

Council Minutes – April 26, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 26, 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, Everhart, Wolgast, Manspeaker, Gray and Harmon -8. Mayor William W. Bunten presided -1. Absent: Councilmember Archer -1.

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

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

A PRESENTATION of the Topeka Metropolitan Transit Authority Report was given by Jim Daniels, TMTA Board Chair and Janlyn Nesbitt-Tucker, Executive Director.

Mayor Bunten requested to withdraw item 4D, a board appointment for Quentin Martin to the Topeka-Shawnee County Library Board of Trustees from the consent agenda.

Upon hearing no objections, Mayor Bunten announced item 4D would be withdrawn from the consent agenda.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Ray Delgado to the Civil Service Commission for a term ending April 30, 2015 was presented.

BOARD APPOINTMENT recommending the re-appointment of Elizabeth Ross to the Topeka-Shawnee County Public Library Board of Trustees for a term ending April 30, 2015 was presented.

BOARD APPOINTMENT recommending the re-appointment of Daniel Guenther to the Topeka-Shawnee County Public Library Board of Trustees for a term ending April 30, 2015 was presented.

BOARD APPOINTMENT recommending the appointment of David Monical to the Topeka-Shawnee County Public Library Board of Trustees for a term ending April 30, 2015 was presented.

BOARD APPOINTMENT recommending the re-appointment of Robert Harder to the Topeka-Shawnee County Public Library Board of Trustees for a term ending April 30, 2015 was presented.

DENIAL of Tort Claim Appeal by Amy Howley on behalf of her minor child, Jenna Howley in the amount of \$35,000 was presented.

DENIAL of Tort Claim Appeal by Jim and Shanna Burgardt dba Pizzagels Pizza and Bakery in the amount of \$40,000 was presented.

DENIAL of Tort Claim by former police officer Richard Weaver in the amount of \$180,000 was presented.

DENIAL of Tort Claim by William Foley in the amount of \$15,000 was presented.

DENIAL of Police Custody Medical Services Claim of Stormont-Vail Healthcare in the amount of \$199,871.80, as reduced to the statutory Medicaid rate of \$29,221.97 for treatment provided to Juan Adan Lucio was presented.

DENIAL OF A MEDICAL SERVICES CLAIM by Stormont-Vail Healthcare in the amount of \$75,441.03 was presented.

RESOLUTION NO. 8324 introduced by Councilmember Sylvia Ortiz expressing support for the application submitted to the Kansas Housing Resources Corporation (KHRC) for Low Income Housing Tax Credits by Overland Property Group for the Capitol Bluff Villas construction project was presented.

MINUTES of the regular meeting of April 19, 2011 were presented.

OPEN AFTER MIDNIGHT License application approvals were presented for the

following:

<u>Business Name</u>	<u>Address</u>
Boobie Trap Bar	1417 W 6 th Street
Buffalo Wild Wings	1227 SW Wanamaker Road
Club Hunter	826 N Kansas Avenue
Fairlawn Plaza BP	2101SW Fairlawn Road
Jeremiah Bullfrog's II	4115 SW Huntoon
Kansas Grill	705 S Kansas Avenue
McDonald's	1201 SW Gage
McDonald's	1640 SW Wanamaker Road
McDonald's	2933 SW Wanamaker Road
McDonald's	5525 SW 21 st Street
Reed's Lakeside Sports Bar & Grill	2920 SE Croco Road
Sharkey's Tiki Bar	5217 SW 28 th Court
ThrottleBacks	2335 NW Clay

Councilmember Ortiz moved to approve the consent agenda as amended. The motion seconded by Councilmember Wolgast carried. Councilmember Manspeaker voted "no." (7-1-0)

A PROJECT BUDGET in the amount of \$400,000 and ORDINANCE NO. 19552 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-151003.01 which provides for drainage improvements to SW Woodbury South Court, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds 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 which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code A12-1 and authorizing the

borrowing of funds from the KDHE SRF Loan to pay the cost thereof placed on first reading March 29, 2011 was again presented.

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-151003.01 which provides for the drainage improvement to SW Woodbury South Court and to use utility operating funds and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the KDHE SRF Loan, or any combination thereof, to pay the cost of the project was presented.

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

Braxton Copley, Utilities and Transportation Operations Director reported the water flows through a stone channel surrounding the perimeter of the cul-de-sac and the project would alleviate localized planing.

Councilmember Harmon asked how long the City has been aware of the issue in the neighborhood.

Braxton Copley stated the City has been aware of the issue for several years.

