

Council Minutes – October 27, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 27, 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 Buntgen 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.

A PRESENTATION on the Topeka Police Department Quarterly Report was presented by Ronald Miller, Police Chief.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of John Opgaard to the Topeka Board of Zoning Appeals for a term that would end November 1, 2012 was presented.

RESOLUTION NO. 8211 introduced by Councilmember Karen Hiller granting Downtown Topeka, Inc., an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of October 20, 2009 was presented.

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

BOARD APPOINTMENT recommending the appointment of Raubin Pierce to the Topeka Planning Commission for a term that would end September 30, 2012 was presented. The board appointment was deferred from the meeting of September 29, 2009.

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

Mayor Bunten clarified that he strongly supports the board appointment of Raubin Pierce. He stated that he met with all ten candidates recommended by the Council and chose Mr. Pierce because of his willingness and passion to serve the City of Topeka. He also stated that in his opinion, Mr. Pierce should not be deemed unqualified or unfit because he has a difference in opinion on certain matters.

Councilmember Preisner moved to approve the board appointment. The motion was seconded by Councilmember Alcalá.

Councilmember Alcalá stated that he believes Mr. Pierce is qualified for the position and the appointment should be approved.

The motion to approve the board appointment failed. Councilmembers Hiller, Woelfel, Wolgast, Swank and Preisner voted “no.” (4-5-0)

RESOLUTION NO. 8212 introduced by Councilmember Jeff Preisner disapproving the appointment of Raubin Pierce to the Planning Commission was presented.

Councilmember Preisner gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion was seconded by Councilmember Swank.

Councilmember Alcalá expressed concern with the language on Line 23 of the resolution. He stated that state statute stipulates that the Council must specify if the nominee is “unfit” or “unqualified.”

Braxton Copley, Deputy City Attorney stated that in his opinion the language of the resolution complies with state law. He noted that it was the opinion of the Kansas Attorney General, and based on the plain language of the state statute, the Council was not required to offer a specific reason for not being fit or qualified for an appointment.

Councilmember Harmon expressed concern with the procedural framework of appointments to boards and commissions outlined by state law. He stated that state law reduces the Council's role in the process and believes the public would be better served if the Council was involved in finding the best qualified candidate.

Councilmember Wolgast concurred with Councilmember Harmon. He stated that it is important for the Council to be more involved in the process by determining the best appointee for the position by considering the person as a whole, as well as, their qualifications.

The motion to approve the resolution carried. Councilmembers Alcala, Ortiz, Archer and Harmon voted "no." (5-4-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting for the City of Topeka, Kansas, the 2010-2014 Capital Improvement Program (CIP) and the 2010-2011 Capital Improvement Budget (CIB) was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He clarified that staff has proposed the allocation of \$500,000 for ADA accessible curb cuts to be funded through the half-cent sales tax instead of general obligation bonds. He stated that staff intends to propose the allocation of \$100,000 to be used for Complete Streets project components that fall outside the permissible use of half-cent sales tax money.

Councilmember Preisner moved to approve the resolution. The motion was seconded by Councilmember Archer.

Councilmember Hiller commended staff for following Council direction and honoring the \$9 million budget cap request. She distributed the following proposed amendments to the resolution:

- To delete \$250,000 each year in the 2010-2014 Capital Improvement Program for the Neighborhood Sustainability
- To delete \$250,000 in the 2010 Capital Improvement Program for the Southwest 10th Meadow to Civitan sidewalk project
- To add \$100,000 each year in the 2010-2014 Capital Improvement Program for Complete Streets enhancements
- To add \$200,000 each year in the 2010-2014 Capital Improvement Program for infill sidewalks
- To add \$100,000 in the 2012 Capital Improvement Program for the Washburn-Lane Parkway lighting project
- Insert the statement, “To the extent possible, the utilities or enterprise funds will strive to use operating funds to finance projects instead of bonds, notes, loans or other debt instruments. To the extent possible, the neighborhood infrastructure project and complete street enhancements will be funded by revenue from the special purpose half cent sales tax in lieu of general obligation bonds, temporary notes or other debt instruments.” beginning on Line 23.
- Insert the words, “authorizing the 2008-2009 CIB” on Line 39
- Insert the words, “authorizing the 2008-2012 CIP” on Line 40
- Insert the statement, “Further, the implementation of any project included in the 2008-2009 CIB approved by Resolution No. 8157 shall require approval of the City Council by passage of the applicable ordinance or resolution prior to March 31, 2010.” beginning on Line 41

Councilmember Hiller made a substitute motion to amend the resolution as distributed.

The motion died due to a lack of a second.

Councilmember Archer questioned using half-cent sales tax funds for Complete Streets projects or any related element of a Complete Street project.

Councilmember Woelfel stated that he believes there is no need for inclusion of Complete Streets because there is a policy in place for the use of half cent sales tax funds.

Braxton Copley, Deputy City Attorney encouraged the Council to consider the Complete Streets element of each project separately and make the determination if half cent sales tax funds could be used.

Councilmember Hiller stated that she would prefer the City pay cash instead of bonding projects.

Councilmember Harmon stated that Councilmember Hiller's proposed amendments are significant and need to be studied and discussed with staff before making a decision. He suggested deferring the resolution to allow staff time to answer questions.

Councilmember Swank concurred with Councilmember Harmon. She questioned how the infill sidewalk program would be implemented.

Randy Speaker, Housing and Neighborhood Development Director stated that implementation of the infill sidewalk program is a policy decision to be made by the Council.

Councilmember Preisner withdrew the motion to approve the resolution. The second concurred.

Councilmember Preisner moved to defer the resolution for two weeks to allow staff time to answer questions. The motion seconded by Councilmember Archer carried. Councilmember Alcala voted "no." (8-1-0)

ORDINANCE NO. 19327 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 5, 2009, through October 11, 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 Preisner carried. Councilmember Harmon was out of the room. (8-0-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning manufactured homes and trailers, amending City of Topeka Code Section 98-1 and specifically

repealing said original section and creating City of Topeka Code Section 98-85 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 48-1.09, 48-7.00, 48-7.02, 48-7.03 and 48-7.04 concerning manufactured home zoning regulations and specifically repealing said original sections as well as Section 48-7.05 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Chapter 26, Article 5 and Section 30-62 and creating Chapter 30, Article 15, all concerning Contractor Licenses and Requirements 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 on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st Streets from “R-1” Single Family Dwelling District TO “M-1” Two Family Dwelling District was presented for first reading. (Z09/6)

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

Norton N. Bonaparte, Jr., City Manager reported that over 7,700 visitors attended the annual Boo at the Zoo event on October 24, 2009.

Councilmember Ortiz encouraged citizens to participate in the Identify a Child Program event on October 31, 2009 at Slumberland Furniture located at 1800 SW Wanamaker Road from 9:00 a.m. to 3:30 p.m. She noted the service is free of charge to the community.

Councilmember Swank commended staff and volunteers for participating in the annual Boo at the Zoo event. She announced that this is the final weekend for the operation of the Gage Park Mini Train before closing for the winter season.

Walter Gill appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:26 p.m.

Brenda Younger
City Clerk