

## **Council Minutes – November 15, 2016**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 15, 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, Councilmember Harmon asked for a moment of silent meditation.

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

A PRESENTATION of the 3<sup>rd</sup> Quarter City Financial Report and Year-End Projects was presented by Brandon Kauffman, Finance Department Director.

Councilmember Jensen referenced the estimated \$1.6 million in excess general funds and questioned why infrastructure funding needs were not addressed in the report.

Doug Gerber, Interim City Manager, stated staff would provide a report on the proposed use of excess funds which will address infrastructure needs at a later date.

A PRESENTATION of the 3<sup>rd</sup> Quarter Public Works Report was presented by Jason Peek, Public Works Department Director.

A PRESENTATION of the 3<sup>rd</sup> Quarter Utilities Update was presented by Bob Sample, Water Pollution Control Division Director.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Angel Zimmerman to the Downtown Business Improvement District Advisory Board for a term ending November 2, 2018, was presented.

BOARD APPOINTMENT recommending the reappointment of Alisa Snavely to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2021, was presented.

BOARD APPOINTMENT recommending the reappointment of Craig Strever to the Board of Mechanical Examiners for a term ending November 1, 2018, was presented.

BOARD APPOINTMENT recommending the reappointment of Steve Mohan to the Board of Building and Fire Appeals for a term ending January 1, 2019, was presented.

BOARD APPOINTMENT recommending the reappointment of Dan Rowe to the Board of Building and Fire Appeals for a term ending January 1, 2019, was presented.

MINUTES of the regular meeting of November 1, 2016, was presented.

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

RESOLUTION NO. 8824 introduced by Interim City Manager Doug Gerber, establishing a policy for Reserve Balances for the City of Topeka was presented.

Doug Gerber, Interim City Manager, stated approval would provide staff guidance on the use of reserves, set reserve levels and identify proper use of reserves. He reported the resolution reflects language changes as discussed by the Governing Body from the Council meeting of October 4, 2016.

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

Councilmember Emerson moved to amend the resolution on line 58 by striking the word “natural” before the word “disaster.” The motion seconded by Councilmember Jensen carried. Councilmember Ortiz voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

The motion to approve the resolution as amended carried. Councilmember Ortiz voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

A RESOLUTION introduced by Interim City Manager Doug Gerber, in accordance with Section 18.60.010 of the Topeka Municipal Code (TMC), approving a Conditional Use Permit to allow for a “Correctional Placement Facility” on property zoned “I-1” Light Industrial District located at 2035 SW Western Avenue and to allow for a “Parking Surface Lot in Association With A Principal Use” on property zoned “M-1” Two-Family Dwelling District and located along the east side of SW Fillmore between SW Hampton and SW 20<sup>th</sup> Streets within the City of Topeka, Shawnee County, Kansas, was presented. (CUI6/5)

Doug Gerber, Interim City Manager, reported approval would allow a correctional placement facility for up to 45 on-site beds and a parking lot in association with the principal use. He noted a protest petition has been filed constituting 38% of the land area; therefore, eight (8) affirmative votes are needed for approval and all Governing Body members must be present. He stated the Planning Commission recommended disapproval by a vote of 3-2 at its October 19, 2016 meeting, which held the public hearing for the zoning request; however, the Planning Department recommends approval as staff believes all the concerns expressed by neighborhood residents have been addressed.

Bill Fiander, Planning Department Director, reported the Conditional Use Permit would allow for both a Correctional Placement Facility located on the second floor of the building at 2035 SW Western Avenue and an off-site Vehicle Surface Parking Lot in association with the principal use located on adjacent vacant property along the east side of SW Fillmore between SW 20<sup>th</sup> and SW Hampton Streets. He stated the residential re-entry facility would be contracted through the U.S. Bureau of Prisons and managed by the City of Faith with an additional office

located on the first floor. He noted the CUP includes a five-year sunset provision that helps mitigate future concerns should they arise during the operation of the facility and a Topeka Police Officer would be placed on the City of Faith Community Relations Board to better facilitate communication.

Councilmember Ortiz declared ex parte communications in the form of emails and telephone conversations. She asked Mr. Fiander to expand on the opposition expressed by area residents; if the proposed facility would replace Mirror Inc., a rehabilitation center located at 2201 SE 25<sup>th</sup> Street; and what type of criminal history would be allowed for the individuals living in the facility.

