

Council Minutes – October 5, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 5, 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 Harmon asked for a moment of silent meditation.

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

A PRESENTATION on potholes and winter preparation of city streets was provided by Dennis Taylor, Interim Utilities and Transportation Operation Director. He also provided an update on the Street, Traffic and Maintenance Operations Division equipment, personnel and operations.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of June Burks Ewing to the Topeka Planning Commission for a term ending October 21, 2013 was presented.

RESOLUTION NO. 8293 introduced by Councilmember John Alcala, granting Joletta's an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions was presented.

RESOLUTION NO. 8294 introduced by Councilmember Bob Archer, granting Melinda Cuevas an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions was presented.

RESOLUTION NO. 8295 introduced by Councilmember Deborah Swank, granting Shara Monhollon an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions was presented.

MINUTES of the regular meeting of September 28, 2010 were presented.

An Open After Midnight License application for Pacifico, L.L.C., dba El Maguey located at 2160 SW Wanamaker, #110, was presented.

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

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 placed on first reading September 28, 2010 was again presented.

(ACZR10/1)

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

David Thurbon, Planning Department Director reported the proposed language would clarify the limits of vehicle weight ratings and definitions of commercial equipment and vehicles, cargo containers, and pick-up trucks. He summarized the key parameters of what was approved originally (prior to 2010), what was passed by the governing body on March 16, 2010, and what is currently being proposed regarding limits of commercial vehicle parking in residential districts. He presented pictures depicting vehicles representing the weight, height, width and signage of the proposed changes. The parameters were summarized as follows:

Prior to Early 2010

- Trucks with a payload over 1.5 tons must be parked in a garage or screened from view from abutting properties and streets.
- Vehicles, boats, and tractors with a gross vehicle weight rating of 5 tons or more shall not be parked on residential properties.

Revisions in March 2010

- Non-commercial trucks, boats, trailers, buses, and tractors with a weight of 7.5 tons or more are not allowed on residential properties.
- Commercial vehicles with a height or width of 7.5 feet or more are not allowed.
- Commercial vehicles with a length of 25 feet or more are not allowed.

New Proposal

- Pickup trucks would be allowed on residential properties.
- Trucks (excluding pickups), boats, trailers, buses, and tractors with a curb weight or gross vehicle weight rating over 5 tons are not allowed.
- Commercial vehicles with a height of 9 feet or more, a width or 7.5 feet or more, and/or length of 24 feet or more are not allowed.

Councilmember Archer stated he was informed at the work session conducted prior to the Council meeting the Planning Department does not support the proposed amendments, and quoted, “adoption of the ordinance would hurt property values and hurt the character of the neighborhoods” as stated by Mr. Thurbon, Planning Department Director.

Councilmember Hiller questioned why signage issues were not addressed in staff recommendations.

David Thurbon clarified the comment he made at the work session was a professional opinion and not a factual statement. He stated the signage requirements were omitted because it would be difficult to measure the different types of signage on vehicles.

Gerald Miller expressed opposition to the advertising regulations of the ordinance and stated the signage issues are his main concern. He suggested having three different locations throughout the city for commercial vehicles to park and dispatch for services.

Von Kopfman, Blue Dot expressed concern with removing the signage requirements because it could create safety issues. He agreed restrictions should be placed on the size and length of commercial vehicles; however, companies face the challenge of providing customers with prompt service and in order to provide prompt service vehicles need to be located in the

immediate area. He stated he believes weight restrictions and signage requirements for commercial vehicles are the best way to handle the issue.

Jeff Hewitt, Teamsters Union Local No. 696 expressed concern with the additional costs that could be incurred by customers if service vehicles are not readily accessible. He also expressed concern with creating a safety issue for employees if service vehicles are parked in a central location. He believes it is a reward and a benefit for employees to be allowed to drive a company vehicle home, as well as, an enhancement to the community to be able to provide timely service.

Kirk Miller, Plumbers and Pipe Fitters Union Local No. 441 reported that approximately 20,000 service calls were reported last year between the heating, cooling, plumbing and electrical trades. He stated a central location for parking service vehicles would increase rates to customers; and create job loss in the industry. He also stated it is important to have service people who can respond quickly and efficiently.

