

Council Minutes – May 5, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 5, 2009. 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: Councilmember Alcalá -1.

AFTER THE MEETING was called to order, Reverend Brad Walker, First Presbyterian Church gave the invocation.

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

A PRESENTATION of the quarterly update on the Topeka Police Department was given by Ron Miller, Police Chief.

Councilmember Swank moved to suspend the Council Rules to add a charter ordinance concerning the Topeka Metropolitan Transit Authority to the Council agenda. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

Mayor Bunten announced that the charter ordinance would be listed under First Readings on the Council agenda as item 8D.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of April 28, 2009 was presented.

2009 Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

BUSINESS

Berkshire Country Club
California BP Amoco
Casey's General Store #2261
Casey's General Store #2312
Dillon's #47
Dillon's #54
Dillon's #58

ADDRESS

3720 SW 45th Street
2740 California Avenue
600 SE Rice Road
4441 SE California Avenue
2815 SW 29th Street
800 NW 25th Street
1400 Huntoon

<u>BUSINESS</u>	<u>ADDRESS</u>
Dillon's #64	5720 SW 21 st Street
Dillon's #67	2010 SE 29 th Street
Dillon's #87	5311 SW 22 nd Place
Dillon's #88	4015 SW 10 th Street
Downtown Amoco	600 SE Quincy
East Quick Stop	3100 SE 6 th Street
The Goose Express	2901 SE Fremont
Hy-Vee #1658	2951 SW Wanamaker Road
Kicks 66	3300 SW Gage Boulevard
Kwik Shop #489	746 NW Wabash
Kwik Shop #705	1114 NE Topeka Boulevard
Kwik Shop #720	102 SW 37 th Street
Kwik Shop #729	1700 Topeka Boulevard
Kwik Shop #740	2277 SW 10 th Street
Kwik Shop #743	5633 SW 21 st Street
Kwik Shop #757	2619 SW 21 st Street
Kwik Shop #781	4500 SW Topeka Boulevard
Kwik Shop #788	1414 SW 17 th Street
Lakeview Amoco	3000 SE Croco
Larry's Shortstop	3834 S Topeka Boulevard
Mike's IGA	2620 SW Sardou Avenue
Oakmart Amoco	2518 NE Seward
Prize Package	1420 SE 6 th Street
Rex's Cenex	2855 SW Wanamaker Road
2 nd Quick Stop	1320 SW 6 th Street
6 th Street Quick Stop	1107 SW 6 th Street
Tammy's On The Go	3335 Gage Boulevard
Topeka Quick Stop	1020 NW Topeka Boulevard
Vaishnavi (Star)	2201 SW 6 th Street
Wal Mart SuperCenter	1501 SW Wanamaker Road
Wal Mart SuperCenter	1301 W 37 th Street
Wal Mart SuperCenter	2600 NW Rochester Road
Charles R Wood Oil Co., Inc.	101 NE Highway 24

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>
Billar El 2 De Oros	2018 SE Swygart
Henry T's Bar & Grill	1521 SW 21 st Street
McDonald's	1201 Gage Boulevard
McDonald's	1640 SW Wanamaker Road
McDonald's	5525 SW 21 st Street
McDonald's	2933 SW Wanamaker Road

BUSINESS

Moose Lodge 555
Shawnee Country Club
The Six Street Back Door

ADDRESS

1901 N Kansas Avenue
913 SE 29th Street
610 SW Wayne

Councilmember Woelfel moved to pull item 4A, Minutes of the regular meeting of April 28, 2009 for separate discussion. The motion seconded by Councilmember Hiller carried unanimously. (8-0-0)

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

MINUTES of the regular meeting of April 28, 2009 was presented.

Councilmember Woelfel moved to amend page 118 of the Minutes of the regular meeting of April 28, 2009. The amendment was read as follows, "Councilmember Woelfel stated that he would not support the ordinance because he does not believe the entire Council should approve the funding recommendations." The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

Councilmember Woelfel moved to approve the Minutes of the regular meeting of April 28, 2009 as amended. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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, May 5, 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 Sewer Improvement Project 40936-01, authorized by Resolution No. 7853, adopted and approved September 5, 2006.

