

## **Council Minutes – June 22, 2010**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 22, 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, Captain Chuck Yockey, Topeka Salvation Army Corps Commander gave the invocation.

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

Councilmember Hiller requested to remove item 4F, Minutes from the regular meeting of June 15, 2010 from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced that item 4F would be removed from the consent agenda for further discussion.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Peter Hancock to the Topeka Planning Commission for a term ending June 30, 2013 was presented.

BOARD APPOINTMENT recommending the re-appointment of William Allen to the Golf Course Advisory Board for a term ending June 30, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Lis Ballou to the Golf Course Advisory Board for a term ending June 30, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of James Fournier, Jr., to the Golf Course Advisory Board for a term ending June 30, 2012 was presented.

RESOLUTION NO. 8267 introduced by Councilmember Deborah Swank granting Nicole Daniels an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

MINUTES of the regular meeting of June 15, 2010 were presented.

Councilmember Hiller distributed the following amendment to the first paragraph of page 195 of the Minutes:

Councilmember Hiller stated that she attended the recent rally in support of civil rights and it reminded her of how hard people have had to work to get where they are today. She stated that she takes this issue very seriously in her professional and personal life; however, it is time to move forward because she believes ~~the Department~~ we may need to take another approach to advance our community goals ~~has not progressed~~ to where ~~it~~ they should be. She also stated that she wants to make sure citizens know where to go and identify who the contact person will be regarding the complaint process if the ordinance is passed.

Councilmember Preisner moved to approve the Minutes of the regular meeting of June 15, 2010 as amended. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

ORDINANCE NO. 19436 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 14.45.010 concerning the life safety code and specifically repealing said original section placed on first reading June 15, 2010 was again presented.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Hiller 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.

APPROVAL of Retail Cereal Malt Beverage License Applications was presented.

The City Clerk reported there were no applications to consider.

RESOLUTION NO. 8268 introduced by City Manager Norton N. Bonaparte, Jr., relating to the lease purchase of certain firefighting apparatus for the City of Topeka was presented.

***(Contract No. 40523)***

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

Mayor Bunten noted that the actual interest rate for the lease purchase agreement is 3.72%.

Councilmember Ortiz stated that the fire apparatus are in need of replacement because they are in poor condition and every second counts when responding to emergencies.

Councilmember Alcalá concurred with Councilmember Ortiz. He stated that the Council should also begin considering a financial plan to replace aging Police Department vehicles.

Councilmember Wolgast reported that he was informed by Fire Department mechanics that seven of the fire apparatus have logged over 300,000 miles; the average vehicle age is 14 years old and environmentally unsafe. He stated that he would support the lease purchase agreement because the community needs to know the City’s public service equipment is reliable.

Councilmember Archer spoke in support of purchasing new fire apparatus. He asked what decision process was followed in regards to financing through a lease purchase agreement verses through general obligation bonds.

Norton N. Bonaparte, Jr., stated that because the Department is in need of seven fire vehicles at one time the City chose to finance the purchase through general obligation bonds and spread the payments over a ten-year period.

Councilmember Harmon stated that he agrees that the equipment is obsolete and needs to be replaced. He referenced the 2006 Deployment Study conducted by Emergency Services Consulting Incorporated and stated that Section J17 recommended replacing fire apparatus only because they are the first on the scene. He stated that it is critical to make sure the money spent is for equipment that would be the most effective. He asked if the Topeka Fire Department followed the recommendations of the study.

Allen Bradshaw, Topeka Fire Chief stated that Section J17 of the Study recommended the use of Quints and the Fire Department is limited in the size of equipment that can be stored in fire stations, and the use of additional crews that are needed to operate quint trucks. He reported that a joint committee consisting of Union members and City management determined what equipment would be the best applications for the Department.

Norton N. Bonaparte, Jr., stated that the Fire Department would not implement the recommendation as outlined in Section J17 of the Deployment Study at this time because the Study is being updated to better serve the City and the Department's needs now and in the future.

Councilmember Preisner stated that he supports the purchase of new equipment; however, it is essential for the Fire Department to be efficient and adaptable as they look towards the expansion of services over the next ten years. He gave a brief overview of the service capabilities and efficiencies of a quint fire truck. He stated that the Department should cross-train employees and research hybrid equipment in the future. He suggested deferring the lease

purchase agreement for one week to allow the Committee of the Whole time to determine if the proposed equipment purchase serves the needs of the Fire Department now and in the future.

Councilmember Preisner made a substitute motion to defer the resolution for one week to allow review by the Committee of the Whole. The motion was seconded by Councilmember Harmon.

