

Council Minutes – June 9, 2015

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 9, 2015. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz and Coen -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Harmon -1.

AFTER THE MEETING was called to order, Father Tim Haberkorn, Sacred Heart-St. Joseph Parish Church gave the invocation.

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

A PRESENTATION on the Human Relations Commission Troy Scroggins Award was provided by Mayor Wolgast. He stated the purpose of the award was to further the mission of the Human Relations Commission to conduct outreach and educational activities that promote justice and cultural understanding, and improve relationships among all citizens of the City of Topeka.

Stephanie Mott, Human Relations Commission, presented Dr. Sharon Sullivan with the Human Relations Commission Troy Scroggins Award for dedicating her life to making a difference to others.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8696 introduced by Councilmember Brendan Jensen, granting Travis Owens an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8697 introduced by Councilmember Sandra Clear, granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8698 introduced by Councilmember Sandra Clear, granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8699 introduced by Councilmember Sandra Clear, approving a special event known as 2015 Fiesta Mexicana was presented.

RESOLUTION NO. 8700 introduced by Councilmember Sandra Clear, granting a waiver to the provisions of City of Topeka Municipal Code Section 10.60.120 relating to parking on unimproved surfaces was presented.

BOARD APPOINTMENT recommending the appointment of Dr. Julie Swift to the Topeka-Shawnee County Public Library Board of Trustees for a term ending June 30, 2019, was presented.

BOARD APPOINTMENT recommending the appointment of Elizabeth Post to the Topeka-Shawnee County Public Library Board of Trustees for a term ending June 30, 2019, was presented.

BOARD APPOINTMENT recommending the appointment of Elizabeth (Beth) Dobler to the Topeka-Shawnee County Public Library Board of Trustees for a term ending June 30, 2019, was presented.

BOARD APPOINTMENT recommending the re-appointment of Elizabeth Ross to the Topeka-Shawnee County Public Library Board of Trustees for a term ending May 1, 2019, was presented.

BOARD APPOINTMENT recommending the re-appointment of David Monical to the Topeka-Shawnee County Public Library Board of Trustees for a term ending May 1, 2019, was presented.

MINUTES of the regular meeting of June 2, 2015, was presented.

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

RESOLUTION NO. 8701 introduced by City Manager Jim Colson, terminating the Bear Lake Subdivision No. 2 Street and Sanitary Sewer Improvement Projects; closing the respective improvement districts; and rescinding Resolution Nos. 8251 and 8252, was presented.

Brandon Kauffman, Chief Fiscal Officer, reported approval would terminate the improvement projects in Bearlake Subdivision No. 2, The Vineyard and Kansas Heritage Park; request reimbursement from the developer for design costs (\$227,455) and pay-off any outstanding temporary notes. He noted the projects were approved in 2010; however, the developer has not proceeded with any improvements to date and multiple efforts have been made by the City to understand the future of the development. He stated City staff believes it is no longer prudent to expend additional funds and resources to complete the projects.

Councilmember Jensen asked if the district could be reinstated at a later date if the resolution was approved.

Brandon Kauffman stated the district could be reinstated at any time; however, the developer would have to start from the beginning of the process as if it were a new improvement district.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Schumm carried unanimously. (9-0-0)

A PUBLIC HEARING and ORDINANCE NO. 19952 introduced by City Manager Jim Colson, apportioning and levying special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Sunflower Soccer Subdivision for

Sanitary Sewer Improvement Project No. T-401034.00 as defined and described in Resolution No. 8444, adopted and approved July 10, 2012, was presented.

Brandon Kauffman, Chief Fiscal Officer, reported in 2012, a 1% increase in Transient Guest Tax (TGT) was imposed for the purpose of paying for Sunflower Soccer Association improvements and flood insurance. He stated the improvements would be assessed to the property and title would be held in the City's name until the bonds for improvements were retired. He recommended a 12-year payment plan instead of a 17-year plan to save money and noted the Sunflower Soccer Association was able to use the additional TGT Funds generated as a down payment from the taxes collected starting in 2012, reducing the overall balance of the project cost.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak.

