

Council Minutes – February 17, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 17, 2009. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -1.

AFTER THE MEETING was called to order, Councilmember Blackburn gave the invocation.

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

Councilmember Woelfel requested to remove item 4A, a final plat for the Brickyard Subdivision from the consent agenda for further discussion.

Upon hearing no objections, Mayor Bunten announced that item 4A would be removed from the consent agenda and placed on the Council agenda under Unfinished Business as item 6C.

Councilmember Swank moved to suspend the Council Rules to add a charter ordinance and an ordinance to the Council agenda under First Readings. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

Councilmember Swank moved to add a charter ordinance amending City of Topeka Code Section A2-1 and creating Section A2-25.5 concerning the City Council's ability to override a mayoral veto to the Council agenda under First Readings. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

Councilmember Swank moved to add an ordinance calling an election for the purpose of voting on Charter Ordinance No. 98 to the Council agenda under First Readings. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

Mayor Bunten announced that the charter ordinance would be listed as item 9H; and the ordinance would be listed as item 9I under First Readings.

Councilmember Kennedy moved to pull item 9F, a charter ordinance concerning the City Council's ability to override a mayoral veto; and item 9G, an ordinance calling an election for the purpose of voting on Charter Ordinance No. 98 from the Council agenda. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

Councilmember Swank explained that the proposed charter ordinance would give the City Council the authority to override a Mayoral veto; give the Mayor the right to vote in those instances that state law requires adoption of ordinances by a majority of the Governing Body; and eliminate the Mayor's veto authority in the matter in which the Mayor was eligible to vote.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8144 introduced by City Manager Norton N. Bonaparte, Jr., expressing support for the Villas of Park Valley development project was presented.

MINUTES of the regular meeting of February 10, 2009 was presented.

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for O'Dooley's Irish Pub located at 1930 SW Westport Drive, was presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Topeka Quick Stop located at 1020 NW Topeka Boulevard, was presented.

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

A NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, February 17, 2009 at 6:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Project No. 40947-00, authorized by Resolution No. 7811, adopted and approved June 6, 2006.

ORDINANCE NO. 19220 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of

Topeka, Shawnee County, Kansas, for the improvement of Rockfire at the Lake Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40947-00, as defined and described in Resolution No. 7811, adopted and approved June 6, 2006, placed on first reading February 10, 2009 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 19221 introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sidewalk repair to real properties, more specifically described hereinafter, all pursuant to the authority found in City of Topeka Code Section 130-373 through 130-378 and Section 126-96 through 126-102 placed on first reading February 10, 2009 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Woelfel.

Councilmember Alcala asked if all property owners were given the opportunity to participate in the 50/50 Sidewalk Repair Program.

Mike Teply, Public Works Director stated that the 50/50 Program was offered to all property owners that were assessed for repair costs.

Councilmember Swank asked how many years the cost would be assessed to their property taxes.

Mike Teply stated that the assessment would be spread over a three-year period.

Councilmember Alcalá stated that he would not support the ordinance because of the proposed ballot questions identifying funding for replacement of sidewalks and other repairs.

The motion to adopt the ordinance carried. Councilmember Alcalá voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Noes: Alcalá -1.

A PROJECT BUDGET in the amount of \$2,672,381 and ORDINANCE NO. 19222 introduced by City Manager Norton N. Bonaparte, Jr., amending the amount of the authorized project budget and authorizing the project and amended budget for Improvement Project No. 70123-01, as more specifically described herein, pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 19144 placed on first reading February 10, 2009 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the amended project budget and adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá suggested developing a process to avoid the same type of error in the future.

Councilmember Woelfel stated that he would need more background information before making a decision.

Councilmember Woelfel made a substitute motion to defer the amended project budget and ordinance until March 17, 2009. The motion was seconded by Councilmember Haynes.

Linda Voss, City Traffic Engineer gave a brief history of the area and stated that the area has become a safety hazard and extremely congested. She also reported that the Kansas Department of Transportation (KDOT) is providing \$300,000 in funding assistance and donated the right-of-way for the project.

Councilmember Woelfel stated that based on the information provided he questions if the intersection is an issue that needs to be addressed at this time. He also expressed concern with the City's overall indebtedness if the project is approved.

Councilmember Alcalá asked how the intersection is ranked compared to other intersections throughout the city.

Linda Voss stated that the intersection ranks in the top 18 most hazardous intersections located in the city.

