

Council Minutes – October 20, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 20, 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 and Preisner -8. Mayor Bunten presided -1. Absent: Councilmember Harmon -1.

AFTER THE MEETING was called to order, Reverend Mike Kuner, Westminster First Presbyterian Church gave the invocation.

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

A PRESENTATION on the Topeka Transit Authority service modification was given by David Billim, Topeka Transit Authority Strategic Planner.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Sylvia Herrmann to the Jayhawk Area Agency on Aging Advisory Council for a term that would end October 31, 2012 was presented.

BOARD APPOINTMENT recommending Veronica Padilla to the Parks and Recreation Advisory Board to fill an unexpired term that would end July 31, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Sarah Noller to the Topeka Sustainability Advisory Board for a term that would end December 31, 2009 was presented.

MINUTES of the regular meeting of October 13, 2009 was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING in conjunction with vacation request V08S/4 to vacate a portion of the city right-of-way intersecting the railroad right-of-way located on NW Howard and NW 7th Streets between NW Lincoln and NW Lane Streets, City of Topeka, Shawnee County, Kansas. The public hearing was postponed from the meeting of September 22, 2009.

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 7th Streets between NW Lincoln and NW Lane Streets, City of Topeka, Shawnee County, Kansas placed on first reading September 15, 2009 was again presented. The ordinance was deferred from the meeting of September 22, 2009. (V08S/4)

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

Councilmember Alcalá asked if the property owners of the Furman Road crossing were contacted by the City.

Bernie Cosby, City Engineer stated that he spoke with the property owners and they were opposed to closing the crossing at Furman Road because they would have to use the industrial park for access to their home.

Councilmember Alcalá moved to disapprove the ordinance based on the fact the City should not make a contractual agreement based on the consensus of the governing body and allow the crossing to remain open. The motion was seconded by Councilmember Hiller.

Richard Knowlton stated that he would like to see the crossing remain open due to serious safety issues until new alternatives can be found.

J. Tuckness stated that he believes the railroad would not sustain any monetary damages by keeping the crossing open. He encouraged the Council to post signs on property the City is considering closing to give citizens a better opportunity to address closures and road changes.

Councilmember Preisner made a substitute motion to close the public hearing. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

Bernie Cosby stated that the original agreement vacated nearly 3,000 feet of right-of-way for Union Pacific Railroad from SE Jackson to SE Tyler Streets, which allowed the City to lower the Topeka Boulevard Bridge, accommodating the Kansas Department of Transportation’s future reconfiguration of the Polk-Quincy Viaduct. He noted that the City agreed at that time to close three crossings north of the Kansas River.

Councilmember Woelfel made a substitute motion to adopt the ordinance.

Braxton Copley, Deputy City Attorney ruled the substitute motion out of order. He stated that the substitute motion is the direct opposite of the original motion.

Councilmember Alcalá withdrew the motion to disapprove the ordinance. The second concurred.

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

Councilmember Alcalá stated that even small railroad crossings could have a big impact on neighborhoods. He encouraged the Council to be mindful of neighborhood impact when considering future closures of railroad crossings.

Councilmember Hiller distributed recommendations to submit to Union Pacific Railroad. She commented on the various closing options and requested the City provide the Railroad a comparable alternative.

Mayor Bunten stated that he believes it is important for the railroad crossing to remain open.

Councilmember Woelfel stated that he believes the City should uphold the agreement made with Union Pacific Railroad and close the crossing. He expressed concern with the integrity of the City if the agreement is not approved.

The motion to adopt the ordinance failed. Councilmembers Hiller, Alcala, Ortiz, Wolgast, Swank, and Mayor Bunten voted “no.” (3-6-0)

ORDINANCE NO. 19323 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 on first reading September 15, 2009 was again presented. The ordinance was deferred from the meeting of September 22, 2009. (*ASR09/1*)

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

Councilmember Preisner asked if the Development Review Forum has reviewed the ordinance.

David Thurbon, Planning Department Director stated that the Development Review Forum has reviewed the ordinance and they were not opposed to the fees. He also stated that they expressed concern with placing an additional burden on the development community; and if a sufficient amount of money could be collected from the program to fund a park project.

