

Council Minutes –July 20, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 20, 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, Randy Lesseski, Central Park Christian Church gave the invocation.

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

A PRESENTATION on the Topeka-Shawnee County Emergency Management System was given by Jim Green, City of Topeka Emergency Management Coordinator.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of July 13, 2010 were presented.

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

Councilmember Swank requested to place item 5b, authorization of public hearing notice for the 2011 Operating Budget under Unfinished Business on the Council agenda. She stated that this would allow the ordinances relating to an increase in new construction fees and dog and cat license fees to be considered before setting the mill levy cap.

Norton N. Bonaparte, Jr., City Manager requested to withdraw item 8a, a charter ordinance concerning Transient Guest Tax.

Upon hearing no objections, Mayor Bunten announced that item 5b would be placed on the Council agenda under Unfinished Business as item 6f; and item 8a would be withdrawn from the Council agenda.

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of allowing the public to express their views with respect to the proposed project, including the location and nature of the proposed facility, and the issuance of bonds to pay the costs thereof.

ORDINANCE NO. 19446 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the City of Topeka, Kansas, to issue its Housing and Health Care Improvement Revenue Bonds, Series 2010, (Brewster Place Project) in the aggregate principal amount of \$11,000,000 for the purpose of financing the costs of constructing, equipping and improving certain residential and health care facilities located on the Brewster Place Campus in the city; currently refunding an outstanding revenue bond issue of the city; authorizing the execution of a fourth supplemental indenture by and between the City and CoreFirst Bank and Trust, Topeka, Kansas, as trustee; authorizing the execution of a fourth supplemental lease by and between the City and the Congregational Home, a Kansas not-for-profit corporation; and authorizing and approving certain additional documents and actions in connection with the issuance of said bonds was placed on first reading July 13, 2010 was again presented.

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

Phil Wolfe, Nichols & Wolf Chartered, reported the issuance of Housing and Health Care Improvement Revenue Bonds in an amount not to exceed \$11 million would be used to finance a series of improvements to the Brewster Place Campus. He stated that the bonds would cover the cost of numerous capital improvements and pays an outstanding 2002 bond issue related to additional property known as the Country Club Apartments. He noted that Brewster Place Campus plays an important role in the central Topeka community.

Councilmember Archer questioned how the City has the authority to issue bonds when the City has no liability or general obligation.

Mr. Wolfe reported the authority to issue bonds is provided to the City by K.S.A. 12-1740 *et. seq.*, a statute requiring Brewster Place to make the lease payments directly to CoreFirst Bank and Trust, as well as, prohibiting the City from making the lease payments.

Councilmember Wolgast stated that area residents speak highly of the facility and in his opinion, the facility is a high point in the community that provides a tremendous boost to the quality of life in the City of Topeka.

Councilmember Swank stated that she believes the nationally recognized facility is a hidden treasure of the Topeka community.

Councilmember Harmon stated that he is a member of the Brewster Place Foundation and would abstain from voting to avoid the appearance of a conflict of interest.

Councilmember Preisner asked how the additional property needed for the expansion was acquired; what is the value of the additional property; and how much property tax revenue did the additional property generate.

Chuck Engle reported that the property was acquired two years ago through a private foreclosure sale.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Wolgast carried. Mayor Bunten voted “yes.”

Councilmember Harmon abstained. (9-0-1)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Mayor Bunten -9. Abstention: Harmon -1.

ORDINANCE NO. 19447 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2.110.010 concerning court costs and fees and

specifically repealing said original section placed on first reading July 13, 2010 was again presented.

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

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 placed on first reading June 22, 2010 was again presented. The ordinance was referred to the Public Health and Safety Committee on June 29, 2010 and placed on the July 20, 2010 Council agenda.

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated the Public Health and Safety Committee referred the ordinance to the full Council without recommendation by a vote of 2-0-0 on July 9, 2010.

Ellen Ross urged the Council to postpone voting on the issue. She stated that a new ordinance is in the process of being drafted and the new fee schedule should be included in the document. She also stated that she believes the public needs to be educated on the purpose of the license and it is important to have an enforceable ordinance.

Councilmember Hiller reported that they are still working on constructing an ordinance that addresses all the issues that have been raised. She stated that she would prefer the ordinance be referred back to the Public, Health and Safety Committee for continued review.

Councilmember Hiller moved to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Ortiz carried. Councilmembers Woelfel and Harmon voted “no.” (7-2-0)

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 placed on first reading June 22, 2010 was again presented. The ordinance was deferred from the meeting of June 29, 2010.