Councilmember Blackburn asked if the City provided funding to Shawnee County in exchange for the use of Surface Transportation Program (STP) funds. He also asked if the STP funds would have to be returned to Shawnee County if the Council does not approve the project.

Linda Voss stated that if the Council does not approve the project, Shawnee County would be entitled to a refund.

Councilmember Preisner spoke in support of the project and noted that the project is included in the Capital Improvement Budget.

Councilmember Haynes asked if there would be any issues if the project is delayed.

Linda Voss stated that a delay could cause problems because the final plans have to be submitted to KDOT three months prior to the project start date in July 2009. She also stated that the relocation of all utilities has begun and the City has paid some consultant fees.

Mike Teply stated that \$92,000 has been spent on the project to date.

The substitute motion to defer the amended project budget and ordinance until March 17, 2009 failed. Councilmembers Kennedy, Alcalá, Ortiz, Haynes, Swank, Blackburn, Preisner and Harmon voted "no." (1-8-0)

The motion to approve the amended project budget and adopt the ordinance carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

A FINAL PLAT for Brickyard Subdivision located at the northeast corner of NW 43rd Street and NW Brickyard Road, along the west side of US 75 Highway, outside the City's Municipal Service Area and within the City's three-mile extraterritorial jurisdiction all being within unincorporated Shawnee County, Kansas was presented. (P08/19)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Woelfel questioned if the agreement includes a provision that would allow any development in the region access to the interceptor; if property owners located within the subdivision could connect to the sewer system on their own without approval of the City; and if the Kansas Department of Health and Environment (KDHE) would require a detention pond for the area.

Mike Teply stated that the agreement did not stipulate that the City must provide sewer service; however, the agreement did specify that property owners must pay a connection fee to the County and City to be contributed towards the balance of the SRF loans.

David Thurbon, Planning Department Director stated that all KDHE issues have been resolved.

Councilmember Woelfel moved to approve the final plat. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 8145 introduced by Councilmember Bill Haynes, to submit to the qualified electors of the City of Topeka, Kansas, the proposition of levying additional special purpose retailer's sales taxes of up to one-half of one percent (0.5%) in the City of Topeka, for the purpose of paying for certain improvements and services in the City, pursuant to K.S.A. 12-187 et seq., as amended was presented.

Councilmember Haynes explained the special purpose retailer's sales tax proposal. He stated that Section 2d. would be deleted and the propositions would appear on the ballot as follows; expiring ten years from the date of imposition.

- 2a. "Shall the City of Topeka levy an additional retailers' sales tax in the amount of two-tenths (0.2%) to be used exclusively for costs of maintenance and improvements of City streets, gutters, curbs, sidewalks, alleys and street lighting."
- 2b. "Shall the City of Topeka levy an additional retailers' sales tax in the amount of one-tenths (0.1%) to be used exclusively for costs of preventing and reducing crime, cleaning up neighborhoods, and removing abandoned and unsafe structures."
- 2c. "Shall the City of Topeka levy an additional retailers' sales tax in the amount of one-tenths (0.1%) to be used exclusively for costs of river and creek flood control and improvement of north and south downtown."

Councilmember Haynes moved to amend line 30 of the resolution by changing the retailers' sales tax amount from two-tenths (0.2%) to three-tenths (0.3%); add the word "existing" before the word "City" on line 31; and delete Section 2d. in its entirety. The motion seconded by Councilmember Blackburn carried. Councilmembers Alcalá, Ortiz, Swank, and Preisner voted "no." (5-4-0)

Councilmember Blackburn moved to amend line 30 of the resolution by changing the retailers' sales tax amount from two-tenths (0.2%) to five-tenths (0.5%); amend line 31 of the resolution by adding the word "existing" before the word "City"; and delete Sections 2b., 2c., and 2d. in their entirety. The motion was seconded by Councilmember Preisner.

Councilmember Haynes questioned how the elimination of funding would affect future efforts of crime prevention.

Ron Miller, Police Chief stated that the Federal Government has initiated a stimulus package that will allocate several billion dollars to assist state and local governments with crime prevention. He suggested that the funds earmarked for crime prevention be utilized for cleaning up neighborhoods, removing abandoned and unsafe structures, and improving streets, gutters, curbs and sidewalks.

Councilmember Haynes questioned how the City is currently managing flood control for rivers and creeks.

Mike Teply, Public Works Director stated that the cost of flood control is absorbed through utility fees and managed through the cooperative efforts of the State, County and City.

