

## **Governing Body Minutes – January 3, 2017**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 3, 2017. The Governing Body members 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 John Menkveld, Oakland Church of the Nazarene, gave the invocation.

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

A PRESENTATION on the new City of Topeka mobile application “SeeClickFix” was presented by Amber Reynolds, City of Topeka Technical Services Manager.

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20046 introduced by Interim City Manager Doug Gerber, allowing and approving City expenditures for the period of October 29, 2016, through December 2, 2016, and enumerating said expenditures therein was presented.

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

APPROVAL of Dance Hall License applications for Faces, L.L.C., located at 802 N. Kansas Avenue and Gayle’s located at 600 NW Paramore Street was presented.

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

A FINAL PLAT for Misty Harbor Estates Subdivision No. 5 on property located between SW Gage Boulevard and SW Burlingame Road, the centerline of the tract is approximately 870 feet north of SW 45<sup>th</sup> Street, all being contiguous to the corporate city limits of Topeka and within unincorporated Shawnee County, Kansas was presented. (P14/11)

Doug Gerber, Interim City Manager, reported approval would allow for a residential development in Misty Harbor Estates No. 5 and coincide with the benefit improvement district.

Councilmember Schwartz moved to approve the final plat. The motion seconded by Councilmember De La Isla carried unanimously. (10-0-0)

#### PUBLIC HEARING NOTICE

A PUBLIC HEARING to consider establishing a benefit improvement district for Street and Stormwater Improvement Project T-601067.00 in Misty Harbor Estates No. 5 located near SW 43<sup>rd</sup> Street and SW Lakeside Drive.

RESOLUTION NO. 8841 introduced by Interim City Manager Doug Gerber authorizing Street Improvement Project No. T-601067.00 to pave streets within Misty Harbor Estates No. 5 as more specifically described herein was presented.

Doug Gerber, Interim City Manager, reported approval would establish a benefit improvement district for Misty Harbor Estates No. 5 and 100% of the costs would be paid by the property owners within the improvement district.

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

#### PUBLIC HEARING NOTICE

A PUBLIC HEARING to consider establishing a benefit improvement district for Sanitary Sewer Improvement Project T-401062.00 in the Horseshoe Bend Subdivision No. 4 located near SE 43<sup>rd</sup> Street and SE Grand Oaks Avenue.

RESOLUTION NO. 8842 introduced by Interim City Manager Doug Gerber authorizing Sanitary Sewer Improvement Project No. T-401062.00 to provide sanitary sewer service to Horseshoe Bend Subdivision No. 4 as more specifically described herein, was presented.

Doug Gerber, Interim City Manager, reported approval would establish a benefit improvement district for Horseshoe Bend Subdivision No. 4 and 100% of the costs would be paid by the property owners within the improvement district.

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

#### PUBLIC HEARING NOTICE

A PUBLIC HEARING to consider establishing a benefit improvement district for Street and Stormwater Improvement Project T-601066.00 in Horseshoe Bend Subdivision No. 4 located near SE 43<sup>rd</sup> Street and SE Grand Oaks Avenue.

RESOLUTION NO. 8843 introduced by Interim City Manager Doug Gerber authorizing Street Improvement Project No. T-601066.00 to pave streets within Horseshoe Bend Subdivision No. 4, as more specifically described herein, was presented.

Doug Gerber, Interim City Manager, reported approval would establish a benefit improvement district for Horseshoe Bend Subdivision No. 4 and 100% of the costs would be paid by the property owners within the improvement district.

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

ORDINANCE NO. 20047 introduced by Interim City Manager Doug Gerber, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property lying approximately 400 feet north of SW 45<sup>th</sup> Street and 2,300 feet west of SW Burlingame Road from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District was presented. (Z16/4)

Bill Fiander, Planning Department Director, reported the zoning change would allow residential uses.

Councilmember Schwartz moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried. Councilmember Ortiz abstained. (9-0-1)

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

RESOLUTION NO. 8844 introduced by Interim City Manager Doug Gerber, relating to the City of Topeka legislative agenda for the 2017 session was presented.

Doug Gerber, Interim City Manager, reported the following 2017 legislative priorities are outlined in the resolution:

1. Support for continuing efforts to address abandoned housing issues, which may include reintroduction of 2016 Senate Bill 338 vetoed by the Governor. The efforts include, but are not limited to, follow up with the cited opponents of the Bill to determine if there is some form of acceptable compromise given the substantial property owner protections that have already been incorporated.
2. Support extending the hours of operation for the Capitol Building to include weekends.
3. Support the League of Kansas Municipalities 2017 Municipal Policy to the extent the policy is consistent with the City’s priorities and agenda.