ORDINANCE NO. 19253 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 placed on first reading April 28, 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 was seconded by Councilmember Ortiz.

Councilmember Woelfel expressed concern with the overall bonded indebtedness that would be incurred by the City.

The motion to close the public hearing and adopt the ordinance carried. Councilmember Woelfel voted “no.” (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Wolgast, Swank, Archer, Preisner and Harmon -7. Noes: Woelfel -1. Absent: Alcalá -1.

A PROJECT BUDGET in the amount of \$1,837,776 and ORDINANCE NO. 19254 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 placed on first reading April 28, 2009 was again presented.

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

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

Councilmember Ortiz asked if the apparatus bay would be affected by the construction, and if there is a possibility that the same problems with the site could reoccur in the future.

Howard Giles, Topeka Fire Chief stated that the apparatus bay would remain intact; the interior walls would be rebuilt; and the slab under the living quarters would be re-poured and tied to the foundation walls to keep the problem from reoccurring. He also stated that the fire station crew would stay on site in temporary living quarters while construction is being completed.

Councilmember Archer asked if the project would be audited as it progressed.

Jim Langford, Budget and Finance Director stated that the project bid is monitored by the Contracts and Procurement Division; the project costs are monitored by the Finance Department; and the project construction is monitored by City engineers and building inspectors.

Mayor Bunten expressed concern with the increased project budget. He stated that it is especially important right now to closely monitor the City's debt due to the unstable economy.

Councilmember Harmon questioned the initial assessment of the property. He asked if the statute of limitations has expired in regards to taking legal action against the people who tested the ground.

Jackie Williams, City Attorney stated that he would research the background information and report back to the Council.

The motion to approve the project budget and adopt the ordinance 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 PROJECT BUDGET in the amount of \$630,000 and RESOLUTION NO. 8156 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No.

18027-00 which provides for the beautification of Interstate I-70, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

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

Councilmember Woelfel asked how the City's portion of the project cost would be funded.

Norton N. Bonaparte, Jr., stated that the funds would be allocated from the general fund balance reserve.

Councilmember Preisner moved to amend line 25 of the resolution by inserting the word "Greater" after the word "Topeka," and inserting the word "Foundation" after the word "Commerce;" and amend line 27 by striking the words "Downtown Topeka Inc.," and inserting the words "Private Donations" after the word "Topeka." The motion was seconded by Councilmember Wolgast.

Councilmember Harmon noted that the project fact sheet stated that "Other City Funds" could be utilized. He questioned if additional funding is needed to cover all project cost improvements.

Randy Speaker, Deputy City Manager reported that there is sufficient funding to allow for the installation of six welcome signs at this time. He noted that the seventh sign, to be installed near the Kansas Turnpike, could be erected at a later date when funding is made available.

Councilmember Harmon stated that the Joint Economic Development Organization (JEDO) has expressed support to revamp the Downtown I-70 Corridor. He asked if the beautification project would affect the Quincy viaduct rerouting project.

Randy Speaker stated that the re-routing of the Quincy viaduct would begin at 4th Street and continue west; and the beautification project would begin at 10th Street and connect to 4th Street. He noted that the Quincy viaduct plan has several grade options that are being reviewed.

The motion to amend line 25 of the resolution by inserting the word “Greater” after the word “Topeka,” and inserting the word “Foundation” after the word “Commerce;” and amend line 27 by striking the words “Downtown Topeka Inc.,” and inserting the words “Private Donations” after the word “Topeka” carried unanimously. (8-0-0)

Councilmember Preisner moved to approve the project budget and resolution as amended. The motion seconded by Councilmember Archer carried. Councilmember Woelfel voted “no.” (7-1-0)

RESOLUTION NO. 8157 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas and rescinding Resolution No. 8136 was presented.

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

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

RESOLUTION NO. 8158 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas and rescinding Resolution No. 8137 was presented.

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Swank carried unanimously. (8-0-0)

A DEMOLITION PERMIT request by Asbury Mount Olive Church for properties located at 1195 and 1197 SW Clay Street was presented.

