

Council Minutes – February 15, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 15, 2011. 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, Archer, Swank, Preisner and Harmon -9. Mayor William W. Bunten presided -1.

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

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

Joan Wagnon, Rotary Club of Topeka Coordinator introduced the following Russian dignitaries visiting from the Ivanovo, Oblast region of Russia:

- Mr. Ilya Sergeyeovich Berezkin
- Mr. Nikolay Yuryevich Korchagin
- Mr. Mikhail Aleksandrovich Ratmanov
- Mr. Igor Nikolayevich Shipkov
- Mr. Igor Yevgenyevich Volkov
- Mr. Denis Viktorovich Pryamonosov, Interpreter

A PRESENTATION of the 2010 Year End Financial Report was provided by Jim Langford, Budget and Finance Department Director.

Councilmember Archer distributed a resolution relating to the hiring of an internal auditor by July 1, 2011 and stated the person would be accountable to the City Council and independent from City management.

Councilmember Archer moved to suspend the Council Rules to add the resolution to the February 22, 2011 Council agenda. The motion was seconded by Councilmember Ortiz.

Councilmember Hiller spoke in support of the proposal and encouraged the Council to discuss the details in a work session before placing the resolution on an agenda. She noted

Topeka Unified School District No. 501 has expressed an interest in sharing an internal auditor position with the City of Topeka.

Councilmember Woelfel questioned the urgency of the resolution.

Councilmember Archer stated he believes the Council should act now due to the recent events involving theft by City employees, otherwise, the Council could be viewed by the public as not taking any action to make certain it does not happen again.

Councilmember Woelfel stated he would not support the motion to add the resolution to the February 22, 2011 Council agenda; however, he believes the recent events need to be dealt with as soon as possible.

The motion to suspend the Council Rules to add the resolution to the February 22, 2011 Council agenda failed. Councilmembers Hiller, Woelfel, Wolgast, Swank and Harmon voted “no.” (4-5-0)

Norton N. Bonaparte, Jr., City Manager suggested the Council discuss the details of hiring an internal auditor at the February 22, 2011 Council work session.

Councilmember Archer agreed to discuss the internal auditor position at the February 22, 2011 Council work session.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Derrick Carpenter to the Topeka Sustainability Advisory Board for a term ending February 28, 2013 was presented.

BOARD APPOINTMENT recommending the appointment of Steve Bolton to the Topeka Sustainability Advisory Board for a term ending February 28, 2013 was presented.

BOARD APPOINTMENT recommending the appointment of Jim Ogle to the Topeka Metropolitan Transit Authority to fill an unexpired term ending August 11, 2013 was presented.

MINUTES of the regular meeting of February 8, 2011 were presented.

An Open After Midnight License application for Tool Shed TAP located at 921 S. Kansas Avenue was presented.

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

ORDINANCE NO. 19513 introduced by City Manager Norton N. Bonaparte, Jr., concerning the adoption of the 2010 Standard Traffic Ordinance and amendments thereto by amending City of Topeka Code Sections 10.15.010 and 10.15.020 and specifically repealing said original sections as well as repealing in its entirety Section 10.10.190 and creating Section 10.20.125 placed on first reading February 8, 2011 was again presented.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Woelfel 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. 19514 introduced by City Manager Norton N. Bonaparte, Jr., regulating public offenses within the corporate limits of the City of Topeka, Kansas; incorporating by reference the “Uniform Public Offense Code for Kansas Cities,” edition of 2010, with certain deletions and omissions; amending Section 9.053.080 and specifically repealing original said section and repealing in its entirety Section 8.35.020, 9.05.030, 9.05.040, 9.05.090, 9.15.140, 9.15.030, 9.35.020, 9.40.010, 9.40.030, 9.40.060, 9.40.070, 9.40.080, 9.45.020, 9.45.110, 9.45.260, 10.35.020, 10.35.030, 10.35.040 and 10.35.050 placed on first reading February 8, 2011 was again presented.