No one appearing, Mayor Wolgast announced the public hearing was closed.

Councilmember Ortiz stated the Sunflower Soccer Complex is a great place for sporting events and suggested they consider charging participants a parking fee to help offset the cost of the assessment.

Mayor Wolgast stated the Sunflower Soccer Complex is a great sports venue which generates sales tax and bed tax revenues for the City.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Noes: Harmon -1.

A PUBLIC HEARING and ORDINANCE NO. 19953 introduced by City Manager Jim Colson, apportioning and levying special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Sunflower Soccer Subdivision for Improvement Project No. T-131022.00, as defined and described in Resolution No. 8443, adopted and approved July 10, 2012, was presented.

Jim Colson, City Manager, reported approval would provide a restroom/concession facility, parking lot improvements, garage storage for equipment office space and a pro-shop for the Sunflower Soccer Association located at 4829 NW 17th Street.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak.

No one appearing, Mayor Wolgast announced the public hearing was closed.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Noes: Harmon -1.

A PUBLIC HEARING and ORDINANCE NO. 19954 introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas in the area of Lauren's Bay Estates Subdivision for Street Improvement Project No. 60632-01 as defined and described in Resolution No. 8025, adopted and approved December 18, 2007, was presented.

Jim Colson, City Manager, stated Lauren's Bay area special assessments have generated much discussion between residents and the City. He reported a public meeting was held on June 8, 2015, at the Wanamaker Wood Church of the Nazarene to address concerns and answer

questions regarding special assessments in Lauren's Bay Subdivisions.

Brandon Kauffman, Chief Fiscal Officer, reported the final cost of the project is \$5,089,251.41 spread over a 20 year period for a total cost of \$1,900 per unit (178 lots). He listed three options for repayment of the improvement project:

1. Assess 100% of the costs to the improvement district;
2. Set a varying interest rate to the improvement district; or
3. Assess 100% of the costs to the improvement district with the option to allow partial prepayments (*as recommended by City staff*)

Mr. Kauffman noted past practice has been to require the full amount of the costs to each lot be paid before assessing the amount to the property; however, staff believes the third option would be the most flexible and allow the cost of the assessment to be reduced, making the lots more appealing for development.

Councilmember Schumm asked what method would be used by the City to notify residents of the special assessments.

Brandon Kauffman reported upon publication of the ordinance in the Topeka Metro Newspaper, residents would receive a letter in the mail from the City Clerk's office notifying them of their payment options. He stated parcel owners will have 30 days to pay the special assessment before it will be assessed as a special tax to their property.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak.

Chuck Dultmeier spoke in support of the recommendation made by the City and noted it was the same assessment method used by Shawnee County, allowing developers to save costs.

Jennifer Sourk expressed concern with the high amount of special assessment costs associated with the lots and stated she would continue to work with the City on a solution that would develop the area and follow the land use plan.

Henry McClure expressed concern with limited access to the subdivision and stated he believes highway access would improve the sale of lots in the Lauren's Bay area. He suggested spending sales tax revenue on area developers that could produce quality projects and questioned if it would be possible to create a development district to stimulate housing developments and eliminate special assessments in Topeka.

Upon hearing no further comments, Mayor Wolgast announced the public hearing was closed.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Noes: Harmon -1.

A PUBLIC HEARING and ORDINANCE NO. 19955 introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Lauren's Bay Estates Subdivision for Water Improvement Project No. T-281004.00, as defined and described in Resolution No. 8080, adopted and approved July 15, 2008, was presented.

Jim Colson, City Manager, reported approval would pay for piping, fire hydrants and all other contingencies required for completion of the project.

Brandon Kauffman, Chief Fiscal Officer, reported the final cost of the project is \$765,381.94 with 93.03% paid by the Improvement District over a 20 year period which is approximately \$4,000.20 per lot or \$267 annually for 20 years.

