

Governing Body Minutes – April 4, 2017

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 4, 2017. The Governing Body members of the City of Topeka met in session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Clear, Ortiz, Emerson, Jensen, Schwartz, Coen and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember De La Isla -1.

AFTER THE MEETING was called to order, Barry Feaker, Topeka Rescue Mission, gave the invocation.

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

A PRESENTATION on the Curb Your Clutter Events was presented by Monique Glaude, Community Engagement Division Director.

BOARD APPOINTMENT recommending the reappointment of Doria Watson to the Civil Service Commission to fill an unexpired term ending May 1, 2021, was presented.

Councilmember Clear moved to approve the board appointment. The motion seconded by Councilmember Emerson carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8866 introduced by Councilmember Karen Hiller, approving a special event known as Eagle Cruise Night to be held on May 6, 2017, was presented.

RESOLUTION NO. 8867 introduced by Councilmember Karen Hiller, granting Cumulus Broadcasting an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions was presented.

RESOLUTION NO. 8868 introduced by Councilmember Karen Hiller, granting Lupitas an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions was presented.

MINUTES of the regular meeting of March 21, 2017, was presented.

APPROVAL of the following Open After Midnight License applications were presented:

<u>Business Name</u>	<u>Address</u>
American Legion Capitol Post 1	3800 SE Michigan Street
Blue Moose	3030 SW Wanamaker Road
Boss Hawg's	2833 SW 29 th Street
Brass Rail Tavern	401 NE Emmett Street
Breakers Sports Bar & Grill	5217-5235 SW 28 th Court
The Burger Stand at College Hill	1601 SW Lane Street
Crescent Foundry	400 SW 33 rd Street
Denny's #7268	1500 SW Wanamaker Road
Denny's #7269	3210 SW Topeka Boulevard
The Dugout	1545 SW Fairlawn Road
Faces LLC	802 N Kansas Avenue
Lazy Toad	5331 SW 22 nd Place #2
McDonald's	2933 SW Wanamaker Road
Midwest Lodge #1441	1316 SE Madison Street
Moonlight Boutique	4732 SW Topeka Boulevard
Quinton's Bar & Deli	4121 SW Huntoon Street
Ramada Hotel & Convention Center	420 SE 6 th Street
Starlite Skate	301 SE 45 th Street
The 20's	2910 SW Oakley Street
West Ridge Lanes	1935 SW Westport Drive
Whiplash Bar & Grill	2107 SE California Avenue

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

A REVISED PETITION, A REVISED PROJECT BUDGET in the amount of \$874,700 and RESOLUTION NO. 8869 introduced by Interim City Manager Doug Gerber, authorizing Improvement Project T-601066.00 which will provide street and stormwater improvements in Horseshoe Bend Subdivision No. 4 located near SE 43rd Street and SE Grand Oaks Avenue as more specifically described therein was presented.

Doug Gerber, Interim City Manager, reported approval would increase the previous project budget by \$115,000 to provide street and stormwater services in Horseshoe Bend Subdivision

No. 4 located near SE 43rd Street and SE Grand Oaks Avenue to be funded 100% by the property owners.

Councilmember Emerson left the room.

Councilmember Schwartz moved to approve the revised petition, revised project budget and resolution. The motion seconded by Councilmember Jensen carried. Councilmember Emerson did not vote. (8-0-0)

A REVISED PETITION, A REVISED PROJECT BUDGET in the amount of \$270,265 and RESOLUTION NO. 8870 introduced by Interim City Manager Doug Gerber, authorizing Improvement Project T-401062.00 which will provide sanitary sewer service to Horseshoe Bend Subdivision No. 4 located near SE 43rd Street and SE Grand Oaks Avenue as more specifically described therein was presented.

Doug Gerber, Interim City Manager, reported approval would increase the previous project budget by \$50,770 to provide sanitary sewer services in Horseshoe Bend Subdivision No. 4 located near SE 43rd Street and SE Grand Oaks Avenue and funded 100% by the property owners.

Councilmember Jensen moved to approve the revised petition, revised project budget and resolution. The motion seconded by Councilmember Coen carried. Councilmember Emerson did not vote. (8-0-0)

Councilmember Emerson entered the room.

