

## **Council Minutes – September 15, 2009**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 15, 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, Reverend Elwyn Lubert, First Lutheran Church gave the invocation.

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

Randy Speaker, Deputy City Manager requested to withdraw item 5C, a project budget and ordinance for City-wide Community Centers Improvement Project T-301009.00 from the Council agenda. He stated that there may be an alternate funding source available; eliminating the need to finance general obligation bonds.

Upon hearing no objections, Mayor Bunten announced that item 5C would be withdrawn from the Council agenda.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Alicia Rues to the Jayhawk Area Agency on Aging Board of Directors to fill an unexpired term that would end December 31, 2010 was presented.

APPROVAL of a Workers' Compensation Settlement Claim for Gary Doucette in the amount of \$25,000 was presented.

APPROVAL of a Workers' Compensation Settlement Claim for Leon Millentree in the amount of \$80,000 was presented.

APPROVAL of a Workers' Compensation Settlement Claim for Rick Garcia in the amount of \$30,000 was presented.

RESOLUTION NO. 8197 introduced by Councilmember Sylvia Ortiz, granting the National Park Service an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8198 introduced by Councilmember Karen Hiller granting League of United Latin American Citizens (LULAC) an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8199 introduced by Councilmember Sylvia Ortiz, granting the National Park Service an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of September 8, 2009 was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Wolgast carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code, creating Article 9 in Chapter 2, establishing an appeal and administrative hearing process for the City placed on first reading August 25, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Harmon questioned if there were amendments to the ordinance.

Braxton Copley, Deputy City Attorney suggested that the ordinance be referred to a committee for review and discussion of the proposed amendments.

Councilmember Preisner moved to refer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Harmon made a substitute motion to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Alcala carried.

Councilmembers Ortiz and Preisner voted “no.” (7-2-0)

ORDINANCE NO. 19305 introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor as part of the Hispanic Heritage Month/Mexican Independence Day Celebration at the specified location and time placed on first reading September 8, 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 Swank 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.

A PROJECT BUDGET in the amount of \$196,000 and ORDINANCE NO. 19306 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Traffic Signal Replacement Project No. T-141005.00 (HTE 141330) for the intersection located at SW Huntoon and SW Wanamaker, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading September 8, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report and stated that the project does not qualify for the use of sales tax or motor fuel tax funds.

Mayor Bunten questioned who made the determination that sales tax funds could not be used to fund the project.

Braxton Copley, Deputy City Attorney stated that the special ballot question did not include the term “traffic signals” therefore; it is the opinion of the Legal Department that the project would not qualify for the use of sales tax funds.

Mayor Bunten stated that he believes the language of the special ballot question should be defined in a more liberal manner to include traffic signals, as well as, traffic lights. He also stated that the City should locate an alternate funding source to avoid paying unnecessary interest costs. He expressed concern with the City increasing, not reducing debt.

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

Councilmember Alcalá stated that the City would save approximately \$13,420 in interest costs if the funding for the project is not bonded.

Councilmember Alcalá made a substitute motion to fund the City’s share of the project budget in the amount of \$21,000 from the general fund contingency instead of general obligation bonds; and approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Woelfel carried. Councilmembers Preisner and Harmon voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank and Archer -7. Noes: Preisner and Harmon -2.

A PROJECT BUDGET in the amount of \$2,754,549 and ORDINANCE NO. 19307 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Street Improvement Project No. 70192-02 which provides for widening of S.W. 6<sup>th</sup> Street between S.W. Oakley Street and S.W. Gage Boulevard, 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. 18131 placed on first reading September 8, 2009 was again presented.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to approve the project budget and adopt the ordinance.

The motion was seconded by Councilmember Alcalá.

Councilmember Preisner made a friendly amendment to fund the City's share of the project budget in the amount of \$51,700 from the Special Street Fund instead of general obligation bonds.

The second concurred.

The motion to fund the City's share of the project budget in the amount of \$51,700 from the Special Street Fund instead of general obligation bonds; and approve the project budget and adopt the ordinance as amended 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. 19308 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 24, 2009, through August 30, 2009, and enumerating said expenditures herein 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 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending Topeka City Code Sections 134-143 and 134-169, subdivision regulations, relating to parkland acquisition and development, as well as, streets, repealing said original sections was presented for first reading. (ASR09/1)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan was presented for first reading. (*CPA09/02*)

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 on property located at 3860 SE California Avenue from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (M-1 use group, including a Residential Care Facility, Type III) was presented for first reading. (*PUD09/2*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a portion of city street right-of-way intersecting the railroad right-of-way located on NW Howard and NW 7<sup>th</sup> Streets between NW Lincoln and NW Lane Streets, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V08S/4*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Comprehensive Zoning Regulations concerning wind energy creating Division 3 of Article 26 in City of Topeka Code Chapter 48 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning conditional use in each zoning district for non-residential small wind energy systems, amending City of Topeka Code Sections 48-2.02, 48-3.02, 48-4.02, 48-5.02, 48-6.02, 48-7.02, 48-8.02, 48-8a.02, 48-9.02, 48-10.02, 48-11.02, 48-12.02, 48-13.02, 48-14.02, 48-15.02, 48-16.02, 48-17.02, 48-18.02, 48-19.02, 48-20.02, 48-22.02, 48-23.02, 48-23a.03, 48-23a.04, 48-23a.05, 48-24a.01, 48-24b.02, and 48-24b.03 and specifically repealing said original sections was presented for first reading.

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

Randy Speaker, Deputy City Manager reported that the City of Topeka Housing and Neighborhood Development Department has been awarded \$500,000 in federal stimulus grant funding to be used for various home repairs. He encouraged property owners to apply for stimulus grant funding assistance on October 3, 2009 at the Cyrus K. Holliday building located at 620 SE Madison. He also announced upcoming community events.

Councilmember Ortiz stated that the outdoor lighting at Hillcrest Community Center needs to be replaced. She reported that the brush sprayed by the City Forestry Department located between SE 6<sup>th</sup> and SE 10<sup>th</sup> Streets along Highland, Gilmore, Sherman, Weir and Carnahan Streets is dead and now needs to be removed. She thanked the individuals responsible for the cleanup of illegal dumping in Council District No. 3.

Councilmember Wolgast stated that the commercial building renovation at the corner of SE 6<sup>th</sup> and Quincy Streets is a tremendous addition to the downtown area.

Mayor Bunten suggested that the Neighborhood Improvement Associations be notified that federal stimulus grant funding is being made available to property owners for repairs.

Randy Speaker reported that notifications have already been sent to all Neighborhood Improvement Associations. He encouraged the Council to assist constituents in applying for stimulus grant funding assistance.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:00 p.m.

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Brenda Younger  
City Clerk