

Council Minutes – January 5, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 5, 2010. 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 Harmon asked for a moment of silent meditation.

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 Gina Penzig to the Topeka Sustainability Advisory Board for a term that would end December 15, 2011 was presented.

BOARD APPOINTMENT recommending the appointment of Kate Grover to the Topeka Sustainability Advisory Board for a term that would end December 15, 2011 was presented.

BOARD APPOINTMENT recommending the re-appointment of Larry Graber to the Topeka Sustainability Advisory Board for a term that would end December 15, 2011 was presented.

BOARD APPOINTMENT recommending the re-appointment of Sarah Noller to the Topeka Sustainability Advisory Board for a term that would end December 15, 2011 was presented.

BOARD APPOINTMENT recommending the re-appointment of Christy Davis to the Topeka Landmarks Commission for a term that would end December 15, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Greg Allen to the Topeka Landmarks Commission for a term that would end December 31, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Michael Byington to the City of Topeka ADA Advisory Council for a term that would end January 5, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Sharon Joseph to the City of Topeka ADA Advisory Council for a term that would end January 5, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Gary Yager to the Downtown Business Improvement District Advisory Board for a term that would end December 31, 2011 was presented.

BOARD APPOINTMENT recommending the re-appointment of Jim Parrish to the Downtown Business Improvement District Advisory Board for a term that would end December 31, 2011 was presented.

BOARD APPOINTMENT recommending the appointment of Jessie Mae Brice Thompson to the Civil Service Commission for a term that would end January 5, 2014 was presented.

BOARD APPOINTMENT recommending the re-appointment of Joe Marshall to the Topeka Housing Authority Board of Commissioners for a term that would end December 31, 2013 was presented.

BOARD APPOINTMENT recommending the re-appointment of Richard Beardmore to the Board of Mechanical Examiners for a term that would end January 5, 2012 was presented.

MINUTES of the regular meeting of December 15, 2009 were presented.

2010 Dance Hall License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
American Legion Capitol Post #1	3800 SE Michigan
RuffNecks Bar & Grill	917 N Kansas Avenue
That Place	3701 SW Plaza Drive

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for LaHacienda Restaurant and Club located at 1465 SE Washington Street was presented.

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

A PROJECT BUDGET in the amount of \$250,000 and 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 placed on first reading December 8, 2009 was again presented. The project budget and ordinance was deferred from the meeting of December 15, 2009.

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

Councilmember Harmon moved to defer the project budget and ordinance for two weeks. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner moved to override the mayoral veto of Ordinance No. 19347 authorizing Traffic Signal Improvement Project No. T-141008.00 in the amount of \$715,000. The motion was seconded by Councilmember Swank.

Councilmember Swank stated that it is the City's responsibility to make repairs and be proactive in the maintenance of traffic signals.

Craig Buchanan expressed concern with replacing traffic signals that are still working. He stated that he believes the project is not necessary at this time.

Mayor Bunten stated that he is not opposed to the replacement of traffic signals when it is necessary. He encouraged the implementation of a written policy outlining the lifecycle of a traffic signal so the Council has guidelines to follow when making the decision to replace traffic signals. He also stated that he would prefer the City pay cash for the project and avoid high interest costs.

Councilmember Hiller stated that she would support the project because it is important for the City to remain proactive in the repair of traffic signals. She encouraged the City to fund as many projects as possible with cash and work to reduce the City's bonded indebtedness by 50%.

The motion to override the mayoral veto of Ordinance No. 19347 authorizing Traffic Signal Improvement Project No. T-141008.00 in the amount of \$715,000 carried.

Councilmembers Ortiz and Woelfel voted "no." (7-2-0)

Councilmember Preisner moved to override the mayoral veto of Ordinance No. 19354 authorizing Landon Trail Extension Improvement Project T-301005.00 in the amount of \$529,600. The motion was seconded by Councilmember Swank.

James Foster spoke in opposition to the project. He stated that he believes there are many legal issues surrounding property ownership of the trail that need to be resolved before moving forward with the project.

Councilmember Archer asked for a legal opinion on the issues raised by Mr. Foster.

Braxton Copley, Deputy City Attorney stated that he would need to research the matter and gather all facts before expressing a legal opinion. He suggested that Council defer the matter for one week to allow time for staff to gather the necessary information and review the matter.

Councilmember Harmon made a substitute motion to defer the mayoral veto of Ordinance No. 19354 authorizing Landon Trail Extension Improvement Project T-301005.00 in the amount of \$529,600 for one week. The motion was seconded by Councilmember Ortiz.

