

Council Minutes –August 31, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 31, 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, Pastor Joe Hishmeh, Fellowship Bible Church gave the invocation.

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

A PRESENTATION on the City of Topeka Energy Efficiency and Conservation Strategy was given by Paul Post, Sustainability Advisory Board Member.

Councilmember Alcalá requested to remove item 4B, a resolution granting a noise exception for ARTSConnect from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced that item 4B would be removed from the consent agenda and placed on the Council agenda under Unfinished Business as item 5C.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8283 introduced by Councilmember Karen Hiller, granting the American Red Cross an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8284 introduced by Councilmember Sylvia Ortiz granting Chic-A-Dee Café an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

BOARD APPOINTMENT recommending the re-appointment of Robert Beaver to the Board of Mechanical Examiners for a term ending August 31, 2012 was presented.

BOARD APPOINTMENT recommending the re-appointment of Ralph Skoog to the Topeka/Shawnee County Riverfront Authority Board for a term ending August 31, 2013 was presented.

MINUTES of the regular meeting of August 24, 2010 were presented.

A Dance Hall License application for Johnny Poblano's located at 520 NW Elm Row was presented.

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

ORDINANCE NO. 19463 introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for Ride For Red event on September 11, 2010 placed on first reading August 24, 2010 was again presented.

Councilmember Hiller gave the staff report.

H.R. Cook stated the event is a charity fundraising for the American Red Cross in which the funds raised would benefit the surrounding thirteen counties in the event of a disaster.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Preisner 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 Councilmember Karen Hiller amending City of Topeka Code Section 9.15.020, concerning the unlawful possession or consumption of alcoholic liquor

or cereal malt beverages and specifically repealing said original section placed on first reading August 24, 2010 was again presented.

Councilmember Hiller reported the downtown area has made the revival of arts and entertainment in Topeka a priority; therefore, event organizers have requested to move the art fundraiser event to a downtown parking garage. She stated the ordinance being considered would allow consideration of events serving alcohol to utilize City facilities with City Council approval.

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

Frances Wood stated that changing the ordinance would increase consumption of a mind-altering drug and provide an opportunity for under-age drinking at various fundraisers. She encouraged the Council to seriously consider the consequences of drinking and driving and asked the Council to vote against the ordinance.

Councilmember Archer withdrew the second to the motion to adopt the ordinance. He asked if the City Attorney had any legal concerns regarding the issue.

The motion to adopt the ordinance was seconded by Councilmember Swank.

Jackie Williams, City Attorney stated that the issue is a policy decision to be made by the City Council. He noted City staff members would follow-up with the necessary administrative procedures on the best way to handle certain situations if they arise including liability insurance, indemnification agreements and claims.

Councilmember Alcalá expressed concern with the ordinance. He gave a brief summary of the procedures used by surrounding cities that allow consumption of alcohol during special

events. He raised many questions regarding the City's liability; plan for emergency situations at events; and no established laws or requirements for events serving alcohol on City property.

Councilmember Alcalá made a substitute motion to defer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Harmon.

Councilmember Hiller stated that the ordinance must be approved this evening for the event to take place. She noted that all special event applications go through a rigorous approval process by the necessary City departments.

Councilmember Alcalá noted that this event would be the first time the Council would allow alcohol consumption in a City facility not designed for these types of events. He expressed concern with various situations that could arise from consuming alcohol and the City's liability.

Councilmember Woelfel stated that he would support deferral of the ordinance to the Policy and Finance Committee and expressed concern with the City's liability.

Councilmember Harmon asked how the ARTSConnect event and the Ride for the Red event differ in allowing alcohol consumption on public property. He expressed concern with the City's liability and asked the Council to make a conscious decision on the issue. He requested the Policy and Finance Committee recommendations include perimeters and requirements for events to follow and a reasonable insurance limit for full protection against liability.

Councilmember Alcalá stated that the Ride for the Red event is required to barricade portions of the street to provide boundaries for the sale, consumption and possession of alcohol.