A REVISED PETITION, A REVISED PROJECT BUDGET in the amount of \$342,689 and RESOLUTION NO. 8871 introduced by Interim City Manager Doug Gerber, authorizing Improvement Project T-601067.00 which will provide street and stormwater installation in Misty

Harbor Estates No. 5 located near SW 43rd Street and SW Lakeside Drive as more specifically described therein was presented.

Doug Gerber, Interim City Manager, reported approval would increase the previous project budget by \$54,212 to provide street and stormwater services in Misty Harbor Estates Subdivision No. 5 located near SW 43rd Street and SW Lakeside Drive and funded 100% by the property owners.

Councilmember Schwartz moved to approve the revised petition, revised project budget and resolution. The motion seconded by Councilmember Clear carried unanimously. (9-0-0)

APPROVAL of a Development Agreement between the City of Topeka and the Downtown Topeka Foundation, a not-for-profit corporation was presented. (Contract No. 45866)

Doug Gerber, Interim City Manager, reported approval would grant transient guest tax (TGT) funding in the total amount of \$3,450,000 for distribution in accordance with the terms of the development agreement over the course of 12 years.

Lisa Robertson, City Attorney, referenced a memorandum dated March 24, 2017, outlining the provisions of the proposed development agreement specifically relating to lines 71-73 on page 4; lines 117-119 on page 6; and lines 151-154 on page on page 7. She an additional language amendment has been proposed by Councilmember Hiller beginning on line 145 of Section 2(b) Design and Construction Standards on page 7. The proposed amendment is underlined below:

“2(b) Design and Construction Standards. The Foundation will submit the final design plan to the Governing Body of the City for its information and review. All Project design and construction must be done in accordance with applicable City standards and the Foundation shall endeavor to solicit professionals and contractors in a competitive manner.”

Councilmember Coen moved to approve the development agreement. The motion was seconded by Councilmember Schwartz.

Councilmember Clear asked who would be held responsible if the terms of the development agreement are not met. She expressed concern with the language beginning on line 432 of the agreement stating “funded either as separate City of Topeka street improvement projects or as public/private partnerships”. She asked if the City would fund any needed street improvements.

Lisa Robertson reported the City would contract with the Downtown Topeka Foundation and the Foundation would enter into an agreement with Downtown Topeka Inc., to operate the plaza. She also reported there were provisions included in the agreement that would address any issues regarding noncompliance of terms; and the language on line 432 only provides funding options and does not commit the City to funding any improvements.

Doug Gerber stated any needed street improvements for the Downtown Plaza would most likely be handled in the same manner as other downtown projects through public/private partnerships.

Councilmember Hiller moved to amend the development agreement as stated by the City Attorney. The motion was seconded by Councilmember Emerson.

Councilmember Hiller questioned if language should be included in the development agreement for the Governing Body to approve the design plans.

Mayor Wolgast and Councilmember Coen spoke in opposition of including language regarding design approval by the Governing Body as the designs will be shared with the Governing Body as the project moves forward.

Councilmember Hiller stated she believes the approval of the Governing Body would support transparency of local government.

Councilmember Schwartz stated many cities allocate funding to visitor bureau organizations and do not have the oversight or approval of project plan details; however, she supports the Governing Body continuing to receive detailed reports on how funding is used by organizations.

The motion to amend the development agreement as stated by the City Attorney carried. Councilmembers Clear and Coen voted “no.” (7-2-0)

Councilmember Harmon suggested allocating a portion of the Transient Guest Tax (TGT) funds or Topeka Business Improvement District (TBID) funds to be used for the maintenance of the Downtown Pocket Parks. He stated the parks are a vital piece of downtown revitalization as well as it would provide relieve to taxpayers.

Councilmember Coen questioned how much funding would be available and noted it was his understanding it would require \$60,000 annually to maintain the parks.

Councilmember Schwartz concurred with Councilmember Harmon and spoke in support of discussing funding options during the next budget cycle as pocket parks would be considered a part of tourism.

Councilmember Hiller spoke in support of discussing the issue further in the Transient Guest Tax Committee as the funds could easily be allocated to the maintenance of the pocket parks as there is flexibility regarding use of the funding.

Doug Gerber reported funding in the amount of \$42,000 as already been approved for 2017 pursuant to a resolution approved by the Governing Body; however, it could be amended. He also reported the TGT Committee allocates the unreserved balance of TGT funds on an annual basis and the maintenance of Downtown Pocket Parks could be part of that discussion.

