

Council Minutes – March 8, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 8, 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, Father Tim Haberkorn, St. Joseph Church gave the invocation.

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

A PRESENTATION of the City of Topeka Annual Report and Video was provided by Norton N. Bonaparte, Jr., City Manager.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Robin Jennison to the Topeka-Shawnee County Riverfront Authority Board to fill an unexpired term ending August 31, 2012 was presented.

DENIAL OF A TORT CLAIM APPEAL for Philip McFarland in the amount of \$30,000 was presented.

MINUTES of the regular meeting of February 22, 2011 were presented.

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

DENIAL OF A TORT CLAIM APPEAL by Rayon Boyd in the amount of \$800 was presented. The tort claim appeal was deferred from the meeting of February 22, 2011.

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

Councilmember Alcalá asked if there were receipts and photos submitted by the claimant.

Ken Benjamin, Assistant City Attorney distributed photos and a receipt from the claimant.

Councilmember Alcalá stated he did not support a tort claim appeal last year because there were no photos provided. He noted it is much easier to damage a low-profile tire rim than a regular-sized tire rim.

Councilmember Alcalá moved to approve the tort claim appeal in the amount of \$800. The motion seconded by Councilmember Ortiz failed. Councilmembers Hiller, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon voted “no.” (2-7-0)

ORDINANCE NO. 19525 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 placed on first reading February 22, 2011 was again presented.

Councilmember Hiller gave the staff report.

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.

RESOLUTION NO. 8314 introduced by Councilmember John Alcalá in support of public policies to ensure a successful and sustainable downtown development was presented. The resolution was deferred from the meeting of February 22, 2011.

Councilmember Alcalá gave the staff report.

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

Robert Banks spoke in support of the resolution and stated citizens have expressed a strong desire to preserve historical buildings within the City of Topeka. He reported the Topeka Landmarks Commission wants to work with citizens to preserve the city's history.

Mayor Bunten stated he believes the historic preservation policy would make it difficult to remodel downtown structures, especially as the City moves towards revitalizing the downtown area. He asked how the policy would affect the revitalization effort.

Robert Banks stated the policy details a process and guidelines to follow, which in his opinion, it is not a difficult process.

Stacey Keller, American Institute of Architects of Kansas Vice President spoke in support of the resolution and stated it would preserve urban centers, create a unique identity to Topeka, and protect environmental resources and design. She read a statement from Robert Fincham, Chair of Governmental Affairs Committee for American Institute of Architects of Kansas stating the resolution would ensure ties to Topeka's past that could not be replaced.

Councilmember Wolgast spoke in support of the resolution and stated developers want a survey of buildings that qualify for tax benefits. He stated the City is considerably behind the times of many other cities regarding historic preservation tax incentives and it is important to developers to have the same tax incentives as other communities. He noted the grant is specific to the downtown area of SW 10th Street to the Kansas River, and includes the new North Topeka (NOTO) District.

Councilmember Preisner stated he agrees with Mayor Bunten and believes historic designations add a considerable amount of money to project costs and slows the process down.

Councilmember Swank spoke in support of the resolution and stated she believes Topeka is behind the times regarding historic preservation. She also stated the community needs more

education on the process so they understand what historic preservation is and the benefits it offers.

Councilmember Alcalá concurred with Councilmember Wolgast and stated it is a great opportunity to receive federal funding.

Councilmember Hiller stated historic preservation is on the rise in many communities and it attracts visitors to a city. She also stated she has received favorable reports from downtown businesses in regards to historic preservation.

The motion to approve the resolution carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$426,999 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-131015.00, which provides for improvements to City owned facilities, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 22, 2011 was again presented.

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

Councilmember Archer stated after reviewing the project list it appears the projects are routine maintenance items. He stated he also reviewed the City's Debt Management Policy and expressed concern with possible violation of the Policy by the City if the projects are financed with bonds. He questioned if the improvements would last longer than the 20 years it would take to repay the bonds.

Jim Langford, Budget and Finance Director stated he would prefer these types of projects be paid with cash; however, 2010 and 2011 were difficult years financially, and he hopes some of the funding can be restored in 2012 for rehabilitation of City facilities. He reported he is

satisfied with funding the projects through the bond process this year because these projects are major maintenance issues and the City could not fund the projects with cash at this time.

Councilmember Alcalá moved to defer the project budget and ordinance for one week to allow the Finance Director to provide a written response to Councilmember Archer's questions relating to the City's Debt Management Policy. The motion was seconded by Councilmember Archer.

Councilmember Swank expressed concern with financing projects for 20 years when the life expectancy of the repairs or replacements may not last 20 years. She asked if there was an option to bond projects for less than 20 years. She requested a breakdown of the life expectancy for each project listed.

