the original recommendation because the buildings are not cohesive; however, he could discuss it further with the consultant to ensure this area could be considered in the future.

Councilmember Schmidt asked if the tax credits could be used as match money for other historic preservation grants and potentially strengthen the funding to rehabilitate structures.

Bill Fiander stated it would not necessarily be a match because property owners expend the money upfront and document what has been completed for reimbursement, whereas, property owners make application for tax credits prior to doing the work. He noted if a property owner is doing a project to meet a certain standard then the tax credits could be used as an additional tool.

Councilmember Hiller stated the core urban program has shown that tax credits bring investors to an area that may need many layers of financing to complete redevelopment.

DISCUSSION regarding legislative priorities identified by the Council to be addressed or monitored during the 2015 Legislative Session was presented. Jim Colson, City Manager,

reported the objective of the discussion was to determine initiatives that were consistent with topics discussed by the Governing Body. He stated he would like to start with an overview of the legislative agenda process; discuss the budget challenges at the State level; and finish with specific item recommendations.

Whitney Damron, City Lobbyist, reported City Manager Jim Colson is scheduled to present comments to the Shawnee County delegation on December 8, 2014. He commended Mayor Wolgast for his participation and support of the abandoned housing issues. He reported there has been a significant effort made by the City and others on the scrap metal issue which will appear in the 2015 Legislative Session.

Kathy Damron, City Lobbyist, discussed the budget issues facing the 2015 Kansas Legislature which could include a \$278 million revenue shortfall projected for FY 2015; a \$435 million revenue shortfall projected for FY 2016, all resulting in a reduction in workforce for the State of Kansas; the possibility of the school finance decision being handed down; and revenue shortfalls in Medicaid. She stated this legislative session would have an incredible amount of focus on the current budget and future budgets.

Councilmember Schmidt asked when the court ruling on education funding would be available.

Kathy Damron stated the court was asked to rule on the adequacy of educational funding before the 2015 Legislative Session begins.

Whitney Damron highlighted the City's proposed 2015 Legislative Agenda initiatives.

- Support legislation which would allow the City to take possession of abandoned homes through a judicial quit claim deed and sell the home or repurpose it for community development purposes.

Councilmember Hiller requested an update on the abandoned housing conference scheduled on December 4, 2014 before the resolution is presented to the Council for approval.

- Oppose the reduction or elimination of motor fuel tax payments to local municipalities.

Councilmember Schmidt suggested the Council consider listing all funds including the alcohol and drug fund to protect all fee funds allocated to local government entities.

Councilmember Hiller asked if the City should partner with associated organizations such as Shawnee County on this issue.

Whitney Damron stated they meet with all municipal lobbyists on a regular basis.

- Support review and discussion of tax policy in Kansas, but oppose change that would negatively impact or shift state responsibilities to the local units of government.
- To the extent it is consistent with our priorities and agenda, the City of Topeka supports the League of Kansas Municipalities' 2015 municipal policy, including opposing any restrictions on the use of state and local public moneys to provide information and advocate on behalf of cities and our citizens.
- Eliminate the dual majority requirement of K.S.A. 12-352(e) which prohibits adoption of city/county consolidation unless a majority of electors residing in the City of Topeka and a majority of electors residing outside the City limits vote in favor of the proposed consolidation plan.

Councilmember Everhart questioned how realistic Item No.5 (elimination of the dual majority requirement as it relates to consolidation) would be due to the current financial status in State government. She spoke in support of the concept; however, she believes the State's fiscal and financial impact on the City should be their highest priority.

Whitney Damron stated he understands Councilmember Everhart's concerns and the challenges of the issue; however, he believes the Legislature should be made aware that what they are proposing would not work or create opportunity for true consolidation.

Councilmember Ortiz expressed concern with scrap metal issues and stated it continues to be a priority for her and a major issue in Council District No. 3. She asked the issue be included in the City's 2015 Legislative Agenda to support stricter regulation of the sale and purchase of salvage and scrap materials.

Whitney Damron reported he has seen a proposal; however, it has not been finalized and includes very strict penalties and regulations, which in turn would require more funding to implement the proposal.

- Support for city elections to remain non-partisan and separate from state and national elections, and for cities to continue to determine when elections are held.

Councilmember Hiller stated the Government Review Committee recommended continuing to pursue a comprehensive long-term consolidation plan for City of Topeka and Shawnee County to be considered by the next Government Review Committee in 2024.

Jim Colson, City Manager stated a final resolution would be presented to the Governing Body for consideration at the December 9, 2014, Council meeting.

Councilmember Hiller distributed her amendments to the City's 2015 Legislative Agenda and outlined the addition of five items:

- Amend K.S.A. 8-1590 to remove the provision that prohibits bicyclists from riding on roads if there is a 'usable path' for bicycles adjacent to the road.
- Support efforts to advocate for the State Capitol's nomination as a World Heritage site.
- Support efforts to facilitate public tours of the State Capitol on the weekends.
- Support legislation that would reduce the local retailer sales tax minimum increment of .05%.
- Support legislation that would increase the interest rate for property tax delinquencies.

Councilmember Schmidt suggested adding support for the expansion of Medicaid to the City's 2015 Legislative Agenda. He stated many social services including medical services are at risk of being cut or diminished and in need of serious consideration.

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

Brenda Younger, City Clerk, provided an overview of the December 9, 2014, Council agenda.

Councilmember Schwartz announced a public informational meeting on the Heartland Park STAR Bond District would be held on December 8, 2014, from 5:30 p.m. to 7:00 p.m. at the Holliday Building located at 620 SE Madison in the 1st Floor Holliday Conference Room and encouraged the community to attend.

Councilmember Hiller announced the successful rehabilitation of property located at 1107 SW Taylor and thanked the Governing Body for their support of preservation in the community.

Councilmember De La Isla moved to recess into executive session for a time period not to exceed 10 minutes to discuss potential claims and to include the Governing Body, City Manager, Director of Administrative and Financial Services, City Attorney and staff. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

At 8:27 p.m., the Council reconvened into open session and Mayor Wolgast announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:27 p.m.

Brenda Younger
City Clerk