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

Steve Jenkins, Greater Topeka Chamber of Commerce Senior Vice President of Economic Development distributed a handout relating to comparative research on building permit and other fees for the City of Topeka and eleven other competing communities. He reported that the key factors could not be ignored and research clearly indicated that the City of Topeka has one of the highest fee structures, falling within the top 25% of fee structures. He also noted that the City of Topeka, as well as, the City of Lawrence take the longest amount of time to issue a permit compared to the other eleven communities. He asked the Council to vote against the ordinance.

Corey Peterson asked the Council to vote against the new construction fee increase. He reported that Topeka is among the highest fee base in most communities, as well as, the fee increase would be a disincentive for economic development. He stated that he believes the facts have been presented by the Greater Topeka Chamber of Commerce and the Council should base their decision on those facts.

Dawn Wright reported that based on the research conducted by the Topeka Home Builders Association the City of Topeka charges an average fee amount for new construction,

encouraging economic development. She noted that keeping the fee costs the same would allow continued quality affordable housing in the Topeka area.

Councilmember Archer questioned the parkland fee associated with new construction and noted that the fee is not included on the cost comparison charts.

Ms. Wright stated that parkland fees do apply to new construction and start at a cost of \$300.

Councilmember Swank stated that an increase in the fees would still keep Topeka within the average fee scale. She suggested the City work to regain confidence with builders and work with them in developing a fee base.

Councilmember Preisner questioned the average fee scale compared to the average cost per square footage of a new home built in Topeka.

Councilmember Harmon expressed concern with the Council receiving conflicting information. He stated that the City needs to work with the development community to come up with a solution to develop a fair solid fee base; review the City's development process to ensure efficiency; and present the Council with accurate data so they can make good policy decisions.

Councilmember Hiller concurred with Councilmember Harmon's comments. She stated that it is important for the Council to make good fact based decisions and it is the responsibility of staff to be fully prepared to answer questions before it is presented to Council.

Norton N. Bonaparte, Jr., City Manager stated that he recognizes there is conflicting data; however, he is confident that staff has compiled accurate data in comparable communities. He stated that it would have been helpful to receive the information distributed by the Greater Topeka Chamber of Commerce prior to this evening's Council meeting. He stated that he looks

forward to meeting with the development community and finding a solution that will work for everyone.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcalá failed unanimously. Mayor Bunten voted “no.” (0-10-0)

A CHARTER ORDINANCE introduced by Councilmember Jack Woelfel, concerning term limits of councilmembers and mayor, amending Section A2-21 and repealing said original section placed on first reading July 13, 2010 was again presented.

Councilmember Woelfel gave the staff report and stated that approval of the charter ordinance would allow the voters to make the decision.

Councilmember Hiller stated that she would not support the charter ordinance because there is already a procedure in place to review the process every 10 years. She stated that she believes this is not a pressing issue and it is an unnecessary expense regarding the use of staff time.

Councilmember Archer stated that he would not support the charter ordinance because it is unnecessary due to the election process that is already in place.

Councilmember Woelfel moved to adopt the charter ordinance. The motion seconded by Councilmember Wolgast failed. Councilmembers Hiller, Alcalá, Ortiz, Wolgast, Swank, Archer, Preisner and Harmon voted “no.” Mayor Bunten voted “yes.” (2-8-0)

AN ORDINANCE introduced by Councilmember Jack Woelfel, calling an election to be held on the 2nd day of November, 2010, for the purpose of voting on a charter ordinance (relating to term limits of councilmembers and mayor) placed on first reading July 13, 2010 was again presented.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Alcala failed unanimously. Mayor Bunten voted “no.” (0-10-0)

AUTHORIZING a public hearing date for the City of Topeka 2011 Operating Budget on August 10, 2010, and authorizing the publication of the Notice of Public Hearing was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He stated that the Council could reduce the budget by \$800,000, the anticipated license fee increases; or increase the mill levy cap for an amount not to exceed, providing for latitude during budget deliberations.

Mayor Bunten stated that if the mill levy cap remains the same it would eliminate the possibility of solving any budget issues that may surface during budget deliberations. He stated that he has several ideas regarding reduction in expenditures and invited the Council to review his ideas. He suggested renewing only a portion of the 1.4 mill levy increase granted to the Topeka Transit Authority last year and use the remaining 0.4 mills to address some of the City’s revenue problems. He recommended increasing the mill levy by 1.5 mills.