Councilmember Hiller asked if one week was a sufficient amount of time for staff to review the matter thoroughly.

Braxton Copley stated that he would make every effort to thoroughly review the matter if deferred for one week. He noted that the Council does have the option to override the mayoral veto with the understanding that the issues must be resolved before moving forward with the project.

Mayor Bunten stated that he vetoed the ordinance because the project is not a necessity at this time; and the City would be contributing to the national debt by accepting unnecessary federal grant funding.

The substitute motion to defer the mayoral veto of Ordinance No. 19354 authorizing Landon Trail Extension Improvement Project T-301005.00 in the amount of \$529,600 for one week carried. Councilmembers Alcalá and Preisner voted “no.” (7-2-0)

Councilmember Preisner moved to override the mayoral veto of Ordinance No. 19358 authorizing Helen Hocker Theater Improvement Project No. T-301018.00 in the amount of \$520,200. The motion was seconded by Councilmember Swank.

Mayor Bunten stated that he believes the construction costs for the project are too high and the project is not necessary at this time.

The motion to override the mayoral veto of Ordinance No. 19358 authorizing Helen Hocker Theater Improvement Project No. T-301018.00 in the amount of \$520,200 carried. Councilmembers Alcalá, Woelfel and Archer voted “no.” (6-3-0)

Councilmember Preisner moved to override the mayoral veto of Ordinance No. 19356 authorizing Cypress Ridge Golf Course Improvement Project No. T-301015.00 in the amount of \$695,000. The motion was seconded by Councilmember Swank.

Councilmember Swank spoke in support of the project. She stated that the project scope falls within the parameters of the Heartland Visioning Plan goals by improving the quality of life in Topeka.

Councilmember Preisner spoke in support of the project. He stated that supplies for the project would be provided by local vendors and jobs would be created for local residents.

Councilmember Hiller stated that the project is part of the five-year operating plan for Cypress Ridge Golf Course drafted by the previous Council in an effort to make the golf course profitable and competitive.

Councilmember Woelfel stated that the economy has changed dramatically since the plan was enacted five years ago and he does not see any justification or necessity for the project at this time.

Councilmember Archer stated that a systematic plan should be put in place to justify expenditures and more information provided to make an informed decision.

Councilmember Hiller stated that she believes staff has sufficiently provided detailed information to make an informed decision.

Mayor Buntten noted that the front nine holes of the golf course have a cart path. He stated that he supports making Cypress Ridge a well maintained golf course. He expressed concern with the high interest costs associated with the project; and questioned if the project is a necessity at this time.

The motion to override the mayoral veto of Ordinance No. 19356 authorizing Cypress Ridge Golf Course Improvement Project No. T-301015.00 in the amount of \$695,000 failed. Councilmembers Alcalá, Ortiz, Woelfel and Archer voted “no.” (5-4-0)

DENIAL of an alarm agent license appeal by Danny Salazar was presented.

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

Councilmember Ortiz stated that she understands that laws are put in place to protect the community; however, she believes Mr. Salazar is not a threat to the community and deserves a second chance to provide for his family.

Councilmember Ortiz moved to approve the alarm agent license appeal by Danny Salazar. The motion was seconded by Councilmember Alcalá.

Councilmember Alcalá stated that he would support the motion to approve the appeal because Mr. Salazar would be employed by a bonded company and is a hard-working individual trying to provide for his family. He encouraged the Council to approve the license appeal.

Councilmember Woelfel stated that he would oppose approval of the license appeal because the laws have been implemented for a reason, to govern the community. He also stated that because the Police Department has performed their duty in denying the license appeal based on the law, the Council should not override the appeal or make exceptions to the law.

The motion to approve the alarm agent license appeal carried. Councilmembers Woelfel and Archer voted “no.” (7-2-0)

DENIAL of a security guard license appeal by Don McFadden was presented.

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

Councilmember Preisner moved to approve the denial of a security guard license appeal. The motion seconded by Councilmember Harmon carried. Councilmembers Hiller, Wolgast and Swank voted “no.” Councilmember Alcalá abstained. (5-3-1)

DENIAL of a security guard license appeal by Lavon Conyer was presented.

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

Councilmember Preisner moved to approve the denial of a security guard license appeal. The motion was seconded by Councilmember Woelfel.

Mayor Bunten encouraged the Council to approve the appeal and allow Mr. Conyer to provide for his family.

Councilmember Swank stated that because Mr. Conyer was granted a diversion for the charges against him she would support approval of the license appeal.