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

Councilmember Alcala questioned how the fees could be utilized; and what impact the change would have on taxpayers.

Braxton Copley, Deputy City Attorney stated that the funds could only be used for undeveloped parkland, not for improvements of already existing or developed land.

Councilmember Woelfel asked if the fees could be used for maintenance of developed parkland.

David Thurbon clarified the fees could not be used for maintenance; however, the fees could be used for the acquisition of new parkland or development of parkland.

Councilmember Alcalá stated that he still has additional questions and believes the ordinance should be reviewed in committee.

Councilmember Alcalá made a substitute motion to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Ortiz failed. Councilmembers Hiller, Woelfel, Wolgast, Swank, Preisner and Mayor Bunten voted “no.” (3-6-0)

The motion to adopt the ordinance carried. Mayor Bunten voted “yes.” Councilmembers Alcalá and Archer voted “no.” Councilmember Ortiz abstained. (6-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Woelfel, Wolgast, Swank, Preisner and Mayor Bunten -6. Noes: Alcalá and Archer -2. Abstained: Ortiz -1. Absent: Harmon -1.

ORDINANCE NO. 19324 introduced by City Manager Norton N. Bonaparte, Jr., pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan placed on first reading September 15, 2009 was again presented. The ordinance was deferred from the meeting of September 22, 2009. (CPA09/2)

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Swank carried. Councilmembers Alcalá, Ortiz and Archer voted “no.” Mayor Bunten voted “yes.” (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Woelfel, Wolgast, Swank, Preisner and Mayor Bunten -6. Noes: Alcalá, Ortiz and Archer -3. Absent: Harmon -1.

ORDINANCE NO. 19325 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 placed on first reading October 13, 2009 was again presented.

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

Mayor Bunten asked how many customers would be affected by the new changes.

Mike Teply, Public Works Director stated that the changes would affect approximately five to six residents.

Councilmember Woelfel moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried. Councilmember Alcalá and Ortiz voted “no.” (6-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Woelfel, Wolgast, Swank, Archer and Preisner -6. Noes: Alcalá and Ortiz -2. Absent: Harmon -1.

A TEMPORARY ENCROACHMENT AGREEMENT between the City of Topeka and St. Gregory, L.L.C., granting consent by the City for a public improvement in the City’s right-of-way was presented. (*Contract No. 39856*)

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

Mike Kusick spoke in support of the project and stated that they have been working on a design to accommodate the small area for two years.

Councilmember Hiller moved to approve the temporary encroachment agreement. The motion seconded by Councilmember Archer carried unanimously. (8-0-0)

ORDINANCE NO. 19326 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 28, 2009, through October 4, 2009, and enumerating said expenditures herein 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. Councilmember Alcala voted “no.” (7-1-0)

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

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

Norton N. Bonaparte, Jr., City Manager thanked volunteers for participating in the Gage Park clean up event. He asked citizens to complete the survey included in the monthly water utility bill and return it to the City for review.

Councilmember Alcala requested answers to questions he asked at the September 15, 2009 Council work session relating to the correct water temperatures for the hippopotamus; and selected medical cases of zoo animals that were reviewed by Kansas State University. He also requested more information on creating an arts district in historic North Topeka and asked if there was a fund balance in the Topeka Arts Fund referenced in City of Topeka Code Section 2-33(f). He asked if the police helicopter could be purchased with money from the special police fund.

Jim Langford, Budget and Finance Director reported that he believes the Topeka Arts Fund has a zero balance at this time; however, he would check the status of the fund and report back to the Council by the end of the week.

Councilmember Ortiz thanked volunteers for participating in the Gage Park clean up event. She suggested the City improve the appearance of the original main entrance of Gage Park by adding landscaping and removing outdated signs. She announced that the East Topeka North clean up event would be held on October 24, 2009 and reminded residents that all trash must be placed on the curb by 7:00 a.m.

Councilmember Wolgast commended the Topeka Fire Department for conducting the fire awareness operation.

Diane Hannigan and Gene Gilbert appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:32 p.m.

Brenda Younger
City Clerk