

Governing Body Minutes – January 10, 2017

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 10, 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 Ollie J. Johnson, Jr., Jerusalem Missionary Baptist Church, gave the invocation.

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

A PRESENTATION on the Code Enforcement Efforts in Topeka was presented by Chuck Kitt, former City of Topeka Chief of Prosecution.

Councilmember Jensen asked what improvements could be made to reduce the workload and result in more cases being processed and completed.

Councilmember Ortiz stated the City's Code Enforcement Division has made great strides including cross-training of inspectors; however, the City needs to increase their efforts in public education of code violations and prevention. She requested inspectors conduct mass inspections in certain areas of the city where most needed.

Councilmember Schwartz commended Chuck Kitt and staff for their work. She questioned how property foreclosures are handled in regards to code enforcement.

Chuck Kitt stated code enforcement involves due process especially as it relates to the rights of property owners, which takes time; the City needs more inspectors to ease the workload and process more cases; and property foreclosures are difficult to manage due to the lengthy process involved.

Councilmember Hiller commended City staff for their work and noted the overall code enforcement system has been enhanced greatly to assist City staff and property owners.

Doug Gerber, Interim City Manager, reported staff would continue discussion on a future Council agenda regarding compliance education, enforcement and prosecution.

BOARD APPOINTMENT recommending the reappointment of Paul Post to the Topeka Landmarks Commission for a term ending April 1, 2020 was presented.

Councilmember De La Isla moved to approve the appointment. The motion seconded by Councilmember Coen carried unanimously. Mayor does not vote. (9-0-0)

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 3, 2017, was presented.

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

RESOLUTION NO. 8845 introduced by Interim City Manager Doug Gerber, describing the areas to be considered priorities for 2017 Planning Target Areas for future federal and city funding as may be allocated within the 2018 and 2019 City budgets was presented.

Doug Gerber, Interim City Manager, reported approval would confirm Tennessee Town and Quinton Heights Steele Neighborhood Improvement Associations selected by the Citizens Advisory Council (CAC) on December 7, 2016, as areas to be designated as Stages Of Resource Targeting (SORT) neighborhoods. He noted this would not approve funding allocations at this time.

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

RESOLUTION NO. 8846 introduced by Interim City Manager Doug Gerber, approving the 2017 Neighborhood Empowerment Grants as recommended by the Neighborhood Empowerment Grant Committee was presented.

Doug Gerber, Interim City Manager, reported approval would allocate \$135,470 to six projects in Central Park, Oakland, East Topeka North and Ward-Meade neighborhoods and provide for a contingency of \$2,420 for an allocated total of \$137,890.

Councilmember Clear spoke in opposition of funding park improvements. She questioned why grant funding would be used for this purpose when it is the responsibility of the Shawnee County Parks and Recreation Department.

Doug Gerber, Interim City Manager, reported the projects that were approved are eligible for funding as well as the priorities outlined by the neighborhoods.

Sasha Haehn, Department of Neighborhood Relations Director, reported the funds must be used to enhance the quality of life in neighborhoods for all residents and are to be dedicated to neighborhood infrastructure (sidewalks) and park improvements.

Councilmember Hiller suggested the City discuss guidelines for future empowerment grants with Neighborhood Improvement Associations (NIAs) and the Shawnee County Parks and Recreation Department.

Councilmembers Ortiz and Clear asked staff to list the details of the Ripley Park improvement project request.

Sasha Haehn stated she would provide project details to the Governing Body via email. She reported in 2016, the City and County began discussions to strengthen their partnership and fill gaps in park improvement projects.

Councilmember Schwartz commented on the program “Livable Neighborhoods” conducted in Wyandotte County and suggested Governing Body members review the program to possibly establish something similar in Topeka.

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

APPROVAL of Governing Body Rules and Procedures Section 8.2(b) regarding Council committee terms was presented.

