

Council Minutes – April 12, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 12, 2011. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M.

AFTER THE MEETING was called to order by Mayor Bunten, Councilmember Swank gave the invocation.

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

A FAREWELL CEREMONY was conducted for outgoing Councilmembers Jack Woelfel, Deborah Swank and Jeff Preisner.

A SWEARING IN CEREMONY was conducted for newly elected Councilmembers John Alcala, Denise Everhart, Chad Manspeaker and Andrew P. Gray.

Roll Call was recorded as follows: Councilmembers present: Councilmembers Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9. Mayor Bunten presided -1.

Councilmember Manspeaker moved to suspend the Council Rules to add a resolution granting a noise exception to Washburn University's WSGA to the Council agenda. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Mayor Bunten announced the resolution would be placed on the consent agenda as item 5F.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Greg Inkmann to the Metropolitan Topeka Airport Authority to fill an unexpired term ending November 30, 2013 was presented.

BOARD APPOINTMENT recommending the appointment of Shaye L. Downing to the Topeka Housing Authority Board of Commissioners to fill an unexpired term ending December 31, 2013 was presented.

MINUTES of the Special meeting of March 28, 2011 were presented.

MINUTES of the regular meeting of March 29, 2011 were presented.

OPEN AFTER MIDNIGHT License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
Lazy Toad	5331 SW 22 nd Place, Suite 2
Skivie's Bar & Grill	921 S. Kansas Avenue

DANCE HALL License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
Skivie's Bar & Grill	921 S. Kansas Avenue
ThrottleBacks	2335 NW Clay

RESOLUTION NO. 8322 introduced by Councilmember Chad Manspeaker, granting Washburn University's WSGA an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

ORDINANCE NO. 19546 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2.15.020 establishing city council meeting times and places pursuant to the provisions of the Charter Ordinance and specifically repealing said original section placed on first reading March 29, 2011 was again presented.

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

Councilmember Alcalá moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

ORDINANCE NO. 19547 introduced by City Manager Norton N. Bonaparte, Jr., concerning fence height limits, amending Section 18.210.040 and specifically repealing said original section placed on first reading March 29, 2011 was again presented. (ACZR11/1)

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

Mayor Bunten expressed concern with Westar Energy removing the trees that were planted to reduce traffic noise for the neighborhood. He stated he opposes constructing six foot high fences along arterial streets throughout the city.

Councilmember Alcalá moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried. Mayor Bunten voted “no.” (9-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9. Noes: Mayor Bunten -1.

A PROJECT BUDGET in the amount of \$426,999 and ORDINANCE NO. 19548 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 Harmon moved to amend the ordinance by adding the following verbiage beginning on line 31. The motion was seconded by Councilmember Wolgast.

- On line 31 insert the statement, “Fleet Management Fund \$4,000.00”
- On line 32 insert the statement, “General Fund Contingency \$214,000.00”
- On line 34 insert the word, “\$209,000.00”
- On line 36 insert the word, “TOTAL”

Councilmember Archer spoke in support of the amendment. He stated it addresses the concerns he raised in regards to identifying items that should be currently expensed and those items that should be capitalized.

Councilmember Hiller stated she would support the amendment; however, she would continue to press for a change in how improvements are funded, as well as, the City moving away from borrowing funds as much as possible, especially when paying for maintenance items. She suggested shifting the funds to pay for Fire Station HVAC upgrades in the amount of \$71,000; and the funds for Fire Station electric upgrades in the amount of \$22,000 for a total amount of \$93,000 to be shifted from the general obligation bond line item to the general fund contingency line item. She noted the total amount of \$307,000 of general fund contingency dollars would be captured from the 30% ratio windfall dollars that could be generated from the unanticipated \$1.1 million additional fund balance.

Councilmember Hiller made a substitute motion to amend the ordinance by inserting the following verbiage beginning on line 31. The motion died due to a lack of a second.

- On line 31 insert the statement, "Fleet Management Fund \$4,000.00"
- On line 32 insert the statement, "General Fund Contingency \$307,000.00"
- On line 34 insert the word, "\$116,000.00"
- On line 36 insert the word, "TOTAL"

The motion to amend the ordinance by adding the following words beginning on line 31 carried unanimously. (9-0-0)

- On line 31 insert the statement, "Fleet Management Fund \$4,000.00"
- On line 32 insert the statement, "General Fund Contingency \$214,000.00"
- On line 34 insert the word, "\$209,000.00"
- On line 36 insert the word, "TOTAL"

Councilmember Harmon moved to approve the project budget and adopt the ordinance as amended. 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, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

Norton N. Bonaparte, Jr., City Manager requested to defer item 6D, a project budget, ordinance and notice of intention for Drainage Improvement Project No. T-151003.01; and item 6E, a project budget, ordinance and notice of intention for Piping Replacement Project No. T-151016.00 until April 26, 2011.

