

Council Minutes – November 3, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 3, 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, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Archer -1.

AFTER THE MEETING was called to order, Rabbi Debbie Stiehl, Temple Beth Shalom gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of October 27, 2009 was presented.

2009 Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>BUSINESS</u>	<u>ADDRESS</u>
The Brass Rail	401 NE Emmett
Grover's Smokehouse	1217 SW Gage Boulevard
Hunam Restaurant	5005 W 29 th Street
North Topeka Golf Center	350 NE US Highway 24
Porubsky's	508 Sardou
Sasnak North Inc.	1834 NW Topeka Boulevard
The Spot Tavern	2202 SW Buchanan

2009 Dance Hall License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>BUSINESS</u>	<u>ADDRESS</u>
The Den	1116 NW Lower Silver Lake Road
Jeremiah Bullfrog's Bar & Grille II	4115 SW Huntoon
Sasnak North	1834 NW Topeka Boulevard
Skinny's Sports Bar & Grill	4016 SW Huntoon

2009 Open After Midnight License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

BUSINESS

RuffNecks
Sunshine Energy SE #46

ADDRESS

917 N. Kansas Avenue
3300 SW Gage Boulevard

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

ORDINANCE NO. 19328 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 placed on first reading October 27, 2009 was again presented. (ACZR09/3)

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

David Thurbon, Planning Department Director distributed an amendment to the ordinance recommended by the Topeka Planning Commission. He encouraged the Council to approve the ordinance as amended.

Councilmember Harmon questioned if the amendment was included in the ordinance.

Braxton Copley, Deputy City Attorney clarified that the ordinance being considered by the Council included the amendment.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Swank carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Preisner, Harmon and Mayor Bunten -9. Absent: Archer -1.

ORDINANCE NO. 19329 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 placed on first reading October 27, 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 Alcala carried unanimously. (8-0-0)

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

ORDINANCE NO. 19330 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 placed on first reading October 27, 2009 was again presented.

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

Braxton Copley, Deputy City Attorney distributed an amendment to the ordinance. He stated that the changes would add a license category for certified backflow specialists including licensed backflow testers and installers.

Councilmember Harmon moved to amend the ordinance as follows. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

- Insert the words “backflow testing/repair” on Line 500
- Insert the words “backflow testing/repair” on Line 512
- Beginning on Line 592 insert the statement, “(a) Certified backflow tester/repair technician...\$50.00”
- Beginning on Line 612 insert the statement, “(a) Certified backflow tester/repair technician...\$30.00”
- Beginning on Line 739 insert the statement, “and certified backflow tester/repair technicians”

- Beginning on Line 829 insert the statement, “(4) Certified backflow tester/repair technicians. a. To become a licensed backflow tester/repair technician, the individual must successfully complete an accredited training session recognized by the Kansas Department of Health and Environment and the water superintendent and achieve a passing score on an examination. The holder of this license shall entitle the individual to test and/or repair backflow prevention devices or assemblies. b. Individual holding a backflow tester/repair technician license shall be required to meet the continuing education and recertification requirements established by the water superintendent.”

Councilmember Harmon moved to adopt the ordinance as amended. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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

APPROVAL of an agreement between the City of Topeka and Downtown Topeka Incorporated for the Downtown Topeka Redevelopment Incentive Grant Program for 2009 was presented. (*Contract No. 39892*)

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

Susan Mahoney, Downtown Topeka Incorporated Executive Director appeared to answer questions and asked the Council to approve the agreement.

Councilmember Preisner moved to approve the agreement. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

ORDINANCE NO. 19331 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 12, 2009, through October 18, 2009, and enumerating said expenditures herein was presented for first and final reading.

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

Councilmember Swank moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

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

RESOLUTION NO. 8213 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-4.02(c)(6) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a cultural facility on property currently zoned “R-1” Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park) in the City of Topeka, Kansas was presented. (CU09/4)

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

Councilmember Harmon moved to approve the resolution. The motion was seconded by Councilmember Hiller.

Councilmember Woelfel spoke in support of the Kansas Children’s Discovery Center. He expressed concern with the displacement of the Topeka Control Line Airplane Association. He noted that he is aware the City has been working diligently to find a suitable place for the Association to relocate. He requested to postpone consideration of the resolution until an agreement can be reached with the Topeka Control Line Airplane Association.

Councilmember Woelfel moved to defer the resolution until November 24, 2009. The motion was seconded by Councilmember Preisner.

Norton N. Bonaparte, Jr., stated that the resolution is a direct result of the Council’s approval to sell the property to the new owners.

Councilmember Harmon stated that he would like to ensure the Topeka Control Line Airplane Association has approved of the new site location; however, the Discovery Center is currently in the process of breaking ground for the project and a delay would be costly.

Councilmember Swank stated that she would oppose deferral of the resolution because it is important for the project to move forward.

Councilmember Alcala stated that he would oppose deferral of the resolution because the Council has dedicated the property to the Discovery Center. He also stated that he would prefer to keep the project moving forward.

The substitute motion to defer the resolution until November 24, 2009 failed.

Councilmembers Hiller, Alcala, Ortiz, Wolgast, Swank, Harmon and Mayor Bunten voted “no.”
(2-7-0)

Exparte communications was declared by each Councilmember and Mayor Bunten.

The motion to approve the resolution carried unanimously. Mayor Bunten voted “yes.”
(9-0-0)

ORDINANCE NO. 19332 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 placed on first reading October 27, 2009 was again presented. (Z09/6)

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

Mayor Bunten asked if there were any exparte communications besides Councilmember Ortiz. There were none declared.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Preisner, Harmon and Mayor Bunten -9. Absent: Archer -1.

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

Councilmember Hiller commended City staff members and the contractors who worked on the SW MacVicar Street Project. She noted that area residents are very pleased with the outcome of the project.

Councilmember Ortiz thanked Councilmembers for their support of the Kansas Children's Discovery Center. She asked if the Gage Park Mini Train could be re-routed to stop at the Discovery Center.

Councilmember Harmon thanked the Council for their support of the Kansas Children's Discovery Center. He stated that the project will greatly benefit the community.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:43 p.m.

Brenda Younger
City Clerk