

## **Council Minutes – November 24, 2009**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 24, 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, Pastor LD Holmes, Church of Nazarene gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Bill Beachy to the Human Relations Commission for a term that would end November 30, 2011 was presented.

BOARD APPOINTMENT recommending the re-appointment of Sam Carkhuff to the Metropolitan Topeka Airport Authority for a term that would end November 30, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Eduardo Ramirez to the Metropolitan Topeka Airport Authority for a term that would end November 30, 2012 was presented.

MINUTES of the regular meeting of November 17, 2009 was presented.

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

AUTHORIZING a public hearing on December 15, 2009 for the purpose of hearing and answering objections of taxpayers to the proposed amendments to the 2009 Operating Budget was presented.

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

Joseph Ledbetter expressed concern with the funds associated with the Cypress Ridge Golf Course. He stated that he believes the property should have been transferred to Shawnee County because the City subsidizes the golf course by contributing nearly \$400,000 annually. He also expressed concern with the City allocating \$200,000 to the Great Overland Station.

Councilmember Preisner moved to approve the publication of the public hearing notice. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

ORDINANCE NO. 19337 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 placed on first reading November 17, 2009 was again presented. (ACZR09/4)

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

Joseph Ledbetter questioned how the City plans to deal with fences that exceed four feet in height and are already in place; what kind of fences would be allowed; and if the fencing regulations would affect commercial properties.

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

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

RESOLUTION NO. 8220 introduced by Deputy Mayor Richard Harmon adopting the City of Topeka’s legislative agenda for the 2010 legislative session was presented. The resolution was deferred from the meeting of November 10, 2009.

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

Councilmember Harmon thanked Councilmember Hiller for her efforts in drafting the proposed language amendments. He distributed and read the following proposed amendments beginning on line 9 of the resolution:

- To the extent consistent with the goals of the City of Topeka, support the 2010 Legislative Priorities of the League of Kansas Municipalities.
- Support the continued operation of the Kansas Neurological Institute.
- Continue to resist efforts to exempt the statehouse remodeling initiative from state and local sales tax.
- Topeka Metropolitan Transit Authority (TMTA)
  - Change language in Metropolitan Transit Authority Act, lifting three mile service boundary and make TMTA equivalent with all other transit systems statewide.
  - Support TMTA in state Comprehensive Transportation Program (CTP) funding formula (as considered by all urban providers) to proposed or improved formula levels.
  - Support TMTA in state CTP funding level increase effective 2010 instead of at the adoption/passage of new transportation bill.
- Support continued development of the Capitol Complex and State operations in Downtown Topeka.
- Seek a change to state law relating to notice for nuisance violations to allow municipalities to notify property owners of violations by regular mail and other means instead of certified mail to permit them to save money and operate more efficiently.

Joseph Ledbetter expressed concern with the request to lift the three-mile service boundary for the Topeka Metropolitan Transit Authority; and the request to eliminate the certified mail notifications for nuisance violations to citizens.

Norton N. Bonaparte, Jr., stated that approving the resolution would only state the City's intent on items that the State Legislature would be considering at the 2010 legislative session.

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted "no." (8-1-0)

Councilmember Harmon moved to reconsider the motion to approve the resolution. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

Councilmember Harmon moved to amend the resolution beginning on line 9 as

distributed. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” (8-1-0)

Councilmember Alcalá spoke in opposition to the resolution. He stated that there are too many issues which make the City’s legislative agenda large and ineffective. He encouraged local delegation to become involved with the City’s lobbyist and narrow their efforts to achieve better results.

Councilmember Harmon moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” (8-1-0)

A REVISED PROJECT BUDGET in the amount of \$300,000 and RESOLUTION NO. 8221 introduced by City Manager Norton N. Bonaparte, Jr., amending the Project Budget for Improvement Project No. T-301000.00 (HTE 302790) which provides for the African Aviary Exhibit and authorizing the same, and rescinding Resolution No. 8035 was presented.

