

## Council Minutes – March 23, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 23, 2010. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9. Mayor Bunten presided -1.

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

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of March 16, 2010 were presented.

Open After Midnight License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
American Legion Capitol Post #1	3800 SE Michigan Avenue
American Legion Post #400	3029 NW Highway 24
Applebee's Neighborhood Grill	5928 SW 17 <sup>th</sup> Street
Boss Hawg's Barbeque	2833 SW 29 <sup>th</sup> Street
Buffalo Wild Wings Grill & Bar	1227 SW Wanamaker Road, #400
Chuckster's Bar & Grill	1620 SW 6 <sup>th</sup> Street
Dillons #87	5311 SW 22 <sup>nd</sup> Place
Dillons #88	4015 SW 10 <sup>th</sup> Street
Famous Dave's	1625 SW Wanamaker Road
Fraternal Order of Eagles	2941 SE Fremont
Hooter's of Topeka, Inc.	6100 SW 10 <sup>th</sup> Avenue
Hy-Vee #1658	2951 N. Kansas Avenue
Jax Drinks and Eatery	555 SW 39 <sup>th</sup> Street
Kickstart Saloon	2521 N. Kansas Avenue
Kwik Shop #720	102 W 37 <sup>th</sup> Street
Kwik Shop #788	1414 W 17 <sup>th</sup> Street
Kwik Shop #789	746 NE Wabash
Kwik Shop #781	4500 SW Topeka Boulevard
Kwik Shop #757	2619 SW 21 <sup>st</sup> Street
Kwik Shop #743	5633 SW 21 <sup>st</sup> Street
Kwik Shop #740	2277 W 10 <sup>th</sup> Street
Kwik Shop #729	1700 Topeka Boulevard

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Kwik Shop #705	1114 NW Topeka Boulevard
Jeremiah Bullfrog's	2940 SW Wanamaker Road
Philip Billard VFW Post #1650	3110 SW Huntoon Street
Roostertail	830 N. Kansas Avenue
Sk8way, Inc.	815 Fairlawn Road
Starlite Skate Center	301 SE 45 <sup>th</sup> Street
Steak-N-Shake	1415 SW Wanamaker Road
Tammy's On the Go	3335 Gage Boulevard
Terry's Billard Club	3919 SW 21 <sup>st</sup> Street
Topeka Country Club	2700 Buchanan
Topeka Moose Lodge #555	1901 N. Kansas Avenue
Wal-Mart Supercenter #2131	1301 SW 37 <sup>th</sup> Street
Wal-Mart Supercenter #1802	1501 SW Wanamaker Road
Wal-Mart Supercenter #5441	2600 NW Rochester Road
West Ridge Lanes & Family Fun Center	1935 SW Westport Drive

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

ORDINANCE NO. 19370 introduced by City Manager Norton N. Bonaparte, Jr., correcting certain sections of the codebook in preparation for its revision and codification, amending City of Topeka Code Sections 2-118, 2-363 through 2-365, 2-401, 2-479, 18-154, 26-4, 26-67, 26-76, 26-138, 26-420, 26-422, 26-607, 30-286, 30-288, 30-398, 30-441, 30-457, 38-2, 42-2, 42-3, 42-10, 66-101, 66-153, 70-36, 70-57, 74-32, 82-295, 82-298, 86-54, 98-131, 98-133, 98-211, 102-158, 106-74, 106-170, 112-5, 114-156, 130-161, 130-163, 142-63, 142-266, 142-401 through 142-404, 142-748, 146-30, 146-303, 146-351, 146-352, 146-458, 48-36.02, 48-18.02, 48-19.02, 48-20.02, 48-24.00, 48-24.03, 48-30.00, 48-30.01 and Article 35 of Chapter 48 and specifically repealing said original sections and repealing in their entirety Sections 2-330, 30-60, 30-74, 34-1 through 34-7, 34-36 through 34-62, 34-91 to 34-98, 78-1, 78-261, 78-363 and 130-2 placed on first reading March 16, 2010 was again presented.

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

Jackie Williams, City Attorney explained that following the final review of the codebook revision and codification it was determined that additional amendments were necessary. He stated that the ordinance would amend City of Topeka Ordinance No. 19370 adopted by the Council on January 19, 2010.

