

## **Council Minutes –May 25, 2010**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 25, 2010. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Alcala -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.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8256 introduced by Councilmember Karen Hiller granting James Bailey an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8257 introduced by Councilmember Karen Hiller granting Topeka Harley Davidson an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of May 18, 2010 were presented.

A Cereal Malt Beverage License application for Kicks 66 located at 3300 SW Gage Boulevard was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Swank carried unanimously. (8-0-0)

### **A NOTICE OF PUBLIC HEARING**

A PUBLIC HEARING 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 Lateral Sanitary

Sewer District No. 40874-03, authorized by Resolution No. 7681, adopted and approved September 13, 2005.

ORDINANCE NO. 19421 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 Capricorn Woods Subdivisions with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40874-03, as defined and described in Resolution No. 7681, adopted and approved September 13, 2005 placed on first reading May 18, 2010 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 Woelfel carried unanimously. Mayor Bunten voted “yes.”

(9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -9. Absent: Alcalá -1.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING 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 Street Improvement Project 60611-04, authorized by Resolution No. 7989, adopted and approved August 14, 2007.

ORDINANCE NO. 19422 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 Alexander Place Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement

Project No. 60611-04 as defined and described in Resolution No. 7989, adopted and approved August 14, 2007 placed on first reading May 18, 2010 was again presented.

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

Councilmember Archer moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -9. Absent: Alcalá -1.

ORDINANCE NO. 19423 introduced by City Manager Norton N. Bonaparte, Jr., concerning various boards and commissions, amending Section 2-181 and repealing said original section and repealing Sections 10-91 and 98-211 in their entirety placed on first reading May 18, 2010 was again presented.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Woelfel carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Alcalá -1.

AN ORDINANCE introduced by Mayor Bunten, amending the City of Topeka Code Sections 18-7 and 54-102 concerning the hunting of game birds within the city limits and specifically repealing said original sections placed on first reading May 18, 2010 was again presented.

Mayor Bunten gave the staff report. He stated that the Kansas Department of Wildlife and Parks requested that the City allow the discharge of firearms in specific areas within city

limits.

Councilmember Hiller expressed concern with public safety. She noted that the area surrounding the specified hunting location is frequently utilized by citizens.

Mike Hayden, Secretary of the Kansas Department of Wildlife and Parks (KDWP) reported that the specified hunting area is located northeast of MacVicar and I-70 and could not be utilized without permission from KDWP. He expressed the importance of public safety and reported that a buffer area surrounds the hunting area to help ensure public safety.

Councilmember Swank spoke in opposition to the use of firearms within city limits. She expressed concern with the safety of citizens utilizing the nature trails near the hunting area and noted that the City is hoping to expand the nature trails in conjunction with the riverfront revitalization project.

Councilmember Preisner asked if the guided hunts would generate revenue.

Mr. Hayden stated that the guided hunts for youth are free of charge. He reported that each person must possess a Hunter Safety Certificate and file an application for approval to hunt.

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

Councilmember Harmon questioned if the City would incur liability if the ordinance is approved.

Jackie Williams, City Attorney stated that in his opinion the City could be liable if problems occur.

Mr. Hayden referenced State of Kansas statutes concerning recreational use relating to the protection of land owners against liability. He stated that KDWP takes all necessary precautions to minimize accidents.

Councilmember Hiller asked if the request was made in an effort to control the overpopulation of animals.

Mr. Hayden stated that the ordinance was introduced to allow area youth the opportunity to conduct hunts closer to their residency.

Councilmember Hiller asked how the KDWP would monitor the specified area to make certain citizens remain safe.

Mr. Hayden reported that there would be a designated area to park vehicles; individual hunts would be safely spaced apart; and KDWP land managers and conservation officers would patrol the property regularly. He noted that a similar hunting program has been implemented for property located adjacent to city limits on SW Urish Road, which has been very popular with no public safety issues reported.

The motion to adopt the ordinance failed. Councilmembers Hiller, Woelfel, Wolgast and Swank voted “no.” (4-4-0)

A PROJECT BUDGET in the amount of \$1,338,000 and ORDINANCE NO. 19424 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Street Improvement Project No. 70114-03 which provides for widening Gage Boulevard from 10<sup>th</sup> to 12<sup>th</sup> Streets, 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. 19204 placed on first reading May 18, 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 seconded by Councilmember Preisner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Alcalá -1.

A PETITION, A PROJECT BUDGET in the amount of \$380,613 and RESOLUTION NO. 8258 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Street Improvement Project No. T-601001.00 (HTE 606380) which provides for street improvements to Frazier Avenue, pursuant to K.S.A. 12-6a01, et seq., as amended, and rescinding City of Topeka Resolution of Advisability and Authorization No. 8042 was presented.

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

Councilmember Ortiz moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Hiller carried unanimously. (8-0-0)

ORDINANCE NO. 19425 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of May 3, 2010 through May 9, 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 Preisner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Alcalá -1.

AN ORDINANCE 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 property located at 5999 SW 22<sup>nd</sup> Park from “O&I-2” Office and Institutional District TO “PUD” Planned Unit

Development District (“O&I-3” Office and Institutional District use group with retail sales associated with the “O&I-3” use group only and a restaurant) was presented for first reading.

*(PUD10/4)*

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

Norton N. Bonaparte, Jr., City Manager announced that the final City of Topeka 2011 Budget Public Forum co-hosted by the Government Foundation Team of Heartland Visioning would be held May 26, 2010 at the Topeka-Shawnee County Library located at 1515 SW 10<sup>th</sup> Street from 6:00 p.m. to 8:00 p.m. He also announced that the City of Topeka is accepting applications for the Topeka 101: Citizens Academy until June 2, 2010; and the Topeka Police Department is hosting youth summer camps for 7<sup>th</sup> through 9<sup>th</sup> grade students. He directed parents to contact the Police Department at 368-9497 for more information. He reported that the City has begun road improvements on SW Wanamaker Road to I-470. He stated that an outside company has been hired to help repair potholes and reported that 120 tons of asphalt was utilized in 2008; and 700 tons of asphalt has been utilized from 2009 to date. He stated that the City’s goal is to repair potholes within a 48 hour time period after being reported. He asked citizens to report potholes to the Pothole Hotline at 368-3111.

Councilmember Preisner questioned if other municipalities have approved hunting within city limits; if the area would be used for guided youth group hunts only; if special access to the hunting area is managed by a lottery; and if hunts are restricted to Topeka residents only.

Mike Hayden, Secretary of the Kansas Department of Wildlife and Parks stated that the City of Leavenworth has a successful hunting program; the guided hunts are a valuable program for mentoring youth and work in conjunction with the Big Brothers Big Sisters of America

organization; the hunts are open to all Kansas residents; and the guided hunt applications are managed by the lottery system.

Mayor Bunten stated that he appreciates the sport of hunting and believes the environment within city limits would be controlled and safe for the community.

Councilmember Harmon moved to adjourn the City Council meeting. The motion seconded by Councilmember Woelfel carried unanimously. (8-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:38 p.m.

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Brenda Younger  
City Clerk