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

APPROVAL of the Economic and Community Development Committee Contracted and Social Services 2018 funding priorities and budget recommendations was presented.

Councilmember De La Isla, Economic and Community Development Committee Chair, gave the staff report. She stated the Committee recommended approval for contracted and social services 2018 funding priorities as well as 2018 budget recommendation for funding of contracted city services in the amount of \$229,363 and \$488,944 for other categories identified in the funding priorities for a total of \$718,307. She noted a couple changes to the process including (1) new programs applying could only receive a maximum funding amount of \$15,000 per program for an organization not established with the City during the past three years and (2) language changes relating to outcomes listed in the priorities.

Mayor Wolgast announced the committee report was received and accepted by the Governing Body.

Councilmember Hiller commended the Committee for their work. She suggested the following amendment to Priority No. 2: Attractive, well-kept City - listed in the Social Services and Contracted Services Priority Areas 2018. Delete Bullet Point No. 1 in its entirety and delete the word "annual" in Bullet Point No. 2:

Priority 2: Attractive, well-kept City

- ~~Assist all NIA's with neighborhood specific cleanups by providing volunteers and/or financial assistance.~~
- Partner with Department of Neighborhood Relations for annual cleanup activities and efforts citywide.

Mayor Wolgast asked if there were any objections to the language amendment as proposed by Councilmember Hiller. Upon hearing no objections, Mayor Wolgast announced unanimous consent by the Governing Body.

Councilmember De La Isla noted priorities could be adjusted as needed each year.

Councilmember Ortiz questioned the intent of the Committee concerning Priority No. 2.

Councilmember De La Isla stated the intent was to have organizations coordinate with the City and include the needs of the community in their priorities.

Councilmember Ortiz expressed concern with the language and stated she believes partnerships with some organizations may decline because of the restriction and/or requirement.

Councilmember De La Isla moved to approve the 2018 Contracted and Social Services funding priorities and budget recommendations as amended. The motion seconded by Councilmember Jensen carried. Councilmember Ortiz voted “no.” (9-1-0)

ELECTION of a Deputy Mayor to serve a one year term pursuant to Topeka Municipal Code Section A2-26(b) was presented.

Councilmember Schwartz moved to nominate Councilmember Coen to serve as Deputy Mayor.

Councilmember Ortiz moved to nominate Councilmember Jensen to serve as Deputy Mayor.

Upon hearing no further nominations, Mayor Wolgast closed the nominations.

Mayor Wolgast asked members of the Governing Body to cast their vote.

After the tally of votes, the City Clerk announced Councilmember Coen received seven (7) votes and Councilmember Jensen received three (3) votes.

Mayor Wolgast announced Councilmember Coen would serve as Deputy Mayor.

DISCUSSION concerning amending City ordinances to allow miniature pigs to be kept as pets within City limits was presented.

Councilmember Jensen stated he initiated discussion because there are conflicts within City codes concerning “swine” and “domestic hoofstock” and believes there is no reason not to allow miniature pigs as pets within city limits. He reported the cities of Lawrence, Manhattan and Kansas City allow pot-bellied pigs as pets within city limits. He noted the proposed ordinance would limit three pigs per person, weight limit not to exceed 150 pounds, the animal must be vaccinated and spayed or neutered.

Councilmember Clear suggested allowing two pigs per household.

Councilmember Emerson suggested amending the language to reflect “per household” instead of “per person.”

Councilmember Hiller asked if miniature pigs would be included in the animal welfare ordinance specifically relating to safe and warm shelter as well as tethering regulations.

Lisa Robertson, City Attorney, stated the same restrictions would apply to miniature pigs as other animals included in the animal welfare ordinance.

Councilmember Coen asked if miniature pigs would be required to be licensed with the City.

Christina Wolf spoke in support of the ordinance and provided a brief overview of the care requirements of miniature pigs. She noted the City of Lawrence requires miniature pigs to be microchipped for owner identification purposes.

Councilmember Harmon questioned the inconsistency of City Codes in regards to “domestic hoofstock” and suggested the City’s legal department review the Topeka Municipal Code in general for other redundancies.

Lisa Robertson stated she concurs with Councilmember Harmon and believes the City Code needs a more comprehensive review.

Councilmember Schwartz suggested referring the issue to the Policy and Finance Committee for further review and noted she believes miniature ponies should also be considered.

Councilmember Hiller asked if the microchipping and licensing of pot-bellied pigs have been researched by staff.

Councilmember Jensen stated they were informed the City's current pet registry system was not equipped to support registering swine; however, he would be willing to research the issue further.

