

Council Minutes – December 13, 2016

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 13, 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, Interim Pastor Sandra Brown, First Presbyterian Baptist Church, gave the invocation.

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

An Update on the City of Topeka Snow and Ice Removal Plan was given by Jason Peek, Public Works Director.

Councilmember Clear requested information on how many tons of salt are used annually.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the reappointment of Paul Miller to the Board of Plumbing Examiners for a term ending February 1, 2019, was presented.

APPROVAL of a Workers' Compensation Settlement for Topeka Police Officer Lee Trout in the amount of \$14,256 for the permanent partial impairment of his left knee for injuries suffered on June 22, 2015, was presented.

MINUTES of the regular meeting of December 6, 2016, was presented.

APPROVAL of the following Dance Hall License applications, were presented.

<u>Business Name</u>	<u>Address</u>
Flamingo Bar & Grill	2335 NW Clay Street
Kansas Expocentre	1 Expocentre Drive
Midwest Elks Lodge #1441	1316 SE Madison Street
Sasnak North	1834 N Topeka Boulevard

Councilmember De La Isla moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

APPROVAL of Amendment No. 1 to Contract No. 44723 which is the current labor agreement between the City of Topeka and employees of the Water Pollution Control Division, as represented by the United Works of Environmental Trades of Topeka (UWET) was presented. (*Contract No. 45575*)

Doug Gerber, Interim City Manager, reported in 2015, funding in the amount of \$75,000 was approved for the use of wage increases in 2017 as a result of a joint comparability study. He reported the bargaining unit chose to apply the funds as a 2% increase to the pay matrix instead of to certain classifications identified in the market average.

Councilmember Hiller moved to approve the labor agreement. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

RESOLUTION NO. 8832 introduced by Interim City Manager Doug Gerber, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8657 was presented.

Doug Gerber, Interim City Manager, reported State law requires all cities to identify their boundaries before December 31st of each year if land has been added to the boundaries. He noted the following areas were added to the City of Topeka boundaries (1) SW 27th Street and Indian Hills Road; (2) SW 66th Street and Huntoon Avenue; and (3) SW 45th Street and Burlingame Road.

Councilmember Jensen moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (10-0-0)

ORDINANCE NO. 20040 introduced by Interim City Manager Doug Gerber, approving and adopting certain amendments to the operating budget for the City of Topeka for the year 2016, and appropriating the amounts for the purpose as set forth therein was presented.

Doug Gerber, Interim City Manager, reported the public hearing as required by State law was conducted on December 6, 2016, and adoption of the ordinance would increase the expenditure level of the 2016 City Adopted Budget from \$41,312,716 to \$46,788,445.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. (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.

ORDINANCE NO. 20041 introduced by Interim City Manager Doug Gerber, amending City of Topeka Code Section 3.40.030, establishing a service fee levy for 2017 relating to the Capital City Downtown Business Improvement District and specifically repealing said original section was presented.

Doug Gerber, Interim City Manager, stated approval would continue imposition of business improvement service fees on businesses located within the Capital City Downtown Business Improvement District. He reported the Downtown Business Improvement District Advisory Board has recommended a new fee structure based on the proposed tiered system.

Councilmember Hiller commended DTI and City staff members for establishing the tiered fee schedule and the inclusion of vacant properties. She suggested the following be considered for the service fee cycle in 2018 (1) the inclusion of all properties in the downtown area similar to the manner in which the City assesses storm water fees; (2) base the square footage listed on the Shawnee County Appraiser website to ease the process for staff; and (3) utilize a better

delinquent fee collection system for Downtown Topeka Inc., - possibly through the property tax rolls instead of using a collection agency.

Councilmember Jensen spoke in support of Councilmember Hiller's suggestions.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. (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.

APPROVAL of a Real Estate Purchase Agreement for the purchase of real property located at NW Topeka Boulevard and NW Curtis Streets, Topeka, Kansas was presented. (*Contract No. 45576*)

Doug Gerber, Interim City Manager, stated approval would acquire the property in the amount of \$85,000 as part of the U.S. Army Corps of Engineers Topeka Flood Risk Management project.

