

**Council Minutes – May 12, 2009**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 12, 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 Bunten presided -1.

AFTER THE MEETING was called to order, Pastor Art Campbell, Westside Baptist Church gave the invocation.

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

Councilmember Wolgast requested to add a resolution granting George and Faith Carroll a noise exception to the Council agenda.

Upon hearing no objections, Mayor Bunten announced that the resolution would be added to the consent agenda as item 4D.

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Cedar Crest Office Park Subdivision located on the south side of SW 6<sup>th</sup> Avenue between SW Governors Lake Road and SW Security Benefit Place the centerline of which is approximately 1,200 feet west of I-70 Highway in the City of Topeka, Shawnee County, Kansas was presented. (P09/6)

MINUTES of the regular meeting of May 5, 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

Conoco Food Mart Super  
Fast Lane  
Herman's Beef & Sausage House  
I-70 BP Amoco  
Tilton's Westside

ADDRESS

2121 SW Wanamaker Road  
512 SW Topeka Boulevard  
823 W Gordon  
1000 SW Wanamaker  
1100 W 6<sup>th</sup> Street

BUSINESS

Tilton's Oakland Market

ADDRESS

1905 Seward

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for Goose One Sports Bar & Grill located at 3203 SW 10<sup>th</sup> Street, was presented.

RESOLUTION NO. 8159 introduced by Councilmember Larry Wolgast granting George and Faith Carroll an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted "yes." (10-0-0)

A PROJECT BUDGET in the amount of \$9,635,054 and ORDINANCE NO. 19256 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 improvements 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 placed on first reading May 5, 2009 was again presented.

A NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-291003.00 (HTE 29105) which provides for the rehabilitation of South Kansas River Pump Station and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the Kansas Department of Health and Environment, or any combination thereof, to pay the cost of the project was presented.

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

Councilmember Preisner moved to approve the project budget and notice of intention; and 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.

ORDINANCE NO. 19257 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 placed on first reading May 5, 2009 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 Swank carried. Councilmember Woelfel voted “no.” Mayor Bunten voted “yes.” (9-1-0)

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

ORDINANCE NO. 19258 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 placed on first reading May 5, 2009 was again presented.

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

Councilmember Woelfel 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, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9.

CHARTER ORDINANCE NO. 99 introduced by Councilmember Deborah Swank amending City of Topeka Code Section A9-1, A9-2, A9-18 and repealing said original sections and also creating new Section A9-18.5 all concerning the Metropolitan Transit Authority placed on first reading May 5, 2009 was again presented.

Councilmember Swank gave the staff report and distributed an amendment to the charter ordinance. The amendments were as follows:

1. Delete the word “12-2815” and insert the word “12-2816” on line 21.
2. Insert the words “Charter Ordinance No. 19” at the beginning of line 24.
3. Add the word “12-2814” at the beginning of line 39.

Councilmember Swank moved to amend the charter ordinance as distributed. The motion seconded by Councilmember Wolgast carried unanimously. (9-0-0)

Walter Gill spoke in opposition to the Topeka Transit System cuts. He stated that he feels betrayed because he believes it is his right to have transportation available to him to enjoy life in Topeka.

Julia Fonseca, Advisory Committee for Accessible Transportation Services (ACATS) stated that as a new Committee member, she would like to offer her support and assistance to the Council in resolving the transit system issues.

Mike Oxford, Topeka Independent Living Resource Center Executive Director spoke in opposition to the Topeka Transit System cuts. He stated that a mill levy cap increase seems to be the best short-term solution at this time; however, he believes the most important issue is to create a long-term solution by overseeing and monitoring the operations of the transit system to avoid the same problem again.

Terry Kerr spoke in opposition to the Topeka Transit System cuts. He stated that he wants his children to experience what the city has to offer and have full access to community activities. He also stated that if the transit system cuts are implemented his family would be very limited in their functions of day-to-day life.

John Davis spoke in support of a long-term transportation plan that would include strategic routing of street cars throughout the city. He stated that it would promote tourism revenue; create jobs; and the electric street cars would be pollutant free.

Neta Jeffus, Topeka Transit Board member spoke in opposition to the Topeka Transit System cuts and stated that many lives will be negatively affected. She also stated that in her opinion, the City cannot expect the Topeka Transit System to operate on the current funding that is available to them.

Janlyn Nesbett-Tucker, Topeka Transit System Executive Director thanked the Council for working with the Topeka Transit Board members to solve the funding issues. She reported that they are taking steps to generate additional funding, which include the consideration of a 20% fare

increase; researching business outreach program incentives, as well as, the creation of a transit district providing them with the ability to collect additional tax revenue.

Jessica Larkin spoke in opposition to the Topeka Transit System cuts and stated that the Topeka Transit System provides her with the means to remain independent.

Kim Richmond spoke in opposition to the Topeka Transit System cuts. She stated that the cuts would have a negative effect on the community, and disabled citizens would lose their independence. She sympathized with the Council, and stated that she understands it is a difficult decision to raise property taxes.

