

Special Meeting Minutes – April 7, 2011

COUNCIL CHAMBER, Topeka, Kansas, Thursday, April 7, 2011. The Councilmembers of the City of Topeka met in a special meeting at 5:00 P.M.

AFTER THE MEETING was called to order by Mayor Buntten, Councilmember Wolgast gave the invocation.

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

Councilmember Wolgast moved to recess the special meeting into executive session for a time period not to exceed 20 minutes to discuss personnel matters of non-elected personnel to include the Governing Body, City Manager and City Attorney. The motion was seconded by Councilmember Swank. Councilmembers Alcalá and Archer voted “no.” (6-2-0)

Councilmember Harmon raised a point of order and requested the City Clerk call roll.

Roll call was recorded as follows:

Councilmembers present: Councilmembers Hiller, Alcalá, Ortiz, Wolgast, Swank, Archer, Preisner and Harmon -8. Mayor Buntten presided -1. Absent: Councilmember Woelfel -1.

Councilmember Alcalá raised a point of order and asked if the Mayor has the authority to notice the executive session as an actual agenda item to be considered for action by the Council. He stated in his opinion, the Mayor’s position does not have the authority to notice the executive session as an agenda item because an executive session is considered a question of privilege.

Jackie Williams, City Attorney stated City Council Rule 3.2 provides the authority for the mayor or four (4) or more members of the Council to call a special meeting with no special limitations. He also stated the procedural question by Councilmember Alcalá tracks with Roberts Rules of Order when referring to noticing special meetings and believes the Mayor has

the authority to call the meeting; however, it would be the Council's decision to recess into an executive session.

Councilmember Alcalá stated he does not question the Mayor's authority to call a special meeting, he questions if the Mayor has the authority to notice the executive session as an agenda item unless it was communicated to the majority of the Council, and approved by the Council that the executive session would be the agenda item. He believes the manner in which the agenda item was defined and posted violates the rules governing the City Council. He asked for clarification from the parliamentarian.

Mayor Bunten stated it was his understanding that as of the last meeting of the Council he would schedule another meeting to further discuss the personnel matter they have been discussing over the past month. He asked Mr. Williams if it was his recommendation that they followed the correct procedure.

Jackie Williams stated the correct procedure has been followed. He also stated it has been established the Mayor has the authority to call a special meeting, as well as, he has the authority to notice the executive session as an action agenda item because the matter was discussed in executive session which is within the realm of the Council's authority.

Upon hearing no further discussion, Mayor Bunten asked the Council to vote on the motion to recess into executive session.

At 5:16 p.m., the special meeting recessed into executive session for a time period not to exceed 20 minutes to discuss personnel matters of non-elected personnel to include the Governing Body, City Manager and City Attorney.

At 5:36 p.m., the Mayor adjourned the executive session with no action taken and announced the Council would reconvene into open session. He stated he is requesting the City

Clerk read the document they have been discussing in executive session in its entirety so those who are in the audience and watching on television would know what is being voted on. He asked the City Clerk to read the document.

A Separation of Employment Agreement between the City of Topeka and Norton N. Bonaparte, Jr., was presented and read in its entirety. (*Contract No. 41175*)

Councilmember Swank moved to approve the agreement. The motion was seconded by Councilmember Wolgast.

Councilmember Alcalá raised a point of order and stated the item was not listed as an agenda item for action. He read the special meeting notice and stated the agenda was set up for discussion purposes only. He stated in order for the Council to take action on the agreement they need to suspend the Council Rules and add the agreement to the agenda with six (6) affirmative votes by the Council; distribute a cover letter explaining the agreement; and provide an opportunity for public comment to be conducted.

Jackie Williams referenced the special meeting notice and stated staff was very careful with how the language was crafted because executive sessions are suppose to be confidential; therefore, the language was discussed with the Mayor, at least one other Councilmember and Legal Department staff members. He stated he believes the notice properly sets forth the executive session. He reported the Council has adjourned the executive session and what was discussed in the executive session has been noticed as an agenda item, and it is the opinion of the City Attorney's office the Council is following proper procedure.

Councilmember Alcalá stated he disagrees and does not interpret the rules in the same manner. He stated he believes the Council does not have authority to take action on the agreement because the item was defined as a discussion item not an action item. He also stated

the process is not consistent with past practice of adding items to an agenda for Council consideration. He asked the parliamentarian if he was incorrect in recalling the procedure to add items to an agenda.

Jackie Williams stated the item was properly noticed as an agenda item because it is a matter resulting from discussion in an executive session. He stated thought was given to the matter, it is the opinion of the City Attorney's office, and he would defer to the Mayor.

Councilmember Alcalá suggested any person who supports the motion is not only violating the resolution and ordinance, but the Council Rules as well because the only item on the agenda was for discussion, not action.

Upon hearing no further discussion, the Mayor asked members of the Council to vote on the motion to approve the agreement.

The motion to approve the agreement carried. Councilmembers Alcalá, Ortiz and Archer voted "no." (5-3-0)

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 5:50 p.m.

Brenda Younger
City Clerk