

## **Council Minutes – February 22, 2011**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 22, 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, Dr. David DePue, Capitol Commission for the State of Kansas gave the invocation.

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

A PRESENTATION of the City of Topeka Adaptive Recreation Program was given by Jabeth Coachman, Director.

Councilmember Alcalá requested to pull item 4A, a Civil Claim appeal by Rayon Boyd from the consent agenda and defer until March 8, 2011 to give the applicant time to gather and present his receipts to the Council.

Upon hearing no objections, Mayor Bunten announced item 4A would be removed from the consent agenda and placed on the March 8, 2011 Council agenda.

THE CONSENT AGENDA was presented as follows:

WORKER'S COMPENSATION SETTLEMENT CLAIM for Randy Davis in the amount of \$37,500 and recoupable coverage of wound care services in the amount of \$2,139.72 was presented.

MINUTES of the special meeting of February 4, 2011 were presented.

MINUTES of the regular meeting of February 15, 2011 were presented.

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

A PROJECT BUDGET in the amount of \$170,034 and ORDINANCE NO. 19521 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 placed on first reading February 15, 2011 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He stated approval would authorize the replacement of approximately half of the perimeter fencing, Phase 1 of the project, addressing the United States Department of Agriculture (USDA) and Association of Zoos and Aquariums (AZA) compliance issues. He reported alternate bids for the total cost of the entire project (Phases 1 and 2) would be requested simultaneously with the bids for Phase 1 of the project in an attempt to receive more competitive bids. He noted if the bid for the entire project comes in at or below the approved project budget amount then they would move forward with the entire project; however, if the bid is higher then they would present the higher project budget amount to the Council for approval.

Councilmember Alcalá questioned if a specific project budget amount was approved would the bids be higher because an amount has already been allocated.

Norton N. Bonaparte, Jr., stated the project has been presented in phases to resolve the compliance issues at this time; however, by requesting bids for the entire project staff hopes to save the City money in the long term.

Councilmember Woelfel asked how much longer it would take to bid the entire project as opposed to only one phase of the project and if the project was time sensitive.

Norton N. Bonaparte, Jr., reported the project was time sensitive due to compliance issues. He noted a project budget must be approved before they could request bids for the project.

Mayor Bunten asked what the interest rate would be for the project.

Jim Langford, Budget and Finance Director reported the estimated interest rate would be 4%.

Councilmember Harmon asked Brendan Wiley, Zoo Director to address the fencing deficiencies and why the Zoo is required to install new fencing.

Brendan Wiley, Zoo Director stated the Topeka Zoo is regulated by the Association of Zoos and Aquariums (AZA) and the United States Department of Agriculture (USDA). He reported the AZA and USDA require the fencing to be adequate with height requirements and to include a climbing deterrent. He reported the Zoo has worked with the Topeka Police Department and Councilmembers to assess the Zoo perimeter and it was identified as an issue, as well as, a concern to the area residents. He also stated the proposed fencing would sit above ground and include a mow strip which would provide a vegetation and animal barrier and have a lifespan of 25-35 years. He noted the current fencing has the following issues:

- The sections vary in age with no barbed wire in some of the sections.
- Vegetation growth through the fencing presents a big problem.
- Dogs dig under the fencing.
- Rocks and asphalt create issues at the bottom of the fencing in some sections.

Councilmember Harmon asked if the Police Department recommended the improvements and if the fencing is no longer adequate due to neglect.

Brendan Wiley stated the Police Department recommended the fencing improvements and are aware the proposed fencing would not be impenetrable; however, because the area would be well maintained it would increase public awareness. He stated the damage to the fencing

occurred over a period of time, and staff plans to conduct routine maintenance and daily inspections on the new fencing to keep the entire perimeter intact.

Councilmember Harmon moved to defer the project budget and ordinance for two weeks to allow staff time to receive estimates on the replacement of the entire fence versus replacement of only a portion of the fence (Phase 1 of the project). The motion was seconded by Councilmember Archer.