Councilmember Alcalá asked what the size difference is between a quint truck and other fire trucks, and if the current fire stations could accommodate a quint truck.

Chief Bradshaw reported that the majority of the fire stations would have to be altered to accommodate a quint truck; each quint truck would cost between \$800,000 and \$1 million; and it would take approximately 360 days to build a quint truck. He stated that as the Fire Department service area expands over the next ten years it would provide an excellent opportunity to review what is the best equipment applications for the future, as well as, the safety of the community and Department.

Braxton Copley, Deputy City Attorney noted that if approved the lease purchase agreement would close on June 25, 2010; and if it is deferred for one week the lease purchase agreement would have to be re-negotiated.

Councilmember Ortiz stated that she has engaged in many discussions with firefighters regarding the issue and believes the committee adequately reviewed all equipment needs and determined the best fit for the Department.

Councilmember Preisner stated that he supports the purchase of new equipment and understands the needs of the Department; however, it is the Council's duty to ensure that the equipment is efficient and adaptable for the future.

Councilmember Hiller stated that she is pleased with the outcome of the proposal. She noted that staff spent a great deal of time researching the best equipment for the Department, and the lease purchase agreement amount was less than first proposed.

Chief Bradshaw reported that the vendor has the vehicles on hold at this time and it would take approximately 150 to 180 days to receive the new equipment.

Councilmember Alcalá stated that he would not support the motion to defer the resolution because the delay could cause the interest rate to increase.

The motion to defer the resolution for one week to allow review by the Committee of the Whole failed. Councilmembers Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank and Mayor Bunten voted “no.” (3-7-0)

The motion to approve the resolution carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

ORDINANCE NO. 19437 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of May 31, 2010 through June 6, 2010, and enumerating said expenditures therein 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., to amend the Master PUD Plan for Grand Oaks Subdivision from PUD (“R-1” use group) TO PUD (“R-1” and

“M-1” use groups) on property located northeast of SW Topeka Boulevard and SE 45<sup>th</sup> Street placed on first reading June 15, 2010 was again presented. (Z00/34B)

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

Jackie Williams, City Attorney clarified that approval would require a simple majority vote or six affirmative votes of the Governing Body to override disapproval of the Planning Commission.

Councilmember Wolgast stated that he attended the public hearing in January on the zoning case and the developer was very responsive to questions raised by residents. He also stated that he understands the concerns expressed by the residents; however, the housing market has changed in the past ten years and there is now a need for duplexes. He encouraged Council’s approval and noted that there are not many residential properties being developed in the City at this time.

Mayor Bunten spoke in opposition to the zoning change and stated that the property owners bought the property with the understanding that the developer would build single-family homes.

Councilmember Harmon stated that following the review of the 2025 Topeka Land Use and Growth Management Plan, the Planning Commission minutes, the developer application, and the factors outlined in the *Golden vs. the City of Overland Park Kansas* Supreme Court Case he would oppose the zoning change.

Councilmember Hiller stated that she has reviewed all the documents from the Planning Commission regarding the zoning case and it was a very thorough process. She noted that the developer purposely chose the duplex model for the properties for security and maintenance.

She asked if there is information on the quality and amenities of the properties and expressed concern with completing the landscape.

David Thurbon, Planning Department Director reported that the Planning Commission requested the units exhibit a single-family character in appearance. He stated that based on state law, the Planning Commission could only review the proper land use not the quality or amenities of the units. He noted the landscape would be completed as construction phases are finished.

The City Clerk asked if there were any ex parte communications.

Councilmember Wolgast stated that he attended the Planning Commission public hearing and spoke with many residents from the area.

Councilmember Preisner stated that he spoke with the representative of the applicant.

Mayor Bunten stated that he received telephone calls from residents in the area.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcalá failed. Councilmembers Ortiz, Woelfel, Archer, Harmon and Mayor Bunten voted “no.” (5-5-0)

ORDINANCE NO. 19438 introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located at 1700 SW 37<sup>th</sup> Street and 3624 SW Garfield Avenue in the City of Topeka, Kansas from “R-1” Single-Family Dwelling District TO “PUD” Planned Unit Development District (“M-3” use group) by amending the Master PUD Plan of McCrite Plaza Retirement Apartments and Health Center Revision No. 3 to include these properties located at 1700 SW 37<sup>th</sup> Street and 3624 SW Garfield Avenue for the accommodation of landscaping and additional parking placed on first reading June 15, 2010 was again presented. (Z90/30G)



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

The City Clerk asked if there were any ex parte communications.