The motion to approve the development agreement as amended carried. Councilmember Ortiz voted “no.” (8-1-0)

RESOLUTION NO. 8872 introduced by Councilmember Brendan Jensen approving the Neighborhood Grant and Beautification Program was presented.

Councilmember Jensen reported grant funding in the amount of \$25,000 would be made available to all neighborhoods in 2017 for event planning, beautification projects and other improvements within neighborhoods.

Councilmember Hiller commended staff for their work in drafting a great program that would be very beneficial to neighborhoods.

Councilmember Jensen moved to approve the resolution. The motion seconded by Councilmember Clear carried unanimously. (9-0-0)

APPROVAL of the Transient Guest Tax (TGT) Committee Report and Recommendation with regards to a multi-year funding contract with Visit Topeka, Inc. (VTI) was presented.

Councilmember Schwartz, TGT Committee Chair, reported the TGT Committee recommended to the Governing Body approval of changing the Visit Topeka, Inc., contract term from one year to three years.

Councilmember Schwartz moved to approve the TGT Committee Report and Recommendation. The motion was seconded by Councilmember Coen.

Councilmembers Harmon and Ortiz spoke in opposition of extending the agreement to three years as they believe the current process works well on an annual basis and there is a benefit to the annual review of objectives and goals which allow for better accountability and transparency.

Councilmember Emerson stated the multi-year contract allows for more fiscally responsive planning for multi-year contracts of larger events.

Brett Oetting, Visit Topeka President and CEO, stated a multi-year contract would provide more latitude in the booking of multi-year events as well as flexibility to bid for more events annually.

Councilmember Jensen spoke in support of a multi-year contract because it would allow budgeting effectively for future events; however, in an effort to ensure accountability he would encourage the continuation of annual reporting to the Governing Body.

Councilmember Harmon expressed concern with the need for more funding as opposed to extending the contract timeframe.

Councilmember Hiller stated she understands how a multi-year contract would provide an advantage when negotiating future events for VTI; however, the contract language would not allow the City to fund future years if the funding was not available.

Councilmember Schwartz stated the multi-year contract would help attract events on a longer term basis; however, the funding would depend on how much revenue was generated.

The motion to approve the TGT Committee Report and Recommendation carried.

Councilmembers Ortiz and Harmon voted “no.” (7-2-0)

RESOLUTION NO. 8873 introduced by Interim City Manager Doug Gerber, establishing the City’s 2018 budget priorities was presented.

Doug Gerber, Interim City Manager, reported approval would establish priorities of the Governing Body for the 2018 City of Topeka Operating Budget.

Nickie Lee, Finance Director, reported discussions began in February 2017, followed by a series of public engagements for the purpose of gathering public input on budget priorities. She also reported on the online survey conducted resulting in over 900 independent responses ranked as follows:

1. Investing in Infrastructure
2. Continuing a Commitment to Public Safety
3. Continuing a Commitment to Developing Neighborhoods
4. Selected Strategic Investments Toward Quality of Life
5. Improving Fiscal Sustainability
6. Improving Performance and Cost-Effectiveness

Councilmember Ortiz suggested included a budget survey in the utility bill for the next budget cycle.

Councilmember Ortiz moved to approve the resolution. The motion was seconded by Councilmember Harmon.

Councilmember Jensen moved to amend the resolution on line 16 to reflect a PCI of 70. The motion was seconded by Councilmember Coen.

Councilmember Coen expressed concern with the lack of funding to support a PCI of more than 60.

Mayor Wolgast stated the City's current PCI average is 55 and believes it would be very difficult to fund a PCI higher than 60.

Jason Peek, Public Works Director, reported the City would need to allocate \$24.4 million for a PCI of 60; \$38.3 million for a PCI of 70; and spend more than \$19.1 million to maintain the current PCI of 55.

Councilmember Hiller spoke in opposition of the amendment. She stated staff has recommended a PCI of 60 which seems to be a realistic goal; however, they will have to work hard and develop a solid strategy to achieve a PCI of 60.

Councilmember Jensen stated he understands the funding is not there at this time; however, he believes a higher goal should be set.

Councilmember Emerson spoke in support of Councilmember Jensen's amendment because the citizens have supported infrastructure improvement as the number one goal.

Doug Gerber suggested adding the statement “of at least 60, with a goal of 70” to the end of line 16 of the resolution.