Councilmember Clear moved to approve the real estate purchase agreement. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

ORDINANCE NO. 20042 introduced by Councilmember Elaine Schwartz, concerning compensation for the mayor and councilmembers, amending City of Topeka Code Section 2.15.010 and repealing original section was presented. (*This is a home rule ordinance for which the mayor has no vote.*)

Councilmember Schwartz reported the proposed ordinance would increase the amount of compensation received by the mayor and each councilmember beginning in 2017 and provide for consideration every four years thereafter in conjunction with the normal budget process.

Councilmember Schwartz moved to adopt the ordinance. The motion was seconded by Councilmember Clear.

Councilmember Hiller moved to amend the ordinance on line 24 by replacing the word “year” with “years” and insert the word “cumulative” before the word “calendar.” The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

Councilmember Harmon distributed an amendment to the proposed ordinance and reported the purpose of his amendment was not intended to be a personal attack on the governing body or the service they provide; however, he felt this was the best way to present the policy issue in a public forum setting for discussion. He stated he believes a salary increase approved by the governing body violates citizen trust. The amendments to the proposed ordinance were as follows:

- Add on Line 14 “Except as provided in subsection (d),”
- Add on Line 20 “(c) Except as provided in subsection (d)” and delete “That”
- Add on Line 26 “(d) The salaries of the individuals holding office as mayor and councilmember on September 1, 2016, shall be in the following amounts, per annum, and shall not be increased for as long as each serves in either a mayoral or councilmember position:
Mayor: \$20,000
Councilmember: \$10,000”

Councilmember Harmon moved to amend the ordinance as distributed. The motion was seconded by Councilmember Ortiz.

Councilmember Schwartz expressed concern with not providing current governing body members a salary increase due to the amount of duties that are required of an elected official.

Councilmember Hiller spoke in opposition of the amendment because she believes the current governing body should not make the decision for future elected officials and it should be a personal choice for each individual.

The motion to amend the ordinance as distributed failed. Councilmembers Hiller, Clear, De La Isla, Jensen, Schwartz and Coen voted “no.” (3-6-0)

Councilmember Emerson distributed a handout outlining his proposed amendment. He stated he is not opposed to increasing salaries a fair amount; however, he cannot support a 100% increase. He reported his amendment proposes councilmembers receive \$12,500 annually and the mayor receives \$24,750 annually, based on the 2004 Consumer Price Index (CPI).

Councilmember Emerson moved to amend lines 16-18 of the ordinance to reflect \$12,500 as the annual salary for a councilmember and \$24,750 as the annual salary for the mayor. The motion was seconded by Councilmember Ortiz.

Councilmember Ortiz spoke in support of Councilmember Emerson’s amendment because she believes it is a fair assessment of salary increases and noted as an elected official they do not receive the same benefits as other City employees.

Councilmember Hiller spoke in opposition of the amendment because her constituents have expressed their support of the original ordinance and proposed salary increases.

Councilmember Clear stated she believes the main issue that needs to be addressed is the low base salary compared to other comparable cities.

Councilmember Schwartz spoke in opposition of the amendment because she believes the CPI would not be the right amount to use in this instance. She asked Interim City Manager Doug Gerber to comment on the aggregate salary increase amount that has been received by other City employees over the past 12 years.

Doug Gerber reported the amounts received by bargaining unit employees, executive and management staff depends on various factors. He stated the average increase since 2004 is 2.64% for all seven bargaining units and executive management; middle management averaged

1.76% and the Fraternal Order of Police averaged 4.3%. He reported the aggregate increase was 43% over the past 14 years.

The motion to amend lines 16-18 of the ordinance to reflect \$12,500 as the annual salary for councilmembers and \$24,750 as the annual salary for the mayor failed. Councilmembers Hiller, Clear, De La Isla, Jensen, Schwartz and Coen voted “no.” (3-6-0)

Councilmember Ortiz spoke in opposition of increasing salaries 100% as well as citizens have expressed their opposition to the increase. She reported in 2005 citizens approved salaries to be paid as part-time elected officials for the City of Topeka. She commended Councilmember Harmon for his amendment and stated they must put the trust of citizens first. She noted if citizens want governing body members to receive a raise they would implement a change.

Councilmember Schwartz spoke in support of the proposed salary increase and stated it would be comparable to the salary received by the elected officials of Kansas City, Kansas.

