

Council Minutes – July 14, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 14, 2009. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer and Harmon -8. Absent: Councilmember Preisner and Mayor Bunten -2.

Deputy Mayor Harmon announced that Mayor Bunten was absent due to illness.

Deputy Mayor Harmon served as the presiding officer for the Council meeting.

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

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

A PRESENTATION of Topeka Zoo projects and fundraising accomplishments was presented by Jesse Borjon, Friends of the Topeka Zoo.

Norton N. Bonaparte, Jr., City Manager requested to withdraw item 5E, a project budget and ordinance approving Zoo Improvement Project 30273; and items 6B and 6C, companion resolutions amending the 2008-2009 Capital Improvement Budget and 2008-2012 Capital Improvement Program from the Council agenda.

Upon hearing no objections, Deputy Mayor Harmon announced that items 5E, 6B and 6C would be removed from the Council agenda.

THE CONSENT AGENDA was presented as follows:

A WORKERS' COMPENSATION SETTLEMENT for John Sidwell in the amount of \$16,228.80 was presented.

A WORKERS' COMPENSATION SETTLEMENT for William Wempe in the amount of \$28,572.75 was presented.

MINUTES of the regular meeting of July 7, 2009 was presented.

AN OPEN AFTER MIDNIGHT License application bearing the approval of the Chief of Police and City Inspectors for Roostertail located at 830 N. Kansas Avenue, was presented.

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

ORDINANCE NO. 19279 introduced by Councilmember Deborah Swank amending City of Topeka Code Section 2-27 that establishes council meeting times and places pursuant to the provisions of the City of Topeka Charter Ordinance placed on first reading July 7, 2009 was again presented.

Councilmember Swank stated that the Council meeting date was changed to honor the sixty (60) day waiting period for filing a petition of referendum with the City Clerk. She reported that the final publication date for City of Topeka Charter Ordinance No. 99 was May 22, 2009; therefore, the charter ordinance could not be acted upon by the Council until July 22, 2009. She stated that approval would authorize an increase in the mill levy cap for the Metropolitan Transit Authority for 2010.

Joseph Ledbetter spoke in opposition to a mill levy increase.

Councilmember Woelfel asked if the City would be approving the Topeka Metropolitan Transit Authority 2010 operating budget.

Jim Langford, Budget and Finance Director stated that approval of the ordinance would not authorize a 2010 operating budget for the Topeka Metropolitan Transit Authority.

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

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

ORDINANCE NO. 19280 introduced by City Manager Norton N. Bonaparte, Jr., pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan placed on first reading July 7, 2009 was again presented. (CPA09/1)

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

Councilmember Ortiz commended the Chesney Park Neighborhood Improvement Association and how well the residents work together.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer and Harmon -8. Absent: Councilmember Preisner and Mayor Bunten -2.

A PROJECT BUDGET in the amount of \$1,200,000 and ORDINANCE NO. 19281 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Repair Project No. T-841005.00 (HTE 843550), which provides for the design of the projects in the 2010 Street Maintenance Program, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading July 7, 2009 was again presented.

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

Councilmember Hiller distributed an amendment to the ordinance. She stated that the amendment would change the total project budget amount from \$1,200,000 to \$700,000 on line 24; and delete the statement, "General Obligation Bonds including Temporary Notes" on line 28 of the ordinance. She reported that it has been determined that only 8% of the total project cost would be needed for the project design element instead of 10%.

Councilmember Hiller moved to amend the ordinance as distributed. The motion was seconded by Councilmember Wolgast.

Councilmember Alcalá asked how much it would cost to issue the temporary notes. He also asked how the project would be funded if temporary notes were not issued.

Jim Langford, Budget and Finance Director reported that it would cost the City \$7,500 in interest costs and an additional \$13,000 to \$15,000 to issue the temporary notes. He stated that the cost of the project could be funded from the City's pooled cash funds if sales tax revenues are not received when the project is complete; and the City's pooled cash funds would be replenished when the City receives the sales tax revenue.

Councilmember Archer questioned the design costs. He asked why a detailed financial breakdown of the project costs was not included in the project budget.