Dean Norton asked the Council to support the project. He reported the neighborhood has endured flooding for years, and the creek has eroded away and damaged driveways. He distributed pictures and stated the flooding has strong currents at times and can become a danger to residents.

Eugene Hefner encouraged the Council to support the project because the flooding has become a safety concern to the residents.

Councilmember Harmon moved to approve the project budget, adopt the ordinance and notice of intention. The motion was seconded by Councilmember Alcalá.

Councilmember Harmon encouraged the Council to support the project because it has become a major safety hazard to the neighborhood.

Councilmember Ortiz asked if the project would solve the drainage problem in the area.

Braxton Copley stated the drainage improvement study suggested three options to resolve the flooding and staff has asked neighborhood residents to provide their input on a resolution. He noted they are hopeful the project design and construction will solve the issues.

The motion to approve the project budget, adopt the ordinance and notice of intention carried unanimously. Mayor Buntten voted “yes.” (9-0-0)

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

A PROJECT BUDGET in the amount of \$300,000 and ORDINANCE NO. 19553 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-151016.00 for piping replacement along SE 29th Street, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operating funds 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 which 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 KDHE SRF Loan to pay the cost thereof placed on first reading March 29, 2011 was again presented.

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-151016.00 which provides piping replacement along SE 29th Street to use utility operation funds and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the KDHE SRF Loan, or any combination thereof, to pay the cost of the project was presented.

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

Braxton Copley, Utilities and Transportation Operations Director reported the existing drainage system consists of large diameter concrete structures and old tanker cars which does not meet the City's design standards and technical specifications.

Councilmember Wolgast stated the flooding in the area causes a major problem on 29th Street and needs to be addressed.

Councilmember Gray asked what the normal lifespan would be for a project of this nature.

Braxton Copley stated expectancy would be at least thirty years with periodic maintenance; however, the current state of the easement was not constructed by the City or by the City's standards.

Councilmember Hiller asked if the project would be funded by utility operating funds.

Braxton Copley reported the projects ultimately would be paid for from water, wastewater and stormwater utility operating funds and most likely financed through revenue bonds.

Councilmember Wolgast moved to approve the project budget, adopt the ordinance and notice of intention. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Buntzen voted “yes.” (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspecker, Gray, Harmon and Mayor Buntzen -9. Absent: Archer -1.

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19554 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 4, 2011, through April 10, 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 3, Lawyer’s Title of Topeka, in the amount of \$100
- Page 14, Corefirst Bank, in the amount of \$1,831.85
- Page 23, Old Chicago, in the amount of \$35

Jim Langford, Budget and Finance Director reported the payment to Lawyer’s Title of Topeka was for property title processing for a sanitary sewer project in Halfday Creek Subdivision; the payment to Corefirst Bank was for printing posters for the police department and paid from the Law Enforcement Fund; and the payment to Old Chicago was for a Parks and Recreation Mixology Drink class.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspecker, Gray and Harmon -8. Absent: Archer -1.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 18.245.070, concerning filing fees for land use and specifically

repealing said original section as well as repealing in its entirety Section 18.245.080 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., City Manager authorizing Improvement Project No. T-291015.00 for the Oakland Wastewater Treatment Plant biofilter replacement approving cost estimates of the proposed improvements and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, 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 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 which 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 KDHE SRF Loan to pay the cost thereof was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-291017.00 for emergency backup power for Shunga Pump Station, approving cost estimates of the proposed improvements and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, 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 which 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 KDHE SRF Loan to pay the cost thereof was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced a Surviving Progress Open House would be held April 27th from 4:00 p.m. to 7:00 p.m. at the Cyrus K. Holliday building located at 620 SE Madison. He informed citizens to contact Mike Morrissey at 368-3842 for more information.

Councilmember Alcalá reported he would be notifying Councilmembers of the date scheduled for a Committee of the Whole meeting to discuss the process of filling the City Manager position on an interim basis; determine if they should use an outside hiring consultant or internal services to fill the position; and the bid process.

Councilmember Ortiz announced Administrative Professional Day is April 27th and expressed her appreciation to Ginny Burghart for her assistance to the Council.

Councilmember Manspecker apologized for not presenting the resolution concerning Jerry's Bike Shop and stated he would meet with the City Attorney as soon as possible to discuss the issue. He commended the City Manager and staff for hosting the Surviving Progress Open House and stated he believes it is important to gather input from downtown merchants to keep the City moving forward.

Joseph Ledbetter appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:11 p.m.

Brenda Younger
City Clerk