Councilmember Hiller, Policy and Finance Committee Chair, reported the Committee recommended approval of Section 8.2(b) as proposed with no changes to Section 8.2(c) by a vote of 3-0-0 on December 27, 2016. She stated approval would give the deputy mayor discretion to retain incumbent councilmembers on Council committees so continuity can be maintained. The amendment is as follows:

(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.

Councilmember Hiller moved to approve Governing Body Rules and Procedures Section 8.2(b) as proposed. The motion seconded by Councilmember Emerson carried.

Councilmembers Clear and Ortiz voted “no.” (8-2-0)

RESOLUTION NO. 8847 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 “Parking, Surface Lot In Association With the Principal Use at 2035 SW Western Avenue” on property zoned “M-1” Two-Family Dwelling District and located along the

east side of SW Fillmore between SW Hampton and SW 20th Streets within the City of Topeka, Shawnee County, Kansas was presented. (CUI6/5)

Doug Gerber, Interim City Manager, stated the zoning case was remanded back to the Planning Commission on November 15, 2016 for further consideration.

Bill Fiander, Planning Department Director, reported the applicant has amended their recommendation to approve an off-site parking lot for the building located at 2035 SW Western and not consider a correctional placement facility; therefore, staff has altered its recommendation to approve only the off-site parking lot along SW Fillmore which is subject to the amended site plan removing any reference to the “City of Faith” proposal of a correctional placement facility.

Councilmember Coen questioned the need for a parking lot at this location.

Bill Fiander stated the applicant needs a parking lot to market and reuse the existing building.

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

AN ORDINANCE introduced by Councilmember Brendan Jensen, concerning miniature pigs amending City of Topeka Code Section 6.35.030 and repealing original section and creating new Section 6.45.010 was presented. (*This is a home rule ordinance in which the mayor has no vote.*)

Councilmember Jensen reported approval of the ordinance would allow miniature pigs to be kept as pets within the city limits if the pig weighs less than 150 pounds and its height is less than 24 inches measured at the shoulder, has been vaccinated against pseudo rabies, has been spayed or neutered upon reaching maturity and no more than two miniature pigs are kept or harbored within any one household. He suggested referring Topeka Municipal Code (TMC) Sections 6.05.010 (General Provisions - Definitions), 6.05.060 (Exotic or captive wild animals),

6.35 (Livestock) and 6.40 (Fowl) to the Public Health and Safety Committee for a comprehensive review.

Councilmember Jensen moved to adopt the ordinance. The motion was seconded by Councilmember De La Isla.

Councilmember Clear questioned the registration requirements for a miniature pig and stated the regulations should be included in the proposed ordinance.

Lisa Robertson, City Attorney, stated there is a provision in TMC Section 6.05.010(c) which addresses the definition of “domestic animals” and TMC Section 6.20.150 regarding licensing tag requirements. She noted the language outlined in these sections could be used as model language in the proposed ordinance.

Councilmember Clear moved to amend the ordinance to include the registration of miniature pigs (same process as dogs and cats). The motion was seconded by Councilmember Ortiz.

Councilmember Hiller questioned how tags would be attached to miniature pigs and spoke in opposition of the amendment until there is further review on the matter.

Councilmember Jensen stated the word “collar” could be revised to “harness” in the ordinance.

Councilmember Ortiz stated an owner could provide the tag to an officer upon demand and suggested a licensing provision be included for proof of vaccination.

The motion to amend the ordinance to include the registration of miniature pigs (same process as dogs and cats) carried. Councilmembers Hiller and Harmon voted “no.” (7-2-0)

Lisa Robertson suggested including the language in TMC Sections 6.20.110 and 6.30.090 (Vaccination certificate prerequisite to issuance).

Councilmember Ortiz made a friendly amendment to include TMC Sections 6.20.110 and 6.30.090 to the ordinance.

Councilmember Jensen accepted the friendly amendment. The second concurred.