Doug Gerber, Interim City Manager, stated staff would support referring the issue to Committee for further discussion.

Councilmember Jensen suggested presenting the proposed ordinance for consideration at the January 10, 2017 Governing Body meeting and referring the specific issues to Committee for further discussion and possible inclusion.

DISCUSSION pertaining to the proposed annexation of property (Reser's Fine Foods) located at the northwest corner of SE 6<sup>th</sup> Street and SE Croco Road, within unincorporated Shawnee County, Kansas; and an amendment to the text and map of the Land Use and Growth Management Plan 2040 element of the Topeka Comprehensive Plan was presented. (A17/1) (CPA16/1)

Doug Gerber, Interim City Manager, reported the discussion would consist of three parts (1) annexation of property (A17/1); (2) amendment of the Land Use and Growth Management Plan (CPA16/1); and (3) rezoning of the area (PUD16/5). He stated he understands the proposed development of a new Reser's manufacturing plant is an emotional issue for all involved;



however, the recommendations made by staff are based on the policy approved by the Governing Body and fall within the parameters of the Land Use and Growth Management Plan (LUGMP 2040).

Bill Fiander, Planning Department Director, provided an overview of the proposed development at the corner of SE 6<sup>th</sup> Street and SE Croco Road. He reported the 31-acre tract would facilitate a 403,000 square foot food manufacturing facility with plans to repurpose the facility at SE 10<sup>th</sup> Street and SE Deer Creek Parkway, generating new jobs for the area.

Councilmember Ortiz questioned if utilities had been extended to the area.

Councilmember Hiller asked if an area traffic study was conducted; and where the truck exits would be located.

Bill Fiander stated the utilities extend to SE 6<sup>th</sup> Street and SE Croco Road and the City would agree to maintain the west side of SE Croco Road only if the property is annexed; however, Shawnee County has the authority pursuant to Kansas Annexation laws, to ask the City to maintain half of the street. He reported 12% of the new traffic would travel north of the site along SE 6<sup>th</sup> Street which would be widened to allow for the entering and exiting of trucks and traffic circulation.

Councilmember Ortiz expressed concern with an increase in area truck traffic along SE Croco Road and the maintenance issues that evolve over time when a road is maintained by both the City and County.

Councilmember Clear asked if signs could be installed along SE Croco Road prohibiting truck traffic.

Councilmember Hiller asked if the additional job positions would occur in the first or second phase of the development.

Bill Fiander stated the additional jobs would be generated when the remodel of the existing facility is complete.

Mark Reser, David Welsh, Jannett Wiens, Jeremy Harvey, Allen Henderson, Mike Morse, Craig Harris and Matt Pavrnik spoke in support of the development. They highlighted the benefits of the development including landscape buffers surrounding the facility, containment of stormwater runoff, creation of new jobs, overall economic impact to the community as well as the overall benefits Reser's continues to provide through donations and partnerships in the community.

Mark Armstrong, Deborah McLay, John Flory, Heather Farias, Kimberly Tibbs, Janice Spiker, Linda Brink, Jim Moeder and Lou Armstrong spoke in opposition of the development and annexation of the area. They expressed concern with the proposed location, risk of industrial accidents, omitted industrial noise and lights, employment of non-residential citizens, increased truck traffic and how it relates to increased maintenance of surrounding streets, decrease of surrounding residential property values, the facility does not fit the characteristic of the residential neighborhood; and not locating the facility in an existing industrial park.

Anthony Bunting stated from his experience this type of development does not affect the value of surrounding residential homes.

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

Doug Gerber, Interim City Manager, welcomed new Municipal Court Associate Judge Mike Warner. He announced the Waterline Replacement Project on SW Wanamaker Road would begin on January 9, 2017; and encouraged people to follow the City of Topeka on Snapchat.

Mayor Wolgast expressed his condolences to the family of former Topeka Mayor Chuck Wright. He congratulated Councilmember Coen on being elected to serve as deputy mayor.

Councilmember Emerson commended all those involved in the Reser's Fine Foods development and stated he understands it is a tough issue for all involved.

Councilmember Jensen asked his constituents to contact him with any questions or concerns to [BrendanJensen.com](http://BrendanJensen.com) or by telephone at 785-422-0018.

Councilmember Coen thanked Governing Body members for electing him as deputy mayor. He expressed appreciation to the individuals providing public comment on the Reser's Fine Foods zoning case.

Councilmember Hiller congratulated Councilmember Coen on being elected to serve as deputy mayor.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:57 p.m.

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Brenda Younger  
City Clerk