Councilmember Swank moved to increase the mill levy by 1.5 mills setting the mill levy cap at 34.09; and authorize the publication of the public hearing notice. The motion was seconded by Councilmember Wolgast.

Councilmember Alcala requested a financial breakdown of all proposed salary increases for 2011, including the mandatory dollar amount for bargaining units.

Jim Langford, Budget and Finance Director clarified the intent of the Council regarding the mill levy increase. He stated that he would replace the proposed fee increase revenues in the amount of \$800,000 and increase expenditures by \$650,000 to allow spending flexibility.

No objections were stated by the Council.

Councilmember Archer stated that he has reviewed the Mayor's budget ideas and believes some of the suggestions will be implemented by the Council. He reported the City Manager has stated that he could manage the City budget without the anticipated fee increase revenues. He suggested increasing the mill levy by 0.8 mills instead of 1.5 mills to force fiscal responsibility by the Council.

Councilmember Archer made a substitute motion to increase the mill levy by 0.8 mills. The motion was seconded by Councilmember Alcalá.

Councilmember Hiller stated that she supports a zero mill levy increase; however, she does not want to eliminate the flexibility if it is needed to make adjustments to the budget. She also stated that she is reviewing the budget from a taxpayer's point of view by examining the out of pocket expense for overall government services.

Councilmember Alcalá suggested reviewing the storm water run off charge.

The substitute motion to increase the mill levy by 0.8 mills failed. Councilmembers Hiller, Ortiz, Wolgast, Swank, Preisner, Harmon and Mayor Buntin voted "no." (3-7-0)

The motion to increase the mill levy by 1.5 mills setting the mill levy cap at 34.09; and authorize the publication of the public hearing notice carried. Councilmembers Alcalá, Woelfel and Archer voted "no." (7-3-0)

APPROVAL of Retail Cereal Malt Beverage License Applications was presented.

Retail Cereal Malt Beverage License applications were presented for The Carwash located at 720 SW Gage Boulevard; and The Carwash located at 1814 SW Topeka Boulevard.

Councilmember Ortiz questioned if the licenses were open after mid-night license applications instead of cereal malt beverage license applications.

Brenda Younger, City Clerk stated that it was her understanding the applications were for retail cereal malt beverage licenses and were approved by the required City departments. She reported that she could review the details of the applications and report back to the Council for clarification.

Councilmember Ortiz stated that she would abstain from voting on the applications until the issue is clarified.

Councilmember Preisner moved to approve the applications. The motion seconded by Councilmember Alcalá carried. Mayor Bunten voted “no.” Councilmember Ortiz abstained.

APPROVAL of the real estate reports and method of disposal for five Housing and Neighborhood Development parcels for use in providing newly constructed affordable housing was presented.

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

Councilmember Ortiz questioned the historical value of the house located at 2303 SE Pennsylvania Avenue.

Warren Woodruff, Housing and Neighborhood Department reported that the original homestead of John Brown was destroyed by a fire in 1949 and was demolished in 1950; the house in question located at 2303 SE Pennsylvania Avenue is located north of the original homestead of John Brown; and the area tunnels associated with the Underground Railroad were reported to have collapsed in the 1950 flood.

Randy Speaker, Housing and Neighborhood Director stated that he is confident the house located at 2303 SE Pennsylvania does have historical value; however, a State Historic Preservation Officer will be on site to inspect the property prior to and during the construction

phase to make certain no historical evidence surfaces. He also stated that the City would be willing to place a historical monument near the original homestead of John Brown.

Councilmember Wolgast moved to approve the real estate reports. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

ORDINANCE NO. 19448 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 28, 2010 through July 4, 2010, 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a sewer and storm sewer easement on property located at 3801 SW 12th Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V10E/1)

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

Norton N. Bonaparte, Jr., City Manager announced that a meeting to discuss forming an East Topeka Business Alliance would be held on July 29, 2010 at the Holliday Conference Room located at 620 SE Madison from 11:30 a.m. to 1:00 p.m. He stated that the purpose of the meeting is to see if business owners are interested in forming a board to create a plan of action of commerce in the East Topeka area. He encouraged citizens interested in serving on the board to attend the meeting.

Councilmember Hiller stated that the Brewster Place Campus is a rental property that is a true asset to the community. She thanked Mike McGee and City staff for their assistance with the ADA upgrades to the pedestrian traffic signal light at the 9th Street and Topeka Boulevard intersection.

Councilmember Swank thanked the over 500 participants of the Shawnee County's Largest Workout Event.

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 7:37 p.m.

Brenda Younger
City Clerk