

Council Minutes – November 17, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 17, 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, Casey Ingold, Covenant Baptist Church gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

DENIAL OF CIVIL CLAIM APPEAL by Gregory Rickel for reimbursement in the amount of \$91.00 was presented.

MINUTES of the regular meeting of November 10, 2009 was presented.

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

A PROJECT BUDGET in the amount of \$160,000 and ORDINANCE NO. 19334 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141006.00 (HTE 141340), which provides for installation of a new traffic signal at SE 4th and Branner, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading November 10, 2009 was again presented.

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

John Moyer, East Topeka North Neighborhood Improvement Association President spoke in support of the project.

Councilmember Ortiz encouraged approval of the project. She stated that she believes the intersection is a safety hazard and fears the accident rate will increase if a traffic signal is not installed.

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

Councilmember Archer stated that he received an email from a constituent questioning if the intersection complies with the Uniform Traffic Control Standards. He questioned if the City could be held liable for improper use of traffic control devices at intersections.

Mike Teply, Public Works Director stated that the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highway standards is used to determine what type of traffic controls should be utilized at intersections. He noted that in 2007 staff recommended the installation of a roundabout because the traffic count did not warrant a traffic signal.

Councilmember Alcala stated that in his opinion, the City would not be liable based on the sole fact the intersection is not in compliance with the MUTCD because there are other factors that help determine what type of traffic signal device should be installed.

Braxton Copley, Deputy City Attorney stated that the City relies upon the MUTCD, as well as, the discretion of the City traffic engineer. He also stated that while some traffic standards are required, other standards are discretionary acts made by the Council and City traffic engineer.

Councilmember Harmon questioned why the City did not initially replace the original traffic signal with a new signal instead of installing a four-way stop sign; and if the new traffic signal is the proper signal to install based on the MUTCD.

Linda Voss, City Traffic Engineer stated that the decision to install a four-way stop sign was based on the accident reports which did not reflect any specific pattern of why accidents

were occurring at the intersection. She reported that the City would install the proper traffic signals for the intersection; and it has not been determined if sidewalks would be installed.

Councilmember Alcala stated that it is important to install traffic signals at the intersection due to the high traffic volume of large trucks blocking the visibility of the stop signs.

The motion to approve the project budget and adopt the ordinance carried.

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

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

RESOLUTION NO. 8217 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas and rescinding Resolution No. 8185 was presented.

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

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

RESOLUTION NO. 8218 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas and rescinding Resolution No. 8186 was presented.

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

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

ORDINANCE NO. 19335 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 26, 2009, through November 1, 2009, and enumerating said expenditures herein was presented for first and final reading.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Ortiz 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. 19336 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 1168 SW Mission Avenue from “R-1” Single Family Dwelling District TO “O&I-1” Office and Institutional District placed on first reading November 10, 2009 was again presented. (Z09/7)

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

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -10.

RESOLUTION NO. 8219 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-10.02(c)(7) and 48-12.02(c)(10) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a vehicle surface parking lot in association with a principal use on property currently zoned “M-3” Multiple Family Dwelling District and “O&I-2” Office Institutional District on property located at 1253, 1257 and 1263 SW Harrison Street in the City of Topeka, Kansas was presented. (CU09/5)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Ortiz, Wolgast and Harmon. There were none declared.

Councilmember Harmon stated that he would abstain from voting because he was a member of the Kansas Bar Association.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Preisner carried. Mayor Bunten voted “yes.” Councilmember Harmon abstained. (9-0-1)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning fencing requirements, amending City of Topeka Code Section 48-29.03 and specifically repealing said original section was presented for first reading. (ACZR09/4)

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 1236 SW Garfield Avenue from “R-2” Single Family Dwelling District TO “M-1” Two Family Dwelling District was presented for first reading. (Z09/8)

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

Councilmember Ortiz thanked the Council for approving the installation of a new traffic signal at the intersection of SE 4th and Branner Streets.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:39 p.m.

Brenda Younger
City Clerk