

Council Minutes – June 23, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 23, 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. Absent: Mayor Bunten -1.

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 Alcalá gave the invocation.

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

Councilmember Wolgast moved to suspend the Council Rules to add a resolution granting Jaime Serrano a noise exception to the Council agenda. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

Deputy Mayor Harmon announced that the resolution would be added to the Council agenda under the consent agenda as item 4G.

Councilmember Woelfel moved to suspend the Council Rules to add a Notice of Suspension of an Open After Midnight License for Whiplash Bar located at 2107 SE California to the Council agenda. The motion seconded by Councilmember Archer failed. Councilmembers Hiller, Alcalá, Ortiz and Harmon voted “no.” (5-4-0)

Councilmember Alcalá questioned when the Council would be presented with the background information regarding suspension of license; and if there would be legal ramifications for the City if the Notice of Suspension is not placed on the Council agenda immediately. He stated that he would not support placing the item on the agenda until the matter is discussed in a work session.

Councilmember Woelfel stated that the background information would be presented at the time the issue is considered on the Council agenda.

Jackie Williams, City Attorney stated that he is not sure of the legal ramifications; however, city code directs the Chief of Police to report suspension of a license to the Council immediately.

Norton N. Bonaparte, Jr., City Manager referenced Topeka City Code Section 30-121 relating to the cancellation and suspension of a City license. He stated that the Chief of Police is required to immediately report suspension of license to the Council at the next regular Council meeting. He noted that that the license may be reinstated or cancelled by the Council.

Councilmember Harmon moved to reconsider the previous motion to suspend the Council Rules to add a Notice of Suspension of an Open After Midnight License for Whiplash Bar located at 2107 SE California to the Council agenda. The motion seconded by Councilmember Alcalá carried. Councilmember Ortiz voted “no.” (8-1-0)

Councilmember Alcalá questioned if the same procedure has been followed in the past regarding suspension of a license.

Councilmember Woelfel moved to suspend the Council Rules to add a Notice of Suspension of an Open After Midnight License for Whiplash Bar located at 2107 SE California to the Council agenda. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

Deputy Mayor Harmon announced that the Notice of Suspension of License would be placed on the Council agenda under New Business as item 6E.

THE CONSENT AGENDA was presented as follows:

CONTRACT NO. 39583 between the City of Topeka and Kansas Medical Mutual Insurance Company approving the construction of cutback parking in the City's right-of-way, and authorizing the City manager to execute said agreement was presented.

CONTRACT NO. 39584 between the City of Topeka and St. John's Lutheran Church approving the construction of cutback parking in the City's right-of-way, and authorizing the City Manager to execute said agreement was presented.

CONTRACT NO. 39585 between the City of Topeka and St. John's Lutheran Church approving the construction of cutback parking in the City's right-of-way, and authorizing the City Manager to execute said agreement was presented.

RESOLUTION NO. 8173 introduced by Councilmember Larry Wolgast granting Crystal Welch an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of June 16, 2009 was presented.

AN OPEN AFTER MIDNIGHT License application bearing the approval of the Chief of Police and City Inspectors for Specks Bar & Grill located at 2105 SW Mission was presented.

RESOLUTION NO. 8174 introduced by Councilmember Larry Wolgast, granting Jaime Serrano 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 as amended. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

ORDINANCE NO. 19272 introduced by City Manager Norton N. Bonaparte, Jr., concerning the Redevelopment District for the Southwest Topeka Boulevard District and

specifically repealing City of Topeka Ordinance No. 19247 placed on first reading June 16, 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 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. Absent: Mayor Bunten -1.

ORDINANCE NO. 19273 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 48-23a.04 concerning zoning regulations in mixed use districts, and specifically repealing said original section placed on first reading June 16, 2009 was again presented. (ACZR09/2)

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

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

Councilmember Hiller stated that she would support the ordinance; however, she believes the ordinance does not address the problem of requiring skirting around existing mobile homes. She stated that she would be willing to sponsor an ordinance that would specifically address the problem.

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. Absent: Mayor Bunten -1.

BOARD APPOINTMENT recommending the re-appointment of Bob Storey to the Washburn University Board of Regents for a term that would end on June 30, 2013 was presented.

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

Councilmember Preisner moved to approve the board appointment. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

RESOLUTION NO. 8175 for the issuance of Industrial Revenue Bonds for Southwest Publishing and Mailing Corporation was presented.

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

Councilmember Preisner moved to approve the resolution. The motion was seconded by Councilmember Alcalá carried unanimously. (9-0-0)

RESOLUTION NO. 8176 introduced by Deputy Mayor Richard Harmon amending City of Topeka Resolution No. 8129 by canceling the Council meeting of September 1, 2009 and establishing a meeting for September 8, 2009 was presented.