Upon hearing no objections, Mayor Bunten announced items 6D and 6E would be withdrawn from the Council agenda and placed on the April 26, 2011 Council agenda.

ELECTION of a Deputy Mayor to serve a one-year term pursuant to Article 2, Topeka Municipal Code Section A2-26(2).

Councilmember Ortiz nominated Councilmember Alcalá.

Councilmember Wolgast nominated Councilmember Hiller. He stated he believes Councilmember Hiller has gained much experience in the last two years of service on the Council and is very attentive, involved and accessible to the community.

Councilmember Harmon commended Councilmember Alcalá for his past service as Deputy Mayor; however, he believes the duty should be shared by all members of the Council.

Joseph Ledbetter expressed concern with the Deputy Mayor being automatically appointed to the JEDO Board. He stated he believes the JEDO Board has lacked the oversight necessary, and implored the Council to allow the public to speak at JEDO Board meetings and show transparency of funds.

Upon hearing no further nominations, Mayor Bunten asked the Council to cast their votes.

After the tally of votes, the City Clerk announced Councilmember Alcalá received six

votes and Councilmember Hiller received three votes.

Mayor Bunten announced Councilmember Alcalá would serve as the new Deputy Mayor.

ELECTION of two City Council representatives to serve a one-year term on the Joint Economic Development Organization (JEDO) Board.

Councilmember Ortiz nominated Councilmember Manspeaker.

Councilmember Alcalá nominated Councilmember Gray.

Councilmember Wolgast nominated Councilmember Everhart.

Councilmember Harmon nominated Councilmember Hiller.

Upon hearing no further nominations, Mayor Bunten asked the Council to cast their votes.

After the tally of votes from Ballot No. 1, the City Clerk announced Councilmember Everhart received five votes, Councilmember Hiller received four votes, Councilmember Gray received four votes, Councilmember Manspeaker received three votes, Councilmember Archer received one vote and Councilmember Wolgast received one vote.

After the tally of votes from Ballot No. 2, the City Clerk announced Councilmember Hiller received four votes, Councilmember Gray received three votes and Councilmember Manspeaker received two votes.

Councilmember Manspeaker withdrew his nomination.

After the tally of votes from Ballot No. 3, the City Clerk announced Councilmember Hiller received four votes, Councilmember Gray received four votes and Councilmember Manspeaker received one vote.

After the tally of votes from Ballot No. 4, the City Clerk announced Councilmember Gray received five votes and Councilmember Hiller received four votes.

Mayor Bunten announced Councilmember Everhart and Councilmember Gray would serve as the new JEDO Board members.

Joseph Ledbetter suggested the JEDO Board schedule regular meetings; provide timely meeting notifications to the media; and allow the public to speak at the meetings.

ELECTION of the Joint Economic Development Organization (JEDO) Board Chair for the 2011 calendar year.

Councilmember Archer nominated Councilmember Alcala.

Councilmember Alcala withdrew his nomination.

Councilmember Alcala nominated Councilmember Archer.

Councilmember Hiller noted it is customary for the JEDO Board Chair to serve a short time period at the beginning of the first JEDO meeting until a permanent Chair is selected by the Board.

Councilmember Alcala stated the JEDO Board could decide to keep the JEDO Board Chair nominated by the City Council. He noted the Chair does not have to be a voting JEDO Board member.

Jackie Williams, City Attorney concurred with Councilmember Alcala.

Councilmember Ortiz nominated Councilmember Manspeaker.

Upon hearing no further nominations, Mayor Bunten asked the Council to cast their votes.

After the tally of votes, the City Clerk announced Councilmember Archer received seven votes and Councilmember Manspeaker received two votes.

Mayor Bunten announced Councilmember Archer would serve as the new JEDO Board Chair.

ELECTION of City Council representatives to the Metropolitan Topeka Planning Organization (MTPO) Police Board pursuant to City of Topeka Resolution No. 7453.

Councilmember Archer nominated Councilmember Manspeaker.

Councilmember Hiller reported currently there are three Councilmembers serving on the Board, two elected by the Council, and one appointed by the Mayor. She requested clarification from the City Attorney on which positions were open for election.

Jackie Williams, City Attorney stated it was his understanding there is only one board member position to fill, the position previously held by Councilmember Preisner.

Councilmember Alcalá stated it was his understanding members serve on the board for 2-year terms.

Jackie Williams referenced City of Topeka Resolution No. 7453 approved April 2004. He reported with the resolution the Council appointed Councilpersons Lisa Stubbs and Jeff Preisner to serve as the first representatives on the MTPO Policy Board with the appointments running for two (2) years from the date of the first MTPO Policy Board meeting, or until the member's term of office on the City Council ends, or until the member resigns his or her appointment from the MTPO, or whichever comes first. He continued to explain the resolution could be speaking to the actual Councilpersons listed or any Councilperson elected in years to come. He stated the resolution is unclear on the process.