Councilmember Woelfel questioned if Section A, lines 19 and 20; and Section C, line 28 of the ordinance should be amended to reflect the same funding source and language consistency.

Jackie Williams, City Attorney stated that the proposed amendment would clean up the language regarding the funding source, and make certain the cost of the project is covered.

Councilmember Alcalá noted that if the project would need a different funding source it would have to be approved by the Council.

Joseph Ledbetter expressed concern with borrowing against funds the City does not currently possess. He also questioned the design and maintenance costs of the project and if the proper bidding procedure was followed.

Councilmember Hiller reported that the City would utilize services from three separate companies.

The motion to amend the ordinance as distributed carried. Councilmembers Woelfel and Archer voted “no.” (6-2-0)

Councilmember Hiller moved to approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Wolgast carried. Councilmembers Woelfel and Archer voted “no.” (6-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Wolgast, Swank and Harmon -6. Noes: Woelfel and Archer -2. Absent: Preisner -1.

A PROJECT BUDGET in the amount of \$800,000 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Repair Project No. T-841006.00 (HTE 843560), which provides for the repair and replacement of curb and gutter at specified locations in the City, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading July 7, 2009 was again presented.

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

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

Councilmember Swank spoke in support of the project and stated that the curb and gutter repairs should start immediately due to rising construction costs.

Councilmember Woelfel spoke in opposition to the project due to the nature of the funding source. He stated that the community was aware of the timeline regarding the use of sales tax revenues and when repairs would begin.

Deputy Mayor Harmon asked when work would begin and projects completed; and how many projects currently listed on the City’s curb and gutter repair list would be included in the project and completed.

Mike Teply, Public Works Director stated that he anticipates work to begin within six to eight weeks following approval of the project. He reported that they are expecting two to three months of work to be completed, eliminating nearly half of all curb and gutter repairs currently listed within the City.

Councilmember Hiller reported that it would cost \$23,000 to complete one block of curb and gutter repair, the equivalent of the cost of the project. She stated that if the projects could be delayed until next year it would provide the City with the financial capacity to complete all street, curb and gutter repairs.

Councilmember Wolgast asked how the interest costs for the project would be funded.

Jim Langford, Budget and Finance Director stated that the interest costs could be funded through sales tax revenue or through the issuance of temporary notes.

Mike Teply stated that he believes the sales tax revenues and the 2010 Street Maintenance Plan could assist in completing all street, curb and gutter repair projects within the next year.

Joseph Ledbetter spoke in opposition to the project. He stated that even though it is likely construction costs would increase, the City would be paying too much in interest costs to justify starting the project early.

The motion to approve the project budget and adopt the ordinance failed. Councilmembers Hiller, Alcala, Ortiz, Woelfel, Archer and Harmon voted “no.” (2-6-0)

A DEMOLITION PERMIT REQUEST submitted by the Washburn University Campus Ministry for property located at 1633 SW Boswell Avenue and located within 500 feet of the historical environs of the College Avenue National Historic District was presented.

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

David Thurbon, Planning Director gave a brief overview of the staff report and stated that the house is functionally obsolete; the entire structure has been compromised; and it is not cost-effective to repair based on the analysis of the architect. He also reported that no offer has been made to purchase the property.

Jack Brier, Washburn University Campus Ministry requested the Council approve the demolition permit. He stated that he has consulted with the College Hill Neighborhood Improvement Association and they support demolition of the structure.

Councilmember Swank moved to approve the demolition permit request based on the determination that there were no feasible or prudent alternatives that exist to the proposed demolition. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Buntten was absent. (8-0-0)

APPROVAL of a Real Estate Purchase Agreement between the City of Topeka and Alfred and Marjorie Goodwin for property located immediately west of 2501 SE Monroe Street in the amount of \$350, and authorizing the City Manager to execute said agreement was presented. *(Contract No. 39649)*

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

Councilmember Ortiz moved to approve the real estate purchase agreement. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

RESOLUTION NO. 8179 introduced by City Manager Norton N. Bonaparte, Jr., setting forth the City of Topeka's policy for the sale of water to rural water districts, rescinding Resolution No. 7339 was presented.