Jackie Williams noted the City has many facilities available for events serving alcohol which include the Topeka Performing Arts Center; Topeka Zoological Park; Ward-Meade Home and Gardens; Helen Hocker Theater; Heartland Park Topeka; Topeka Public Golf Course;

Stormont-Vail Regional Medical Center; and property leased to Kansas International Museum. He stated the Legal Department does have many concerns; however, this is a policy decision of the City Council. He referenced K.S.A. 41-719 which allows cities to be exempt by ordinance to allow the sale, consumption and possession of alcoholic liquor on specified public property.

Councilmember Swank noted the ARTSConnect Arty Party event is scheduled for October 2, 2010 and if the ordinance is not approved the event coordinators would have to locate another venue.

Councilmember Hiller requested the Council amend the ordinance to allow this particular event to occur and review the overall policy issues relating to the ordinance at a later date. She asked what options the Council has in regards to amending the ordinance to accommodate the event.

Jackie Williams stated the Council could amend or approve the ordinance; however, if the ordinance is approved, the Council would have another opportunity to address the event location issues at the September 14, 2010 Council meeting when considering the resolution granting permission for the possession and consumption of alcoholic liquor at the specified location (top level of the Crosby Place Parking Garage).

The substitute motion to defer the ordinance to the Policy and Finance Committee carried. Councilmembers Hiller, Wolgast, Swank and Preisner voted “no.” (5-4-0)

A RESOLUTION introduced by Councilmember Karen Hiller granting ARTSConnect an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

Councilmember Hiller gave the staff report.

Jackie Williams, City Attorney suggested the Council defer the resolution to a date certain or refer the resolution to a committee because the resolution stipulates a specific event location.

Councilmember Preisner asked if the issue is the event location or the serving of alcohol at the specified location.

Councilmember Alcalá stated that he believes there are concerns about using the downtown parking garage as an event location.

Councilmember Hiller moved to defer the resolution until September 14, 2010. The motion seconded by Councilmember Preisner carried. Councilmember Archer voted “no.” (8-1-0)

ORDINANCE NO. 19461 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$1,650,000 aggregate principal amount of General Obligation Bonds, Series 2010-A, and \$34,985,000 aggregate principal amount of General Obligation Refunding Bonds, Series 2010-B of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 10-427 et seq., and K.S.A. 12-6a01 et seq., all as amended placed on first reading August 24, 2010 was again presented.

Jim Langford, Budget and Finance Director reported the general obligation bonds and temporary notes generated a 3.38% interest rate offered by Piper Jaffray. He stated the overall sales on the bonds and notes went well with the General Obligation Bonds, Series 2010-A receiving an interest rate of just over 1%; the General Obligation Refunding Bonds, Series 2010-B receiving an interest rate of less than 0.5%; and the Taxable General Obligation Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-C receiving a true interest rate of 2.81% which exceeded the rate given last week. He also reported the refunding bonds would realize 7%

savings overall in debt service over the life of the bonds which would equate to approximately \$2.5 million.

Councilmember Preisner moved to amend the ordinance to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the ordinance as provided by the bond counsel. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. 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. 19462 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$4,570,000 aggregate principal amount of Taxable General Obligation Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-C of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive K.S.A. 12-110c, the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City, all as amended placed on first reading August 24, 2010 was again presented.

Jim Langford, Budget and Finance Director gave the staff report.

Councilmember Preisner moved to amend the ordinance to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the ordinance as provided by the bond counsel. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Alcala carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -10.

