

Council Minutes – December 8, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 8, 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, Councilmember Preisner gave the invocation.

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

Councilmember Swank requested to add a resolution granting a noise exception for Ryan Johnson to the December 15, 2009 Council agenda.

Upon hearing no objections, Mayor Bunten announced that the resolution would be added to the December 15, 2009 Council agenda.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Dawn Wright to the Topeka Planning Commission for a term that would end December 8, 2012 was presented.

MINUTES of the regular meeting of November 24, 2009 and December 1, 2009 were presented.

2010 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>
Arturo's	105 NE 10 th Avenue
Godfather's Pizza	5300 W 17 th Street
Lupita's Mexican Restaurant	732 S. Kansas Avenue

A 2010 Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for the Wild Horse Saloon located at 3249 SW Topeka Boulevard was presented.

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

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing and considering public comment on the neighborhood revitalization plan.

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

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

A PROJECT BUDGET in the amount of \$444,000 and ORDINANCE NO. 19340 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301012.00 (HTE 302910), which provides for a new lighting system at Felker Park Softball Complex, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading August 25, 2009 was again presented. The project budget and ordinance was deferred from the meeting of September 8, 2009.

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

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

Kurt Young spoke in support of the lighting upgrades. He stated that Topeka is currently limited to daytime sporting venues and approval of the project would capitalize on night sporting events.

Jim Parrish spoke in support of the proposal and stated that the proposed improvement would add quality to Topeka’s sports facilities and support the Heartland Visioning process.

Bill Michaud spoke in support of the project. He stated that if the City wants to continue to host large tournaments the lighting at Felker Park must be upgraded.

Councilmember Alcala questioned if the lighting upgrade would allow the City to bid on baseball tournaments at a national level. He also stated that Shawnee County has facilities that could accommodate tournaments conducted at night.

Councilmember Woelfel asked if the Hummer Sports Park Complex is considered when bidding tournaments.

Bill Michaud stated that the Hummer Sports Park Complex is considered; however, the City would be able to bid more tournaments if the lighting upgrade is approved. He noted that the distance between City and County park facilities is not feasible for leagues to travel.

Councilmember Swank stated that the City should provide quality facilities to make Topeka more attractive to national leagues increasing the economic impact on the city.

Councilmember Hiller spoke in support of the project. She stated that the investment is a small price to pay for such a large return.

Councilmember Archer asked if the upgrades would replace the current lighting system; if the project would benefit local residents; and if any large tournaments have been secured based on the approval of the upgrade.

Terry Bertels, Parks and Recreation Director stated that the project would replace the current lighting system; the upgrades would benefit nearly four-hundred local teams annually; and all 2010 tournaments have been scheduled.

Mayor Bunten asked if the upgrades would incorporate the tennis courts.

Terry Bertels stated that the lighting upgrade would only include the baseball fields.

Councilmember Woelfel questioned if the tournament fees could be increased to help offset the project costs; and if Visit Topeka Inc., or sales tax funds could help fund the project.

Terry Bertels stated that tournament fees are set by the American Softball Association. He also stated that the City currently charges \$385 per team which is used to pay for small repairs to the baseball fields.

Norton N. Bonaparte, Jr., stated that the Council determines the amount of bed tax money to allocate to Visit Topeka, Inc., each year for various venues; and the use of sales tax monies will be decided during the budget process.

Councilmember Wolgast spoke in support of the project. He stated that this is another project that could help the City be progressive and move forward.

Mayor Bunten questioned the necessity of the project. He stated that it is a tremendous amount to add to the City's bonded indebtedness. He noted that the Council would consider over \$9 million of capitol improvement projects next week.

Councilmember Preisner stated that the Council needs to take the opportunity to improve the community.

Councilmember Woelfel stated that he agrees the tournaments provide a large economic impact for the city; however, he is concerned with increasing the City's bonded indebtedness.