Councilmember Harmon questioned if the City is aware of any funding that may be generated from the stimulus package that could be used to address infrastructure problems.

Mike Teply reported that the State of Kansas would receive approximately \$32 million from the Federal Government for street repairs to be distributed to six districts located throughout the state. He stated that he is unsure at this time how the funds could be utilized.

Councilmember Blackburn asked if levy repair costs could be absorbed through the utility fund.

Mike Teply stated that the recent utility rate increase should provide sufficient funding to cover the costs.

The motion to amend line 30 of the resolution by changing the retailers' sales tax amount from two-tenths (0.2%) to five-tenths (0.5%); amend line 31 by adding the word "existing" before the word "City"; and to delete Sections 2b., 2c., and 2d. in their entirety carried. Councilmember Swank voted "no." (8-1-0)

Councilmember Blackburn moved to defer action on the amended resolution until the next agenda item 7B, a resolution proposing a general purpose retailers' sales tax proposal was acted upon. The motion seconded by Councilmember Kennedy carried. Councilmembers Alcalá, Ortiz, Haynes and Preisner voted "no." (5-4-0)

A RESOLUTION introduced by Councilmember Swank and Councilmember Alcalá, to submit to the qualified electors of the City of Topeka, Kansas, the proposition of levying an additional one-half of one percent (0.5%) general purpose retailer's sales tax in the City of Topeka,

for the purpose of paying for public improvements in the City, pursuant to K.S.A. 12-187 et seq., as amended was presented.

Councilmember Swank explained the general purpose retailers' sales tax proposal. She stated that the following proposition to be voted on would appear on the ballot as follows; expiring twenty years from the date of imposition.

“Shall a retailers sales tax in the amount of one half of one percent (0.5%) be levied in the City of Topeka, Kansas, and dedicated exclusively to maintenance, repair, and construction of publicly-owned streets, curbs, gutters, stormwater improvements, traffic control devices, lighting, trails, bicycle paths, sidewalks and alleys in the City of Topeka.”

Councilmember Alcala stated that the proposal was presented with the hope of preventing an increase in the 2010 mill levy. He also stated that due to the financial constraints of the City he believes the proposal is the best method to make certain the necessary repairs that are needed throughout the city are completed.

Andrea Koker, Carl Koupal, Jim Parrish, Maynard Oliverius, Andy Jetter, Chad Manspeaker, Angela Sharp, Susan Mahoney, John Ladson and Jim Ogle spoke in support of the general purpose retailers' sales tax proposal resolution. They stated that approval would allow citizens the opportunity to determine how the sales tax revenue would be spent; allow investment of community infrastructure while addressing critical needs of the community without borrowing more money; enhance the quality of life and new construction in Topeka, which are essential parts of the Heartland Visioning process; create a community citizens are proud to call home; and provide the type of infrastructure that would generate private sector dollars to improve the community.

Councilmember Haynes asked how the City would finance new projects.

Jim Langford, Budget and Finance Director stated that it would require the City to accumulate enough revenue to pay for projects in phases; or finance the projects through

temporary notes and use the generated sales tax revenue to pay the temporary notes off early, reducing the overall cost of interest.

Councilmember Blackburn asked if the Greater Topeka Chamber of Commerce Board has offered their support of the sales tax proposal presented by Councilmember Haynes.

Jim Parrish stated that the Board has not had the opportunity to review the proposal in detail. He reported that the Board supports the sales tax proposal presented by Councilmembers Alcala and Swank because it would generate revenue to improve the City, as well as, take care of critical needs.

Councilmember Swank asked for clarification on how utility funds could be used.

Mike Teply stated that user fees for utilities could only be used towards the repair or improvement of utilities.

Councilmember Swank stated that an imposition of a sales tax would ensure that the people who utilize Topeka-Shawnee County streets and roadways share the expense of needed street improvements. She asked if street improvements included the widening of the streets. She also stated that she would not support adding the word “existing” because it would limit infrastructure projects that are desperately needed. She also stated that the retailers’ sales tax proposal could potentially save the City a large amount of debt service over the next several years.

Councilmember Woelfel expressed concern with the definition of “stormwater improvements” and asked if it would include the repair of stormwater inlets.

Mike Teply stated that his interpretation of the language is that it would include stormwater inlet improvements.