Councilmember Harmon moved to reconsider the motion from the City Council meeting of January 19, 2010 to adopt City of Topeka Ordinance No. 19370. The motion seconded by Councilmember Preisner carried unanimously. (10-0-0)

Councilmember Harmon moved to adopt the ordinance as amended. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -10.

ORDINANCE NO. 19398 introduced by City Manager Norton N. Bonaparte, Jr., pertaining to an amendment to the text and map of the Ward-Meade Neighborhood Plan, an element of the Topeka Comprehensive Metropolitan Plan 2025 placed on first reading March 16, 2010 was again presented. (CPA09/3A)

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

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Swank carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -10.

A PROJECT BUDGET in the amount of \$2,134,360 and ORDINANCE NO. 19399 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 12045, which provides for bridge replacement on SE 10<sup>th</sup> Street over Shunganunga Creek, as

more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 16, 2010 was again presented.

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

Councilmember Ortiz moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9.

A PROJECT BUDGET in the amount of \$315,000 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301010 (HTE #302890), which provides for the renovation of Gage Park Playland, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 16, 2010 was again presented.

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

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

Mayor Bunten asked if the \$9 million annual cap for general obligation (GO) bonded projects has been exceeded.

Jim Langford, Budget and Finance Director reported that to date, \$7.1 million of GO bonded projects have been approved.

Norton N. Bonaparte, Jr., stated that the project cost would not be included in the 2010 annual cap amount because the project was approved in the 2007-2008 Capital Improvement Budget. He noted pursuant to City of Topeka Resolution No. 8214 any projects included in the 2008-2009 Capital Improvement Budget must be brought before the Council by March 31, 2010.

Mayor Bunten stated that he disagrees with the practice of crediting project budgets from previous years and not including GO bonded project amounts in the total annual cap for the year the project would be bonded. He expressed concern with authorizing spending on projects that are not a necessity during tough economic times.

Councilmember Preisner requested a list of capital improvement budgets and the corresponding cost figures of the projects actually bonded for years 2007, 2008 and 2009 to be distributed to the Council in the next few weeks.

Norton N. Bonaparte, Jr., stated that he would provide a list to the Council within the next two weeks.

Councilmember Woelfel questioned if other projects have been bonded recently and not included in the \$9 million annual cap.

Jim Langford stated that he would have to research the total amount of GO bonded projects approved this year and report back to the Council. He reported that if the Gage Park Playland project is approved the total amount of GO bonded projects would be \$6.7 million for 2010 instead of \$7.1 million as initially reported.

Councilmember Archer stated that he believes it is a good project; however, he would not support the project at this time because it is not a necessity. He noted that the City is facing a \$5 million deficit in the 2010 operating budget.

Councilmember Hiller stated that she strongly supports the implementation of an annual cap for GO bonded projects and believes it was not the intent of the Council to exceed the cap. She questioned why the project was not brought before the Council previously; and if the project could be tabled until mid-summer when the City's financial status could be re-evaluated.

Terry Bertels, Parks and Recreation Director stated that in the past, the project was delayed because of on-going discussions regarding consolidation of City of Topeka and Shawnee

County Parks and Recreation Departments. He reported that the project was brought before the Council to meet the March 31, 2010 deadline; and to allow the project to be complete by summer. He noted that he would have preferred to complete the project in 2008 when it was initially proposed because the improvement is a much needed enhancement to Gage Park.

Councilmember Swank stated that Gage Park is an area of the City that is used by thousands of people annually and the improvements would increase visitation to the City. She also stated that she understands the financial issues the City is facing right now; however, the project is a crucial piece of the expansion of Gage Park and surrounding facilities.

The motion to approve the project budget and adopt the ordinance failed. Councilmembers Hiller, Alcalá, Ortiz, Woelfel and Archer voted “no.” (4-5-0)

RESOLUTION NO. 8245 introduced by Councilmember John Alcalá in support of Topeka Metropolitan Transit Authority’s undertaking of a study regarding the feasibility of constructing and maintaining a biomass energy facility in Topeka, Kansas was presented.

Councilmember Alcalá gave the staff report and stated that the facility would reduce the cost of diesel fuel for the buses. He reported that a similar process is currently being utilized on a smaller scale at the Water Pollution Control Plant; and there would be no expense to the City to apply for the federal grant funding to conduct a biomass energy facility study.