Councilmember Jensen accepted the friendly amendment. The second concurred.

The motion to amend line 16 of the resolution to state, “of at least 60, with a goal of 70” carried. Mayor Wolgast voted “no.” (8-1-0)

Joseph Ledbetter spoke in support of no tax increases and suggested City employees be more productive; concentrate on improving code enforcement; install GPS in all Code Enforcement Division vehicles and encouraged the use of SeeClickFix by City employees.

The motion to approve the resolution as amended carried unanimously. (9-0-0)

DISCUSSION of the proposed 2018-2027 Capital Improvement Plan (CIP) and the 2018-2020 Capital Improvement Budget (CIB) was presented.

Nickie Lee, Finance Director, reported the Governing Body adopts a ten year CIP and a three year CIB each year prior to adopting the annual budget.

Jason Peek, Public Works Director, provided an overview of street projects to be included in the CIP; proposal of the use of excess sales tax funds for a Pavement Management Program with a PCI goal of 60-70; 125 miles of preventative maintenance work within the City limits for \$1.3 million; municipal building renovations; neighborhood infrastructure projects with SORT funding and fire station renovations.

Councilmember Harmon left the room.

Councilmember Hiller encouraged City staff to maintain the scope and dollar amount of the citywide sales tax funds and the list of projects approved by voters.

Mayor Wolgast spoke in support of ensuring the municipal building is compliant with building code regulations.

Nickie Lee continued discussion on the Topeka Police Department Body Worn Camera/Taser Equipment Replacement Plan and Kay's Garden Zoo Project.

Councilmember Ortiz requested the Police Chief provide more detailed information on the Body Worn Camera/Taser Equipment Replacement Plan to the Governing Body.

Councilmember Clear asked if the items are ordered annually and how many devices are utilized by officers.

Kris Kramer, Topeka Police Chief, reported the equipment is very expensive to maintain between warranty costs, data storage and download requirements. He stated a new contract would give the needed storage amount for each kind of video format.

Councilmember Jensen questioned the cost to store data in a Cloud format and suggested researching storage in-house. He also questioned the high cost of equipment warranties compared to purchasing the equipment outright.

Doug Gerber, Interim City Manager, stated the City would purchase the cameras outright.

Councilmember Hiller expressed concern with voting on projects ten years in advance due to inevitable changes. She requested staff provide their professional opinion and detailed scope of the projects.

Doug Gerber stated all projects and budgets would be presented to the Governing Body for final approval. He stated the ten year program allows the City to better plan for the future and provides for a more favorable bond rating. He noted the CIP and CIB would be presented to the Governing Body for consideration at the April 11, 2017 meeting unless more discussion was needed.

Joseph Ledbetter spoke in support of street improvements on SE California Avenue, 17th Street and the Kansas Turnpike Authority interchange. He commended Shawnee County for the good management of projects and completing Countywide Sales Tax projects under budget.

DISCUSSION regarding the use of excess countywide half-cent sales tax that was in effect January 1, 2005, to December 31, 2016 was presented.

Doug Gerber, Interim City Manager, reported it is estimated the City of Topeka would receive approximately \$10 million in excess Countywide Sales Tax funds. He stated remaining excess funds would be used as follows:

- (1) The remaining funds would be used to support the Pavement Management Project (T-601071.00) as presented in the 2018-2027 CIP.
- (2) \$500,000 would be designated to provide seed money to a non-profit community corporation and/or redevelopment authority dedicated to the development of affordable housing and the redevelopment and revitalization of Topeka's neighborhoods.

Sasha Haehn, Neighborhood Relations Department Director, reported community development corporations are not-for-profit developers with the sole focus on the redevelopment of neighborhoods in need of revitalization as a whole and all that revitalization entails.

Mayor Wolgast asked how \$500,000 would be incorporated into the community development corporations.

Sasha Haehn stated the funding is typically community-driven or a partnership with an existing community development corporation from another community and the funding is then leveraged.

Councilmember Clear asked if the \$500,000 would be for one year; if there are options to divide the funds throughout the whole community; and if final approval of the developer agreement would be considered by the Governing Body.

Sasha Haehn stated it would be the decision of the Governing Body to make it reoccurring and selecting projects would be based on SORT Target neighborhood areas already in the planning phases. She noted a developer agreement would outline the regulations and conditions of the funding.