Councilmember Haynes moved to amend Section 2, lines 30 through 36 of the resolution to read, “Shall a retailers’ sales tax in the amount of one half of one percent (0.5%) be levied in the City of Topeka, Kansas, and dedicated exclusively to maintenance, repair, replacement and

reconstruction of publicly-owned streets, curbs, gutters, inlet repairs, traffic control devices, lighting, trails, bicycle paths, sidewalks and alleys in the City of Topeka, provided such tax shall take effect on October 1, 2009, and shall expire fifteen (15) years from the date of imposition?”

The motion was seconded by Councilmember Alcalá.

Councilmember Ortiz expressed concern with the words “replacement” and “reconstruction.” She questioned if the language was too restrictive regarding the paving of certain City streets. She also asked if the widening of streets had been addressed in the language of the resolution.

Councilmember Alcalá withdrew his second to the motion to amend Section 2, lines 30 through 36 of the resolution.

Mayor Bunten requested that the City Attorney draft a language amendment to the resolution that would address the Governing Body’s concerns.

Jackie Williams, City Attorney proposed an amendment to Section 2 of the resolution beginning on line 30 and ending on line 36. The amendment was read as follows, “Shall a retailers’ sales tax in the amount of one half of one percent (0.5%) be levied in the City of Topeka, Kansas, and dedicated exclusively to maintenance, reconstruction and replacement of publicly-owned streets, maintenance, repair and construction of curbs, gutters, inlet repairs, traffic control devices, lighting, trails, bicycle paths, sidewalks and alleys in the City of Topeka, provided such tax shall take effect on October 1, 2009, and shall expire fifteen (15) years from the date of imposition?”

Councilmember Haynes moved to amend Section 2, lines 30 through 36 of the resolution as stated by the City Attorney. The motion was seconded by Councilmember Woelfel.

Councilmember Ortiz expressed concern with the language not including the construction of new streets.

Councilmember Ortiz made a substitute motion to amend line 34 of the resolution by inserting the statement “no less than 10% of the revenue from the retailers’ sales tax shall be spent in any City Council District.” after the word “Topeka.” The motion was seconded by Councilmember Alcalá.

Jackie Williams stated that the language would not allow for the new construction of streets; however, it would allow the paving of existing publicly-owned streets.

Councilmember Blackburn spoke in opposition of the amendment. He stated that he believes the citizens would not support the proposal because the language is too broad, allowing for the enhancement of non-critical projects and improvements.

The substitute motion to amend the resolution by inserting the statement, “no less than 10% of the revenue from the retailers’ sales tax shall be spent in any City Council District.” after the word “Topeka” on line 34 failed. Councilmembers Kennedy, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon voted “no.” (2-7-0)

The motion to amend lines 30 through 36 of the resolution to read, “Shall a retailers’ sales tax in the amount of one half of one percent (0.5%) be levied in the City of Topeka, Kansas, and dedicated exclusively to maintenance, reconstruction and replacement of publicly-owned streets, maintenance, repair and construction of curbs, gutters, inlet repairs, traffic control devices, lighting, trails, bicycle paths, sidewalks and alleys in the City of Topeka, provided such tax shall take effect on October 1, 2009, and shall expire fifteen (15) years from the date of imposition?” carried. Councilmembers Woelfel and Blackburn voted “no.” (7-2-0)

Councilmember Swank moved to approve the resolution as amended. The motion was seconded by Councilmember Alcalá.

Councilmember Blackburn expressed concern with the proposed language of the amendment. He reported that constituents stated that they would prefer the sales tax revenue to be used for street improvements and not for bicycle paths and walking trails.

Councilmember Preisner stated that it is the responsibility of the Council to place the question on the ballot and allow the citizens the opportunity to determine how sales tax revenues would be spent.

Councilmember Swank stated that she has received a number calls from constituents supporting the construction of bicycle paths and walking trails.

The motion to approve the resolution as amended failed. Councilmembers Kennedy, Ortiz, Woelfel, Haynes and Blackburn voted “no.” (4-5-0)

Councilmember Haynes moved to approve agenda item 7a, a resolution authorizing the City of Topeka to submit to the qualified electors of the City of Topeka, Kansas the proposition of levying an additional special purpose retailer’s sales tax as amended. The motion was seconded by Councilmember Kennedy.

Councilmember Ortiz requested a friendly amendment to insert the word “construct” before the word “City” on line 31; and insert the statement “no less than 10% of the revenue shall be spent in any City Council District.” after the word “lighting” on line 32.