The motion to adopt the ordinance carried. Councilmembers Ortiz, Emerson and Harmon voted “no.” Councilmember De La Isla abstained. (5-3-1)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Jensen, Schwartz and Coen -5. Noes: Ortiz, Emerson and Harmon -3. Abstain: De La Isla -1.

DISCUSSION regarding recommendations from the Policy and Finance Committee relative to: (1) Governing Body Rules and Procedures; (2) Record Fees and (3) Council Training was presented.

Councilmember Hiller, Policy and Finance Committee Chair, stated the Committee considered the following items:

1. Approval of amendments to the ordinance regulating public record fees. The Committee is recommending approval of the ordinance as presented; however, they would like to discuss the option of providing free police reports.

2. Approval of amendments to the Governing Body Rules and Procedures. She provided a brief overview of the proposed changes to the Rules and Procedures as approved by the Committee.
3. Rescind City of Topeka Resolution No. 7548 concerning chaplain appointment by the deputy mayor as well as Resolution No. 8044 regarding the legislative agenda process as each resolution is no longer necessary.
4. Approval of a resolution addressing council training. She reported the Committee recommends each councilmember utilize 1/9 of the Council Training budget with the option to reallocate the training funds to another councilmember; and members attending events and/or training must provide a written or oral report to the Governing Body at a subsequent governing body meeting. The resolution would rescind City of Topeka Resolution No. 6795.

Governing Body members expressed concern with charging additional funds for records.

Councilmember Ortiz questioned the cost of police reports.

Councilmember Clear expressed concern with the Economic and Community Development Committee member terms because grant procedures change each year; therefore, it is very difficult for staff and participating agencies. She suggested implementing two-year terms for stability.

Councilmember Jensen stated he concurs with Councilmember Clear and would suggest they stagger the terms.

Councilmember Ortiz spoke in opposition of rescinding Resolution No. 7548 relating to the chaplain appointment as well as increasing from a one year term to two years for the Economic and Community Development Committee because there should be some flexibility when serving on council committees.

Councilmember Hiller stated if Resolution No. 7548 stays in effect the Governing Body may want to revise the requirements. She noted the Topeka Police Department chaplain is available to all City employees.

Councilmember Coen asked if Council training funds would cover expenses such as the annual events hosted by the League of Kansas Municipalities.

Councilmember Hiller confirmed that was the intent of the resolution.

DISCUSSION regarding 2016 reserve transfers was presented.

Doug Gerber, Interim City Manager, reported staff has projected there would be unreserved balances at the end of the 2016 fiscal year that exceed the minimum balance requirements in the General Fund, Fleet Fund, Unemployment Fund and Debt Service Fund totaling \$1.6 million. He noted staff would present two resolutions on December 20, 2016, for the Governing Body to consider (1) a resolution authorizing the use of excess funds from unreserved fund balances in the General Fund; and (2) a resolution authorizing the use of funds from unreserved fund balances in the Fleet Fund, Unemployment Fund and Debt Service Fund.

Brandon Kauffman, Finance Director, reported on the following projects and use of reserve funds:

General Fund

- \$400,000 for Water Main Replacement Project T-281078.00
- \$700,000 to establish a Fleet Reserve Fund
- \$300,000 to renovate Municipal Court/Council Chambers
- \$100,000 to support operations of the Topeka Performing Arts Center (TPAC)
- \$100,000 to repair the steps in front of TPAC and City Hall (Improvement Project T-131042.00)

Fleet Fund

- \$300,000 to establish a Fleet Reserve Fund

Unemployment Fund

- \$360,000 to the Risk Reserve Fund

Debt Service Fund

- \$240,000 for the Zoo Fire Hydrant Project T-301050.00

Councilmember Hiller requested to include budgeting fire trucks within the Fleet Fund in the future.

Councilmember Ortiz asked staff to address overall parking issues and needed pothole repair in the parking lot located between the Shawnee County Court House and City Hall Municipal Building on SE 7th Street.

Mayor Wolgast suggested constructing a walkway connecting the two buildings to allow pedestrians to walk safely in the parking lot.

Councilmember Schwartz requested pictures of other city council chambers for comparison.

Councilmembers Ortiz and Harmon expressed the need to address a long-term plan to keep TPAC in operation.