Doug Gerber stated the \$500,000 allocation would be held until a solid plan and/or agreement is created and approved by the Governing Body.

Councilmember Jensen stated he hopes that the allocation would stimulate infill developments that would maintain the character of neighborhoods. He expressed concern with funding the program in the future and the need for a long-term plan to sustain it.

Sasha Haehn noted the developer agreement could stipulate that development in neighborhoods have to preserve the character of the area.

Doug Gerber stated the intent of the \$500,000 is to allocate as seed money to start the program and proceeding years of support would depend on approval of the Governing Body.

Mayor Wolgast stated the allocation would address an important need in the community and believes language in the developer agreement should be broad enough to allow the City to consider all possibilities even use for existing programs.

Councilmember Jensen expressed concern with government getting into the private or non-profit sector of the community and stated he would like a significant amount of research done to determine the proper use of the funds in our community. He spoke in support of committing the funds to the neighborhoods; however, he suggested all options be presented for the Governing Body to review and determine what is best for the community as a whole.

Councilmember Coen stated the excess funds should go towards street improvement projects in the spirit of the ballot question approved by the voters.

Doug Gerber stated purpose of this discussion is to clarify where the Governing Body wants to allocate the excess funds.

Councilmember Hiller asked if all housing funds are being spent in neighborhoods as there should be a sustainable plan to address housing revitalization uses. She encouraged review of the City's Consolidated Action Plan if converting funding to housing issues and providing more in-depth proposals.

Councilmember Ortiz stated she believes there is a need to address vacant land in existing neighborhoods; complete infill housing areas and help the mentally ill in the community before allocating \$500,000 into an issue that should be researched further.

Councilmember Emerson expressed concern with duplicating services as there are many local community organizations that can provide and help with affordable housing. He noted there are needs in other areas to absorb possible utility rate increases to help fund necessary utility infrastructure improvements.

Stephen Schiffelbein and Olga Hennessy, JUMP members, spoke in support of allocating \$500,000 to be used as seed money to help address safe and affordable housing initiatives including a housing trust fund.

John Hunter, Heartland Visioning Executive Director, stated he is currently conducting extensive research on the best use of funds in the community to address housing needs and would report back to the Governing Body in a few months.

Cheryl Hishmeh, NET Program Development Director, stated there are huge housing gaps within the community as well as mental health issues; therefore, she believes seed money is needed to consider all these options that would help the community as a whole.

Jeff Carson, Jayhawk Theater Board of Directors President, requested the Governing Body allocate \$200,000 to help move the Jayhawk Theater renovation project forward and make up for the reduced funding in 2015.

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

Doug Gerber, Interim City Manager, announced the Topeka Way To Work Youth Job Program is accepting applications through April 14, 2017, from individuals who are between 14 and 21 years of age who would like to participate in the program that runs June 5th through July 28th. He announced Rojo, Topeka Zoo's male tiger would be transferred to the Miller Park Zoo in Bloomington, Illinois, and noted there are future plans to bring in a new male tiger.

Councilmember Jensen stated he attended a meeting regarding the health grade for Shawnee County and learned how this affects residents and how it can be improved to move the community forward. He commended the team involved in this great effort.

Councilmember Schwartz commended Rachel Rost, Topeka Zoo Educator, who was selected by National Geographic and Lindbald Expeditions as a Grosvenor Teach Fellow this year and would travel to the Galapagos Islands in September for a 10-day expedition. She thanked Kent Pellegrino for volunteering to serve on the Topeka-Shawnee County Parks and Recreation Advisory Board.

Councilmember Hiller announced the new Grace Medical facility would hold their grand opening on April 5, 2017 at 10:30 a.m.

Councilmember Ortiz announced the Public Health and Safety Committee has scheduled a meeting on April 7, 2017 at 3:30 p.m. at the Law Enforcement Center, 320 S. Kansas Avenue, Classroom A.

Councilmember Coen moved to recess into executive session for a time period not to exceed 20 minutes to discuss employer/employee negotiations for the purpose of understanding the status and conduct of negotiations. To assist the Governing Body in discussion, the following individuals were requested to attend: Interim City Manager, City Attorney and staff, Finance Director, Human Resources Director and outside counsel. The motion seconded by Councilmember Emerson carried unanimously. (8-0-0)

At 9:40 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 9:40 p.m.

Brenda Younger
City Clerk