

Council Minutes – September 28, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 28, 2010. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Alcala -1.

AFTER THE MEETING was called to order, Councilmember Preisner gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Kim Schultz to the Downtown Business Improvement District Advisory Board for a term ending September 30, 2012 was presented.

MINUTES of the regular meeting of September 21, 2010 were presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Swank carried unanimously. (8-0-0)

ORDINANCE NO. 19473 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 6.05.010, 6.05.020, 6.05.040, 6.05.080, 6.30.010, 6.30.050 and Section 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as, repealing in its entirety Chapter 6.25 concerning pit bull dogs placed on first reading September 21, 2010 was again presented.

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

Councilmember Ortiz noted that many residents expressed their views on the issue at the public hearings.

Councilmember Hiller commended the working group for their contributions to the proposed ordinance. She gave a brief overview of the changes in the ordinance and stated the ordinance is receiving national recognition. She noted the ordinance is fair and enforceable and asked for Council support.

Councilmember Woelfel questioned the appropriate public hearing process and asked how many public hearings were conducted on the issue.

Jackie Williams, City Attorney reported several committee meetings were held to discuss the issue and the public was provided the opportunity to speak at the meetings; however, public meetings are not considered public hearings.

Karen Jolly spoke in support of the ordinance and stated she believes the ordinance is a good sense approach to controlling the feral cat population and eliminates the unfair treatment of pit bull dog owners.

Carol Westerdale, Save Our Shelter Animals spoke in support of the ordinance and stated she was delighted to work with the Council on the proposal.

Katie Barnett thanked the Council for their consideration of the proposed ordinance. She stated she believes the proposed ordinance could be used as a model for other cities in maintaining the safety of the public and their pets.

Michelle Davis, Kansas City Dog Advocates congratulated the City of Topeka on the process to implement best practices for animal control.

Sheryl Buell spoke in favor of the ordinance and stated the City is being progressive in animal safety by not distinguishing specific breeds and limiting time of tethered animals.

Ruth Tessendorf, Topeka Kennel Club President spoke in support of the ordinance and commended the committee for their efforts. She stated the current ordinance refers to specific breeds which has a direct effect on the number of dog breeds participating in local dog shows at the Kansas Expo Centre.

Teresa Miller spoke in support of the ordinance and stated it would address the feral cat population issues and eliminate the singling out of the pit bull dog breed.

Ellen Ross stated she supports the ordinance as a whole; however, she would like to make some suggested amendments. She asked the Council to consider the following amendments:

1. Change the definition of an “animal shelter” to mirror the State’s definition.
2. Delete the words, “contracted with the City of Topeka” on Line 67.
3. Allow only licensed veterinarians to inject microchips in animals.

Mike Bauman stated the proposed ordinance could be revolutionary and make Topeka a national leader in animal control. He commended the group of citizens for working together and resolving differences to work for the greater cause.

Kyle Smith, Assistant City Attorney addressed the following concerns:

- The City does not license animal shelters; therefore, there is not a need to change the definition of “animal shelters.” He noted the City’s main concern is how the animals are handled or dealt with by the animal control officers.
- “Known propensity” was included on Line 24 to provide the necessary guidelines to put a pet owner on notice if their dog has vicious tendencies and has attacked in the past.
- The microchip procedure is minor and could be handled by the humane society or an outside agency. The goal of this requirement is to make sure the owner has the evidence of documentation at a central location to verify that it was done.
- Regarding nuisance cats the vaccinating and releasing of the animals will help control the population and address the public health issue.

Councilmember Ortiz expressed concern with the 15-minute tethering timeframe and questioned why the length of the chain was deleted from the ordinance.

Kyle Smith reported the tethering changes were included because it relates to cruelty and public safety issues, as well as, the changes will ensure prosecution.

Councilmember Woelfel questioned if implanting a microchip could create health issues for the animals; the difference between feral cats and stray dogs; and if shelters would be full to capacity with dangerous dogs since the proposed ordinance does not specify dangerous dog breeds.

Kyle Smith reported the implanting of microchips is a minor procedure; stray dogs are easily domesticated, whereas, feral cats are almost impossible to domesticate; the trap, vaccinate and spay/neuter program of feral cats will help decrease the number of shelter animals in three to five years; and the majority of dogs currently held at the shelter are classified as dangerous breed dogs; however, most of the dogs only resemble a pit bull dog and are not vicious or attacked anyone.

Councilmember Harmon commended the group of citizens, City officials and staff for drafting the ordinance and stated he believes it is a successful resolution to the animal control issue. He suggested scheduling a follow-up public hearing in the next 12-18 months to review how the ordinance is working in the community.

Councilmember Archer commended everyone involved in the process and agreed that a follow-up public hearing would be crucial in the success of the ordinance. He questioned why the proposed ordinance did not receive a unanimous consent from the Public, Health and Safety Committee.

Councilmember Ortiz reported she initially voted against the proposed ordinance because she had questions relating to tethering and feral cats; however, since that time she has been provided the answers and supports the ordinance.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Alcalá -1.