Mayor Bunten stated he believes large commercial trucks devalue a neighborhood; however, smaller commercial vans seem to be more acceptable and visually appealing in residential areas.

Councilmember Swank stated the 9 foot height requirement seems too restrictive and questioned what would be a more acceptable height for commercial vehicles.

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

Councilmember Archer made a substitute motion to remand the ordinance back to the Planning Commission with the recommendation to specifically address the height issue. The motion was seconded by Councilmember Harmon.

Councilmember Hiller asked if tool attachments stored outside service vehicles are included in the height restriction.

David Thurbon stated any attachments outside a service vehicle would be excluded from the height regulation.

Councilmember Swank stated she believes a 10 foot height requirement would be more visually appealing and acceptable.

The substitute motion to remand the ordinance back to the Planning Commission with the recommendation to address specifically the height issue failed. Mayor Bunten voted “yes.” Councilmembers Hiller, Ortiz, Wolgast, Swank and Preisner voted “no.” (4-5-0)

The motion to adopt the ordinance failed. Mayor Bunten voted “no.” Councilmembers Woelfel, Archer and Harmon voted “no.” (5-4-0)

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 placed on first reading September 28, 2010 was again presented. (ACZR10/2)

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

Councilmember Woelfel moved to adopt the ordinance. The motion died due to a lack of a second.

Councilmember Harmon asked David Thurbon to recommend to the Council how to proceed with the ordinance since the accompanying ordinance was not adopted.

David Thurbon, Planning Department Director stated he recommends the Council consider both items at the same time due to the fact this ordinance will define the changes proposed in the previous zoning ordinance. (ACZR10/1)

APPROVAL of a Retail Cereal Malt Beverage License application for North Topeka Golf Center located at 350 NE Highway 24, was presented.

Councilmember Preisner moved to approve the retail cereal malt beverage license applications. The motion seconded by Councilmember Archer carried unanimously. Mayor Buntun voted “yes.” (9-0-0)

ORDINANCE NO. 19476 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 13, 2010 through September 19, 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 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.

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

Norton N. Bonaparte, Jr., City Manager announced the Downtown S. Kansas Avenue workshops scheduled on October 6, 2010 from 5:00 p.m. to 10:00 p.m. at the Ramada Inn located at 450 SE 6th Street; on October 12, 2010 from 3:45 p.m. to 4:45 p.m. at City Hall located at 215 SE 7th Street, Room 255; and on October 13, 2010 from 12:00 p.m. to 5:00 p.m. at 800 S. Jackson Street, 1st Floor; a free Energy Expo at the Gage Park Shelter House on October 9, 2010; and the Fire Prevention Month kick-off event would be held on October 9, 2010 at the Dillon’s Store Plaza North on Highway 24 from 1:00 p.m. to 4:00 p.m. He reported a summary

of the September 28, 2010 Downtown S. Kansas Avenue Workshop would be broadcast throughout the week of October 4, 2010 on City 4.

Councilmember Hiller reported she rode The Challenger 3985 Union Pacific Railroad Steam Engine on Saturday, October 2, 2010 at the Great Overland Station. She announced the locomotive would return to Topeka on October 12, 2010 and encouraged citizens to take advantage of the great experience. She also reported the Great Overland Station would soon install rolling stockyard as a tourist attraction.

Councilmember Ortiz welcomed new businesses to Council District No. 3; Sweet Pea's Restaurant located at SE 13th Street and S. Kansas Avenue; and the Café Next Door located at SE 15th and Adams Streets. She questioned the materials used to repair the street in Council District No. 3 and asked if the material was being used in other areas of the city.

Councilmember Woelfel requested the City Attorney outline in an email to the Council the public hearing procedure specifically relating to the accessory uses ordinance considered on the Council agenda. He asked how many public hearings could be conducted and if the Council could participate in dialog when a member of the public speaks to a specific issue at a Council meeting.

Jackie Williams, City Attorney stated the public hearing on the accessory ordinance was conducted in conjunction with the final reading of the ordinance. He also stated as a legislative body the Council could respond to direct questions asked by the public.

Councilmember Wolgast thanked the Fairness in Government group for their efforts in petitioning for motor fuel tax funds from Shawnee County.

George Collins appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:47 p.m.

Brenda Younger
City Clerk