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

Mike Teply, Public Works Director stated that approval would amend the City's policy for the sale of water to rural water districts. He noted that the policy states that certain provisions must be included in City contracts for the sale of water to rural water districts to allow the Water Division to administratively execute the contracts.

Councilmember Woelfel moved to approve the resolution. The motion was seconded by Councilmember Swank.

Joseph Ledbetter questioned why one of the rural water districts were under-billed \$400,000 and how was the mistake corrected.

The motion to approve the resolution carried unanimously. (8-0-0)

ORDINANCE NO. 19282 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 22, 2009, through June 28, 2009, and enumerating said expenditures therein was presented for first and final reading.

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

Joseph Ledbetter expressed concern with the weekly expenditures that have already been approved by the Council. He questioned the \$19,000 expenditure for telephone service. He suggested that the expenditure report include contract numbers, and Council approval dates when necessary. He also suggested that the City Manager be required to approve and sign all expenditures.

Councilmember Alcalá stated that after review of the City's Cell Phone Policy he does not believe the policy enforces accountability of usage. He asked that the policy be reviewed and amended if necessary.

Norton N. Bonaparte, Jr., reported that the policy does maintain a certain level of accountability, consisting of three tiers of coverage or allowance, each tier outlining specific criteria that must be approved by the Department Director and Finance Department.

Councilmember Wolgast stated that he has reviewed the weekly expenditures and believes they are in order.

Councilmember Alcalá noted that historically expenditure reports reflect extreme highs and lows spending in certain areas.

Councilmember Archer stated that he has reviewed the weekly expenditures and believes there is a need for an internal auditor to conduct a thorough review.

Councilmember Wolgast 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, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer and Harmon -8. Absent: Preisner -1.

ORDINANCE NO. 19283 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 NW Greenwood Court, NW Vail Court, and NW 8th Street, extending approximately 320 feet east from NW Vail Avenue from "R-1" Single Family Dwelling District TO "PUD" Planned Unit Development District (M-1 and R-1 use groups) placed on first reading July 7, 2009 was again presented. (*PUD09/1*)

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

Deputy Mayor Harmon asked if there were any exparte communications besides Councilmember Alcalá. There were none declared.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer and Harmon -8. Absent: Preisner and Mayor Bunten -2.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-601014.00 (HTE 606530), which provides for neighborhood infrastructure improvements for two target areas – Central Park and Historic Holliday Park, 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., concerning the restructuring of funds within the City's financial accounting system, amending City of Topeka Code Sections 2-334, 30-504, 106-226 through 106-229, 112-299 and 164-8 and specifically repealing said original sections and repealing sections 2-327, 2-328 and 2-329 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of NE Branner Street in Klein's Addition extending from NE 1st Street to NE Atchison Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V09S/1)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events. He also announced that the next Meet the Manager Session would be held on July 23, 2009 at Nib's House of Coffee located at 2525 NW Topeka Boulevard from 8:30 a.m. to 9:30 a.m.

Councilmember Hiller commented on the Arts in Transit murals posted at the transit bus terminal located at SE 9th and SE Quincy Streets. She encouraged local artists to participate in the Metropolitan Murals Project, adding art to bus terminals throughout the city. She also announced the 4th Annual Aaron Douglas Art Fair on September 26, 2009 from 11:00 a.m. to 5:00 p.m. at the Aaron Douglas Art Park.

Councilmember Alcalá asked for a breakdown of the rural water district incident regarding the under-billing of \$400,000. He stated that he would like to know how the incident was handled and what suggestions were made to prevent it from happening again. He encouraged citizens to attend the Fiesta Mexicana Celebration.

Norton N. Bonaparte, Jr., stated that he would provide the background information to new Councilmembers regarding the rural water billing incident.

Councilmember Ortiz stated that the Transient Guest Tax Committee would meet in the City Hall Executive Conference Room on July 15, 2009 at 3:30 p.m.

Councilmember Wolgast stated that he has received a number of complaints regarding sidewalk violations in Council District No. 5. He reported that he would continue to work with the City to resolve the problems.

Councilmember Swank encouraged citizens to take advantage of the many great activities available at Gage Park.

Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:38 p.m.

Brenda Younger
City Clerk