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

Joseph Ledbetter spoke in opposition to the project. He stated that he believes the Topeka Zoo is managed improperly and until the issues are resolved, he would oppose any new facilities being built at the Zoo.

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

RESOLUTION NO. 8222 introduced by Councilmember Larry Wolgast encouraging the implementation of walkable, bikeable complete streets that accommodate bicyclists, pedestrians, public transportation passengers and users of all abilities was presented.

Councilmember Wolgast gave the staff report and stated that approval of the resolution would implement the overriding Complete Streets policy for the City of Topeka. He gave the definition of Complete Streets and how the program would occur. He also stated there are no

rules and regulations currently implemented for the Complete Streets policy that the City would adopt at this time. He also stated that the City would fund Complete Streets to the extent financially feasible.

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

Nancy Johnson spoke in support of the Complete Streets policy and stated that the policy is a transportation system that would accommodate all modes of transportation with no boundaries.

Karl Fundenberger spoke in support of the Complete Streets policy and noted that national statistics show that hundreds of people die annually because of poorly constructed streets. He noted that streets should be constructed to move people not cars.

Tim McManus spoke in support of the Complete Streets policy and stated that over 100 communities have already implemented the policy.

Christy Caldwell spoke in support of the Complete Streets policy and stated that it would be a great contribution to the quality of life in the community.

Leon Fundenberger spoke in support of the Complete Streets policy. He stated that the policy would improve City streets and sidewalks and assist in transportation of special needs individuals.

Joseph Ledbetter requested a financial breakdown of the costs associated with the Complete Streets policy prior to approval by Council. He expressed concern with using half-cent sales tax money to fund the policy.

Jim Ogle stated that the governing body has the opportunity to show foresight by approving the Complete Streets policy and involving citizens in the process. He also stated that the policy would set the community on a positive course for all modes of transportation.

Councilmember Harmon expressed concern with the language being too broad beginning on Line 29 of the resolution, as well as, several language inconsistencies on Lines 18 through 27. He stated he believes the language goes beyond the policy's statement of intent.

Councilmember Wolgast stated that the language in the resolution was mirrored from basic plans utilized by other cities, as well as, researched by the Legal Department, Public Works Department and Planning Department to ensure the program would be workable within the current departmental processes.

Councilmember Alcalá expressed concern with the language in Section 4 of the resolution. He stated that he supports the concept of Complete Streets; however, he would prefer to strike Section 4 of the resolution in its entirety. He also expressed concern with the resolution allowing open ended funding for the policy.

Catherine Walters, Assistant City Attorney stated that Section 4 of the resolution is standard case law language that clarifies the City Council's intent.

Councilmember Archer stated that he supports the concept; however, he would like to have an estimate of expenditures for the next five to ten years.

Norton N. Bonaparte, Jr., reported that \$100,000 has been allocated to the Complete Streets fund which is an arbitrary amount due to the fact projects are still being considered for 2010. He stated that once this process is complete the City will have a better idea of which Complete Streets concept the City would like to implement.

Mike Teply, Public Works Director stated that they would compile the estimates when all project designs are complete. He noted that the design phase would begin over the next four to five months.

Councilmember Wolgast stated that approval of the resolution only approves the concept, not specific projects.

Councilmember Woelfel questioned when the Complete Streets policy goals would be met and how the City plans to achieve the goals; if there is a penalty for noncompliance of the policy; who would provide the design recommendations to City staff; if the proposed policy is the same concept that was used to comply with ADA standards; and who determines the City's priorities within the policy.

Councilmember Wolgast stated that the City would reach the goal once all streets are made available for all modes of transportation. He noted that the policy would be an on-going process.

Norton N. Bonaparte, Jr., stated that the resolution would direct staff to incorporate the Complete Streets policy in the project planning process.