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

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

ORDINANCE NO. 19515 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 9.15.020, concerning the possession and consumption of alcoholic liquor or cereal malt beverages and specifically repealing said original section placed on first reading February 8, 2011 was again presented.

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

Councilmember Wolgast gave a brief update on the Kansas Children’s Discovery Center project. He stated the ordinance would allow alcoholic beverages to be served at Discovery Center events based on the same stipulations as other City entities specified in the ordinance. He noted Stormont-Vail Regional Medical Center and the Kansas Historic Museum would be removed from the ordinance because they are no longer City-owned properties.

Joanne Morrell, Kansas Children’s Discovery Center Executive Director spoke in support of the ordinance and upgrades to Gage Park. She also gave a brief update of the Kansas Children’s Discovery Center project.

Councilmember Ortiz questioned the importance of allowing alcoholic beverages at a facility that is geared towards children.

Joanne Morrell stated approval would allow for after hour adult-only fundraising events, as preferred by many large corporations.

Councilmember Woelfel expressed concern with the necessity of alcoholic beverages at the facility.

Councilmember Alcalá asked if the property was considered private or public; what events would require Council approval; and how would the Council approval process work.

Jackie Williams, City Attorney stated he believes the Kansas Children's Discovery Center is public property.

Terry Bertels, Parks and Recreation Department Director stated before alcoholic beverages are allowed to be served at specified City-owned facilities event organizers are required to seek approval administratively prior to the event.

Councilmember Wolgast moved to adopt the ordinance. The motion seconded by Councilmember Swank carried. Councilmembers Woelfel and Archer voted "no." (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Wolgast, Swank, Preisner and Harmon -7. Noes: Woelfel and Archer -2.

ORDINANCE NO. 19516 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 14.20.060, concerning amendments to the International Building Code and specifically repealing said original section placed on first reading February 8, 2011 was again presented.

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

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

Councilmember Woelfel asked how many projects over the last five years have totaled more than \$30 million.

Norton N. Bonaparte, Jr., stated only one project has totaled more than \$30 million.

Councilmember Hiller asked if there was a provision in the ordinance that would trigger the City to review the \$30 million figure every so often.

Norton N. Bonaparte, Jr., reported the ordinance does not have a provision; however, the City would frequently review the figure to make certain the City's costs are being recouped.

Councilmember Woelfel inquired on the fee differences between a \$30 million and \$70 million project.

Norton N. Bonaparte, Jr., stated a \$30 million project would net fees of \$156,042.25 and a \$50 million project would net fees of \$258,242.25, in which the City is foregoing \$102,200 in fees for the \$20 million gap.

Mayor Bunten stated in his opinion the City would not forego any fees if large companies decide to build substantial facilities and generate employment for the community. He noted approval would help the City to compete with other cities in attracting large companies to our community.

Councilmember Woelfel spoke in opposition to the ordinance. He stated in these tough economic times he believes the City should not forego any fees.

The motion to adopt the ordinance carried. Councilmember Woelfel voted "no." (8-1-0)

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

A PROJECT BUDGET in the amount of \$130,000 and ORDINANCE NO. 19517 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301030.00, which provides for player, spectator and visitor improvements to Felker Park and Rueger Park softball complexes, as more specifically described herein, all pursuant to Section

A12-1 of the Code of the City of Topeka placed on first reading February 8, 2011 was again presented.

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

Councilmember Swank moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Preisner.

Councilmember Woelfel discussed the four Parks & Recreation improvement projects listed on the agenda. He stated citizens should be aware the projects are bonded at a total of \$972,579 with interest payments totaling \$311,695. He questioned if the improvements would outlive the loans; and why the Council should put the City further into debt. He reminded the Council that Councilmember Hiller is working to formulate a policy for the City to become debt-free.

Mayor Bunten stated he does not agree with bonding many projects; however, this particular project does fall within the policy set by the Council.

Councilmember Hiller stated she is still working on the debt-free policy; however, there is a need to continue to invest and improve the city; therefore, she would support the project.