Councilmember Woelfel distributed an amendment to the charter ordinance and stated that the amendment would raise the mill levy cap from 3 to 5 mills. The amendment was as follows:

1. Delete lines 21 and 22 in their entirety.
2. Add the words "Charter Ordinance No. 19" at the beginning of line 24.
3. Add the word "12-2814" before the word "12-2815" and delete the word "12-2816" on line 39.
4. Delete the statement "for 2010. For 2011 and subsequent years the levy may not exceed three (3) mills" after the word "mills" on line 47.
5. Strike lines 53 through 83 in their entirety.
6. Delete the statement "and Section 4 of Charter Ordinance No. 23, as amended and codified at City of Topeka Code Section A9-18" beginning on line 86.

Councilmember Woelfel moved to amend the charter ordinance as distributed. The motion was seconded by Councilmember Ortiz.

Councilmember Ortiz spoke in support of the amendment and stated that she believes it would eliminate the need to revisit the issue in a couple of years. She also stated that it has been a difficult decision for her to determine if an increase in the mill levy cap is necessary.

Councilmember Alcalá questioned if Councilmember Swank supported the amendment.

Councilmember Swank expressed concern with the amendment and stated that the amendment would eliminate an increase in the Board membership, excluding other members of the community from being involved in Topeka Transit Systems operations.

Councilmember Ortiz requested that that the Council be allowed to review the consultant study currently being conducted on the Topeka Transit System before determining a mill levy adjustment.

The motion to amend the charter ordinance as distributed by Councilmember Woelfel carried. Councilmembers Wolgast, Archer and Harmon voted “no.” (6-3-0)

Councilmember Swank questioned if the amendments presented by Councilmember Woelfel included the necessary technical amendments that were included in the amendment she distributed.

Councilmember Swank moved to amend the charter ordinance to include all technical amendments deemed necessary by the Legal Department. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Councilmember Harmon stated that he would support increasing the mill levy cap for a short time; however, he believes TMTA should develop a long term solution; overhaul business operations and funding sources; and develop a new business model.

Councilmember Preisner moved to adopt the charter ordinance as amended. The motion was seconded by Councilmember Ortiz.

Councilmember Swank made a substitute motion to amend the original charter ordinance, and adopt the charter ordinance as amended. The motion was seconded by Councilmember Alcalá. The amendments were as follows:

1. Amend line 21 by deleting the word “12-2815” and inserting the word “12-2816.”
2. Insert the words “Charter Ordinance No. 19” beginning on line 24.
3. Add the word “12-2814” at the beginning of line 39.
4. Strike the statement “One of the board positions shall be filled by the appointment of a currently serving city councilmember” beginning on Line 59.

Councilmember Alcala questioned if the Council would have to wait six months before the issue could be addressed again if the motion to adopt the charter ordinance as amended failed.

Jackie Williams, City Attorney stated that if the motion fails the issue could not be presented to the Council for six months.

Councilmember Swank withdrew the substitute motion. The second concurred.

Councilmember Swank made a substitute motion to amend the original charter ordinance, as follows. The motion seconded by Councilmember Alcala carried. Councilmembers Ortiz and Archer voted “no.” (7-2-0)

1. Amend line 21 by deleting the word “12-2815” and inserting the word “12-2816.”
2. Insert the words “Charter Ordinance No. 19” beginning on line 24.
3. Add the word “12-2814” at the beginning of line 39.
4. Strike the statement “One of the board positions shall be filled by the appointment of a currently serving city councilmember” beginning on Line 59.

Councilmember Swank moved to adopt the charter ordinance as amended. The motion seconded by Councilmember Harmon carried. Mayor Bunten voted “yes.” Councilmembers Ortiz, Woelfel and Archer voted “no.” (7-3-0)

The charter ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Wolgast, Swank, Preisner, Harmon and Mayor Bunten -7. Noes: Ortiz, Woelfel and Archer -3.

ORDINANCE NO. 19259 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 20, 2009, through April 26, 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 Woelfel 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.

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

Norton N. Bonaparte, Jr., City Manager provided additional information to the Council regarding project audits; announced upcoming community events and the 2009 Eastside Take Over/Make Over Project would be held on May 16, 2009.

Councilmember Hiller encouraged the Council to continue to work to improve communications during Council deliberations. She also commended community organizations for their positive input regarding the Topeka Transit System issues.

Councilmember Alcalá requested to move the June 8, 2009 work session regarding the consolidation of the City and County Parks and Recreation Departments to an earlier date. He stated that he believes there is not enough time to consider all options prior to budget deliberations. He also stated that he believes there is a double standard for Councilmembers requesting meetings or work sessions on certain subjects. He requested that Councilmembers contact the Council Office with a date certain to discuss the City and County Parks and Recreation Department consolidation.

Norton N. Bonaparte, Jr., stated that the work session was scheduled on June 8, 2009 because it was the first available date that all Councilmembers could be present.

Councilmember Woelfel stated that he believes the City and County Parks and Recreation Department consolidation should be discussed as soon as possible.

Councilmember Swank announced that there are a number of graduation ceremonies taking place this month in the Topeka/Shawnee County area and encouraged everyone to make all visitors feel welcome.

Councilmember Preisner requested that the Council agenda identify all agenda items that require the vote of the Mayor; and all consent agenda items that require the vote of the Mayor to be placed under New Business.

Mayor Bunten requested that Councilmembers submit their names to him if they are interested in serving on the Community Action Committee.

Kim Richmond appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:54 p.m.

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Brenda Younger  
City Clerk