Councilmember Clear asked what would happen if a property owner does not pay the special assessments.

Brandon Kauffman stated if a property owner could not pay the special assessment within the first three years of being assessed then Shawnee County would acquire the property and sell it in a tax sale and the City would obtain the parcel through a tax foreclosure sale.

Councilmember Hiller stated it was her understanding the retention pond project was intended to make a significant difference to the subdivision and the ability to sell lots. She asked if Shawnee County was developing a park in the area.

Chuck Dultmeier stated he donated park equipment for a neighborhood park; however, he does not believe there are any more parks planned for the development.

Councilmember Schwartz reported the neighborhood park maintained by Shawnee County at SW 47th Street and SW Vorse Road was having drainage issues and Shawnee County has been notified to rectify the issues. She reported there are three parking stalls planned for the pond area that will be maintained by the City.

Doug Gerber, Administrative and Financial Services Director, reported 7% of the project would be assessed to City utilities because the water line was upsized from 8 inches to 12 inches to accommodate area terrain.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak.

No one appearing, Mayor Wolgast announced the public hearing was closed.

Councilmember De La Isla moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Noes: Harmon -1.

A PUBLIC HEARING and ORDINANCE NO. 19956 introduced by City Manager Jim Colson, apportioning and levying special assessments on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Lauren's Bay Estates Subdivision for Drainage Improvement Project No. T-151001.00, as defined and described in Resolution No. 8120, adopted and approved October 21, 2008, was presented.

Jim Colson, City Manager, reported approval would address the costs for the two smaller retention ponds and the larger pond would be assessed at a later date.

Brandon Kauffman, Chief Fiscal Officer, stated the assessment for the two smaller ponds would affect 321 lots which would pay approximately \$30 per lot for the next 20 years.

Councilmember Schwartz thanked City staff for doing a great job at the public informational meeting on June 8, 2015. She questioned if the pond was City property; if people could fish in the pond; and if the City was liable of injury around the pond area because no safety signs have been posted to date. She asked how the City plans to proceed with erecting safety signs around the pond area and if the homeowners association would maintain vegetation in the pond area.

Mary Feighny, Interim City Attorney, reported the City is currently working with the homeowner associations in the area to develop safety signs for the pond area; and incidents that happen within the pond area would be handled in the same manner as other incidents that occur on City property. She stated the City has a contract with two of the Homeowner Associations; however, she would have to review the details and report back to the Governing Body.

Councilmember Hiller asked if the property would remain under the City until the bonds are paid.

Mary Feighny stated the property would revert to the individual property owners once the bonds have been retired.

Mayor Wolgast opened the public hearing and asked if there was anyone present who would like to speak.

Chuck Dultmeier thanked the City for holding the public informational meeting on June 8, 2015, to address the concerns and questions of area residents. He stated he believes it would be important and beneficial to work with Mr. Klausman to address the issues as he has many great ideas for the area.

Upon hearing no further comments, Mayor Wolgast announced the public hearing was closed.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Schumm, De La Isla, Jensen, Schwartz, Coen and Mayor Wolgast -9. Noes: Harmon -1.

Mayor Wolgast thanked everyone who has participated in this process and stated the City would continue to work on the issue for a good resolution.

DISCUSSION regarding the use of City Retailers' Half-Cent Sales Tax for the purpose of improving neighborhood streets was presented.

Jim Colson, City Manager, reported the concept of street improvements has been a topic of discussion for many years and people are recognizing that the City has made some progress; however, they are still concerned with residential streets. He stated in reviewing the City's sales tax revenues over the past four years, the challenge has been to look at available funding sources and the City's capacity to address the issues. He noted the City has drafted an aggressive street, sidewalk and alley improvement plan in an effort to make a significant difference.