Mike McGee, Office of Building and General Services stated the HVAC system at Fire Station No. 11 and the Topeka Performing Arts Center would probably not last the entire 20 years because historically HVAC systems do not last that long; the electrical upgrades for Fire Station No. 4 has the original wiring from 1927; and upgrades are long overdue for the parking garage deck which would last well over 20 years.

Jim Langford stated the project would be combined with many other projects and the bonds would be sold for several million dollars. He noted bonds could be structured to accommodate a shorter lifespan than 20 years; however, it is the City's policy not to bond projects for less than 20 years.

Councilmember Alcalá clarified the Council has questions relating to the Debt Management Policy, not the need for the improvements.

Councilmember Hiller made a friendly amendment to direct staff to review departmental operating budgets, as well as, all other funding sources and determine if there is cash available to

use towards the project. She stated she continues to work towards the City becoming debt-free in the future.

Councilmember Alcalá accepted the friendly amendment. The second concurred.

Councilmember Alcalá moved to defer the project budget and ordinance for one week to allow the Finance Director to provide a written response to Councilmember Archer's questions relating to the City's Debt Management Policy and to direct staff to review departmental operating budgets, as well as, all other funding sources and determine if there is cash available to use towards the project. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$199,250 and 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 placed on first reading February 22, 2011 was again presented.

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

Mayor Bunten questioned the need to design a boiler if the City could purchase a boiler already built; the need for a mechanical engineer; and what costs are included in the construction and administrative fees.

Mike McGee, Office of Building and General Services stated the current boiler in the municipal building is too large and uses too much fuel; therefore, a more efficient and compact boiler needs to be designed specifically for City Hall, saving the City approximately 20% in fuel costs. He reported the City does not have a mechanical engineer on staff; construction fees

would be paid to the consultant for the design and sizing of the boiler; and administrative fees are standard language used to cover costs such as City engineering services and interest costs.

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

Councilmember Alcalá questioned the necessity of replacing the boiler compared to refurbishing the boiler as they have done in the past; and if the project should be deferred until after budget discussions, at which time, the Council could better gauge the financial status of the City and determine a possible funding source for the project.

Councilmember Alcalá made a substitute motion to defer the project budget and ordinance for six months. The motion was seconded by Councilmember Woelfel.

Councilmember Hiller asked what the cash savings would be if the City realized a 20% savings in fuel costs. She spoke in opposition of deferring the project for six months because City buildings need to provide heat during the winter months.

Mike McGee stated he does not have the exact dollar amount of what the fuel savings would be at this time; however, he could provide the information to the Council at a later time. He reported new boilers provide increased efficiencies due to improved technology.

Councilmember Swank spoke in opposition to deferring the project because the City would realize a cost savings in the immediate future. She stated the project would have to begin soon because it could take several months to complete the entire process.

Councilmember Alcalá stated he agrees the project should be done just not at this time because there is no funding available. He suggested refurbishing the current boiler to make it last another five years allowing more time to generate available funding.

Councilmember Alcala withdrew the substitute motion to defer the project budget and ordinance for six months. The second concurred.

Councilmember Alcala made a substitute motion to defer the project budget and ordinance for one week and direct staff to provide the yearly maintenance costs of the current boiler system. The motion seconded by Councilmember Woelfel carried. (5-4-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Woelfel, Archer and Harmon -5. Noes: Hiller, Wolgast, Swank and Preisner -4.

A REVISED PROJECT BUDGET in the amount of \$2,543,109.66 and RESOLUTION NO. 8315 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Improvement Project No. 28579-00, which provides for installation of a waterline transmission main along Indian Hills Road and rescinding Resolution No. 7588 was presented.

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

Councilmember Archer moved to approve the project budget and resolution. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$6,200,000 and RESOLUTION NO. 8316 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Project No. T-701003.00, which provides for improvements to Wanamaker Road between 29th Street and 37th Street as more specifically described herein was presented.

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

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

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19526 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 7, 2011, through February 13, 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 Wolgast 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.

ORDINANCE NO. 19527 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 14, 2011, through February 20, 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 Wolgast 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.

Norton N. Bonaparte, Jr., City Manager requested to withdraw items 7A, an ordinance authorizing Improvement Project No. T-241010.00; 7E, an ordinance authorizing Improvement Project No. T-841015.00; and 7F, an ordinance authorizing Improvement Project No. T-841016.00 from the Council agenda under First Readings to allow staff time to gather additional information on the projects.