Councilmember Clear asked if there were any reported problems at other similar facilities located within the city.

Bill Fiander reported area residents expressed fear of adequate security and monitoring of the individuals as well as if it is an appropriate use of the property for the neighborhood; Mirror, Inc., is currently contracted with the U.S. Bureau of Prisons; however, if City of Faith is awarded the bid it could ultimately cause Mirror Inc. to close; and the Statement of Operations prohibits the applicant from accepting “heinous” offenders as well as offenders convicted of murder, sexual offenses and/or crimes against children. He noted he is not aware of any reported issues at other properties located in the city.

Councilmember Schwartz spoke in opposition of the proposal because she believes it is not the best use of the property and neighborhood.

Councilmember De La Isla spoke in support of the proposal and reported the number one need for re-entry programs across the nation is housing of individuals that take part in these types of programs, making sure they are receiving much needed assistance.

Councilmember Hiller commended staff, City of Faith, Mr. Clinkenbeard and 901 Real Estate, L.L.C., for their work on the proposal. She commented on other similar facilities located in the city and how important transition centers are as well as improving a vacant and unsecure property in a neighborhood. She suggested remanding the resolution back to the Planning Commission as she expressed concern with the low attendance by Planning Commission members at the October 17, 2016 Planning Commission meeting which may have impacted thorough discussion and the resulting vote of disapproval.

Councilmember Schwartz moved to remand the resolution back to the Planning Commission for the purpose of (a) gathering input on the zoning request from the Kansas Expocentre; (b) the Planning Commission meeting have full attendance by Commission members; (c) examine the proposal thoroughly regarding what is best for the future health and regrowth of a neighborhood; (d) share more factual information about the operations of City of Faith to date, including but not limited to photos of their properties, performance data of their programs and residents, and more information about their neighborhood and community relationships. The motion was seconded by Councilmember Hiller.

Councilmember Coen spoke in opposition of remanding the resolution to the Planning Commission and encouraged the Governing Body to vote on the issue to avoid any delays in dealing with the matter.

Councilmember Jensen asked if individuals from across the nation would be housed at the facility.

Bill Fiander reported it would be a regional facility housing individuals with a connection to the community.

Councilmember Schwartz spoke in support of remanding the resolution back to the Planning Commission because she would prefer all Planning Commission members be present to have a thorough discussion on the issue.

The motion to remand the resolution back to the Planning Commission for the purpose of (a) gathering input on the zoning request from the Kansas Expocentre; (b) the Planning Commission meeting have full attendance by Commission members; (c) examine the proposal thoroughly regarding what is best for the future health and regrowth of a neighborhood; (d) share more factual information about the operations of the City of Faith to date, including but not limited to photos of their properties, performance data of their programs and residents, and more information about their neighborhood and community relationships carried. Councilmember Coen voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

RESOLUTION NO. 8825 introduced by Interim City Manager Doug Gerber, providing notice of public hearing concerning the establishment of a Redevelopment District with the City (Wheatfield TIF District) pursuant to K.S.A. 12-1770, et seq., as amended was presented.

Doug Gerber, Interim City Manager, reported approval would set a public hearing date of December 20, 2016, to consider establishing a TIF District for the property at the northwest corner of SW 29<sup>th</sup> Street and SW Fairlawn Road for the Wheatfield Development.

Henry McClure spoke in support of the TIF District and encouraged the Governing Body to address the traffic congestion at the intersection of SW 29<sup>th</sup> Street and SW Fairlawn Road before developing the area.

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

ORDINANCE NO. 20035 introduced by Interim City Manager Doug Gerber, allowing and approving City expenditures for the period of October 1, 2016, through October 28, 2016, and enumerating said expenditures therein was presented.

Doug Gerber, Interim City Manager, reported approval would authorize City expenditures in the amount of \$12,274,871.43.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember Ortiz 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.

AUTHORIZING a public hearing for December 6, 2016, for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2016 Operating Budget was presented.

Doug Gerber, Interim City Manager, reported approval would authorize a public hearing on December 6, 2016, to consider increasing the City’s 2016 Adopted Budget expenditure level in specified funds from \$41,312,719 to \$46,788,445.

Councilmember Jensen moved to approve the public hearing date of December 6, 2016. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (10-0-0)

Councilmember Ortiz left the room.