RESOLUTION NO. 8279 introduced by introduced by City Manager Norton N. Bonaparte, Jr., prescribing the form and details of General Obligation Bonds, Series 2010-A and General Obligation Refunding Bonds, Series 2010-B of the City of Topeka, Kansas, in the aggregate principal amount of \$36,635,000 the issuance of which were authorized by the City pursuant to its Ordinance adopted and approved August 31, 2010; authorizing the execution of an escrow trust agreement by and between the City and Security Bank of Kansas City, Kansas City, Kansas, and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

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

Councilmember Preisner moved to amend the resolution to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the resolution as provided by the bond counsel. The motion seconded by Councilmember Alcala carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Alcala carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

RESOLUTION NO. 8280 introduced by City Manager Norton N. Bonaparte, Jr., prescribing the form and details of Taxable General Obligation Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-C in the aggregate principal amount of \$4,570,000 the issuance of which were authorized by the City pursuant to its Ordinance adopted and approved

August 31, 2010; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

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

Councilmember Preisner moved to amend the resolution to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the resolution as provided by the bond counsel. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Buntén voted “yes.” (10-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Buntén voted “yes.” (10-0-0)

RESOLUTION NO. 8281 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of Temporary Notes, Series 2010-A (Combined Utility Projects) of the City of Topeka, Kansas, in the aggregate principal amount of \$2,950,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2009-B Temporary Notes of said City, dated October 28, 2009 was presented.

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

Councilmember Preisner moved to amend the resolution to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the resolution as provided by the bond counsel. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Buntén voted “yes.” (10-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Buntén voted “yes.” (10-0-0)

RESOLUTION NO. 8282 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of Temporary Notes, Series 2010-B (General

Improvements) of the City of Topeka, Kansas, in the aggregate principal amount of \$24,615,000 for the purpose of providing funds to pay the cost of (i) renewing a portion of the principal amount of the Series 2009-B Temporary Notes of said City, dated October 28, 2009, and (ii) pay a portion of the cost of certain improvements in said City was presented.

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

Councilmember Preisner moved to amend the resolution to reflect the actual dollar amounts and interest rates generated from the final sale of the bonds and make any other necessary technical changes to the resolution as provided by the bond counsel. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Alcalá carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

RESOLUTION NO. 8285 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the Law Enforcement Fund to support the Third Judicial District Drug Court program was presented.

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

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

APPROVAL of Retail Cereal Malt Beverage License Applications was presented.

No Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19464 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 9, 2010 through August 15, 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 Alcala 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 FINAL PLAT for Echo Ridge Subdivision lying approximately 500 feet east of SE California Avenue between SE 13th and SE 21st Streets, all being within the City of Topeka was presented. (*P10/9*)

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

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

ORDINANCE NO. 19465 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 approximately 500 feet east of SE California Avenue located between SE 13th and SE 21st Streets from “M-1” Two Family Dwelling District TO PUD Planning Unit Development District (“M-1” use group) placed on first reading August 24, 2010 was again presented. (*PUD10/6*)

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

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

Councilmember Ortiz stated she communicated in the form of telephone calls, e-mails and letters.

Councilmember Preisner stated he communicated with proponents and opponents of the zoning case.

Councilmember Preisner moved to 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.

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

Norton N. Bonaparte, Jr., City Manager announced there would be no City Council meeting on September 7, 2010.

Councilmember Hiller expressed concern with the amount of agenda items being referred to the Policy and Finance Committee. She stated that she believes other committees should be involved in reviewing many of the issues being placed in the Policy and Finance Committee for review.

Councilmember Alcalá distributed a memo to Councilmembers expressing his concern with pay rate compression issues within the Police Department. He encouraged the Council to be proactive with future budgets by making sure commanding officers receive sufficient pay increases compared to bargaining unit members.

Councilmember Ortiz inquired on the status of the Fire Station No. 5 construction project. She asked where the engine company would be relocated during the repairs.

Allen Bradshaw, Fire Chief reported Engine Company No. 5 would be relocated to Fire Station No. 4 located at SW 8th and Clay Streets; and Aerial No. 5 would be relocated to Fire Station No. 2 located at SE 6th Street and Rice Road. He noted both companies would protect their regular territory and respond within the four minute response time range.

Walter Gill appeared to speak under public comment.

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

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

Brenda Younger
City Clerk