Upon hearing no objections, Mayor Buntin announced items 7A, 7E and 7F would be withdrawn from the Council agenda.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. T-291002.00 (HTE 291120) for replacement of Northland I Pump station approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10.101 and 10.1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project thereto, further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the Kansas Department of Health and Environment State Revolving Loan Fund to pay the cost thereof and specifically repealing those sections of City of Topeka Ordinance No. 19172 in conflict with this Ordinance was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841013.00 which provides for city-wide maintenance and improvements on existing streets, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841014.00 which provides for the design of the projects in the 2012 Street Maintenance Program, as more specifically described herein was presented for first reading.

A CHARTER ORDINANCE introduced by the City Council Policy and Finance Committee amending City of Topeka Code Section A9-2 and repealing said original section concerning the Topeka Metropolitan Transit Authority was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported the City's Express Service Center located at the Cyrus K. Holliday building would offer pet licensing services beginning March 1, 2011. He noted the service would still be available at the Law Enforcement Center. He thanked City 4 production staff for producing the 2011 City of Topeka Annual Report Video.

Councilmember Hiller reminded citizens they could make payments for pet licensing services with debit or credit cards at the City Express Service Center. She stated it has been a year since the Google incentive for a city to be used as a test site for an experimental ultra high-speed broadband network has begun and noted Google has not yet made a decision.

Councilmember Alcala expressed concern with the increasing amount of potholes in the community and asked what the City's plan is in moving forward with pothole repairs. He asked if all available staff is being utilized for the repairs; if a temporary fix has been implemented until the potholes could be repaired on a permanent basis; how many days a week would crews be working; and how much ground would be covered per shift. He reported the Crestview Community Center open gym time has been closed for two weeks due to poor behavior by certain participants. He asked why the participants causing trouble were not suspended instead of entirely eliminating open gym time for two weeks causing others to suffer the consequences.

Norton N. Bonaparte, Jr., City Manager reported the City's pothole repair initiative was recently announced in a press conference. He agrees potholes are a major problem and the City

has taken measures to remedy the issue by changing the product formula being used to repair potholes. He reported in approximately one week, two crews of 10 employees would begin working 10-hour shifts, five days a week, including evenings. He stated he would check on the situation relating to the closing of open gym time at the Crestview Community Center and report back to the Council.

Councilmember Ortiz thanked staff for installing the traffic light at the intersection of SE 4th and Branner Streets.

Councilmember Preisner announced Cypress Ridge Golf Course received the Audubon Cooperative Sanctuary Program Status Award, the 4th golf course in the State of Kansas, and the 817th golf course in the world to receive the award. He stated golf course management has a strong commitment to environmental efforts and management through the United States Golf Association. He encouraged citizens, employees and the Governing Body to take ownership in improving the city and report all potholes on the City's website at www.topeka.org (Report a Problem Link) or by calling the Pothole Hotline at 368-3111.

Councilmember Harmon asked the City Attorney's office to research and pursue any recourse the City may have for the material used to repair potholes because it has been deemed unsatisfactory and was very expensive.

Councilmember Swank requested the Council be provided with more information on the pothole repair policy so they could provide the information to constituents.

Mayor Buntin asked if a construction start date has been established for street repairs. He also inquired on the status of the East Topeka Junior High School and Sumner Elementary School buildings and stated it appears the buildings are not being kept up. He requested staff revisit the status of the structures and determine if any action should be taken.

Norton N. Bonaparte, Jr., reported the City has begun preparations for street repair work; however, asphalt plants have not yet opened. He stated the City has received a complaint on the Sumner Elementary School building and Code Enforcement would investigate the complaint and he would report their findings back to the Council.

Councilmember Alcalá stated he concurs with Mayor Bunten and encouraged staff to check on the status of the vacant school buildings.

At 7:49 p.m., Councilmember Alcalá moved to recess the Council meeting and convene into a Committee of the Whole meeting for the purpose of discussing the Council's subpoena power in obtaining all documents relating to the scrap metal theft incident. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

At 8:10 p.m., Councilmember Harmon moved to adjourn the Committee of the Whole meeting. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

Mayor Bunten reconvened the Council meeting.

Deputy Mayor Swank reported the following action taken by the Committee of the Whole. "The Topeka City Council convened as a Committee of the Whole, commanding Norton Bonaparte, Jackie Williams, Braxton Copley, Don Rankin, Charles Shinn, Jacque Russell, Michael Langley and Dennis Taylor to produce all files, papers, documents, reports, correspondence, emails and exhibits, all and each of any type of nature whatsoever (hereinafter collectively referred to as "documents") which in any manner relate to or concern the removal of scrap metal from City property. All documents are to be delivered to the Topeka City Council Chambers by 6:00 p.m. on March 15, 2011." Upon completion of the statement by Deputy Mayor Swank, the City Clerk delivered the request to Norton N. Bonaparte, Jr., City Manager for receipt and action of the request made by the Committee of the Whole.

Councilmember Preisner 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 8:17 p.m.

Brenda Younger
City Clerk