

## **Governing Body Minutes – May 9, 2017**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 9, 2017. The Governing Body members of the City of Topeka met in session at 6:00 P.M., with the following Councilmembers present: Hiller, Clear, Ortiz, De La Isla, Emerson, Jensen, Schwartz, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember Jensen asked for a moment of silent meditation.

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

A PRESENTATION on the City's First Quarter Financial Report was presented by Nickie Lee, Finance Director.

A PRESENTATION on the City's First Quarter Public Works and Utilities Report was presented by Jason Peek, Public Works Director and Braxton Copley, Utilities Deputy Director.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8898 introduced by Councilmember Karen Hiller approving a special event known as Tap That After Party to be held on June 24, 2017, was presented.

RESOLUTION NO. 8899 introduced by Councilmember Karen Hiller, granting The Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8900 introduced by Councilmember Karen Hiller, approving a special event known as Sunshine Reggae Festival to be held on July 15, 2017, was presented.

RESOLUTION NO. 8901 introduced by Councilmember Karen Hiller granting The Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of May 2, 2017, was presented.

APPROVAL of the following Cereal Malt Beverage License applications were presented:

<u>Business Name</u>	<u>Address</u>
Gas N Shop	1900 N Topeka Boulevard
Hy-Vee #1658	2951 SW Wanamaker Road
Hy-Vee Gas	6011 SW 29 <sup>th</sup> Street
Valero	2044 NW Tyler Street

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

RESOLUTION NO. 8902 introduced by Interim City Manager Doug Gerber, regarding the bridge located at SE 10<sup>th</sup> Street and Branner which shall be named and dedicated as the Nick Chiles Memorial Bridge was presented.

Doug Gerber, Interim City Manager, reported approval would name and dedicate the bridge located at SE 10<sup>th</sup> Street and Branner, the Nick Chiles Memorial Bridge.

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

A PUBLIC HEARING and ORDINANCE NO. 20064 introduced by Interim City Manager Doug Gerber, establishing a business improvement district to be known as the Topeka Tourism Business Improvement District (“TTBID”) and creating Topeka Municipal Code Chapter 3.65 addressing services, financing and establishment of a district advisory board in accordance with K.S.A. 12-1782 et seq., was presented.

Doug Gerber, Interim City Manager, reported approval would establish a business improvement district to be known as the Topeka Tourism Business Improvement District; define services to be provided; impose a service fee on all hotels and establish a district advisory board.

Councilmember Harmon reported the language of the ordinance would not restrict the spending of the funds to the downtown area and could be used on projects located anywhere in the city. He questioned what would be accomplished if the district was approved that could not be accomplished with transient guest tax funds and if expenditure of the funds would require approval by the Governing Body.

Lisa Robertson, City Attorney, reported the fee would be considered a self-imposed tax; services would be outlined in a contract with the Topeka Lodging Association; operation of the downtown plaza and other items would be outlined in the State statute concerning business improvement districts; the district advisory board would submit an annual report to the Governing Body; however, expenditure of the funds would not be approved by the Governing Body.

Doug Gerber reported staff anticipates the process would be similar to the Downtown Business Improvement District (BID) with the same flexibility and authority.

Councilmember Jensen spoke in support of the ordinance and stated he supports the great public-private partnership idea and accompanying funding mechanism. He stated he believes the funds would allow flexibility to accomplish more than just the downtown plaza and make an investment in the community.

Councilmember Hiller stated it was the intent of the Governing Body to use the funds to cover all expenses associated with the Downtown Plaza project.

Lisa Robertson stated the contract with TLA would cover the requirements and ensure funds are spent as intended.

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

Tarun Bhakta, Hotel Owner, questioned how the fee would be imposed and what would be the amount.

Doug Gerber reported the proposed fee would be \$1.00 per room.

Upon no further comment, Mayor Wolgast announced the public hearing was closed.

Councilmember Schwartz stated she understands the fee would only be imposed to hotels located within city limits; however, she questioned if hotels located in Shawnee County could contribute to the district.

Kurt Young reported one hotel located in Shawnee County has volunteered to participate in the TTBID at this time and when the process has been completed, TLA plans to approach other hotel owners located outside city limits to encourage participation.

Councilmember De La Isla commended the Topeka Lodging Association for their work in creating a successful private-public partnership as well as finding a way to fund the downtown plaza and moving the community forward.

Councilmember De La Isla moved to adopt the ordinance. The motion seconded by Councilmember Schwartz 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. 20065 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 3636 SE 6<sup>th</sup> Avenue, 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. (A17/2)

Bill Fiander, Planning Director, reported approval would annex a 12-acre tract to accommodate relocation of the wastewater and stormwater facilities for Reser's Fine Foods and assign the tract to Council District No. 3.

Floyd Rockers, area property owner, questioned if a berm could be placed between the Reser's property and his property; if the smell of the plant would be ventilated properly; and if the stormwater would be contained at a proper rate so his property would not flood.

Craig Harris, Stormwater Civil Engineer for the applicant, reported the smell from the treatment plant would be contained within the plant and almost nonexistent; stormwater collection would be properly handled and released at the same rate the water was currently being released into the creek.

Mike Morse, Kansas Commercial Real Estate Services Inc., spoke in support of the addition of land as it would create less of an impact to the neighborhood.

Councilmember Hiller reported there have been stormwater issues in this area in the past and it would be her hope all pre-existing stormwater issues would be addressed.

Bill Fiander reported the public hearing was held by the Topeka Planning Commission and all surrounding property owners were notified of the addition of land.