ORDINANCE NO. 19474 introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sewer repair to real property, or specifically described hereafter, all pursuant to the authority found in Topeka Municipal Code Section 14.80.240 and Section 14.80.250 and K.S.A. 12-6a17 placed on first reading September 21, 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 Preisner carried unanimously. Mayor Bunten voted “yes.” Councilmember Hiller was out of the room. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner, Harmon and Mayor Bunten -8. Absent: Hiller and Alcalá -2.

A FINAL PLAT for Greenridge Estates Subdivision No. 2 located at the southwest corner of SW 29th Street and SW Auburn Road, outside the City’s Municipal Service, but within the City’s three-mile extraterritorial jurisdiction and all lying within unincorporated Shawnee County, Kansas was presented. (P10/6)

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

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Bunten voted “yes.” Councilmember Hiller was out of the room. (8-0-0)

A FINAL PLAT for Horseshoe Bend Subdivision No. 2 generally located on the south side of the Kansas Turnpike, the centerline of the tract being approximately 1,330 feet north of SE 45th Street and 2,300 feet east of SW Topeka Boulevard was presented. (P10/17)

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

Steve LaCasse, Bartlett & West Engineers appeared to answer questions.

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Swank carried unanimously. Mayor Bunten voted “yes.” Councilmember Hiller was out of the room. (8-0-0)

A FINAL PLAT for Shawnee Heights Fire District Station No. 22 located at SW corner of SE 2nd Street and SE Tecumseh Road, outside the City’s Municipal Service Area, but within the City’s extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas was presented. (P10/15)

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

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Woelfel carried unanimously. Mayor Bunten voted “yes.” Councilmember Hiller was out of the room. (8-0-0)

A PROJECT BUDGET in the amount of \$3,126,000 and RESOLUTION NO. 8292 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. T-861003.00 which provides for the construction of water and sanitary sewer service to the new Kanza Fire Commerce Park more specifically described herein was presented.

(Contract No. 40722)

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

Mayor Bunten questioned the amount (\$170,000) of administrative fees listed.

Jim Langford, Budget and Finance Director reported the costs would pay for services provided by City staff. He noted the amount is an estimation of the hours spent on the project.

Angela Sharp, Bartlett & West Engineers appeared to answer questions and clarified that \$59,000 of the \$170,000 was allocated for administrative fees. She noted the remaining amount was allocated for the acquisition of right-of-way and contingency fees for unforeseen circumstances during construction.

Councilmember Preisner moved to approve the project budget and resolution. The motion seconded by Councilmember Swank carried unanimously. (8-0-0)

APPROVAL of Retail Cereal Malt Beverage License Applications was presented.

Retail Cereal Malt Beverage License applications were presented for Lupita's Mexican Restaurant located at 732 S. Kansas Avenue; and Sunshine Energy, L.L.C., dba SE #46 located at 3300 SW Gage Boulevard.

Councilmember Preisner moved to approve the retail cereal malt beverage license applications. The motion seconded by Councilmember Swank carried unanimously. Mayor Buntzen voted "yes." (9-0-0)

ORDINANCE NO. 19475 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 6, 2010 through September 12, 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 Wolgast carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Alcalá -1.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning accessory uses for various zoning districts, amending Section 18.210.020 and specifically repealing said original section was presented for first reading. (ACZR10/1)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 18.55.030 and 18.55.160, concerning definitions for zoning regulations and specifically repealing said original sections was presented for first reading. (ACZR10/2)

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

Norton N. Bonaparte, Jr., City Manager announced the Downtown S. Kansas Avenue work sessions scheduled for October 6, 2010 from 5:00 p.m. to 10:00 p.m. at the Ramada Inn located at 450 SE 6th Street; and October 13, 2010 from 12:00 p.m. to 5:00 p.m. at 800 S. Jackson Street, First Floor. He also announced an East Topeka Summit meeting would be held on September 29, 2010 from 6:30 p.m. to 8:30 p.m. at the Highland Park High School Media Center located at 2424 SE California Avenue. He encouraged citizens to attend the informational meetings and workshops and stated citizens could obtain more information by contacting Shawn Maisberger at 368-3725.

Councilmember Hiller stated the City is actively working towards sustainability. She reported the City is in the final stages of installing energy efficient light bulbs along the Washburn-Lane Parkway reducing electricity costs by 50%.

Councilmember Ortiz reported that October is Fire Safety Month and stated the City needs to increase public fire safety education.

Allen Bradshaw, Fire Chief announced that Fire Prevention Week is October 4-10, 2010 and reported the kick-off event would be held at the Dillon's Store Plaza North on Highway 24. He expressed the Fire Department's appreciation for community support.

Norton N. Bonaparte, Jr., noted the October 6, 2010 press conference would highlight Fire Prevention Week and Fire Safety.

Councilmember Preisner commended Councilmember Hiller and citizens for their efforts in proposing the animal control ordinance.

Ellen Ross, Kim Hedstrom and Clifford Cormier appeared to speak under public comment.

Councilmember Preisner moved to adjourn the City Council meeting. The motion seconded by Councilmember Swank carried unanimously. (8-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:32 p.m.

Brenda Younger
City Clerk