Janlyn Nesbitt-Tucker, Topeka Metropolitan Transit Authority (TMTA) Chief Executive Officer distributed a handout explaining the concept of turning methane into compressed organically natural gas to be used for fueling. She stated that TMTA would access funding through the Federal Transit Administration, the Kansas Department of Agriculture, Health and Environment, and the U.S. Department of Energy to begin the feasibility, engineering and environmental study of a biomass energy facility in Topeka.

David Billam, Topeka Metropolitan Transit Authority Planner stated that the biomass energy facility would help the City emerge as a leader in renewable energy by utilizing bio-organic products and reducing the amount of solid waste products.

Councilmember Archer asked how much it would cost to complete the study; if the study would be fully funded through federal grants; and if there are other transit authorities utilizing this type of energy in the United States.

Mr. Billam stated that it would cost approximately \$1.2 million to conduct a feasibility, engineering, and environmental study. He reported that most federal grants are based on an 80/20 funding partnership and TMTA plans to bundle several federal grants together to cover their 20% funding match requirement. He noted that many Scandinavian countries utilize this type of renewable energy.

Councilmember Hiller asked if the studies would be limited to the transit service only; and how the data would be collected for the study.

Mr. Billam stated that TMTA would partner with local wastewater treatment plants and research all potential waste streams including yard clippings, food waste and processing, and the agriculture industry. He reported that they anticipate the process would be implemented as a pilot project that could be offered to other communities.

Councilmember Woelfel questioned if the biomass energy facility would change the business focus of TMTA. He asked what the estimated cost of the facility would be.

Janlyn Nesbitt-Tucker reported that the lack of funding has forced TMTA to research other funding avenues. She stated that green energy is very popular and building momentum because of the tremendous amount of federal grant dollars available only to transit authorities through the Federal Transit Administration. She also stated that TMTA would not use operating

funds to conduct the study; and if TMTA is not awarded federal funding the study would not be conducted.

Councilmember Alcala expressed his enthusiasm in the potential of the project. He stated that he believes the project would provide tremendous savings in fuel expenses for the City. He noted that a biomass energy facility fits within the scope of the Heartland Visioning concept.

Councilmember Archer stated that he would support the resolution based on the fact that no TMTA operating funds would be used to conduct the study.

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

ORDINANCE NO. 19400 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 1, 2010, through March 7, 2010, and enumerating said expenditures therein was presented for first and final reading.

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

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9.

AN ORDINANCE introduced by Councilmember John Alcala, creating a new City of Topeka Code Section 26-5, concerning removal of debris after demolition of structures was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of portions of street right-of-way located at the northeast corner of NW Lyman Road and NW Clay Streets, City of Topeka, Shawnee County, Kansas was presented for first reading.

(V08S/8)

AN ORDINANCE 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 Waterline Improvement Project No. 28627-00 which provides for water service improvements to Wanamaker Meadows Subdivision, as defined and described in Resolution No. 8193, adopted and approved September 8, 2009 was presented for first reading.

AN ORDINANCE 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 Wanamaker Meadows Subdivision and Lauren's Bay Villas No. 2 with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40951-00 as defined and described in Resolution No. 8194, adopted and approved September 8, 2009 was presented for first reading.

AN ORDINANCE 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 Wanamaker Meadows Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60632-00 as defined and described in Resolution No. 8195, adopted and approved September 8, 2009 was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager thanked local businesses for their donations towards the children's Easter egg hunts at various community centers throughout Topeka. He reminded citizens to complete the 2010 Census packets and the role the information plays in the City receiving federal grants.

Councilmember Alcalá offered his condolences to the Shirley Whishom family.

Councilmember Archer commended the Think Big Topeka organization and encouraged the community to attend the Road Runners hockey game on March 25, 2010 at the Kansas Expo Centre in support of Google Topeka efforts.

Mayor Bunten noted that Topeka has been featured as Google, Kansas on the front page of the New York Times Newspaper. He commended the young people of Topeka for bringing the community together and getting Topeka noticed all over the world as Google, Kansas.

Councilmember Hiller commended the people involved with Think Big Topeka and their efforts to bring Google's fiber optic trial community to Topeka.

Councilmember Alcalá moved to adjourn the City Council meeting. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:17 p.m.

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Brenda Younger  
City Clerk