Councilmember Woelfel stated that he understands the need for Mr. Conyer to provide for his family. He expressed concern with the Council granting too many exceptions to laws that were implemented for a reason. He requested to schedule a work session to discuss the specifics of the law and guidelines used by the Police Department in making recommendations to deny or approve licenses.

The motion to approve the denial of a security guard license appeal failed. Councilmembers Hiller, Alcalá, Ortiz, Wolgast, Swank, Preisner and Harmon voted “no.” (2-7-0)

APPROVAL OF REAL ESTATE CONTRACTS for the purchase of vacant land adjoining the Kansas River Levee and NW Curtis and NW Topeka Boulevard in North Topeka was presented. (*Contract No. 40037 and Contract No. 40038*)

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

Councilmember Alcala moved to approve the real estate contracts. The motion was seconded by Councilmember Ortiz.

Councilmember Woelfel asked how much property tax is being generated from the properties.

Pam Simecka, City Controller stated that very little property tax revenue is generated from the properties.

The motion to approve the real estate contracts carried unanimously. (9-0-0)

APPROVAL of an agreement between the City of Topeka and the Topeka Performing Arts Center authorizing an extension of the original operating agreement was presented.
(*Contract No. 40039*)

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

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

ORDINANCE NO. 19364 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 30, 2009, through December 6, 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 Archer carried unanimously. (9-0-0)

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

ORDINANCE NO. 19365 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 7, 2009, through December 13, 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 Swank carried unanimously. (9-0-0)

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

ORDINANCE NO. 19366 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 14, 2009, through December 20, 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 Archer carried unanimously. (9-0-0)

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

Norton N. Bonaparte, Jr., City Manager requested that item 7A, a charter ordinance regarding the method of appointment of members to statutory and non-statutory boards be withdrawn from the Council agenda.

Upon hearing no objections, Mayor Bunten announced that item 7A would be withdrawn from the Council agenda.

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 on the northeast corner of SW Lincoln Street and SW 12th Street and a tract located at the southwest corner of SW Munson Avenue and SW Buchanan Street from “R-2 Single Family Dwelling District TO “PUD” Planned Unit Development was presented for first reading. (*PUD04/8*)

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

Councilmember Hiller commended City staff and Street Maintenance crews for their hard work during inclement weather conditions. She encouraged the Council to continue making good decisions that are supported by citizens.

Councilmember Alcala suggested asking the Shawnee County Transportation Department to assist the City Street Maintenance Division in the removal of snow from City streets. He stated that the combined efforts of the City and County would allow streets to be cleared of snow in a timely manner; reduce overtime for employees; cut back on the maintenance of street equipment; and eliminate the need to hire outside contractors for snow removal.

Councilmember Ortiz commended Street Maintenance crews for their hard work during the holidays. She commented on the positive attitude displayed by firefighters on the scene of a recent structure fire that took the life of a 4-year old boy. She expressed the importance of educating the public on all aspects of fire safety. She announced that the Fire Department would be hosting a Fire and Life Safety Workshop on January 16, 2010 from 12:00 p.m. to 2:00 p.m. at the Hillcrest Community Center located at 1800 SE 21st Street.

Allen Bradshaw, Fire Chief reported that the Fire Department has applied for a federal grant that would provide funds to purchase smoke detectors and fire safety information to distribute throughout the community. He noted that the Fire Department is concentrating on providing and installing smoke detectors in homes occupied by the elderly and single parents.

Councilmember Woelfel questioned if half-cent sales tax revenue funds could be used for snow removal and pothole repair. He announced that following the Council meeting there would be a work session to discuss the status of the College Hill Tax Increment Financing Project and how the tax dollars are being used.

Norton N. Bonaparte, Jr., City Manager stated that the half-cent sales tax revenue funds were not intended to be used for pothole repair and snow removal. He reported that the funds would be used for the maintenance and improvement of existing streets, curbs, gutters, sidewalks and street lights.

Councilmember Preisner commended the Public Works Department for their hard work during inclement weather conditions. He also commended the Water Department for their hard work in repairing broken water mains during extreme weather conditions.

Councilmember Harmon asked if the City would receive reimbursement funding for snow removal costs from the State of Kansas.

Norton N. Bonaparte, Jr., stated that the City Emergency Preparedness Coordinator is pursuing all possibilities in receiving financial aid to assist with snow removal costs.

Shannon Rogers, Dr. Jason Eberhart-Phillips, Sandy Sweet, Dave Pomeroy, Craig Gunther, Gary Caruthers, Susan Winter, Kaelyn Seymour and James Foster appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:50 p.m.

Brenda Younger
City Clerk