The motion to approve the project budget and adopt the ordinance carried.

Councilmembers Woelfel and Archer voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Wolgast, Swank, Preisner and Harmon -7. Noes: Woelfel and Archer -2.

A PROJECT BUDGET in the amount of \$202,884 and ORDINANCE NO. 19518 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301028.00, which provides for walkways and new signage at Gage Park, as more specifically

described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 8, 2011 was again presented.

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

Councilmember Woelfel asked for a breakdown of the project cost.

Terry Bertels, Parks and Recreation Department Director reported the signage totaled approximately \$10,000 and the remaining \$182,307 would be used for walkways.

Councilmember Harmon moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Swank carried. Councilmembers Woelfel and Archer voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Wolgast, Swank, Preisner and Harmon -7. Noes: Woelfel and Archer -2.

A PROJECT BUDGET in the amount of \$208,000 and ORDINANCE NO. 19519 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301029.00, which provides for improvements to gym floors in Oakland and Garfield community centers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 8, 2011 was again presented.

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

Councilmember Alcalá gave a brief background on the condition of the synthetic gym floors at the Oakland and Garfield Community Centers. He inquired on the cost to maintain gym floors and the longevity between wood flooring and synthetic flooring.

Terry Bertels, Parks and Recreation Department Director stated he is not familiar with the lifespan of the current synthetic floors; however, the floors either have too much traction and flexibility or not enough traction creating a higher risk for injuries. He reported it costs

approximately \$8,400 every two years to maintain the flooring in all the community centers, including Oakland and Garfield. He reported the synthetic flooring could not be retreated or refinished like a wood floor so the cost to maintain generally consists of just sweeping and wet mopping. He also reported the organizations utilizing the community centers for sporting events prefer not to use the synthetic flooring.

Councilmember Archer asked what grade of flooring would be installed; questioned why the floor would be so expensive; and was an analysis conducted on wood flooring versus Teraflex flooring.

Terry Bertels stated the project includes the lowest grade of flooring which would be the least expensive option; however, it will be very costly to install. He reported the flooring estimate was received from the same company that has installed other community center floors; and an analysis was conducted on the wood flooring compared to synthetic flooring.

Councilmember Alcalá stated new floors are needed because the gyms continue to be multi-functional and sustain heavy use.

Councilmember Woelfel asked what the cost would be to maintain the wood flooring. He questioned why a small portion of community center floor replacement costs have not been budgeted for annually, eliminating the need to bond the project.

Terry Bertels stated he was not aware of a building replacement fund that would enable him to budget flooring replacement costs on an annual basis. He reported the approximate cost to maintain the proposed wood flooring at Garfield and Oakland Community Centers would be \$2,640 every two years.

Councilmember Alcala moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Ortiz carried. Councilmembers Woelfel and Archer voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Wolgast, Swank, Preisner and Harmon -7. Noes: Woelfel and Archer -2.

A PROJECT BUDGET in the amount of \$120,000 and ORDINANCE NO. 19520 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301027.00, which provides for restroom relocation at Major Palm Park, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 8, 2011 was again presented.

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

Councilmember Wolgast moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Swank.

Mayor Bunten questioned the budget amount proposed to rebuild the restroom and if the project should be considered a priority.

Terry Bertels, Parks and Recreation Department Director reported the much needed restrooms would be ADA-accessible and vandal-proof.

Councilmember Wolgast reported Major Palm Park is located east of Burlingame Road on SW 37th Street. He stated an upgrade would be necessary to allow the several hundred surrounding residents to utilize the park, as well as, the park is being considered as the next location for a Bark Park.

Councilmember Woelfel questioned how much the proposed Bark Park would cost.

Terry Bertels stated the intention would be to use private funds to support the Bark Park.

Councilmember Archer questioned the amount of money it would take to build the restrooms. He stated he would not support the project and believes it is a prime example of why the City needs an internal auditor to review the financial breakdown of all City projects.