Councilmember Harmon gave the staff report.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

ORDINANCE NO. 19274 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 1, 2009, through June 7, 2009, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Woelfel moved to adopt the ordinance. The motion seconded by Councilmember Wolgast 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.

NOTIFICATION of cancellation/suspension of Open After Midnight License for Whiplash Bar located at 2107 SE California, City of Topeka, Shawnee County, Kansas was presented.

Ron Miller, Police Chief reported that he is following the procedure outlined in Topeka City Code Section 30-121; the same process that was followed for the cancellation of license for Deep Pockets located at 4310 SW 21st Street. He stated that the City of Topeka has a history of experiencing problems with various bar and entertainment venues throughout the city, and the Police Department has taken an active role in meeting with owners to resolve problems. He explained that the process includes identifying problems; meeting with the owner to draft a mitigation plan to improve operations; and offer training sessions with the Police Department and the State of Kansas Alcohol Beverage Control Department for owners and employees. He presented the background information as to why he was recommending suspension of license. He reported that he has met with the owner and they have come to an agreement to suspend the Open After Midnight License for six months until which time the establishment would be re-evaluated for a new permit.

Councilmember Preisner moved to cancel the Open After Midnight License for Whiplash Bar located at 2107 SE California. The motion was seconded by Councilmember Archer.

Councilmember Ortiz asked if suspension of the license was a verbal or written agreement.

Chief Miller stated that it is a negotiated verbal agreement.

Kim Hedstrom, owner of the Whiplash Bar stated that she was in agreement with Police Chief Miller regarding a six month suspension of the Open After Midnight License. She reported that she employs two bouncers on a full-time basis, which is one more than suggested by the Police Department. She also reported that prior to receiving Notification of Suspension of License it was her intention to begin closing the bar at 12:00 midnight three nights a week in an attempt to

better control the environment and resolve issues. She noted that according to witnesses the homicide that was reported as taking place on the premises of the Whiplash Bar in May of 2009 actually took place at Hi-Crest Park.

Clifford Cormier spoke in opposition of suspension of license and stated that Ms. Hedstrom has complied with the suggestions made by the Police Department. He also stated that he believes she is not responsible for the incidents that are related to the suspension of license.

Bob Snyder spoke in support of suspending the license because recently there have been more problems occurring at the bar. He stated that the six month time frame would provide an opportunity for operations to improve.

Ms. Hedstrom stated that it would be very difficult to control patrons outside the establishment, including the parking lot and intersection. She also stated that she would prefer to be allowed to continue to operate after midnight on Fridays and Saturdays; however, she will comply with Chief Miller's request.

Councilmember Woelfel questioned if a noise exception had been requested by Ms. Hedstrom. He commended Ms. Hedstrom and Chief Miller for working together and reaching an agreement.

Chief Miller stated that he would provide Ms. Hedstrom the necessary information to request and obtain a noise exception. He stated that he agrees that the owner could not control certain situations; however, the issues substantiating the suspension of license have been occurring after midnight.

The motion to cancel the Open After Midnight License for Whiplash Bar located at 2107 SE California carried unanimously. (9-0-0)

Norton N. Bonaparte, Jr., City Manager requested to withdraw item 7C, an ordinance concerning Appeals and Administrative Hearings from the Council agenda as requested by Councilmember Hiller at the work session.

Upon hearing no objections, Deputy Mayor Harmon announced that item 7C would be withdrawn from the Council agenda.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a twelve month extension of the franchise for Southwestern Bell Telephone Company d/b/a AT and T Kansas was presented for first reading.

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 by amending the Master PUD Plan of Villa West Shopping Center to include the “I-1” Light Industrial District use group specifically for development of a mini-storage facility on property located at 6020 SW 29th Street in the City of Topeka, Kansas was presented for first reading. *(Z79/10E)*

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events. He also announced Meet the Manager sessions from 8:30 a.m. to 9:30 a.m. on June 25, 2009 at the McDonald’s Restaurant located at 2880 SE California Avenue; July 2, 2009 at the Downtowner Café located at 119 SE 6th Street; July 9, 2009 at the Roundabout Café located at 2025 Urish Road; and July 23, 2009 at Nib’s House of Coffee located at 2525 N. Topeka Boulevard. He also stated that there would be no Council meeting June 30, 2009. He reported that staff has met with the resident located in North Topeka reporting low water pressure. He also stated that at the request of

Councilmember Alcala, Councilmembers would be given the City Manager's expenditure report at the end of the Council meeting.

Councilmember Ortiz commended City staff for assisting USD 501 in resolving the electrical problems at the Dornwood Girls Softball Facility.

Councilmember Preisner announced that Heartland Park is hosting the American Drag Racing League Races on July 3rd and 4th. He noted that the event is free to the public and tickets are available at local Hardee's Restaurants and O'Reilly Auto Parts stores.

Michael Byington and Myron Holter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:25 p.m.

Brenda Younger
City Clerk