

Council Minutes – April 28, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 28, 2009. 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 Buntten presided -1.

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

PRESENTATION on the Weed and Seed Program activities and community incentives were presented by Toni Shenk and Rachel Pantos.

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

THE CONSENT AGENDA was presented as follows:

COMMISSION APPOINTMENT for Doria Watson to the Civil Service Commission for a term that would end April 30, 2013 was presented.

BOARD APPOINTMENT for Kerry Storey to the Topeka/Shawnee County Public Library for a term that would end April 30, 2013 was presented.

MINUTES of the regular meeting of April 21, 2009 was presented.

2009 Open After Midnight License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

| <u>BUSINESS</u> | <u>ADDRESS</u> |
|--------------------|--------------------------------|
| Club Nocturnal | 4117 SW Huntoon |
| Sharkey's Tiki Bar | 5217 SW 28 th Court |
| Stingers | 2335 NW Clay |

Councilmember Alcalá moved to approve the consent agenda. The motion seconded by Councilmember Preisner 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, April 28, 2009, at 6:00 P.M. to consider the establishment of a redevelopment district for the Southwest Topeka Boulevard Area.

ORDINANCE NO. 19247 introduced by City Manager Norton N. Bonaparte, Jr., establishing a Redevelopment District for the Southwest Topeka Boulevard District in Topeka, Kansas, pursuant to K.S.A. 12-1770, et seq., as amended placed on first reading October 21, 2008 was again presented. The public hearing was recessed and the ordinance was deferred from the meeting of February 24, 2009.

Randy Speaker, Deputy City Manager gave the staff report.

Russ Briggs spoke in support of establishing a TIF district. He stated that it is a great opportunity for the area to prepare for future growth in anticipation of the state of the economy improving.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion was seconded by Councilmember Alcalá.

Jackie Williams, City Attorney distributed an amendment to the ordinance. He stated that the proposed amendments are indicated by double underline and double strikethrough. The amendments were read as follows:

- Amend page 1, Lines 14 through 19 by inserting the statement, “WHEREAS, said public hearing on October 28, 2009, was recessed to 6:00 p.m. on January 27, 2009 for good cause shown; and WHEREAS, said public hearing was again recessed to 6:00 p.m. on February 24, 2009, for good cause shown; and WHEREAS, said public hearing was again recessed to 6:00 p.m. on April 28, 2009, for good cause shown; and”
- Amend page 2, Lines 31 through 33 by inserting, “Section 2. That the Redevelopment District is within the area designated in the notice of public hearing provided by Resolution No. 8105 as required under K.S.A. 12-1770, *et seq.*, as amended.”

Councilmember Preisner withdrew the motion to close the public hearing and adopt the ordinance. The second concurred.

Councilmember Preisner moved to amend the ordinance as stated by the City Attorney. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Preisner moved to close the public hearing and adopt the ordinance as amended. The motion was seconded by Councilmember Alcalá.

Councilmember Woelfel expressed concern with the criteria required for the designation of a Tax Increment Financing District. He questioned the measurements used in the Blight Study and the safety criteria relating to crime statistics. He stated that he would not support the ordinance at this time because he is not satisfied with the Blight Study results.

Councilmember Woelfel made a substitute motion to recess the public hearing and defer the ordinance for two weeks. The motion died due to a lack of a second.

The motion to close the public hearing and adopt the ordinance as amended carried. Councilmember Woelfel voted “no.” (8-1-0)

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

ORDINANCE NO. 19248 introduced by City Manager Norton N. Bonaparte, Jr., concerning liquid waste, amending City of Topeka Code Sections 146-331.5 and 146-344 and specifically repealing said original sections and creating 146-343.5 placed on first reading April 21, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

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

Councilmember Ortiz asked what types of liquid waste would be accepted.

Bob Sample, Water Pollution Control Superintendent stated that the approval would allow the City to dispose of different classes of liquid waste such as grease and oil. He noted that hazardous waste materials would not be accepted.

The motion to adopt the ordinance carried unanimously. (9-0-0)

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

ORDINANCE NO. 19249 introduced by City Manager Norton N. Bonaparte, Jr., concerning fire codes, repealing City of Topeka Code Sections 70-101 to 70-106 placed on first reading April 21, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

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

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

ORDINANCE NO. 19250 introduced by City Manager Norton N. Bonaparte, Jr., concerning the adoption of the International Fire Code, creating Chapter 70, Article III, Division 3, Subdivision II, amending City of Topeka Code Sections 50-48, 70-56, 70-71, 70-86, 70-87, and 98-171 and specifically repealing said original sections placed on first reading April 21, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

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

ORDINANCE NO. 19251 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 70-121, 70-123 and 70-193, concerning Fire Prevention and Protection and adopting the 2006 Life Safety Code, and specifically repealing said original sections as well as Sections 70-122, 70-191, 70-192, and 70-195 through 70-199 placed on first reading April 21, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Woelfel 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, amending Section 1 of Topeka Ordinance No. 19236 concerning the expenditure of monies from the historic asset tourism fund and specifically repealing said original section placed on first reading April 21, 2009 was again presented.

Councilmember Alcala gave the staff report. He stated that approval would eliminate the three-person committee and allow the entire Council to approve funding recommendations made by Visit Topeka, Inc.

Melinda Simmons, Visit Topeka, Inc., Board Chair stated that the Board supports the current process that is in place because it insures accountability which is a necessary factor in sustaining the fund.

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

Mayor Bunten questioned if the ordinance should be considered after item 6F, election of the Transient Guest Tax Committee; and item 7A, a resolution relating to the Transient Guest Tax Fund.

Councilmember Preisner stated that he would not support the ordinance because the Visit Topeka, Inc., Board supports the procedure that is currently in place.