Councilmember Wolgast stated that he spoke with the applicant.

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 6.20.120 and Section 6.30.100 concerning permit fees for cats and dogs and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 14.20.060 and Section 14.55.070 concerning permit fees for new construction and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Traffic Signal Replacement Project No. T-141005.00 (HTE 141330) which provides for traffic light replacement at Huntoon and Wanamaker more specifically described herein and repealing City of Topeka Ordinance No. 19306 was presented for first reading.

AN ORDINANCE 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, and repealing Ordinance No. 19402 was presented for first reading.

AN ORDINANCE introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for Celtic Fox and The Office on July 10, 2010 was presented for first reading.

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 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located at 1624 and 1622 SW Topeka Boulevard from “C-2” Commercial District TO PUD Planned Unit Development District (“M-2” Multiple-Family Dwelling District use group) was presented for first reading. (*PUD10/7*)

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

Norton N. Bonaparte, Jr., City Manager announced that City4 is broadcasting “City of Topeka Presents” a program featuring Council District No. 5 in conjunction with a brief interview with Mayor Bunten and community information from the Topeka Police Department. He also announced that the City is still accepting applications for the Topeka 101: Citizens Academy; and Meet the Manager sessions are scheduled on June 23, 2010 at the Crestview Community Center located at 4801 Shunga Drive from 5:30 p.m. to 6:30 p.m.; and June 24<sup>th</sup> at the Topeka-Shawnee County Library located at 1515 SW 10<sup>th</sup> Street from 8:00 a.m. to 9:30 a.m. He congratulated May Employee of the Month recipient Warren Woodruff, Housing and Neighborhood Development Rehabilitation Specialist III.

Councilmember Hiller announced that she attended many sessions of the Sunflower Music Festival which was a wonderful family event that was international in caliber, privately supported and free of charge to the public. She encouraged the community to attend the event next year. She asked if someone has been given direction to prepare a list of local resources that people, as well as, City employees could use regarding employment, housing and public accommodation complaints.

Norton N. Bonaparte, Jr., stated that the City Manager staff would provide support for all complaints. He reported that he plans to meet with the Human Relations Commission at the beginning of July to develop a final plan regarding services.

Jackie Williams, City Attorney stated that the Legal Department has begun the initial review of the Human Relations Commission complaint process.

Councilmember Alcalá questioned the challenges the City may face in regards to conflicts or grievances filed by Union employees. He expressed concern with the safety of employees performing duties outside the scope of their job description and the City's liability. He suggested involving the Mayor in employee workforce decisions because he believes Mayor Bunten has many good ideas to offer. He encouraged City Administration to work with Union representatives to develop a compromise to avoid future employee lay-offs.

Norton N. Bonaparte, Jr., stated that he has met with Union leadership to discuss different strategies and COST Team initiatives and at this time a compromise has not been reached.

Mayor Bunten stated that he has met with the City Manager and Budget and Finance Director to discuss ideas relating to the budget and workforce reduction alternatives.

Councilmember Wolgast reported that new businesses are moving into the College Hill District. He referenced positive comments recently published in the Topeka Capitol Journal

Newspaper relating to new developments and exciting things that are happening throughout the community.

Councilmember Swank reported that Jefferson City would be visiting Topeka for an inner-city visit later this week. She encouraged residents to participate in the Topeka Treasure Hunt contest sponsored by Visit Topeka, Inc. She noted that the contest would end July 19, 2010.

Councilmember Archer read a letter from a constituent commending Greg Bothwell, City of Topeka Transportation Supervisor for his assistance. He encouraged all City employees to follow Mr. Bothwell's lead and respond to citizens promptly, professionally, and with concern.

Councilmember Preisner requested staff provide the Council with more time when considering large expenditures. He expressed concern with the Council being forced to make sudden decisions because of financial implications that would take place if a decision is not made in a short amount of time. He requested that staff allow for at least eight additional business days to complete a business transaction following approval by the Council. He commended the City Manager and staff for developing revenue enhancement proposals as directed by the Governing Body. He stated that he believes the new business license fee proposal would not be approved by the Council; therefore, he is requesting the proposal be tabled at this time.

Norton N. Bonaparte, Jr., stated that allowing for eight additional days is a reasonable request. He also stated that the 2011 proposed operating budget would be revised to exclude the anticipated new business license fee revenues.

David Fish, Sylvester Rice and Val Arazia 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 7:31p.m.

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Brenda Younger  
City Clerk