Councilmember Jensen questioned if the City should invest more funding in TPAC at this time or delay the allocation of funds until a solid long-term plan is in place that provides a permanent solution to the problem. He asked if TPAC's management has any liability in regards to the current situation.

Councilmember De La Isla expressed the importance of creating a solution to save TPAC and fully understand the overall reoccurring problem otherwise the City will have a community asset sitting vacant.

Councilmember Clear questioned why the issue has not been addressed until now.

Doug Gerber stated it is a recent developing situation and there is no great answer to the issue with TPAC; however, staff is currently working towards a solution. He noted City staff has no direct input into the financial matters or operations of TPAC.

Mayor Wolgast requested the contract between TPAC and the City of Topeka be reviewed in detail to reassess and clarify the role of each agency as they move forward in creating a solid plan.

Doug Gerber stated staff is looking for a consensus from the Governing Body whether to contribute funding to TPAC.

Councilmember Coen asked for clarification on the relationship between TPAC and the City.

Doug Gerber stated the City has a contract with TPAC; it is a City-owned facility with an independent board that contracts with a management company to run the facility and operations; however, the City does pay the cost of utilities for the facility.

Councilmember Coen suggested the City research the possible use of the facility in regards to City operations.

Councilmember Schwartz commended staff for alerting the Governing Body to the issue. She stated she would prefer the facility remain a performing arts center.

Councilmember Hiller noted TPAC has been supplemented many times in the past including in September 2016 in the amount of \$94,000. Councilmember Hiller requested more history on subsidiary amounts per year over the last 25 years comparable in terms of how much Shawnee County has subsidized the Kansas Expocentre would be helpful.

DISCUSSION related to project budget amendments was presented.

Nickie Lee, Budget and Performance Manager, reported the Governing Body must amend project budgets which require higher expenditure amounts than originally authorized. She noted staff recommends approval of the following increases:

1. Water Main Replacement Program Year 2015 Project No. T-281078.00 - \$400,000
2. Zoo Fire Hydrant Project No. T-301050.00 - \$349,077
3. TPAC and City Hall Improvement Project T-131042.00 (Steps/Entryway) - \$126,200

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

Doug Gerber, Interim City Manager, announced the “Be the Bridge” event is scheduled on December 15, 2016, at 11:30 a.m. to celebrate paying off the \$51.1 million Topeka Boulevard Bridge; the two final candidates for the Topeka Fire Chief position are Craig Duke, former deputy fire chief of the Unified Government of Wyandotte County/Kansas City, Kansas and William “Doug” Fowler, assistant fire chief for the Austin Texas Fire Department; and Topeka Police Major Kris Kramer will serve as Interim Police Chief.

Councilmember Hiller commended staff for the improvements that have been made to the Animal Control Division. She requested a presentation outlining Division updates be presented at a future Council meeting.

Councilmember Ortiz encouraged everyone to participate in the Giving Zoo Day 2016 Program, helping those less fortunate, by purchasing a Friends of the Topeka Zoo membership as a gift to be given to a family in need. She announced the Topeka Fire Department is sponsoring a basketball team for Quincy Elementary School children and a scrimmage is scheduled for December 16, 2016, at 2:30 p.m. at Quincy Elementary School.

Councilmember Schwartz announced this week’s “gem” of Topeka is the Salvation Army Bell Ringers.

Councilmember Coen announced “Santa Visits” would take place on the weekends at the Fairlawn Plaza Shopping Center until December 18, 2016.

Dr. Joe Cook, Pet Assistance Network of Topeka, appeared to speak under public comment.

Councilmember Hiller moved to recess into an executive session for a time period not to exceed 15 minutes to discuss personnel matters. To assist the Governing Body the following individuals were requested to be present: Interim City Manager, City Attorney and Human

Resources Director. The motion seconded by Councilmember Harmon carried unanimously.
(10-0-0)

At 8:15 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

Councilmember Hiller moved to recess into an executive session for a time period not to exceed 15 minutes to continue discussion on personnel matters. To assist the Governing Body the following individuals were requested to be present: Interim City Manager, City Attorney and Human Resources Director. The motion seconded by Councilmember Harmon carried unanimously. (10-0-0)

At 8:30 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 8:31 p.m.

Brenda Younger
City Clerk