DISCUSSION of funding recommendations by Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2017 Special Alcohol Fund was presented.

Max Wilson, Alcohol and Drug Abuse Advisory Council Chair, stated the recommended amount of \$620,000 is based on the projected Liquor Tax collected by the State and required to

be allocated to alcohol and drug programs. He noted the amount is \$20,000 more than what was allocated in 2016. He reported the review team recommended the following be expended from the Special Alcohol Program Fund in 2017:

- Prevention Programs (PARS) \$190,000 – 5% increase from 2016
- PARS Youth Evaluation Program \$57,000 – 1.5% increase from 2016
- Topeka Youth project (Jobs for Young Adult Program) \$40,000 – 3% increase from 2016
- Valeo (Social Detox Program) \$282,437 – 0% increase from 2016
- Third Judicial District (Drug Court Program) \$28,600 – 0% increase from 2016
- Kansas Children Service League (Successful Connections Drug Endangered Child Program) \$14,165 – 4% increase from 2016
- Boys and Girls Club (Smart Moves Teen Center) \$7,798 – 100% increase from 2016

Mayor Wolgast requested a list of the Alcohol and Drug Abuse Advisory Council members and who they represent in future reports.

Councilmember Clear left the room.

DISCUSSION concerning proposed changes to the Special Event Procedure and Vendor Licenses was presented.

Lisa Robertson, City Attorney, recognized the Special Event Project Team members and gave a brief summary of the language revisions in the proposed special events and vendor licenses ordinances from discussions held at the November 1, 2016 Council meeting.

Councilmember Jensen commended staff for the changes making it easier for neighborhoods to conduct community events.

Councilmember Emerson questioned if National Night Out Against Crime neighborhood events would be required to submit an event application for each neighborhood block party.

Lisa Robertson stated National Night Out Against Crime is a community-wide event; therefore, Safe Streets would submit one event application to cover all the neighborhoods that register in the event.



Councilmember Hiller commended staff for providing good feedback and allowing for extensive discussion on concerns raised by those involved. She stated she had worked with staff in addressing issues surrounding the administrative plan in handling more than one event conducted at the same time and place. She spoke in support of the notification requirements and the anticipated increase in providing more communication tools such as a calendar on the City's website; and the difference between a community event and a block party. She suggested a 30 day deadline to submit a block party special event application because of the need to ensure notification of residents is completed.

Vince Frye, Downtown Topeka Inc., President and CEO, questioned who would be responsible for cleaning up the downtown area after an event; who has the responsibility to notify the businesses and/or residents affected by an event; and who is measuring the benefits of events taking place in the Downtown Business Improvement District (BID) area.

DISCUSSION of the City of Topeka Capital Improvement Plan (CIP) Policy, and introduction to the 2018 Capital Improvement Plan Process was presented.

Nickie Lee, Budget and Performance Manager, stated staff recommends the Governing Body conduct a comprehensive review of the City's capital improvement plan policy to ensure consistency with the recently updated debt and reserve policies. She reported the current capital improvement plan policy was adopted in November 2004 and serves as a basis for the proposed policy to reflect current best practices. She noted proposed policy changes include length of CIP increased to 10 years; CIB GO Bond Cap aggregate of \$27 million over the first three years and an updated CIP Calendar and adoption process to match the current process.

Mayor Wolgast questioned the effectiveness of a 10-year plan due to the significant changes over the long timeframe specifically relating to street improvements.

Doug Gerber, Interim City Manager, stated a 10-year CIP would formalize the process being conducted currently and from a utility bond perspective, any extra effort to keep the City in a very positive bond rating is important. He noted a 10-year CIP would align with the water plan and pavement management program currently being updated and drafted by staff.

Councilmember Schwartz questioned if a 10-year CIP would be useful in notifying the public of impending projects.

Councilmember Hiller encouraged the Governing Body to review the policy in detail to ensure it will work and meet the needs of each council district.

Councilmember Jensen asked if a public vote could occur on the City's website to rank future improvement projects and use those results for further discussion on the proposal.

Councilmember De La Isla thanked staff for planning ahead and encouraging long-range planning for bond issuance.

DISCUSSION to consider establishing a benefit improvement district for the Horseshoe Bend Subdivision No. 4 located near SE 43<sup>rd</sup> Street and SE Grand Oaks Avenue was presented.