Councilmember Hiller stated she anticipated a complete review on the issue before consideration of the proposed ordinance to better understand how miniature pigs would fit in City Code. She expressed concern with where miniature pigs would be taken if abused or lost as the Helping Hands Humane Society does not accept pigs because they are considered livestock. She noted there are specialized people who handle miniature pigs in other cities; however, she is not sure if this is the case in Topeka. She suggested checking with the State on required vaccinations so that City Code covers all vaccine requirements. She proposed deferring the ordinance until February 7, 2017 to allow time to gather more information.

Councilmember Jensen stated he concurs with Councilmember Hiller as she has valid concerns; however, he believes the issues relate to all domestic animals in general living in the city not just miniature pigs.

Councilmember Hiller made a substitute motion to defer the ordinance to February 7, 2017. The motion was seconded by Councilmember Ortiz.

Doug Gerber, Interim City Manager, stated staff shares the same concerns and would like time to conduct a comprehensive review of the overall issue and address only the certain specifics raised at the February 7, 2017 Governing Body meeting.

The substitute motion to defer the ordinance until February 7, 2017 carried.

Councilmembers Clear, De La Isla and Jensen voted “no.” (6-3-0)

ORDINANCE NO. 20048 introduced by Interim City Manager Doug Gerber, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located at the northwest corner

of SE 6th Street and SE Croco Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented. (A17/I)

Bill Fiander, Planning Department Director, stated approval would allow a 31-acre tract outside the city limits to be annexed and made a part of the City of Topeka. He reported all five urban services are available to the property as well as it lies within Tier 3 of the Land Use & Growth Management Plan 2040.

Councilmember Ortiz requested to implement a formal agreement with Shawnee County for the maintenance of SE Croco Road.

Bill Fiander reported the details of the agreement would be formalized upon completion of the road.

Councilmember Hiller asked staff to comment on truck traffic traveling north on SE Croco and SE Rice Roads; consideration of alternate sites for the development; and stormwater runoff containment and water pressure in the area.

Bill Fiander reported the following:

1. A traffic study was performed and there is no expectation that truck traffic would travel north on SE Croco Road; however, if it becomes a problem the City will limit the truck traffic.
2. Seven other sites were considered for the development.
3. All stormwater will be retained onsite and flow northwest to a detention pond and then released into a creek; and the upgrades made to the water system should ensure sufficient water pressure.

Councilmember Clear expressed concern with the safety hazards of increased truck traffic and points of entry for the new development.

Bill Fiander stated the majority of truck traffic would travel east on SE 6th Street because it provides for the most direct route to the interstate or west on SE 6th Street to the plant located on SE 10th Street.

Michael Harding, David Welsh, Craig Harris, Joseph Ledbetter, Jackie Steele and Brad Pacy spoke in support of the development. They highlighted the investment in the community and good partnership with the neighborhood; utilizing new and clean technology concerning noise, odor and lighting; SE 6th Street would be utilized for main truck routes; long-term benefits of the development; implementation of a stormwater system; tested and confirmed sufficient water pressure; and the overall return on investment for tax dollars spent on infrastructure.

Mark Armstrong, Heather Farias and Sandra Camprise spoke in opposition to the development. They expressed concern with industrial accidents, increased truck traffic along SE Croco Road, overall effect on the neighborhood, red water issues and watermain breaks.

Tom Ingram provided highlights of the traffic study conducted for the development.

Councilmember De La Isla 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. 20049 introduced by Interim City Manager Doug Gerber, pertaining to an amendment to the text and map of the Land Use and Growth Management Plan 2040 element of the Topeka Comprehensive Plan was presented. (CPA16/1)

Bill Fiander, Planning Department Director, stated approval would amend the text and map of the Land Use and Growth Management Plan 2040 to designate a mixed use employment corridor for SE 6th Avenue from SE Deer Creek Parkway to SE Croco Road.

Michael Harding, Reser's Fine Foods, appeared for questions.

Sandra Camprise spoke in opposition of the development and expressed her disappointment in the overall vision of the city by Governing Body members.

Councilmember Ortiz thanked staff for providing her a tour of the area and site to help her better understand the development proposal. She asked staff to comment on the new sidewalk that would be constructed between SE Croco and SE Rice Roads.