Brendan Wiley reported staff would meet with the Accreditation Commission on March 20, 2011 and provide them with an update on outstanding compliance issues. He noted he was hoping the fencing project would be well underway by the time they meet with the Commission. He stated they have received estimates to temporarily fix noncompliant issues by March 20<sup>th</sup>; however, he would prefer not to spend budget dollars on a temporary fix that would have to be replaced in a few months.

Councilmember Wolgast encouraged approval of the project to allow staff time to move forward with Phase 1 of the project well before March 20<sup>th</sup>.

Brendan Wiley stated if they could complete the bidding process and choose a contractor by March 20<sup>th</sup> he believes the Commission would be satisfied with the Zoo's efforts to become compliant.

Councilmember Ortiz asked if the project would include the fencing around the Gage Shelter House.

Brendan Wiley stated the project would not include the fencing around the perimeter of the shelter house.

Councilmember Swank stated she would prefer to move forward with the project and questioned if a delay would have an affect on the project.

Councilmember Hiller asked if a delay would affect the bid amounts received.

Brendan Wiley stated he is not sure if a delay would affect the cost of the bids due to the various factors involved including price of steel, removal and replacement of existing vegetation, and location of the fence.

Councilmember Woelfel stated he would support deferral of the project and requested all the financial information be presented to the Council before making a decision.

Councilmember Alcala questioned if staff would prefer to meet with the Accreditation Commission having the Council's approval of the project or to inform the Committee the project has been deferred for two weeks.

Brendan Wiley stated he believes the Accreditation Commission would support staff's decision not to rush the project and do what is best for the zoo in the long term.

Councilmember Hiller asked if there would be cash available to pay for the project.

Brendan Wiley stated all funding options would be considered.

Councilmember Harmon withdrew the motion to defer the project budget and ordinance for two weeks. The second concurred.

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

Councilmember Alcala asked if Friends of the Topeka Zoo (FOTZ) could fund the project.

Jim Langford stated that he would research the legalities and report back to the Council.

Brendan Wiley stated he was not sure if FOTZ would finance the project. He noted to-date they have agreed to allocate approximately \$200,000 on various improvements throughout the zoo and he would assume most of their funds are already been pledged to specific projects.

Mayor Bunten stated the Council could approve the project and then ask FOTZ if they are interested in financing the project with the stipulation the City would reimburse them at a lower interest rate.

Councilmember Woelfel stated he does not see the urgency in approving the project at this time and would prefer Phases 1 and 2 of the project be bid as one estimate to determine if it would be more cost effective to do the entire project all at once.

Councilmember Woelfel made a substitute motion to defer the project budget and ordinance to allow time for staff to receive bid estimates for Phases 1 and 2 of the project and research alternative funding sources. The motion was seconded by Councilmember Ortiz.

Norton N. Bonaparte, Jr., stated if the project was approved the funding would not be bonded until fall, allowing time for staff to research alternative funding sources.

Councilmember Alcalá stated FOTZ is a partnership between the community and the Zoo and in his opinion, it would be a good show of support if they could help fund the project.

The substitute motion to defer the project budget and ordinance to allow time for staff to receive bid estimates for Phases 1 and 2 of the project and research alternative funding sources failed. Councilmembers Hiller, Alcalá, Wolgast, Swank, Archer, Preisner and Harmon voted “no.” (2-7-0)

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

A PROJECT BUDGET in the amount of \$112,115 and ORDINANCE NO. 19522 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 placed on first reading February 15, 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 Wolgast.

Councilmember Harmon questioned if the Zoo is required to have an on-site necropsy building and if not, would it be more cost-effective to hire an outside contractor to do the autopsies.

Brendan Wiley, Zoo Director stated the Zoo is required to do autopsies within a certain protocol; however, the absence of a necropsy room was listed as an accreditation concern due to inadequate facilities. He reported the Zoo has an agreement with Kansas State University to perform autopsy services which would require the animals to be transported.

Councilmember Harmon asked if the issue would be addressed at the AZA meeting on March 20, 2011.

Brendan Wiley stated the issue would be discussed at the March meeting; however, the issue relates to implementing best practices, as well as, meeting the safety needs of the animals and people.

Councilmember Archer asked if the Zoo could continue the agreement with Kansas State University.