DISCUSSION to consider establishing a benefit improvement district for Misty Harbor Estates No. 5 located near SW 43<sup>rd</sup> Street and SW Lakeside Drive was presented.

Jason Peek, Public Works Director, gave an overview of the overall benefit improvement district process as well as the details of the proposed improvements in each benefit district. He stated the improvements would include design and construction costs in the total amount of \$978,315 (streets and stormwater - \$758,820; sanitary sewer - \$219,495) and would be paid 100% by the owners of the properties within the improvement district.

Councilmember Hiller asked staff to address if there are financial benefits for developers to include the City in the process as well as the comparability of private market interest rates versus public finance interest rates.

Brandon Kauffman, Finance Department Director, reported a benefit district is a tool used throughout the state of Kansas to keep the cost of housing prices down and allow the City's tax exempt status to save money on interest over time. He stated the Governing Body approved an updated policy in 2015 to mitigate the risks which include not allowing water improvements to be financed through bonds; the developer has to provide a letter of credit to the City; set a 45-lot cap within the benefit district; and specials set within the district are in the boundaries of the area that would sell. He also noted he is unsure of a bank's perspective on interest rates in the private market; however, the benefit of including the City in the process is the City could get a fixed interest rate due to credit worthiness.

Councilmember Jensen asked if the City has quality control over the infrastructure improvements as well as if the project would be required to meet longevity standards in the same manner as other City projects.

Jason Peek stated City staff would be the project construction managers which would provide additional oversight through the benefit district as well as a more hands on administrative role to ensure technical standards are being met.

Councilmember Emerson requested Mr. Kauffman provide a comparison document outlining the previous benefit district (special assessment) policy compared to the current policy.

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

Doug Gerber, Interim City Manager, announced there would be no City Council meetings on November 22, 2016 and November 29, 2016. He also announced the Topeka Police Department recently raised \$5,000 to benefit Topeka Public School District elementary schools; a Futures 2040 meeting is scheduled for November 16, 2016, from 5:30 p.m. to 7:30 p.m. at Washburn Tech; the Topeka Zoo is hosting a Holiday Lights Recycling Drive starting November 15, 2016, through January 15, 2017; and the City's Water Pollution Control Division is promoting World Toilet Day on November 19, 2016, and would be distributing information to the public on South Kansas Avenue during the lunch hour on November 17 and 18, 2016.

Councilmember De La Isla encouraged everyone to be kind to one another. She stated she attended the National Conference of the Blind and reminded the Governing Body to think about the ADA needs of individuals. She encouraged people to participate in the Holiday Heroes Program sponsored by KVC Behavioral Healthcare Inc., which collects presents, gift cards and monetary donations to ensure each child in foster care has a happy holiday.

Councilmember Jensen encouraged people to participate in "Giving Tuesday" sponsored by the United Way of Greater Topeka on December 2, 2016. He stated it is an opportunity to bring people together with a focus on giving back to improve the quality of life in our communities.

Councilmember Schwartz stated this week's "gem" of Topeka is all community volunteers.

Richard Laird appeared to speak under public comment.

Councilmember Harmon left the room.

Councilmember Schwartz moved to recess into an executive session for a time period not to exceed 15 minutes to discuss attorney-client privilege matters. To aid the Governing Body in the discussion the following individuals were requested to be present: Human Resources

Department Director and City Attorney. The motion seconded by Councilmember De La Isla carried unanimously. Mayor Wolgast voted “yes.” (7-0-0)

At 9:14 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

RESOLUTION NO. 8826 introduced by Deputy Mayor Michelle De La Isla authorizing City administration to issue a request for proposal for an executive search firm to assist in hiring a city manager was presented.

Councilmember De La Isla moved to approve the resolution. The motion seconded by Councilmember Jensen carried unanimously. Mayor Wolgast voted “yes.” (7-0-0)

Councilmember Emerson moved to recess into executive session for a time period not to exceed 10 minutes to discuss attorney-client privilege matters. To aid the Governing Body in the discussion the following individuals were requested to be present: Interim City Manager and City Attorney. The motion seconded by Councilmember Coen carried unanimously. Mayor Wolgast voted “yes.” (7-0-0)

At 9:29 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:30 p.m.

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Brenda Younger  
City Clerk