Bill Fiander reported installation of a sidewalk is required by the developer to connect the two areas.

Councilmember Ortiz 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. 20050 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, by providing for certain changes in zoning on property located at the northwest corner of SE Croco Road and SE 6th Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District and "C-2" Commercial District ALL TO "PUD" Planned Unit Development District (I-1 use group) was presented. (*PUDI6/5*)

Bill Fiander, Planning Department Director, stated approval would allow Reser's Fine Foods to develop a 403,000 square foot processing, manufacturing and warehousing facility over two phases. He reported the facility would be a "clean" land use facility compatible with its surroundings and provide for a visually appealing corridor addressing stormwater drainage, noise, odor and lighting.

Councilmember Hiller requested a Crime Prevention Through Environmental Design (CPTED) review.

Bill Fiander stated a preliminary CPTED was conducted for the site and is included in the site plan review.

Councilmember Schwartz stated she understands progress can be difficult; however, she believes the development will make Topeka a better place to live, work and play.

Councilmember Ortiz thanked Bill Fiander and staff for their work, patience and expertise in the matter.

All Governing Body members declared ex parte communications from opponents and proponents in the form of letters, telephone calls, emails, as well as personal and professional conversations and contacts.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember De La Isla 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.

DISCUSSION OF THE Neighborhood Event and Beautification grant program included in the 2017 City of Topeka Operating Budget was presented.

Doug Gerber, Interim City Manager, reported \$25,000 was approved in the 2017 City of Topeka Operating Budget to help support neighborhood events, beautification projects and other improvement projects available to all neighborhoods within the City.

Councilmember Jensen reported the program was created for the purpose of enhancing small neighborhood events and beautification or improvement projects and grant matches.

Councilmember Ortiz asked who would review and approve the applications.

Doug Gerber stated staff would create an application review committee for final approval by the Governing Body.

Councilmember Schwartz encouraged the City to create a program similar to Wyandotte County to bring all neighborhoods together to apply for funding.

Councilmember Hiller questioned the intent of the program and requested clarification of the program vision and parameters as well as the timeline for implementation. She questioned how specifically the funding sources could be used; is this duplication in funding as it relates to Social Services funding; purpose of requiring neighborhood recipients to attend neighborhood roundtable events; does the model allow for holding back any funds for ideas that emerge through the year; will there be requirements for cash fundraising or investments or only sweat equity; what are the plans for grant funds that are not used; and what kind of grants are envisioned in regards to match money.

Sasha Haehn, Director of Neighborhood Relations, reported the program summary presented to the Governing Body splits grants between events, beautification projects and grant matches as well as the general program guidelines. She noted this is the first step in the process and the timeline was a projection as they move forward.

Councilmember Jensen stated he welcomes all comments and suggestions.

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

Doug Gerber, Interim City Manager, announced special events are now posted on the City's website calendar and citizens can sign up for e-notifications of approved special events. He commended Bill Fiander, Planning Department Director and staff for working on the Reser's Fine Foods development. He welcomed Seth Bracken, the City's new Chief of Prosecution.

Councilmember De La Isla announced the Topeka Jazz Concert Series is scheduled for January 15, 2017. She thanked Planning Department staff for their work on the Reser's Fine Foods development, citizens for their input and Reser's Fine Foods for their investment in the community.

Councilmember Jensen announced the City has launched a new application "SeeClickFix" which is a great tool for open communication with citizens.

Councilmember Schwartz announced this week's "gem" of Topeka is Heartland Visioning for implementing the new Social Ambassador Program.

Councilmember Hiller thanked Planning Department staff for their work on the Reser's Fine Foods development. She commented on an article in the Topeka Capital Journal on December 28, 2016, regarding GraceMed Health Clinic relocating their current facility at 1615 SW 8th Avenue to 1400 SW Huntoon Street, the former Dillions Store.

Mark Galbraith appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:32 p.m.

Brenda Younger
City Clerk