

Council Minutes – October 13, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 13, 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, Councilmember Woelfel gave the invocation.

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

Councilmember Wolgast requested to remove item 4A, an appeal for denial of a security guard license for Keith Myers; and Councilmember Woelfel requested to remove item 4D, minutes of the regular meeting of October 6, 2009 from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced that items 4A and 4D would be removed from the consent agenda and placed on the Council agenda under Unfinished Business as items 5A and 5B; and the remaining items listed under Unfinished Business would be numbered accordingly.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Alice M. Harnisch to the City of Topeka ADA Advisory Council for a term that would end October 31, 2011 was presented.

BOARD APPOINTMENT recommending the appointment of Ronald Reust to the Topeka Board of Zoning Appeals to fill an unexpired term that would end May 31, 2012 was presented.

Councilmember Swank moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

APPEAL for denial of private security guard license for Keith Myers was presented.

Councilmember Swank moved to approve the appeal of the denial of the private security guard license for Keith Myers. The motion was seconded by Councilmember Wolgast.

Councilmember Woelfel stated that code provisions were established for a reason and it is the responsibility of the Council to uphold the code and limit exceptions.

Councilmember Alcala stated that this particular code provision was established to provide the Council with the tool to approve or disapprove recommendations made by the Police Chief, not to make exceptions.

The motion to approve the appeal of the denial of the private security guard license for Keith Myers carried. Councilmembers Woelfel and Archer voted “no.” (7-2-0)

MINUTES of the regular meeting of October 6, 2009 was presented.

Councilmember Hiller moved to approve the minutes of the regular meeting of October 6, 2009. The motion seconded by Councilmember Ortiz carried. Councilmember Woelfel abstained. (8-0-1)

ORDINANCE NO. 19319 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 September 15, 2009 was again presented.

Councilmember Preisner gave the staff report and stated that the Public, Health and Safety Committee recommended “Do Pass as Amended” by a vote of 3-0-0 on September 30, 2009. He distributed the following amendments to the ordinance as recommended by the Public, Health and Safety Committee:

1. Amend Administrative Appeals, Subsection (b)(2) by deleting the \$25 appeal fee and adding language which allows the City Manager to establish the appeal fee.
2. Amend Administrative Appeals, Subsection (b)(2) by deleting staff's proposed language regarding the application of the appeal fee towards any administrative monetary penalty assessed.
3. Amend Administrative Hearing Procedure, Section (d) by deleting the statement "all testimony shall be given under oath or affirmation, which shall be administered by the hearing officer."

Councilmember Preisner moved to adopt the committee report as presented. The motion was seconded by Councilmember Ortiz.

Councilmember Woelfel commended the Public, Health and Safety Committee for their thorough review of the procedure and including staff recommendations.

Mayor Bunten expressed concern with the change in the process of addressing code compliance violations; which department would be responsible for overseeing the new process; and the current process being more expeditious than what is being proposed. He suggested the City follow the lead of other cities and create an environmental court to address these types of issues.

Braxton Copley, Deputy City Attorney stated that the process would be administered by the Code Compliance Division which reports to the Police Department.

Councilmember Hiller stated that the purpose of the proposed ordinance is to expedite the process which is now time-consuming and costly. She reported that it was the consensus of the Committee and staff that the administrative hearing officer serve in the same capacity as an environmental court. She suggested developing a tier schedule for the collection of fees if the proposed amendment was not acceptable.

Councilmember Archer questioned if the Committee researched how long it would take to complete the proposed process and if it was acceptable to all parties involved.

Councilmember Hiller stated that the issue was discussed in the committee meeting and the proposed amendments address concerns that were raised.

Councilmember Preisner stated that he believes the ordinance would ease the process and assist City administration in resolving current code enforcement issues.

The motion to adopt the committee report as presented carried unanimously. (9-0-0)

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

ORDINANCE NO. 19320 introduced by Councilmember Jeff Preisner creating City of Topeka Code Chapter 2, Division 2, concerning Citizens Government Review Committee to the form of government and repealing original Ordinance No. 15961 placed on first reading October 6, 2009 was again presented.

Councilmember Preisner gave the staff report and stated that the ordinance needs to be brought up to date and codified to ensure the review committee meets as established, as well as, reflect the change in the form of government.

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

Councilmember Alcala requested to refer the ordinance to committee for review. He stated that referral would provide new Councilmembers the opportunity to become familiar with the ordinance, and review past studies relating to the change in the form of government. He requested the committee provide recommendations to the Council.

Councilmember Alcala made a substitute motion to refer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Ortiz.

Councilmember Preisner spoke in opposition to referring the ordinance to committee. He noted that the amendment simply changes the language to reflect the current form of government.

Councilmember Archer spoke in support of referring the ordinance to committee and stated that he would like the opportunity to review past studies and make an informed decision.

The substitute motion to refer the ordinance to the Policy and Finance Committee failed. Councilmembers Hiller, Woelfel, Wolgast, Swank, Preisner and Harmon voted “no.” (3-6-0)

The motion to adopt the ordinance 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. 19321 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 102-52 concerning the composition of the Parks and Recreation Advisory Board and specifically repealing said original section placed on first reading October 6, 2009 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He distributed an amendment to the ordinance to delete the word “from” and insert the word “by” on Line 20.

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

Mayor Bunten expressed concern with the language of the ordinance on line 20 not being more specific. He asked if the appointment would be a representative of the Washburn University Student Body or the Washburn University Board of Regents.

Terry Bertels, Parks and Recreation Director stated that the Washburn University Board of Regents would be in charge of appointing a representative for the University, which could include a member of the student body.

Councilmember Priesner moved to adopt the ordinance as amended. The motion seconded by Councilmember Alcala 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. 19322 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 21, 2009, through September 27, 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 Woelfel carried. Councilmember Alcalá voted “no.” (8-1-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning wastewater rates and charges, amending City of Topeka Code Section 146-341 and specifically repealing said original section was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported that the City of Topeka has launched a new website at www.topeka.org and encouraged citizens to offer comments. He also announced that the Fall issue of the Extra-Ordinary Topeka newsletter is available for review on the City’s website.

Councilmember Hiller commended the League of Kansas Municipalities and City staff for facilitating the annual conference. She reported that over 900 representatives from throughout the state attended the conference.

Councilmember Preisner commended staff for implementing a 10-year program for the use of the half-cent sales tax funds. He stated that the program would generate employment throughout the community.

Mayor Bunten announced that the Shawnee County Historical Society would host a program on segregation highlighting past Topeka High School basketball teams on October 15, 2009 at 7:00 p.m. at the Topeka High School cafeteria.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:58 p.m.

Brenda Younger
City Clerk