

Council Minutes –July 27, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 27, 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, Minister Terry Kitson, Central Church of Christ gave the invocation.

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

Mayor Bunten announced item 4C, an appointment to the Juvenile Corrections Advisory Board would be removed from the consent agenda and placed under New Business as item 6C. He noted the board appointment requires a vote by the entire Governing Body, including the Mayor.

THE CONSENT AGENDA was presented as follows:

APPROVAL of a Workers' Compensation Settlement in the amount of \$15,000 for Russell Warren was presented.

BOARD APPOINTMENT recommending the re-appointment of Durrell Dick to the Board of Plumbing Examiners for a term ending July 31, 2012 was presented.

RESOLUTION NO. 8273 introduced by Councilmember Sylvia Ortiz granting Curtis Pitts an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8274 introduced by City Manager Norton N. Bonaparte, Jr., granting various neighborhood groups an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of July 20, 2010 were presented.

Open After Midnight License applications for the following were presented:

<u>Business</u>	<u>Address</u>
The Carwash	720 SW Gage Boulevard
The Carwash	1814 SW 10 th Street
Jimmy Wong's Burrito Palace	4102 SW Gage Center Drive

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

A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING in conjunction with vacation request V10E/1 by Stephen R. and Luci R. Drain to vacate all of a platted sewer easement except the west 11 feet thereof and all of a platted storm sewer easement on Lot 56 in Devonshire Heights Subdivision No. 2 in the City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19449 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 placed on first reading July 20, 2010 was again presented. (V10E/1)

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.

APPROVAL of Retail Cereal Malt Beverage License Applications was presented.

Retail Cereal Malt Beverage License applications were presented for the following:

Business
Kwik Shop #780
RJ's Chatterbox

Address
2520 SW 6th Avenue
2121 SE 6th Street

Councilmember Preisner moved to approve the licenses. The motion seconded by Councilmember Swank carried unanimously. Mayor Bunten voted "yes." (10-0-0)

ORDINANCE NO. 19550 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of July 5, 2010 through July 11, 2010, and enumerating said expenditures therein was presented for first and final reading.

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

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

BOARD APPOINTMENT recommending the appointment of Ta'Nia Gibbs to the Juvenile Corrections Advisory Board (JCAB) for a term ending July 31, 2013 was presented.

Councilmember Preisner gave a brief overview of the function of the JCAB. He explained that the Board acts as the oversight committee for the community to ensure the comprehensive plan approved by the Shawnee County Commission remains at peak effectiveness. He stated the biography provided did not list judiciary experience or work history of the candidate; therefore, he would not support the nomination.

Councilmember Alcala moved to approve the board appointment. The motion seconded by Councilmember Archer failed. Councilmembers Woelfel, Swank and Preisner voted "no." Councilmembers Ortiz and Wolgast abstained. Mayor Bunten abstained. (4-3-3)

Councilmember Ortiz stated she abstained from voting to avoid the appearance of a conflict of interest due to the fact the nominee is her daughter. She questioned if she could make a motion to reconsider the matter because she voted on the prevailing side.

Jackie Williams, City Attorney stated that in his opinion, it would not be a conflict of interest from a legal standpoint; however, it would be Councilmember Ortiz's personal determination regarding the "appearance" of a conflict of interest.

The Chair ruled to open the roll call vote to allow Councilmember Ortiz to recast her vote on the board appointment.

Councilmember Woelfel questioned if Councilmember Ortiz voted on the prevailing side.

Councilmember Alcalá stated that in his opinion a procedural ruling should be made regarding the proper voting procedure. He reported that historically, a motion to reconsider the matter is made before a Councilmember is allowed to revote on an issue. He noted that Councilmember Ortiz would be considered a member of the prevailing side because she abstained from voting which is considered a "no" vote.

The Chair concurred with Councilmember Alcalá and stated that a motion to reconsider the matter is in order.

Councilmember Ortiz moved to reconsider the matter. The motion seconded by Councilmember Alcalá carried. Councilmembers Woelfel, Swank and Preisner voted "no." Councilmember Wolgast abstained. (5-3-1)

Councilmember Preisner reminded the Council that several weeks ago they made an appointment to the Topeka Metropolitan Transit Authority Board and because of statements made by Councilmembers personnel issues have surfaced. He stated that he would not support

the appointment because he is familiar with the nominee's work history; believes there is a public trust issue; and the nominee lacks judiciary work experience.

Councilmember Alcalá moved to approve the board appointment. The motion seconded by Councilmember Harmon carried. Mayor Bunten voted "yes." Councilmembers Woelfel, Swank and Preisner voted "no." Councilmember Wolgast abstained. (6-3-1)

Councilmember Alcalá requested to discuss appointments of former City employees in an executive session to avoid any potential liability issues relating to the referencing of work history or work references of former City employees by Councilmembers.

Jackie Williams, City Attorney stated that he would consider the request; however, executive sessions have to be fact driven and held in accordance with the provisions of the Kansas Open Meetings Act.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-281028.00 (HTE 286660) which provides for waterline extension from SW Fairlawn and SW 37th Street through Clarion Park to SW 41st and Wanamaker Drive which constitute improvements to the municipally-owned water, water pollution control, and storm water utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-601018.00 (HTE 606570), which provides for neighborhood

infrastructure improvements in Chesney Park and Ward Meade, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced there would be no Council meeting August 3, 2010. He also announced there would be a meeting regarding the formation of the East Topeka Advisory Council on August 5, 2010 at the Topeka Housing Authority located at 2010 SE California Avenue from 6:00 p.m. to 7:30 p.m. He commended employee of the month Jeff Burenheide, Traffic Operations Division. He encouraged citizens to watch the new City of Topeka Presents Program highlighting “Council District No. 7” and “A Moment with the Mayor.”

Councilmember Hiller stated she is pleased with the large number of neighborhood residents attending the Council meeting in support of the National Night Out event and appreciates the work Safe Streets has done throughout the community. She also stated she is excited to report new economic development at the corner of 6th Street and McVicar Avenue and noted that all of the businesses are leased properties.

Councilmember Ortiz requested an updated list of lawsuits filed against the City of Topeka to be provided to the Council.

Councilmember Wolgast commended the continued support and involvement by community groups of the Kansas Avenue Redevelopment Project. He noted that the enthusiasm and hard work is appreciated.

Councilmember Swank stated that she is excited about the National Night Out Event and noted that 10 of the 30 different event locations are located in Council District No. 6. She also reported new retail businesses would soon be occupying vacant commercial property located within the College Hill Redevelopment area.

Councilmember Archer encouraged citizens to participate in the Primary Elections held August 3, 2010.

Councilmember Harmon reported that it is nice to see new economic development at the corner of 6th Street and McVicar Avenue.

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 6:40 p.m.

Brenda Younger
City Clerk