

## **Council Minutes – December 20, 2016**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 20, 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, Jensen, Schwartz and Coen -7. Mayor Larry E. Wolgast presided -1. Absent: Councilmembers De La Isla and Harmon -2.

AFTER THE MEETING was called to order, Reverend Ronald Lassiter, Jr., Faith Temple Church, gave the invocation.

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

A PRESENTATION on Expedition Des Moines 2016 hosted by the Greater Topeka Chamber of Commerce was presented by Curtis Sneden, Growth Organization of Topeka.

Councilmember Hiller requested to pull item 4C, Minutes of the regular meeting of December 13, 2016, for separate discussion.

Upon hearing no objections, Mayor Wolgast announced item 4C would be removed from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Cheyenne Anderson to the Topeka Landmarks Commission for a term ending January 1, 2020, was presented.

BOARD APPOINTMENT recommending the appointment of Franklin Young to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2021, was presented.

APPROVAL of a Dance Hall License application for Lazy Toad located at 5331 SW 22<sup>nd</sup> Place, #2 was presented.

APPROVAL of a Cereal Malt Beverage License application for Country Inn & Suites located at 6020 SW 10<sup>th</sup> Avenue was presented.

Councilmember Jensen moved to approve the consent agenda as amended. The motion seconded by Councilmember Coen carried unanimously. (8-0-0)

MINUTES of the regular meeting of December 13, 2016, was presented.

Councilmember Hiller moved to approve the Minutes of the December 13, 2016. The motion was seconded by Councilmember Jensen.

Councilmember Hiller stated in order to clarify her comments made at the December 13, 2016, Council meeting, she would request the statement, “based on any property with a roof and driveway” be deleted from her comments regarding future Downtown Business Improvement District (BID) service fee assessment considerations at the bottom of page 359 of the Council Minutes. She noted the statement was mentioned for the purposes of discussion and not to be used as a measure for the BID in the future.

Councilmember Hiller moved to amend the Minutes of the December 13, 2016 Council Meeting as stated. The motion seconded by Councilmember Coen carried. Councilmember Ortiz voted “no.” (7-1-0)

The motion to approve the Minutes of December 13, 2016 Council Meeting as amended carried. Councilmember Ortiz voted “no.” (7-1-0)

#### PUBLIC HEARING NOTICE

A PUBLIC HEARING to consider the advisability of establishing a redevelopment district at the northwest and northeast corners of SW 29<sup>th</sup> Street and Fairlawn Road.

ORDINANCE NO. 20043 introduced by Interim City Manager Doug Gerber establishing a Redevelopment District for the Wheatfield TIF District pursuant to K.S.A. 12-1770 et seq., as amended was presented.

Doug Gerber, Interim City Manager, reported the developer has requested assistance from the City of Topeka in the redevelopment of the property through the use of a Tax Increment Finance (TIF) District, Community Improvement District (CID) and industrial revenue bonds without tax abatement. He stated the final step in the process after a public hearing is conducted and an ordinance adopted, involves the adoption of a detailed project plan and approval of a development agreement by the Governing Body; however, it does not commit the City to any financial responsibility.

Councilmember Coen asked why the properties located on the east side of SW Fairlawn Road are included in the TIF District.

Bob Johnson, attorney for the developer, stated by including the properties it would serve as potential synergy for the entire area and would hopefully add to the development of the properties. He also reported there would be no additional taxes levied for the four sites and inclusion of the properties views no negative impact to the TIF District.

Councilmember Hiller questioned if there was an update on the intersection traffic issues and if the four east side properties will be included in the development plan.

Jim Klausman, developer, provided a brief background of the area and the vision they have for a successful TIF District. He reported they have engaged a company to study the traffic flow at the intersection and plan to present preliminary solutions to the City and Kansas Department Of Transportation (KDOT); and the four properties will not be included in the initial development with the intent of providing an opportunity to other developers to enhance the area.

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

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

Councilmember Coen moved to adopt the ordinance. The motion seconded by Councilmember Schwartz carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz, Coen and Mayor Wolgast -8. Absent: De La Isla and Harmon -2.

RESOLUTION NO. 8833 introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances was presented.

Doug Gerber, Interim City Manager, stated staff recommends that up to \$1.6 million be transferred from the General Fund for the following projects.