Councilmember Alcalá stated he believes it was the intent of the Council to set term limits on the board positions.

Councilmember Hiller encouraged the Council to review Resolution No. 7453 and clarify the Council's intent.

Councilmember Alcalá nominated Councilmember Everhart.

Councilmember Hiller nominated Councilmember Archer.

After the tally of votes from Ballot No. 1, the City Clerk announced Councilmember Manspeaker received eight votes, Councilmember Everhart received four votes, Councilmember Archer received three votes and Councilmember Wolgast received one vote.

After the tally of votes from Ballot No. 2, the City Clerk announced Councilmember Archer received five votes, Councilmember Everhart received three votes and Councilmember Manspeaker received one vote.

Mayor Bunten announced Councilmember Manspeaker and Councilmember Archer would serve as the new members of the MTPO Board.

RESOLUTION NO. 8323 introduced by City Manager Norton N. Bonaparte, Jr., concerning Zoo Project No. T-301034.00 and authorizing the allocation of \$20,000 from the City's General Fund for an engineering study for the project was presented.

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

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

Joseph Ledbetter reported the 2005 Citizen Review Panel of the Topeka Zoo identified the project as a necessity at that time and he believes the study is a good investment.

Councilmember Archer asked if staff believes the study should be conducted.

Brendan Wiley, Zoo Director stated he agrees with the study being conducted.

The motion to approve the resolution carried. Councilmember Gray voted "no." (8-1-0)

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19549 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 14, 2011, through March 20, 2011, and enumerating said expenditures therein presented for first and final reading.

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

Joseph Ledbetter questioned the following expenditures:

- Page 10, Coyote Canyon, Denny's Restaurant Inc., and Glory Days Pizza Inc.
- Page 11, KBS Contractors Inc., in the amount of \$133,590.60

Jim Langford, Budget and Finance Director reported the payments made to Coyote Canyon, Denny's Restaurant Inc., and Glory Days Pizza Inc., were meals for Water Department employees' working overtime pursuant to their labor agreement; and the payment to KBS Contractors Inc., was for reconstruction of the Garfield Community Center swimming pool.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

ORDINANCE NO. 19550 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 21, 2011, through March 27, 2011, and enumerating said expenditures therein presented for first and final reading.

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

Joseph Ledbetter questioned the expenditure listed on Page 14 for Havens Construction Company, Inc., in the amount of \$273,282.60.

Jim Langford, Budget and Finance Director reported the payment made to Havens Construction Company, Inc., was for a water and sanitary sewer project at Kanza Industrial Park.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

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

Norton N. Bonaparte, Jr., City Manager announced Logan Scroggins, Property Maintenance Inspector as February Employee of the Month; Project Take Over/Make Over would take place on April 16th in various neighborhoods throughout the city; a Human Relations Commission Town Hall meeting would be held on April 26th at the Cyrus K. Holliday building located at 620 SE Madison from 6:00 p.m. to 8:00 p.m.

Councilmember Hiller welcomed the new Councilmembers and stated she is looking forward to serving on the Council with them.

Councilmember Alcalá directed Councilmembers to submit their requests of which Council Committee they would like to serve on to the Council Office by 5:00 p.m. on Monday, April 18th.

Councilmember Ortiz congratulated Councilmember Alcalá for being elected Deputy Mayor and Logan Scroggins for being awarded February Employee of the Month. She welcomed the new Councilmembers and offered her assistance to them. She expressed her thoughts and prayers to Jack Woelfel during his illness.

Councilmember Wolgast commended Councilmember Woelfel for his service on the Council and wished him well. He welcomed the new Councilmembers and stated he looks forward to working with them on the exciting things happening in Topeka.

Councilmember Manspeaker thanked Councilmembers for the warm welcome and stated he looks forward to serving on the Council.

Councilmember Archer welcomed new Councilmembers and stated he looks forward to working together as a team. He congratulated Councilmember Alcalá on being elected Deputy Mayor.

Councilmember Gray thanked Councilmembers for the warm welcome. He also thanked Council District No. 8 constituents for electing him to serve on the Council and stated he is excited to begin work.

Councilmember Harmon congratulated Councilmember Alcalá on his election as Deputy Mayor. He welcomed new Councilmembers and stated he looks forward to working with them and moving the City forward.

Mayor Buntén congratulated the new Councilmembers. He stated if Councilmembers could identify things they need to move forward with then much could be accomplished in the years ahead.

Joseph Ledbetter appeared to speak under public comment.

Councilmember Alcalá moved to adjourn the Council meeting. The motion seconded by Councilmember Manspeaker carried unanimously. (9-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:46 p.m.

Brenda Younger
City Clerk