

Council Minutes – April 6, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 6, 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 Ortiz gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8246 introduced by Councilmember Karen Hiller granting Cumulus Broadcasting an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of March 23, 2010 were presented.

Open After Midnight 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>
Bob's Carwash	3162 E 6 th Street
Bob's Carwash	2733 California
Club Hunter	820 Kansas
Cousin's Tavern	1211 S. Kansas Avenue
Denny's #7269	3210 SW Topeka Boulevard
Denny's #7268	1500 Wanamaker Road
Fragrance World	820 N. Kansas Avenue
Hot Pockets	1909 NE Seward
Ichabod Laundra Bar	1501 SW 21 st Street
Jeremiah Bullfrog's Bar & Grill II	4115 SW Huntoon
Kelly Express	1001 SW Wanamaker Road
McB's Sports Grill	2920 SE Croco Road
Old Chicago	1231 SW Wanamaker Road
Poor Bill's	840 N. Kansas Avenue
Sidelines	5630 SW 29 th Street
Sixth Avenue Ballroom	117 SW 6 th Street
Spanky's Bar and Grill	3100 S. Gage Boulevard

<u>BUSINESS NAME</u>	<u>ADDRESS</u>
Taco Bell	1560 SW Wanamaker Road
Taco Bell	101 SE 29 th Street
Taco Bell	2013 N. Topeka Boulevard
Tailgator's Sports Pub & Grub	2025 SW Urish Road #108
That Place	3701 SW Plaza Drive
20's West	901 SW Fairlawn Road #901
The 20's	2910 SW Oakley, Suite D
VIP	5235 SW 28 th Court
Wild Horse Saloon	3249 SW Topeka Boulevard

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

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING relating to vacation request V08S/8 by Seaman Unified School District No. 345 to vacate portions of street right-of-way located at the northeast corner of NW Lyman Road and NW Clay Street, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19397 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of portions of street right-of-way located at the northeast corner of NW Lyman Road and NW Clay Street, City of Topeka, Shawnee County, Kansas placed on first reading March 23, 2010 was again presented. (V08S/8)

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

Councilmember Alcalá moved to close the public hearing and 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.

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Waterline

Improvement Project No. 28627-00, authorized by Resolution of Advisability and Authorization No. 8193, adopted and approved September 8, 2009 rescinding Resolution of Advisability and Authorization No. 7928, adopted and approved March 20, 2007.

ORDINANCE NO. 19401 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Waterline Improvement Project No. 28627-00 which provides for water service improvements to Wanamaker Meadows Subdivision, as defined and described in Resolution No. 8193, adopted and approved September 8, 2009 placed on first reading March 23, 2010 was again presented.

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

Councilmember Preisner moved to close the public hearing and 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, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -10.

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40951-00, authorized by Resolution of Advisability and Authorization No. 8194, adopted and approved September 8, 2009 rescinding Resolution of Advisability and Authorization No. 7926, adopted and approved March 20, 2007.

ORDINANCE NO. 19402 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker Meadows Subdivision and Lauren’s Bay Villas No. 2 with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40951-00 as defined and described

in Resolution No. 8194, adopted and approved September 8, 2009 placed on first reading March 23, 2010 was again presented.

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

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Alcalá 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.

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60632-00, authorized by Resolution of Advisability and Authorization No. 8195, adopted and approved September 8, 2009 rescinding Resolution of Advisability and Authorization No. 7927, adopted and approved March 20, 2007.

ORDINANCE NO. 19403 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker Meadows Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60632-00 as defined and described in Resolution No. 8195, adopted and approved September 8, 2009 placed on first reading March 23, 2010 was again presented.

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

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Swank 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.

ORDINANCE NO. 19404 introduced by Councilmember John Alcalá, creating a new City of Topeka Code Section 26-5, concerning removal of debris after demolition of structures was presented.

Councilmember Alcalá reported that there are safety risks when debris is left behind after demolition of structures and the only safety measure the City can take is to barricade the area at the taxpayers' expense. He reported that the ordinance stipulates the owner of a one or two family residence has fifteen days to remove debris commencing demolition; and the owner of a building or structure (not a one or two family residence) has thirty days to remove debris commencing demolition.

Mayor Bunten asked if the property owner would be fined if found non-compliant with the regulations.

Councilmember Alcalá stated that the fine would only be applied if the person is non-compliant with the time period outlined in the ordinance.

Braxton Copley, Deputy City Attorney stated that non-compliance would be considered a criminal violation and fall under general penalty; therefore, if a property owner fails or refuses to remove debris they could be cited and prosecuted in municipal court, and if convicted, fined up to \$499 and spend up to 179 days in jail.

Councilmember Preisner asked if certain property owners would be exempt from the ordinance.

Braxton Copley stated that no property owners would be exempt from the regulations.

Councilmember Alcala 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, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9.

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending Article 8, Section 2 of Resolution No. 7758, City of Topeka Personnel Code, relating to severance benefits and specifically rescinding said original section was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that staff recommends referring the resolution to the Policy and Finance Committee for further review.

Councilmember Harmon moved to refer the resolution to the Policy and Finance Committee. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

APPROVAL OF AN AGREEMENT amending City of Topeka Contract No. 34790 and Shawnee County Contract No. C334-2004 relating to financing countywide infrastructure development and economic development to be funded by a one-half of one cent countywide retailers' sales tax was presented. (*Contract No. 40338*)

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

Joseph Ledbetter stated that he believes the JEDO Board shows no accountability. He distributed several Capital-Journal newspaper articles relating to JEDO business.

Councilmember Alcala asked for an explanation as to why the amendment is being presented before the Council; and how much money would be saved by combining the construction of the projects in 2013.