Councilmember Blackburn made a substitute motion to amend the resolution by adding the statement “no less than 10% of the total raised retailer’s sales tax revenue shall be spent in any City Council District, unless a district needs no further repairs to City streets, gutters, curbs sidewalks, alleys and street lighting.” The motion seconded by Councilmember Ortiz failed. Councilmembers Woelfel, Haynes, Swank, Preisner and Harmon voted “no.” (4-5-0)

Jacki Williams, City Attorney stated that the imposition of a retailers’ sales tax extending beyond ten years would be a general purpose retailers’ sales tax.

Councilmember Swank made a substitute motion to amend Section 2a, lines 30 through 36 of the resolution. The amendment read as follows, "Shall the City of Topeka levy an additional general purpose retailer's sales tax in the amount of five-tenths (0.5%) of one percent to be used exclusively for costs of maintenance, replacement and reconstruction of City streets and for maintenance, replacement and construction of gutters, curbs, sidewalks, alleys and street lighting provided such tax shall take effect October 1, 2009, and expire fifteen (15) years from the date of imposition."; and replace the words "special purpose retailer's sales tax" with the words "general purpose retailer's sales tax" in each place the words appear in the resolution. The motion seconded by Councilmember Preisner failed. Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Blackburn and Harmon voted "no." (3-6-0)

Mayor Bunten noted that the time was approaching 10:00 p.m.

Councilmember Preisner moved to extend the Council meeting through the end of the Council agenda. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

The motion to approve the resolution as amended failed. Councilmembers Alcalá, Ortiz, Swank and Harmon voted "no." (5-4-0)

ORDINANCE NO. 19223 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 26, 2009, through February 1, 2009, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 19224 introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on a portion of the property located at 6540 SW 10th Avenue and all of the property located at 6600 SW 10th Avenue from “PUD” Planned Unit Development District TO “O&I-2” Office and Institutional District placed on first reading February 10, 2009 was again presented. (Z09/1)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to BullsEye Telecom, Inc., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141000.01 (HTE 141281), which will procure approximately 30 new traffic signal controllers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141003.00 (HTE 141310), which provides for traffic signal replacement and minor sidewalk and ramp repair at SW 29th and Oakley, as more specifically

described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70204-01, Part B which provides for the Final Design, Right-of-Way Acquisition and Waterline Relocation located at SW 29th from Wanamaker Road to Urish Road as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, located on the south side of SE 45th Street between SE Maryland and SE Indiana Avenues, extended within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading. (A09/2)

A CHARTER ORDINANCE introduced by Mayor William W. Bunten and Councilmember Deborah Swank, amending City of Topeka Code Section A2-1 to Charter out of K.S.A. 12-3003, City of Topeka Code Section A2-24 to give the Mayor the right to vote on certain legislation and repealing said original sections, also creating new section A2-25.5 concerning the City Council's ability to override a mayoral veto was presented for first reading.

AN ORDINANCE introduced by Mayor William W. Bunten and Councilmember Deborah Swank, calling an election to be held on the 7th day of April, 2009, for the purpose of voting on Charter Ordinance No. 98 was presented for first reading.

Councilmember Preisner moved to reconsider the motion to approve item 7A, a resolution concerning a special purpose retailers' sales tax proposal presented by Councilmember Haynes, as amended. The motion was seconded by Councilmember Blackburn.

Councilmember Harmon raised a point of order concerning the motion to reconsider. He asked the City Attorney to determine the prevailing side of the vote.

Jackie Williams, City Attorney stated that the prevailing side would be considered those individuals that cast a “no” vote.

Councilmember Swank moved to reconsider the motion to approve item 7A, a resolution presented by Councilmember Haynes concerning a special purpose retailers’ sales tax proposal, as amended. The motion seconded by Councilmember Blackburn carried. Councilmember Harmon voted “no.” (8-1-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Kennedy carried. Councilmembers Alcala, Ortiz and Harmon voted “no.” (6-3-0)

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

Councilmember Ortiz reported that she was not in violation of City of Topeka Code Section 142-355, parking vehicles on non-paved surfaces.

Councilmember Woelfel expressed concern with allowing development outside of the City’s Municipal Service Area. He also stated that he hopes the overall sales tax rate does not increase as a result of the City’s proposal to increase its portion of the sales tax percentage.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:17 p.m.

Brenda Younger
City Clerk