Brendan Wiley stated he believes they need to discontinue the agreement with Kansas State University.

Councilmember Harmon asked if the animals used for educational purposes could be moved to a different location and the autopsies could be performed in the old animal hospital.

Brendan Wiley stated in his opinion, using the old animal hospital would be an expensive alternative because the facility may not meet current air standards regarding the process of true isolation and containment.

Councilmember Woelfel asked how much of the project budget would be allocated for the air handling unit.

Brendan Wiley stated the cost would be \$82,062, an estimate surveyed from recently built veterinary hospitals. He reported most of the budget would be for the air handling unit, plumbing and flooring; and the project would consist of an addition of a 16 x 20 foot external room with an 8 x 12 foot additional room to serve as a walk-in cooler.

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

RESOLUTION NO. 8313 introduced by Councilmember Karen Hiller, stating the City of Topeka's priorities and preferences for the realignment and replacement of the Polk-Quincy Viaduct was presented.

Councilmember Hiller gave the staff report and a brief overview of community discussions on the progress and proposals of the Polk-Quincy Viaduct project.

Councilmember Woelfel expressed his appreciation for all project proposals presented. He asked what properties would be disrupted during project construction.

Councilmember Hiller reported the Kansas Department of Transportation invited all area businesses to the sessions and noted most of the land affected by the construction is government-owned.

Councilmember Alcalá thanked Councilmember Hiller for her involvement in the project. He expressed his support of the resolution and reported North Topeka businesses are excited because the new proposal would increase traffic flow through the area. He expressed concern with the businesses in the small corridor being jeopardized by project construction and requested a list of businesses that may be affected.

Councilmember Archer asked how much the proposal would cost.

Councilmember Hiller stated the cost is estimated at \$180 million.

Christy Caldwell, Greater Topeka Chamber of Commerce expressed appreciation to Councilmember Hiller for working with area businesses to reach a compromise. She noted the new proposal would provide three exits to downtown which is extremely important to those businesses and stated the Chamber's support of the new proposal.

Councilmember Hiller moved to approve the resolution. The motion was seconded by Councilmember Wolgast.

Mayor Bunten expressed concern with the following issues relating to the project:

- He opposes the construction of a wider highway and two bridges because of the impact construction could have on downtown businesses.
- The State and Federal government do not have the funds to finance the project during these tough economic times.
- He believes the Oakland community would be “separated” from the City because of the highway widening.
- He believes more research and community awareness should be conducted on the impacts the project could create for the community.

Councilmember Alcalá stated the Oakland community believes the project would enhance their proximity to the downtown area and provide better access.

Councilmember Hiller stated all sessions were well attended by local businesses and neighborhood residents.

Councilmember Wolgast stated the most important part of the resolution is the strong community support of the proposal, displaying a significant sign the community worked together.

The motion to approve the resolution carried. Councilmember Woelfel voted “no.” (8-1-0)

Retail Cereal Malt Beverage License application was presented for Murphy’s Express located at 1531 SW Wanamaker Road.

Councilmember Hiller left the room.

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

ORDINANCE NO. 19523 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 24, 2011, through January 30, 2011, and enumerating said expenditures therein 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 Alcalá carried unanimously. (8-0-0)

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

ORDINANCE NO. 19524 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 31, 2011, through February 6, 2011, and enumerating said expenditures therein 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: Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -8. Absent: Hiller -1.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-131016.00, which provides for boiler replacement in City Hall, 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-131015.00, which provides for various improvements to City owned facilities, 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 Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for The Office on March 17, 2011 was presented for first reading.

Councilmember Hiller entered the room.

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 March 1, 2011 due to the primary elections.

Councilmember Alcalá moved to adjourn into executive session for a time period not to exceed 15 minutes to discuss administrative personnel matters and to include elected officials only. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

At 8:05 p.m., the City Council reconvened into open session and Deputy Mayor Swank announced no action had been taken.

Councilmember Alcalá announced a Committee of the Whole meeting would be scheduled after the March 8, 2011 City Council meeting to exercise the Council's subpoena authority.

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 8:07 p.m.

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Brenda Younger  
City Clerk