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

Councilmembers Alcala, Ortiz and Woelfel voted "no." (6-3-0)

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

ORDINANCE NO. 19341 introduced by City Manager Norton N. Bonaparte, Jr., concerning the redevelopment project plan for Heartland Park Topeka amending the project plan as established by City of Topeka Ordinance No. 18541 as amended by City of Topeka Ordinance

No. 18813 and repealing certain specified sections therein placed on first reading December 1, 2009 was again presented.

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

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

Councilmember Harmon distributed the following amendment to the ordinance:

- Beginning on line 30 after the word “No.” strike the statement, “18541 as amended by City of Topeka Ordinance No.”
- On line 105 strike the statement, “18541 as amended by City of Topeka Ordinance No.”

Councilmember Harmon made a substitute motion to amend lines 30, 31 and 105 of the ordinance as distributed with the intent of passing the ordinance to clarify and not change the original intent of City of Topeka Ordinance No. 18813. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Wolgast 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.

RESOLUTION NO. 8225 introduced by City Manager Norton N. Bonaparte, Jr., declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8132 was presented.

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

Councilmember Preisner moved to amend lines 9 and 1165 of the resolution by striking the words, “City Council” and inserting the words “Governing Body”. The motion seconded by Councilmember Harmon carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

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

A RESOLUTION introduced by Mayor William W. Bunten relating to the convening of a Citizens Government Review Committee pursuant to Ordinance No. 19320 was presented.

Mayor Bunten gave the staff report and requested that City of Topeka Charter Ordinance No. 94 be reviewed. He stated that he is not in favor of changing the current form of government; however, he believes there is a need to clarify the duties of officials in City government. He specifically expressed concern with the Mayor’s ability to veto in relation to the check-and-balance system of City business, as well as, Councilmember salary limitations, election years and suggested duties.

Braxton Copley, Deputy City Attorney stated that it would be a policy decision by the Council to form a committee to provide recommendations. He also stated that the substantial changes listed by the Mayor would require a change in the charter ordinance.

Councilmember Preisner spoke in opposition of the resolution. He stated that the new form of government has not had the opportunity to evolve and grow in the four years since it was inducted. He expressed concern with the amount of funds expended on litigation to clarify Mayoral duties. He noted that the original intent of the resolution was to review the form of government every ten years.

Councilmember Woelfel stated that the Citizens Governmental Review Committee intent was to review the form of government as a whole and this resolution deals mostly with the duties of the Mayor.

Councilmember Swank spoke in opposition of the resolution. She stated that she believes the committee should be allowed to develop their own ideas and not be directed by the City Council to review specific issues.

Councilmember Hiller spoke in opposition to the resolution. She stated that she believes it is premature to review the current form of government at this time; however, some issues raised by the Mayor should be addressed. She volunteered to assist staff with the review of the Mayor's concerns.

Councilmember Archer spoke in support of the resolution; however, he does not agree with all concerns raised by the Mayor. He stated that he would prefer an independent review of the inconsistencies which he believes would be very helpful to the Council at this time.

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

Councilmember Woelfel asked what issues the committee would review if convened.

Mayor Buntin stated that the committee would review City of Topeka Charter Ordinance No. 94 as a whole.

The motion to approve the resolution failed. Councilmembers Hiller, Woelfel, Wolgast, Swank, Preisner and Harmon voted "no." (3-6-0)

ORDINANCE NO. 19342 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 16, 2009, through November 22, 2009, and enumerating said expenditures therein 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 Alcala carried. Councilmember Alcala voted “no.” (8-1-0)

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

RESOLUTION NO. 8226 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-4.02(c)(19) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a non-residential small wind energy system on property currently zoned “R-1” Single-Family Dwelling District on property located at 1900 SW Hope Street in the City of Topeka, Kansas was presented. (CU09/6)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Hiller, Alcala, Ortiz, Wolgast, Swank, Archer and Preisner. There were none declared.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Harmon carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-121000.00 (HTE 120650), which provides for the first phase of construction of the bridge on 49th Street over the Shunga Creek, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-131011.00 (HTE 131740), which provides for replacement of HVAC control system for the municipal building, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141000.02 (HTE 141282), which provides for the replacement of traffic signal controllers city-wide, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141008.00 (HTE 141360), which provides for traffic signal replacements at four intersections, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-241005.00 (HTE 241240), which provides for city-wide 50/50 sidewalk repairs, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-241006.00 (HTE 241250), which provides for construction of a new sidewalk on the north side of SW 10th Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-241007.00 (HTE 241260), which provides for city-wide infill sidewalks, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841010.00 (HTE 843600), which provides for city-wide maintenance and improvements on existing streets, as more specifically described herein, and