Councilmember Woelfel stated that he would not support the ordinance because he does not believe the entire Council should approve the funding recommendations.

Councilmember Ortiz expressed concern with Visit Topeka Inc., receiving a service fee to administer funding recommendations. She noted that there are other advisory boards that provide the same services free of charge.

The motion to adopt the ordinance failed. Councilmembers Woelfel, Wolgast, Swank, Archer, Preisner and Harmon voted “no.” (3-6-0)

ELECTION of three Councilmembers to serve a one-year term on the Transient Guest Tax Committee was presented. The election was deferred from the meeting of April 14, 2009.

Councilmember Swank moved to nominate Councilmembers Alcala, Wolgast and Harmon.

Councilmember Alcala declined the nomination.

Councilmember Harmon declined the nomination.

Councilmember Preisner moved to nominate Councilmembers Hiller, Wolgast and Archer.

Councilmember Alcala moved to nominate Councilmember Ortiz.

Upon hearing no further nominations, the Mayor asked the Council to cast their vote and select three Councilmembers to serve on the Transient Guest Tax Committee.

After the tally of votes, the City Clerk announced that Councilmember Wolgast received eight votes; Councilmember Archer received seven votes; Councilmember Hiller received six votes; and Councilmember Ortiz received six votes.

Councilmember Hiller withdrew her nomination to serve on the Transient Guest Tax Committee.

Mayor Bunten announced that Councilmember Ortiz, Councilmember Wolgast and Councilmember Archer were selected as the new Transient Guest Tax Committee members.

Councilmember Preisner questioned if Councilmember Ortiz was currently a member of the Tourism Development Fund Board, and if so, would it create a conflict of interest while serving on the Transient Guest Tax Committee.

Councilmember Ortiz stated that she would follow the proper procedure to resign from the Tourism Development Fund Board.

Councilmember Alcala requested a written resignation from Councilmember Ortiz. He also requested that an Appointment to fill the vacant Board position be on a future Council agenda.

Mayor Bunten stated that due to the previous action taken by the Council item 7A, a resolution concerning Transient Guest Tax Funds would be withdrawn from the Council agenda.

APPROVAL of the real estate reports and method of disposal for parcels located at 1726 SW Central Park Avenue and 1727 SW Clay, and authorizing the City Manager to execute all necessary documents related to the disposal of properties was presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Swank moved to approve the real estate reports and method of disposal. The motion seconded by Councilmember Wolgast carried unanimously. (9-0-0)

A PETITION, PROJECT BUDGET in the amount of \$540,800 and RESOLUTION NO. 8154 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. 40951 which provides for sewer improvements in Lauren's Bay Villas No. 2, as more specifically described herein and rescinding Resolution No. 7926 was presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Bunten voted "yes".

(10-0-0)

A PETITION, A REVISED PROJECT BUDGET in the amount of \$518,109 and RESOLUTION NO. 8155 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Street Improvement Project No. 60635-01 which provides for paving streets in the Legend Ridge Estates Subdivision No. 2, pursuant to K.S.A. 12-6a01, et seq., as amended, and rescinding City of Topeka Resolution of Advisability and Authorization No. 8081 was presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to approve the petition, project budget and resolution. The motion was seconded by Councilmember Swank.

Councilmember Woelfel stated that he would not support the project due to the overall bonded indebtedness that would be incurred by the City.

The motion to approve the petition, project budget and resolution carried. Mayor Bunten voted "yes". Councilmember Woelfel voted "no." (9-1-0)

ORDINANCE NO. 19252 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 6, 2009, through April 12, 2009, and enumerating said expenditures therein was presented for first and final reading.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to 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: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 13153 which provides for rehabilitation, renovation and repair of Fire Station No. 5, 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. 18869 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 Horseshoe Bend Subdivision and surrounding areas with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40936-01, as defined and described in Resolution No. 7853, adopted and approved September 5, 2006 was presented for first reading.

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

Randy Speaker, Deputy City Manager announced that the East Side 2009 Project Take Over/Make Over would take place on May 16, 2009 and directed volunteers to assemble on the

east side of the Hillcrest Community Center. He reported that over 1,300 pounds of mulch was distributed from the City Yard Material Recycling Facility in return for 6,000 pounds of food donated by the public to Project Topeka. He also reported that the Land Bank Legislation was signed by the Governor on April 17, 2009; information regarding Community Improvement Districts would be distributed to the Council; the City is taking precautionary measures regarding the swine flu; and the City received \$1.2 million in Energy Conservation and Improvement Grant Funds. He stated that the Sustainability Advisory Board would present Energy Conservation Improvement Grant funding recommendations to the Council in the near future.

Councilmember Hiller commended City staff for implementing training sessions and stated that the sessions have been informative and useful.

Councilmember Alcala requested that the graffiti located on the Sardou Bridge be completely removed. He stated that if the City does not have the proper equipment to safely remove the graffiti then other alternatives should be considered.

Councilmember Woelfel congratulated the newly elected Transient Guest Tax Committee members. He reported that the Historic Preservation Committee would be submitting their Committee Bylaws and Grant Application Guidelines to the Transient Guest Tax Committee for review.

Councilmember Preisner requested that the Council receive an update on the recommendations made by Chevron Energy Solutions Company regarding the energy conservation study that was conducted on City facilities.

Randy Speaker stated that the Energy Conservation and Improvement Grant Funds could be utilized in various ways and staff is researching the best way the taxpayers would benefit from

the use of the funds. He also stated that staff is exploring energy alternatives for the renovation of Fire Station No. 5.

Walter Gill, Michael Byington and Kim Richmond appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:57 p.m.

Brenda Younger
City Clerk