1. Transfer \$400,000 to the 2015 Water Main Replacement Program for expansion of 6<sup>th</sup> Street and 10<sup>th</sup> Street near Wanamaker Corridor water main replacement
2. Transfer \$700,000 to the newly established Fleet Replacement Fund for future fleet replacement
3. Transfer \$400,000 to TPAC to support operations (*Staff recommends the \$300,000 allocated for Municipal Court/Council Chambers Renovation be combined with the original proposed amount of \$100,000 to support TPAC operations.*)
4. Transfer \$100,000 to City Hall/TPAC Steps Project to cover the increased project budget amount

Mr. Gerber reported TPAC would be provided \$100,000 at this time to allow the facility to operate through February 2017 as well as allow time to create a solid long-term plan. He stated the additional \$300,000 would be given to TPAC as needed throughout the year provided they meet the sustainable goals that are created collectively and outlined in the long-term plan.

Councilmember Clear questioned the benefits of reserving funding for TPAC at this time before a long-term plan was established.

Doug Gerber reported the benefit allows the City to utilize funding that would otherwise revert back to the general fund.

Councilmember Schwartz expressed the importance of collaboration of services between area theaters. She asked if the City could direct TPAC representatives to collaborate with other area theaters so they all could benefit from the additional funds.

Doug Gerber stated the City has the ability to include parameters with the funding allocation.

Councilmember Jensen stated the Historic Jayhawk Theater, Helen Hocker Theater and Topeka Civic Theater all cater to different event types and services and are not interchangeable; however, he understands the need to work together for continued improvement in the community.

Councilmember Hiller stated she concurs with Councilmember Schwartz and supports collaborating efforts relating to the marketing, schedules and maintenance of each facility.

Councilmember Jensen moved to approve the resolution. The motion was seconded by Councilmember Schwartz.

Councilmember Hiller moved to amend the resolution beginning on line 31 to state, “an amount not to exceed \$300,000 from the General Fund to the Topeka Performing Arts Center to support 2017 operational needs to be distributed based on agreed upon terms.” The motion seconded by Councilmember Jensen carried. Councilmember Ortiz voted “no.” (7-1-0)

The motion to approve the resolution as amended carried. Councilmember Ortiz voted “no.” (7-1-0)

RESOLUTION NO. 8834 introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances was presented.

Doug Gerber, Interim City Manager, reported staff recommends up to \$900,000 be transferred from the Fleet Fund, Unemployment Fund and Debt Service Fund to the following funds:

1. Transfer \$300,000 from the Fleet Fund reserves to the newly established Fleet Reserve Fund for future fleet replacement
2. Transfer \$360,000 from the Unemployment Fund to the Risk Reserve Fund
3. Transfer up to \$240,000 from the Debt Service Fund to the Zoo Fire Hydrant Project

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Emerson carried unanimously. (8-0-0)

A REVISED PROJECT BUDGET in the amount of \$600,000 and RESOLUTION NO. 8835 introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-131042.00 which provides for the steps for Topeka Performing Arts Center and City Hall project was presented.

Doug Gerber, Interim City Manager, reported approval would authorize an additional \$126,000 for steps for the TPAC and City Hall project.

Councilmember Emerson moved to approve the revised project budget and resolution. The motion seconded by Councilmember Jensen carried unanimously. (8-0-0)

A REVISED PROJECT BUDGET in the amount of \$2,400,000 and RESOLUTION NO. 8836 introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8625 for Improvement Project No. T-281078.00 which provides for the 2015 Water Main Replacement Program and providing Notice of Intention regarding the issuance of revenue bonds pursuant to K.S.A. 10-1201, et seq., was presented.

Doug Gerber, Interim City Manager, reported approval would authorize an additional \$400,000 for the 2015 Water Main Replacement Program.

Councilmember Schwartz moved to approve the revised project budget and resolution. The motion seconded by Councilmember Emerson carried unanimously. (8-0-0)

A REVISED PROJECT BUDGET in the amount of \$499,077 and RESOLUTION NO. 8837 introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-301050.00 which provides for the Zoo Fire Hydrants project was presented.

Doug Gerber, Interim City Manager, reported approval would authorize an additional \$349,077 for the Zoo Fire Hydrants project.