authorizing Improvement Project No. T-841012.00 (HTE 843620), which provides for the design of the projects in the 2011 Street Maintenance Program was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841011.00 (HTE 843610) which provides for ADA accessible sidewalk ramps throughout the City, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841008.00 (HTE 843580), which provides for city-wide curbs, gutters and street repairs, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841009.00 (HTE 843590), which provides for city-wide alley repairs, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301005.00 (HTE 302840), which provides for the extension of Landon Trail, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301009.01 (HTE 302881), which provides for building improvements to city-wide community centers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301015.00 (HTE 302940), which provides for cart paths at Cypress

Ridge Golf Course, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301016.00 (HTE 302950), which provides for playground structures at two parks, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301017.00 (HTE 302960), which provides for a new swimming pool and bath house, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301018.00 (HTE 302970), which provides for an office and classroom near Helen Hocker Theater, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301019.00 (HTE 302980), which provides for an accessible ball diamond at Gage Park, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301020.00 (HTE 302990), which provides for construction of a new facility at the Topeka Zoological Park, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301021.00 (HTE 303000), which provides for roof replacement of a zoo building, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301022.00 (HTE 303010), which provides for improvements to the Shunga, Deer Creek, Soldier and Oakland-Billard trail systems, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a neighborhood revitalization plan and designating a revitalization area, all as provided for in K.S.A. 12-17, 114 et. seq., Neighborhood Revitalization Act was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced that City4 is broadcasting a new program titled “Discovering Topeka District by District” highlighting Council District No. 3. He reported that the Law Enforcement Partnership Panel is seeking new members. He encouraged interested citizens to apply online at www.topeka.org or contact Rio Cervantes-Reed, Human Relations Commission Director at 368-3607. He also announced upcoming Meet the Manager sessions on December 10, 2009 at Chic-A-Dee Café located at 3036 SE 6th Street; and December 15, 2009 at PT’s Coffee Company located at 5660 SW 29th Street.

Councilmember Hiller commended business owners and the community for the smooth transition regarding the clean-air ordinance effective December 4, 2009.

Councilmember Alcalá questioned if all City facilities were in compliance with the clean-air ordinance and if the regulation applied to City vehicles. He thanked staff for providing him additional information on the death of the hippopotamus. He questioned the deadline for the AZA Committee report on the Zoo and requested that the Council receive the report as soon as it becomes available. He questioned if a verbal report has been provided to the City by the Committee.

Norton N. Bonaparte, Jr., City Manager reported that the committee report deadline of February 2010 was established by the Committee; therefore, he would be hesitant to ask for the deadline to be moved forward because they need the time to provide a thorough report. He stated that a verbal report has not been provided to the City.

Councilmember Woelfel reported that the Burlington Northern Santa Fe Railroad has stated that all funds for road repairs have been exhausted and as more funds become available they would continue improving the SE 4th Street railroad crossing tracks. He asked the City Manager to encourage the Railroad to continue making improvements at the crossing. He announced that the Topeka Bible Church Christmas Light Show would be held free of charge to the community on December 11-13, 2009 from 6:00 p.m. to 9:00 p.m. located at SW 11th and College.

Councilmember Archer commended the City for aspiring to apply for the Malcolm Baldrige National Quality Award the nation's highest Presidential honor for innovation and performance excellence.

Councilmember Preisner commended Mike Coker, Topeka Zoo Director for his service to the zoo. He stated that Mr. Coker provided inspiration and leadership to the zoo and would be missed.

Councilmember Alcalá moved to adjourn the City Council meeting. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:40 p.m.

Brenda Younger
City Clerk