Terry Bertels reported the proposed cost was the lowest bid received and the best option for the City.

The motion to approve the project budget and adopt the ordinance carried.

Councilmembers Woelfel and Archer voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Wolgast, Swank, Preisner and Harmon -7. Noes: Woelfel and Archer -2.

RESOLUTION NO. 8312 introduced by Councilmember Jeff Preisner, requesting the City of Topeka to provide financial assistance in the amount of \$25,000 to the Topeka Cemetery Association for use in the operation of the Topeka Cemetery was presented.

Councilmember Preisner gave the staff report.

Councilmember Ortiz commended Councilmember Preisner for proposing the resolution.

Councilmember Alcalá spoke in support of the resolution. He stated he does not want the City to incur the total cost of supporting the operations of the cemetery.

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

NO Retail Cereal Malt Beverage License applications were presented.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301031.00, which provides for perimeter fence improvements at the zoo, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301032.00, which provides for a new necropsy building at the Zoo, 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 the Housing and Neighborhood Development Department would provide rental assistance through federal funding to the first 100 people who qualify on February 18, 2011. He instructed citizens to call 368-3711 for more information.

Councilmember Hiller asked the Council to schedule a Committee of the Whole meeting during a post Council meeting work session to discuss the City Manager's review. She noted the review criteria needs to be sorted and prioritized so the review is completed prior to the March 31, 2011 deadline.

Councilmember Alcala commented on the packet of information he received from the City Attorney's office relating to the scrap metal theft incident he requested pursuant to the Kansas Open Records Act process. He expressed concern with discrepancies of wording in the documents and the importance of the contents in the incident report by former City employee, Dennis Taylor. He asked if the Council has subpoena authority.

Jackie Williams, City Attorney referenced Council Rule 7.1(e) relating to Committee Powers. He reported pursuant to the Council Rules, the Council has the power to receive copies of documents; however, the Council does not have the authority to compel the attendance of witnesses.

Councilmember Ortiz thanked fellow Councilmembers and citizens for their support during her illness.

Councilmember Woelfel expressed concern with the confidentiality of the information referenced by Councilmember Alcala and questioned if the discussion would be considered a violation of attorney-client privileges. He stated he believes the issue should be discussed in an executive session to protect the rights of employees; however, he understands the importance of citizens being updated. He requested an update on pothole repairs throughout the city.

Jackie Williams stated personnel files are confidential and could only be released by the effected employees, who in this case have refused the request to release the documents requested by Councilmember Alcala. He also noted the current union contract binds the City from disclosing any personnel information without the employee's consent.

Councilmember Woelfel asked citizens in Council District No. 4 to call 215-3323 to report potholes. He stated he would follow-up with the Street Department to make sure the potholes are reported and repaired.

Norton N. Bonaparte, Jr., reported the Street Department is aggressively repairing potholes throughout the city as weather permits. He commended Randy Speaker, Deputy City Manager and Braxton Copley, Utilities and Transportation Operations Director for taking the initiative in repairing potholes as weather permits.

Councilmember Alcala reported K.S.A. 45-221(a)(4) and Article 11 of the current union agreement allows the City to have discretionary disclosure of certain documents. He stated he believes the City wants citizens to believe the documents are not considered an open public record and noted any citizen could receive the same information he referenced earlier through the Kansas Open Records Act process.

Jackie Williams stated the City fully supports citizen rights to view and obtain public records.

Mayor Bunten requested an update on when the scrap metal theft investigation would be complete.

Norton N. Bonaparte, Jr., stated he is unsure when the investigation would be complete because it is being handled by the Kansas Bureau of Investigation and the Topeka Police Department.

Councilmember Alcala moved to adjourn into executive session for a time period not to exceed thirty minutes to discuss administrative personnel issues and to include elected officials only. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

At 8:07 p.m., the City Council reconvened into open session and Mayor Bunten announced no action had been taken during the executive session.

Councilmember Alcala 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 8:07 p.m.

Brenda Younger
City Clerk