

## **Council Minutes – October 4, 2016**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 4, 2016. 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, Emerson, De La Isla, Jensen, Schwartz, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Pastor Gary Roten, Emmanuel Baptist Church, gave the invocation.

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

SERVICE RECOGNITION for City Hall Security Guard Joardy Looney was presented by Mayor Larry Wolgast, Topeka Police Chief James Brown and City Manager Jim Colson.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Marcus Clark to the Topeka Human Relations Commission to fill an unexpired term ending October 5, 2018, was presented.

BOARD APPOINTMENT recommending the appointment of Robert Banks to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2020, was presented.

BOARD APPOINTMENT recommending the reappointment of Kim Schultz to the Downtown Business Improvement District Advisory Board for a term ending October 1, 2018, was presented.

BOARD APPOINTMENT recommending the reappointment of Debbie Briman-Latta to the Downtown Business Improvement District Advisory Board for a term ending October 1, 2018, was presented.

BOARD APPOINTMENT recommending the reappointment of Ann Adams to the Downtown Business Improvement District Advisory Board for a term ending October 1, 2018, was presented.

RESOLUTION NO. 8815 introduced by Councilmember Karen Hiller, approving a special event known as the Zombie Walk was presented.

RESOLUTION NO. 8816 introduced by Councilmember Karen Hiller granting the Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8817 introduced by Councilmember Brendan Jensen granting Michael Zampino an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of September 20, 2016, was presented.

Councilmember Jensen moved to approve the consent agenda. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

ORDINANCE NO. 20027 introduced by City Manager Jim Colson, concerning expungement of certain convictions in municipal court, amending City of Topeka Code Section 2.110.660 and repealing said original section was presented.

Chuck Kitt, Chief of Prosecution, stated the proposed ordinance was brought about from the creation of Municipal Court’s “Clean Slate Day.” He stated approval would enable defendants who have satisfied all of the requirements of the sentence, diversion agreement or probation, except for financial requirements, to apply for expungement by paying the remainder of any costs, fees and fines at the time of the application.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember De La Isla carried unanimously. (9-0-0) (*The mayor did not vote on this home rule ordinance because it is subject to mayoral veto.*)

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

ORDINANCE NO. 20028 introduced by City Manager Jim Colson, allowing and approving City expenditures for the period of July 30, 2016, through September 2, 2016, and enumerating said expenditures therein was presented.

Doug Gerber, Deputy City Manager, reported approval would authorize \$35,170,109.17 in City expenditures.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz, Coen, Harmon and Mayor Wolgast -10.

RESOLUTION NO. 8818 introduced by City Manager Jim Colson, setting forth the City of Topeka Policy for Debt Management and rescinding Resolution No. 7554 was presented.

Brandon Kauffman, Finance Director, reported the City’s debt policy has not been reviewed for 12 years and approval of the proposed debt policy would assist City staff with crafting and developing debt issuance. He noted staff would bring the Capital Improvement Plan policy back for consideration and that would include a formal \$9 million cap for discussion and formal approval.

Councilmember Hiller spoke in support of the overall proposed debt policy; however, she would suggest the Governing Body review the policy end result and finalize minimums to move

away from borrowing, reducing the City's debt load. She expressed concern with the Governing Body not seeing the final costs of projects until annual budget time. She requested staff alert the Governing Body when project budgets change.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted "yes." (10-0-0)

A RESOLUTION introduced by City Manager Jim Colson, establishing a policy for Reserve Balances for the City of Topeka was presented.

Brandon Kauffman, Finance Director, reported approval of a comprehensive reserve policy would provide staff guidance on the use of reserves, set reserve levels as well as, identify the proper use of reserves.

Councilmember De La Isla moved to approve the resolution. The motion was seconded by Councilmember Clear.

Councilmember Hiller stated she agrees with why the City would use reserve funds as outlined in the policy; however, she believes the Governing Body should have the right to authorize the use of reserve funds instead of the City Manager. She stated a language amendment to replace the term "city manager" with "governing body" on lines 50 and 59 of the Reserve Policy would force discussion for transparency reasons.

Councilmember Hiller moved to amend lines 50 and 59 of the resolution by replacing the term "city manager" with "governing body." The motion was seconded by Councilmember Schwartz.

Councilmember Clear questioned what constitutes an emergency situation and noted City staff members generally are aware of the need to expend funds beforehand.

Councilmember Jensen suggested staff make the Governing Body aware of the use of reserve funds as a courtesy.

Councilmember De La Isla expressed concern with the need of Governing Body approval during an emergency or disaster. She stressed the importance of funding oversight by the City Manager and noted staff always communicates to the Governing Body in regards to the use of funds.

Jim Colson, City Manager, reported the annual operating budget approved by the Governing Body is the only spending power the City has which includes reserve funds.