Doug Whitacre, Public Works Director, reported the aggressive approach to street improvements started in 2010, resulting in the improvement of 44 miles of major arterial streets in conjunction with a \$44 million investment for those improvements. He noted the original plan identified improving residential streets in 2016; however, some residential street projects began in 2014. He stated the Complete Streets Program would concentrate on neighborhood streets in addition to the Half-Cent Sales Tax projects identified in the Capital Improvement Plan (CIP). He referenced the 2006 pavement rating data submitted by Stantec Corporation which was used as a starting point for the improvement projects and distributed a map outlining the Neighborhood Road Pavement Quality Index (PQI) and a map of Neighborhood Road Projects by Year (2014 to 2016). He commented on conducting a comprehensive study to clarify and revise the Stantec Study to help better understand what streets need to be addressed, as the condition of streets have changed in the last four to five years. He stated they plan to conduct neighborhood meetings to inform area residents of street closures as each project is implemented.

Jim Colson stated the City plans to spend \$8 million a year for the next five years with the intent of making a significant difference in the improvement of residential streets.

Mayor Wolgast clarified that the City would continue to repair major arterial streets as well as residential streets and noted the Governing Body must approve each project budget before any street projects would move forward.

Jim Colson stated staff would come back before the Governing Body with a more complete plan once the Governing Body and public have provided input on the matter.

Councilmember Clear asked how sidewalks, curbs and gutters would fit into the projects.

Doug Whitacre stated existing curbs and gutters would be constructed when repairing a street with Half-Cent Sales Tax funds; however, if there were not existing sidewalks, curbs or gutters then another funding source would have to be identified.

Jim Colson stated staff is reviewing other funding sources to address sidewalk, alley and utility issues because they understand more work needs to be done.

Councilmember Schumm commended staff for their aggressive approach to improve the city as a whole and expressed his support of repairing and improving streets. He stated he believes the plan would hold the Governing Body accountable to the expectations of citizens as well as provide a better communication tool for the community.

Councilmember Jensen stated the plan was a great start; however, he believes a larger master plan should be completed for all street projects over a 20 to 30 year timeline so the City could work towards the maintenance of streets instead of major improvements. He asked how often the Stantec data was updated.

Councilmember Ortiz asked if there were funds available for street maintenance and if gravel streets could be considered “existing” streets in order to utilize Half-Cent Sales Tax funds.

Doug Whitacre reported the Half-Cent Sales Tax can be used for existing streets; however, staff is looking into other ways to implement an overall pavement management system.

Councilmember Harmon entered the room.

Jim Colson stated the ballot question language regarding sales tax is frustrating; therefore, it is an expectation to build a sizable budget into the street maintenance program and have the flexibility to address unexpected improvements.

Councilmember Schumm stated the City should ensure that sales tax revenues are spent wisely to build citizen trust.

Councilmember Hiller stated it would be her top priority to include in the 2016 City of Topeka Operating budget funding to ensure preventive maintenance in the Public Works Department budget. She spoke in support of the plan; however, she expressed concern with having a \$19 million fund balance because not all main arterial street improvements have been completed. She stated she prefers to see the projects scheduled for a date certain so that constituents understand the City is still addressing the arterial street improvements.

Councilmember Jensen asked when filling potholes would include the actual repair of potholes.

Doug Whitacre reported due to the wet climate conditions staff has been forced to use cold patch mix to fill potholes because there have not been enough warm days for the asphalt plants to be open for operation.

Jim Colson expressed his appreciation to Governing Body members for providing their input on the matter. He stated he would bring back more detailed information about the plan at a later date.

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

Brenda Younger, City Clerk, gave a brief overview of the June 16, 2015, Council agenda.

Jim Colson, City Manager, recognized Mary Feighny, Interim City Attorney, for her great work and dedication to the job and reported the City continues to search for a candidate to fill the city attorney position. He commended Water Pollution Control employees and executive staff for working diligently last week to monitor City systems during high water events. He reported City Department Directors had the opportunity to participate in the Firefighter for a Day Exercise

which provided an opportunity to understand and appreciate the work performed by the Topeka Fire Department.

Mayor Wolgast thanked Water Pollution Control employees for a job well done and commended them for their dedication.