Mike Teply stated that currently the City does not have a sound policy in place that pulls all projects together, as well as, review the multitude of resources available. He noted that approval of the resolution would provide staff with a clear policy to follow.

Councilmember Swank spoke in support of the resolution and stated that the policy would help improve the quality of life for citizens.

Councilmember Hiller commended Councilmember Wolgast and City staff for drafting the resolution. She stated she is comfortable with the language of the resolution and supports the Complete Streets concept.

Councilmember Archer stated that he would support the Complete Streets policy because each project would be considered separately by the Council.

The motion to approve the resolution carried. Councilmember Woelfel voted "no."

(8-1-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 2, 2009, through November 8, 2009, and enumerating said expenditures herein was presented for first and final reading.

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

Joseph Ledbetter expressed concern with a \$97,000 expenditure listed in the weekly expenditure report; and a refund provided by Worlds of Fun to the City of Topeka. He stated that in his opinion, there is a lack of transparency in City government spending.

Mike Teply, Public Works Director reported that the \$97,000 expenditure was expended to pay the State of Kansas to reserve storage in the State Reservoir to make certain the City has an adequate water supply and to pay the State of Kansas Clean Drinking Water fee.

Councilmember Alcalá moved to adopt the ordinance. The motion was seconded by Councilmember Archer.

Councilmember Alcalá expressed concern with an increase in overtime costs, as well as, various other expenditures listed as miscellaneous services in the Miscellaneous fund.

Jim Langford, Budget and Finance Director reported that the medical expenditures are due to Workers Compensation Claims, and the other expenditures in question could be explained in a detailed report provided at a later date or discussed in a work session.

Councilmember Ortiz requested clarification on the Parks and Recreation Department process for Worlds of Fun expenditures.

Terry Bertels, Parks and Recreation Director reported that the City purchases Worlds of Fun tickets in a lump sum for community center events; therefore, all refunds are given directly to the City.



Councilmember Alcala made a substitute motion to defer the ordinance for one week to allow staff time to answer questions. The motion seconded by Councilmember Ortiz carried. Councilmembers Woelfel, Wolgast, Swank and Preisner voted “no.” (5-4-0)

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 placed on first reading November 17, 2009 was again presented. (Z09/8)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Hiller and Swank. There were none declared.

Councilmember Swank stated that she and 50 of the neighborhood residents attended the Planning Commission meeting. She noted that it has been an emotional process for all those involved with the zoning case.

Councilmember Alcala raised a point of order. He questioned if Councilmember Swank should comment on the zoning case, and if she should abstain from voting on the matter because she attended the Planning Commission meeting. He noted that in the past, litigation has resulted from similar actions taken by a Councilmember in a zoning case.

Catherine Walter, Assistant City Attorney stated that she would need to further research the Council’s rights in this specific zoning case.

Councilmember Alcala moved to defer the ordinance for one week. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

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

Norton N. Bonaparte, Jr., City Manager announced that City offices would be closed on November 24<sup>th</sup> and November 25<sup>th</sup> in observance of the Thanksgiving holiday. He also announced that the Topeka Zoo would be open on November 24, 2009 from 9:00 a.m. to 5:00 p.m.

Councilmember Alcalá commended all veterans and men and women currently serving in the military for their service and wished them a happy Thanksgiving.

Councilmember Ortiz invited the community to the Kansas ExpoCenter Thanksgiving Dinner on November 24, 2009. She encouraged citizens to donate food for the event.

Councilmember Woelfel requested to schedule a work session to discuss Council meeting protocol and procedures.

Councilmember Wolgast thanked all the people who helped draft the Complete Streets policy. He stated that he believes the City is moving forward in becoming a better community by accommodating all modes of transportation.

Mayor Bunten stated that he would be attending the Kansas ExpoCenter Thanksgiving dinner and commended the volunteers for helping serve over 2,000 meals to those in need.

Joseph Ledbetter and Nancy Johnson appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:03 p.m.

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Brenda Younger  
City Clerk