Councilmember Schwartz spoke in support of the language amendment to assure all funds are approved by the Governing Body and to enhance transparency of local government.

Councilmember Emerson suggested the language be amended to include the requirement of “informing” the Governing Body when reserve funds are used.

Jim Colson suggested deferring the resolution to a date certain to allow time for staff to draft language consistent with the discussion and address concerns expressed by Governing Body members. He stated staff would bring back a revised policy for consideration.

Councilmember Hiller withdrew the motion to amend lines 50 and 59 of the resolution by replacing the term “city manager” with “governing body.” The second concurred.

Councilmember Harmon moved to defer the resolution until November 15, 2016. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Wolgast voted “yes.”

(10-0-0)

CONSIDERATION of an extension of time for submission of a Transient Guest Tax Development Agreement for the Downtown Plaza project was presented.

Lisa Robertson, City Attorney, reported approval would grant an additional extension of time for 180 days to allow time for representatives of the Downtown Plaza project to conduct further research and engage in any negotiations needed to prepare a comprehensive development agreement for Transient Guest Tax funding for submission to the Governing Body.

Kurt Young, Topeka Lodging Association, appeared for questions.

Councilmember Jensen moved to approve the request for a 180-day extension. The motion was seconded by Councilmember De La Isla.

Councilmember Ortiz spoke in opposition of extending time for applicants. She requested the Transient Guest Tax Committee include a safeguard to avoid granting time extensions because it is not fair to the other applicants that followed the initial timeline set by the Committee.

The motion to approve the request for a 180-day extension carried. Councilmembers Clear, Ortiz and Harmon voted “no.” Mayor Wolgast voted “yes.” (7-3-0)

CONSIDERATION of an extension of time for submission of a Transient Guest Tax Development Agreement for the Historic Jayhawk Theater project was presented.

Lisa Robertson, City Attorney, reported approval would grant a 35-day extension to allow time for representatives of the Jayhawk Theatre to finalize its development agreement for Transient Guest Tax funding for submission to the Governing Body.

Councilmember Jensen stated he would abstain from voting because he serves on the Jayhawk Theatre Board of Directors.

Councilmember De La Isla moved to approve the request for a 35-day extension. The motion seconded by Councilmember Schwartz carried. Mayor Wolgast voted “yes.” Councilmember Ortiz voted “no.” Councilmember Jensen abstained. (8-1-1)

APPROVAL of a Contract amendment to provide for funding and maintenance of downtown pocket park enhancements was presented. (Contract No. 45436)

Doug Gerber, Deputy City Manager, reported in lieu of Downtown Topeka Foundation's (DTF) obligation in the original contract to pay \$250,000 to the City for maintenance, DTF will assume sole responsibility to maintain the private enhancements in their original condition subject to normal wear and tear, and to assist DTF with the costs of maintenance the City will make annual payments to DTF beginning July 1, 2017 and then annually each July 1, subject to appropriate funding in the annual operating budget. He reported the initial term of the contract would be for a period of five years, terminating on June 30, 2022, subject to extension by agreement of the parties for three additional, five-year periods, for a total of 20 years.

Councilmember De La Isla moved to approve the contract. The motion was seconded by Councilmember Hiller.

Councilmember Clear expressed concern with the proposed agreement and noted the City initially was to receive \$250,000 from DTF and now the City is paying DTF approximately \$1.2 million over the next 20 years.

Jim Colson, City Manager, reported taking on 100% of the obligation would be a much greater financial risk than what was initially confirmed, based on the best information available on what it would cost to maintain the areas through the life of the enhancements.

Councilmember Clear reported constituents have expressed their opposition to the proposed agreement. She requested that staff research proposals more thoroughly in the future to avoid similar financial situations.

Councilmember De La Isla stated historically the City has played a significant part in the quality of life enhancements in the downtown area and noted the increase in sales tax and the return on investment will benefit everyone including citizens.

Councilmember Harmon questioned the language of the agreement. He reported the agreement is confusing because it states the maintenance will be the sole responsibility of DTF; however, the City is paying DTF to maintain the areas.

Doug Gerber stated the intent of the contract is for the City to pay DTF for on-going maintenance of right-of-ways allowing DTF to serve as contractor for the City.

Mayor Wolgast reported DTF will be responsible for all costs over and above the annual payment they receive from the City.

Councilmember Ortiz reported it was her understanding as well as constituents, that all enhancements as well as maintenance would be paid for with private funding.

Councilmember Hiller expressed her appreciation to staff in creating a partnership with DTF and utilizing resources already in place.

Councilmember Jensen stated the Governing Body needs to determine if they want to pay DTF as a contractor who is already familiar and working in the area or hire City staff to maintain the areas.