Councilmember Ortiz expressed her appreciation of the efforts made by the Reser's Fine Foods representatives to accommodate surrounding residents; however, she has received complaints regarding construction on the weekend. She asked staff to report back on the matter.

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. 20066 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 intersection of SE Croco Road and SE 6<sup>th</sup> Street by amending and expanding the boundary of the PUD master plan to include property at 3636 SE 6<sup>th</sup> Avenue/Street and 347/349 SE Croco Road, currently zoned “RR-1” Residential Reserve District ALL TO “PUD” Planned Unit Development District was presented. (PUD16/5A)

Bill Fiander, Planning Director, reported approval would allow Reser’s Fine Foods to relocate the wastewater pre-treatment and stormwater detention on the property. He noted the zoning request serves as a companion piece to the annexation request by the applicant.

Councilmember Ortiz declared exparte communications in the form of letters and telephone calls from opponents and proponents of the issue.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Coen 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 regarding the request from Burlington Northern Santa Fe (BNSF) Railroad to close the railroad crossing on SE 8<sup>th</sup> Avenue between SE Adams Street and SE Hancock Street was presented.

Doug Gerber, Interim City Manager, reported the City received the request from BNSF several months ago to permanently close the crossing.

Jason Peek, Public Works Director, reported BNSF Railroad has requested the City consider closing the railroad crossing at SE 8<sup>th</sup> Avenue between SE Adams Street and SE Hancock Street.

He stated the request was due to a Federal Mandate to implement the Positive Train Control system that would have significant costs to launch. He stated staff has reviewed the request and met with property owners, businesses and residents to discuss the request, impacts and identify the solution to mitigate the closure. He noted if the request is approved by the Governing Body, the City would request that BNSF provide the following items:

1. Pay for all costs (design, right-of-way, construction, etc.) to construct a new street between SE 8<sup>th</sup> Avenue and SE 10<sup>th</sup> Street on the east side of the railroad tracks.
2. Repair and improve the current rail crossing on SE 10<sup>th</sup> Street west of the 10<sup>th</sup> Street Bridge.
3. Permit a future public crossing of BNSF's railroad tracks between NE Curtis Street and NE Sardou Avenue.

Councilmember Hiller asked BNSF to provide background as to why the request was being made. She commended City staff and BNSF for working with the business owners during the process and accommodating their concerns.

Tammy Young, BNSF representative, stated BNSF needs to close the crossing to comply with the on-going Positive Train Control, a Federal Mandate for mainline tracks.

Councilmember Clear questioned why citizens are being ticketed at the railroad crossing by railway police and expressed concern with the danger of the Lyman Crossing which has been built up higher than the road. She expressed her dissatisfaction with railroad debris not being removed from the North Topeka area; and the lack of desire by railroad representatives to help better the community.

Jason Peek stated the railroad crossing in the North Topeka area (Little Russia community) is owned by Union Pacific Railroad; however, a BNSF railway line ties into the Union Pacific railway line.

Councilmember Ortiz expressed concern with the SE 10<sup>th</sup> Street and SE 4<sup>th</sup> Street crossing areas deteriorating and requested BNSF review the conditions.

Tammy Young stated BNSF would improve the surface at the SE 10<sup>th</sup> Street crossing hopefully this year and would review the SE 4<sup>th</sup> Street crossing for standard street improvements.

Councilmember Coen expressed concern with the quality of the access street for businesses located in the area initially; however, in reviewing the map and access street, he believes the businesses would be content.

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

Brenda Younger, City Clerk, provided an overview of the May 16, 2017 Council agenda.

Doug Gerber, Interim City Manager, announced a celebration would take place for the completion of a street project in conjunction with the dedication of the Nick Chiles Memorial Bridge on May 11, 2017, at 1:00 p.m.; the Annual Clean Slate Day would be held May 12, 2017 from 9:00 a.m. to 3:00 p.m. at the Topeka Municipal Court; the Bike Ride with the Mayor and City Manager would be held May 17, 2017 at 1:00 p.m.; and the City of Topeka 2018 Budget Public Forum would be held May 18, 2017, at the Law Enforcement Center from 6:00 p.m. to 7:30 p.m.

Councilmember Schwartz announced a Transient Guest Tax Committee meeting would be held May 11, 2017, at 3:00 p.m. at the Law Enforcement Center. She commended Visit Topeka for providing the community with a handout titled “100 Things To Do This Summer” in the Topeka Capital Journal newspaper as well as providing the Governing Body a copy of their 1<sup>st</sup> Quarter Report. She gave a brief report on why Topeka was known as the “Golden City.”

Councilmember Coen commended public safety personnel for their service to the community.



Councilmember Hiller commented on the great events that happened over the past weekend and commended event organizers and City staff for partnering together on the new special events process. She offered her condolences to the Claire Swogger family.

Councilmember Clear announced the Two Block Chalk Walk event would be held May 13, 2017 from 10:30 a.m. to 8:30 p.m. in the NOTO Arts District.

Councilmember Emerson commended all the volunteers for their participation in the Sharefest event held May 6, 2017.

Councilmember De La Isla commended local churches and organizations for working to better the community as a whole through the Sharefest event held May 6, 2017. She offered her condolences to the Marge Heeney family. She announced the 2017 Leadership of Greater Topeka class would graduate on May 10, 2017; the Menards NHRA Heartland Nationals at Heartland Park would be held May 19-21, 2017; and the opening of the Boutique on the Boulevard store located at 3400 SW Topeka Boulevard supporting the efforts of the Topeka Rescue Mission. She expressed her appreciation to all those involved in bringing Kansas University Medical to the community.

Carol Babcock appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:43 p.m.

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Brenda Younger  
City Clerk