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

Councilmember Hiller distributed a handout and stated that area Neighborhood Improvement Associations have expressed their support of the demolition request.

Councilmember Preisner moved to approve the demolition request based on the determination that there is no feasible or prudent alternative to the proposed demolition. The motion was seconded by Councilmember Hiller.

Councilmember Ortiz asked if the church is paying for the cost of demolition.

Councilmember Hiller stated that the City is assisting with the demolition cost.

Councilmember Woelfel asked how much the demolition is costing the City.

Randy Speaker, Deputy City Manager reported that the demolition would cost the City \$15,500 and be allocated from the Voluntary Demolition Program fund.

The motion to approve the demolition request based on the determination that there is no feasible or prudent alternative to the proposed demolition carried unanimously. (8-0-0)

ORDINANCE NO. 19255 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 13, 2009, through April 19, 2009, 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 Swank 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., levying an additional special purpose city's retailers' sales tax in the amount of five-tenths of one percent

(0.5%) within the City of Topeka effective October 1, 2009, amending City Code Section 138-36 and repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-291003.00 (HTE 29105-00) for the rehabilitation of the South Kansas River Pump Station and the Potwin Pump Station approving cost estimates of the proposed improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such the improvements which constitutes improvement s to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the Kansas Department of Health and Environment State Revolving Loan Funds to pay the cost thereof was presented for first reading

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2-32 concerning general veto procedures and specifically repealing said original section was presented for first reading.

A CHARTER ORDINANCE introduced by Councilmember Deborah Swank, amending City of Topeka Code Section A9-1, Section A9-2, Section A9-18 and repealing said original sections and also creating new Section A2-18.5 all concerning the Metropolitan Transit Authority was presented for first reading.

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 final public forum to discuss the City's budget would be held on May 6, 2009 at the Robinson Middle School. He reported that the City and Kansas Department of Transportation are discussing the possibility of utilizing State equipment to remove graffiti from the Sardou Bridge.

Councilmember Hiller invited Councilmembers to attend the U.S. Bank Building Ground-Breaking Ceremony located at the Crosby Place site on May 12, 2009 at 10:00 a.m.

Councilmember Ortiz invited citizens to attend the National Train Day event on May 9, 2009 from 9:00 a.m. to 2:00 p.m. at the Amtrak Train Station located at 5th and Holiday.

Councilmember Woelfel asked for a point of clarification regarding the Topeka Metropolitan Transit Authority (TMTA) discussion at the work session prior to the Council meeting. He stated that it was his understanding that the Council was noncommittal in regards to directing the TMTA to accept the free consultation services that have been offered to them at this time. He stated that he believes the decision should be made by TMTA and the consulting company.

Councilmember Harmon stated that he concurs with Councilmember Woelfel and believes it was the consensus of the Council to allow TMTA and the consulting company to make the decision.

Councilmember Wolgast commended the Council on their decision relating to the I-70 Beautification Project and the Southwest Topeka Boulevard TIF District. He stated that he believes the decisions are positive signs of projected growth and visioning for the City of Topeka.

Councilmember Harmon questioned the Signal STP Safety Projects line item balance reflected in the Capital Improvement Budget and Capital Improvement Program. He reported that it was his understanding that \$190,000 of the \$490,000 listed, has been designated for another project. He asked if the remaining balance could be utilized for general obligation bond projects.

Jim Langford, Budget and Finance Director stated that he would research the request and report back to Councilmember Harmon.

Mayor Bunten requested that Councilmembers submit their names if they are interested in serving on the Community Action Board; or becoming a member of the Metropolitan Topeka Planning Organization.

Lee Graybeal, Ami Hyten and Kim Richmond appeared to speak under public comment.

Councilmember Woelfel requested that a work session be scheduled to discuss the details of the charter ordinance concerning the Metropolitan Transit Authority.

Norton N. Bonaparte, Jr., stated that he would review the work session schedule and determine when the issue could be discussed.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:28 p.m.

Brenda Younger
City Clerk