Tom Vlach, Shawnee County Public Works Director stated that by combining the 46th and North Topeka Boulevard project scheduled for 2016, and the NW 46th Street and Rochester

Road project scheduled for 2013, it was determined that approximately \$600,000 would be saved in construction costs.

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

ELECTION of Deputy Mayor to serve a one-year term pursuant to City of Topeka Code Section A2-26 was presented.

Joseph Ledbetter stated that the Councilmember elected to the Deputy Mayor position would have to preside over the City Council meeting when the Mayor is absent. He reminded the Council that the Deputy Mayor should ensure fairness to all citizens and make informed decisions.

Councilmember Alcala moved to nominate Councilmember Ortiz.

Councilmember Preisner moved to nominate Councilmember Swank.

Upon hearing no further nominations, the Mayor asked the Council to cast their votes on selection of a Deputy Mayor.

After the tally of votes, the City Clerk announced that Councilmember Swank received six votes and Councilmember Ortiz received three votes.

Mayor Bunten announced that Councilmember Swank would serve as the new Deputy Mayor.

ELECTION of City Council representatives to serve a one-year term on the Joint Economic Development Organization (JEDO) Board was presented.

Joseph Ledbetter stated that he believes discussions between JEDO Board members should be transparent to the public because he believes there is a lack of accountability. He

distributed a 2008 Form 990 in regards to the Greater Topeka Chamber of Commerce and expressed concern with the process in which JEDO utilizes the funding they receive.

Councilmember Woelfel moved to nominate Councilmember Preisner and Councilmember Archer.

Councilmember Harmon moved to nominate Councilmember Ortiz.

Councilmember Swank moved to nominate Councilmember Hiller.

Upon hearing no further nominations, the Mayor asked the Council to cast their votes on selection of the Joint Economic Development Organization Board members.

After a tally of the Ballot No. 1 votes, the City Clerk announced that Councilmember Preisner received seven votes; Councilmember Archer received five votes; Councilmember Ortiz received four votes; and Councilmember Hiller received two votes.

Councilmember Archer declined his election as a JEDO Board member.

After a tally of the Ballot No. 2 votes, the City Clerk announced that Councilmember Ortiz received six votes and Councilmember Hiller received three votes.

Mayor Buntin announced that Councilmember Preisner and Councilmember Ortiz would serve as the new Joint Economic Development Organization Board members.

ORDINANCE NO. 19405 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 8, 2010, through March 14, 2010, and enumerating said expenditures therein was presented for first and final reading.

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

Joseph Ledbetter questioned the following expenditures:

- Page 3, Fraternal Order of Police
- Page 5, Isenbarth and Associates
- Page 7, IRET Properties
- Page 8, Kansas Department of Revenue

- Page 15, Teamsters Local Union

Jim Langford, Budget and Finance Director reported that Isenbarth and Associates provided the Municipal Court with mental health services for inmates; the Kansas Department of Revenue payment was for sales tax revenues from Helen Hocker Theater; the Teamsters Local Union payment was for union dues collected from City employees. He stated that he would research the expenditure for IRET Properties and email Mr. Ledbetter the information.

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

ORDINANCE NO. 19406 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 15, 2010, through March 21, 2010, and enumerating said expenditures therein was presented for first and final reading.

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

Joseph Ledbetter questioned the following expenditures:

- Page 3, Countertops Unlimited
- Page 4, David Craig & Company
- Page 11, public agency training

Jim Langford, Budget and Finance Director reported that the payment to Countertops Unlimited was for the installation of countertops at one of the community centers; David Craig & Company performed an appraisal on property for a capital improvement project for the Water Pollution Control Division; and the public agency training was for training provided to Topeka Police Department officers.

Joseph Ledbetter expressed concern with the training expenditure and questioned if the training was conducted locally to keep the cost down.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Wolgast 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning public traffic hazards, amending City of Topeka Code Sections 130-551 through 130-556 and specifically repealing said original sections was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager encouraged citizens to complete the 2010 Census packets.

Councilmember Hiller announced that April 6, 2010 is her one-year anniversary of serving on the City Council. She stated that she enjoys serving on the Council and thanked the citizens of Topeka and fellow Councilmembers for their support.

Councilmember Alcala expressed concern with the NW 7th and Howard Streets Railroad Crossing and the safety issues associated with the area. He requested an update on the issue to be distributed in the weekly report. He stated that he believes the asphalt at the crossing may be a code violation.

Norton N. Bonaparte, Jr., stated that he would provide an update in the weekly report.

Councilmember Ortiz stated that she received an email from a citizen commending the Mayor and inmate crews for their efforts in cleaning up the city.

Councilmember Preisner stated that he has received questions from citizens regarding Ordinance No. 19394 concerning accessory uses and requirements. He asked who citizens should contact with questions regarding the new requirements. He expressed concern with the removal of trees in a utility easement along the north side of SW 29th Street on April 5, 2010. He asked who is responsible for compensating the homeowner.

Councilmember Harmon thanked the Council for their support while serving as Deputy Mayor.

Mayor Bunten announced the 2010 Take Over/Make Over Event on April 10, 2010. He stated that volunteers should check-in at the Central Park Community Center located at 1534 S. Clay Street between 7:30 a.m. and 8:30 a.m. to receive neighborhood assignments. He reminded residents to place trash cans at the curb Friday evening for early pickup on Saturday, April 10, 2010. He thanked Shawnee County Waste Management and the City for their help with the event and noted that the next 2010 Take Over/Make Over event is scheduled on April 24, 2010.

Joseph Ledbetter, Craig Shulz, Trey Streetman and Nancy Daniels appeared to speak under public comment.

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 8:01 p.m.

Brenda Younger
City Clerk