Councilmember Clear announced the 35th Infantry Division Band would perform at the next Concert in the Park event on June 15, 2015, at 7:30 p.m. in Garfield Park. She congratulated the Topeka-Shawnee County Library for being a 2015 LibraryAware Community Award honoree. She reported she participated in the Valeo Behavioral Healthcare Virtual Tour and stated she continues to be impressed with the services they offer to the community. She announced the 2015 Fiesta Mexicana 5K Run/Walk would be held on June 27, 2015.

Councilmember Ortiz announced the 2015 Fiesta Mexicana Royalty food sales would continue through July 5, 2015, at the Marlo Cuevas Balandran Activity Center located at 216 NE Chandler. She requested an updated organizational chart of all City departments be distributed to the Governing Body as well as all notifications sent by City staff to residents also be sent to each Council member to ensure they are informed when constituents contact them about certain issues.

Councilmember Schumm expressed appreciation to City Manager Jim Colson and City staff for their willingness to address neighborhood street issues and present a comprehensive street plan as they move forward.

Councilmember De La Isla encouraged the Governing Body to visit 712 Innovations located at 712 S Kansas Avenue and experience the great work they are doing to enhance the vitality of our community and economy as well as the creative contributions of the NOTO Arts District. She announced a Budget Committee meeting would be held on June 13, 2015, at the Law

Enforcement Center located at 320 S. Kansas Avenue. She reminded citizens to slow down and be considerate of children during the summer months. She announced Coffee on Your Corner would be held on June 10, 2015, at McDonalds located at 3117 SW Topeka Boulevard with discussion on the 2014 Topeka Neighborhood Health Map presented by Bill Fiander, Planning Director, as well as the 2nd Annual Topeka Community Conversation on Poverty would be held on June 16, 2015, from 8:00 a.m. to 5:00 p.m. at Washburn University Memorial Union.

Councilmember Jensen commended Valeo Behavioral Healthcare for the services they offer the community. He recommended people view the city from the Top of the Tower or the Capitol dome to really appreciate the character of Topeka. He thanked Water Pollution Control staff and City administration for their service last week during high water events.

Councilmember Schwartz encouraged residents to view the city from Burnetts Mound and stated the Capitol building is considered one of the "gems" of Topeka. She invited the public to attend the Your Community Your Library strategy sessions scheduled throughout Shawnee County on June 11, 2015 from 6:30 p.m. to 8:00 p.m. at Countryside United Methodist, 3221 SW Burlingame Road; July 7, 2015, from 6:30 p.m. to 8:00 p.m. at the Auburn Civic Center, 1098 SW Auburn Road; July 23, 2015, from 5:00 p.m. to 7:00 p.m. at Juli's Coffee and Bistro, 110 SE 8th Street; July 28, 2015 from 6:30 p.m. to 8:00 p.m. at Sacred Heart Church, 312 NE Freeman Avenue; and August 10, 2015, from 6:30 p.m. to 8:00 p.m. at Garfield Park Community Center, 1600 E Quincy Street. She thanked Margo Rangel, Assistant to the Mayor, for doing a great job.

Councilmember Hiller referenced the community resource book "On Common Ground" and noted it is a very helpful tool. She reported the animal ordinance is working well since it was revised in 2009 and noted other cities look to Topeka for guidance on similar issues.

Ted Mize and Daetta Stevens-Miller appeared to speak under public comment.

Councilmember Jensen moved to recess into executive session to discuss attorney-client privileged matters relating to potential litigation for a time period not to exceed 20 minutes and to include the Governing Body, City Manager, Administrative and Financial Services Director, Deputy City Attorney and staff. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

At 8:10 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action had been taken.

Councilmember Jensen moved to recess into executive session to discuss non-elected personnel matters relating to workers compensation claims for a time period not to exceed 15 minutes and to include the Governing Body, City Manager, Administrative and Financial Services Director, Deputy City Attorney, Human Resources Director and staff. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

At 8:25 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:25 p.m.

Brenda Younger
City Clerk