Teresa Miller spoke in opposition of using tax money to fund the maintenance of downtown pocket parks and questioned why private funding is not being used.

The motion to approve the agreement carried. Mayor Wolgast voted “yes.” Councilmember Clear, Ortiz, Coen and Harmon voted “no.” (6-4-0)



Lisa Robertson, City Attorney, requested the Governing Body move Council Agenda Item H, a resolution concerning the designation of an Interim City Manager; and Council Agenda Item I, a resolution designating depositories to the end of the Council agenda.

Upon hearing no objections, Mayor Wolgast announced Council Agenda Items H and I would be moved to the end of the Council agenda.

DISCUSSION relating to a memorial designation for the segment of SE Bellview Avenue, lying between SE 23<sup>rd</sup> and SE 25<sup>th</sup> Streets as “Bishop Dr. Aletha J. Cushinberry Memorial Parkway” was presented.

Bill Fiander, Planning Director, stated approval would add two street signs to memorialize SE Bellview Avenue between SE 23<sup>rd</sup> and SE 25<sup>th</sup> Streets in honor of the late Bishop Dr. Aletha J. Cushinberry.

Terry Canady and Dale Cushinberry spoke in support of the memorial designation and the great impact Bishop Cushinberry made on the east Topeka community.

Councilmembers Emerson and Ortiz spoke in support of the designation and the positive impact Bishop Cushinberry made on the community.

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

Brenda Younger, City Clerk, provided an overview of the October 11, 2016 Council Agenda.

Jim Colson, City Manager, announced Municipal Court will host a “Clean Slate Day” from 9:00 a.m. to 3:30 p.m. on October 14, 2016, at Municipal Court, 214 S.E. 8<sup>th</sup> Street; six City employees will graduate from the Latino Leadership Collaborative of Kansas on October 22, 2016; and the Governing Body of the League of Kansas Municipalities will host a reception in honor of Mayor Wolgast, League President, on Sunday October 9, 2016, at 9:00 a.m. during the

Annual League of Kansas Municipalities Conference to be held October 8-10, 2016, in Overland Park, Kansas. He thanked the Governing Body for their partnership over the past four years and stated it has been an honor to serve the City of Topeka.

Councilmember Hiller thanked City Manager Colson for his service to the City. She announced she would be absent from the October 11, 2016, and October 18, 2016, Council meetings.

Councilmember Clear announced the North Topeka Fall Parade would be held on October 8, 2016 as well as the Garfield Park Car Show. She thanked City Manager Jim Colson for his service to the City. She referenced the recent security incident at City Hall and asked for an update on the security plan for the building moving forward.

Jim Colson reported an internal Security Committee has been working on a plan and will bring it forward for discussion very soon.

Councilmember Ortiz thanked the Topeka Police Department and City staff members for a successful Highland Park Crime Summit event. She also thanked City Manager Jim Colson for his service to the City.

Councilmember Emerson thanked the Topeka Police Department and City staff members for a successful Highland Park Crime Summit event. He announced the Shawnee Heights 2016 Homecoming Parade would be held on October 7, 2016. He thanked City Manager Jim Colson for his service to the City.

Councilmember De La Isla thanked the Mars Chocolate Factory for their contributions to the Chocolate Festival held on September 30, 2016. She thanked City Manager Jim Colson for his service and the great leadership team he has put in place to support the Governing Body.

Councilmember Jensen thanked City Manager Jim Colson for his service to the City and the leadership team he has put in place. He asked citizens to research the possibilities of historic district designations to assist with cleaning up neighborhoods and improving homes in Topeka.

Laura Cranebill, Joseph Ledbetter, Teresa Miller, Chance Lammer and LaZone Grays appeared to speak under public comment.

Councilmember De La Isla moved to recess into executive session to discuss contractual issues related to non-elected personnel for a time period not to exceed 45 minutes and to include the Governing Body, City Attorney and Human Resources Director. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

Councilmember Schwartz left the meeting.

At 9:04 p.m. the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

RESOLUTION NO. 8819 introduced by Deputy Mayor Michelle De La Isla concerning the designation of an Interim City Manager was presented.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Harmon carried. Mayor Wolgast voted “yes.” Councilmember Ortiz voted “no.” (8-1-0)

RESOLUTION NO. 8820 introduced by City Manager Jim Colson, naming banks and savings institutions that are designated as depositories for all City of Topeka accounts and authorizing signatories and rescinding City of Topeka Resolution No. 8735 was presented.

Lisa Robertson, City Attorney, stated approval was necessary due to changes in staff and working titles to complete daily duties.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Clear carried unanimously. Mayor Wolgast voted “yes.” (9-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:06 p.m.

---

Brenda Younger  
City Clerk