Councilmember Coen moved to approve the revised project budget and resolution. The motion seconded by Councilmember Schwartz carried unanimously. (8-0-0)

ORDINANCE NO. 20044 introduced by Interim City Manager Doug Gerber, granting a nonexclusive franchise agreement to Mobilitie, L.L.C., to construct, operate and maintain wireless telecommunications facilities within the public right-of-way was presented.

Doug Gerber, Interim City Manager, reported approval would grant a 10-year franchise agreement to construct, operate and maintain wireless telecommunications facilities within the public right-of-way.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz, Coen and Mayor Wolgast -8. Absent: De La Isla and Harmon -2.

RESOLUTION NO. 8838 introduced by Deputy Mayor Michelle De La Isla cancelling Council meetings for calendar year 2017 was presented.

Lisa Robertson, City Attorney, stated approval would provide notice that council meetings would not be held on July 4, 2017; August 1, 2017 (Primary Election); and November 7, 2017 (General Election).

Councilmember Coen moved to approve the resolution. The motion seconded by Councilmember Jensen carried unanimously. (8-0-0)

APPROVAL of revisions to City Council Rules and Procedures was presented.

Councilmember Hiller, Policy and Finance Committee Chair, reported she has not received feedback regarding any additional changes following the discussion from the Council meeting of December 13, 2016. She stated there have been some conversations relating to the supervision of the Council assistant; therefore, she would like to propose a language amendment that would appoint the deputy mayor, or his or her designee, to serve as the point person for the relationship with the Council assistant.

Councilmember Hiller moved to approve the revised Governing Body Rules and Procedures. The motion was seconded by Councilmember Schwartz.

Councilmember Hiller moved to amend Section 2.8(a) as underlined below. The motion was seconded by Councilmember Schwartz.

**Section 2.8 Officers and Employees:** (a) Notwithstanding TMC A2-54, which gives the city manager the power to appoint, discipline and remove any employee in accordance with City personnel policies, the mayor and council members may provide input to the city manager regarding the employment and evaluation of the assistant to the mayor and the assistant to the council respectively; and the deputy mayor, or his or her designee, shall serve as a point of contact for the assistant to the council for purposes of the above matters.”

Mayor Wolgast asked if the language amendment was discussed by Committee members.

Councilmember Hiller reported the Committee did not discuss her specific language amendment; however, they did make the determination to add language that would allow all



members of the Council to have the ability to provide input to the city manager not just the deputy mayor in regards to the employment and evaluation of the Council assistant.

Councilmember Ortiz requested the word “assistant” be replaced with the word “assistant(s).”

The motion to amend Section 2.8(a) as follows carried unanimously. (8-0-0)

**Section 2.8 Officers and Employees:** (a) Notwithstanding TMC A2-54, which gives the city manager the power to appoint, discipline and remove any employee in accordance with City personnel policies, the mayor and council members may provide input to the city manager regarding the employment and evaluation of the assistant to the mayor and the assistant(s) to the council respectively; and the deputy mayor, or his or her designee, shall serve as a point of contact for the assistant(s) to the council for purposes of the above matters.”

Lisa Robertson suggested amending Section 8.2(b) and (c) as underlined below:

**Section 8.2 Standing Committees:** (b) Appointment. The deputy mayor shall appoint the members to each standing committee referenced in subsection (a) above and shall make a reasonable effort to stagger terms for the purpose of establishing familiarity and continuity from year to year. Appointments shall be made by the first meeting in February. Each councilmember shall fill out a committee preference list for a standing committee and the deputy mayor shall make every effort to appoint councilmembers to the committee of their choice.

**Section 8.2 Standing Committees:** (c) Term. Councilmembers who are appointed to any standing committee referenced in subsection (a) above shall serve on their assigned committees for a ~~one (1)~~ two (2) year term. Councilmembers who wish to change committee assignments may do so with permission from the deputy mayor. Each standing committee shall elect the chair from among its members.

Councilmember Clear moved to amend Section 8.2(c) as stated. The motion was seconded by Councilmember Jensen.

Councilmember Hiller spoke in opposition of the amendment. She stated she believes it could be problematic when trying to balance committee member terms and would lock members into longer terms with the exception of the Economic and Community Development Committee.

Councilmember Jensen stated the two-year term would only set an expectation. He noted he plans to propose staggered terms to encourage continuity and help eliminate issues.

Councilmember Clear spoke in support of staggered two-year terms.

Councilmember Schwartz made a substitute motion to refer Sections 8.2(b) and (c) back to the Policy and Finance Committee to further discuss term parameters of committees. The motion seconded by Councilmember Coen carried. Councilmembers Hiller and Ortiz voted “no.” Mayor Wolgast abstained. (5-2-1)

The motion to approve the Governing Body Rules and Procedures as amended carried unanimously. (8-0-0)

ORDINANCE NO. 20045 introduced by Interim City Manager Doug Gerber, concerning fees and procedures for record requests, amending City of Topeka Code Sections 2.20.090, 2.20.110 and 2.20.120 and specifically repealing said original sections was presented.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Clear carried unanimously. (7-0-0) *Mayor does not vote as this is a home rule ordinance.*

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz and Coen -7. Absent: De La Isla and Harmon -2.

RESOLUTION NO. 8839 introduced by Councilmember Karen Hiller, rescinding obsolete resolutions concerning the legislative agenda process (Resolution No. 8044) and designating a chaplain for councilmembers (Resolution No. 7458) was presented.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Clear carried. Councilmember Ortiz voted “no.” (7-1-0)

RESOLUTION NO. 8840 introduced by Councilmember Karen Hiller, Richard Harmon and Tony Emerson regarding Council attendance at events and/or training and rescinding Resolution No. 6795 was presented.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Clear carried. Councilmember Ortiz voted “no.” (7-1-0)

DISCUSSION regarding legislative priorities identified by the Governing Body to be addressed or monitored during the 2017 Legislative Session was presented.

Whitney B. Damron, City of Topeka Lobbyist, provided an update on the following 2017 Legislative Matters:

Items of General Interest:

- 2017 Amendments to Tax Lid Legislation (e.g. election timeline)
- Economic Development Proposals (e.g. STAR Bonds, TIF, CID, etc.)
- Local Control
- Loss of State/Local Revenue Sharing; Unfunded Mandates
- Firearm Policy; Municipal Buildings

Major Issues Likely to be Considered:

- State Tax Policy (e.g. LLC Exemption, Income Tax Reductions etc.)
- School Finance
- Expansion of Medicaid
- Infrastructure Investment (e.g. lessening of reliance on KDOT funds to balance the budget)

Governing Body members expressed the importance of extending operating hours on the weekends for visitors at the State Capitol building.

Councilmember Ortiz expressed concern with the growing mental health issues in the community. She requested this item be included in the City’s 2017 Legislative Priorities.

Councilmember Hiller requested staff add the legislative agenda resolution for consideration of the Governing Body at the January 3, 2017 Council meeting.

DISCUSSION for the purpose of providing a progress update on the City’s compliance with a Kansas Department of Health and Environment Consent Order addressing reduction of Combined Sewer Overflows (CSOs) and updating the CSO Long Term Control Plan was presented.

Doug Gerber, Interim City Manager, reported the consent order was negotiated between the City and Kansas Department of Health and Environment (KDHE) to allow the City to correct agreed upon deficiencies in the wastewater collection system and update the Long Term Control Plan in a manner that better contributes to the reduction of Combined Sewer Overflows (CSOs) due July 1, 2017.

Mike Lorenzo, Bartlett & West Engineers, provided an explanation of CSOs and the existing CSO conditions in the city of Topeka; an update on the City's Long Term CSO Control Plan as well as achievements to date and recommended steps the City should take in the future.

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

Doug Gerber, Interim City Manager, announced City offices would be closed Friday, December 23, 2016, and Monday, December 26, 2016, in observance of the Christmas holiday.

Councilmember Clear commended the Sheep Dog Impact Assistance of Kansas organization for providing Christmas gifts to local military families.

Councilmember Emerson moved to recess into executive session for a time period not to exceed 15 minutes to discuss non-elected personnel. To assist the Governing Body in discussion, the following individuals were requested to be present: Interim City Manager, City Attorney and Finance Director. The motion seconded by Councilmember Schwartz carried unanimously.  
(8-0-0)

At 9:08 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 9:09 p.m.

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Brenda Younger  
City Clerk