

Council Minutes – May 3, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 3, 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, Archer, Gray and Harmon -9. Mayor William W. Bunten presided -1.

AFTER THE MEETING was called to order, Jess Blueven, House of God Church gave the invocation.

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

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.

RESOLUTION NO. 8325 introduced by Councilmember Sylvia Ortiz in support of Christians for Life, Inc., application for tax exemption status from the Court of Tax Appeals of the State of Kansas for the Heart of America Memorial Wall for the Unborn was presented.

RESOLUTION NO. 8326 introduced by Councilmember Sylvia Ortiz, granting Merlina DelaTorre an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

APPROVAL of a Settlement Agreement with Joint and Mutual Release for Case No. 09-C-819 between the City of Topeka and Rural Water District No. 1 of Shawnee County, Kansas,

in the amount of \$250,000 and amending City of Topeka Contract No. 34492 was presented.

(Contract No. 41252)

MINUTES of the regular meeting of April 26, 2011 were presented.

OPEN AFTER MIDNIGHT License application approvals were presented for the following:

<u>Business Name</u>	<u>Address</u>
American Legion Post 400	3029 NW Highway 24
The Back Door	610 SW Wayne
Bosco's Downtown	435 S Kansas Avenue
California BP	2740 SE California
CG's Lounge	501 NW Lyman
The Den	1116 NW Lower Silver Lake Road
Holiday Square BP	2901 SW Topeka Boulevard
Ichabod Laundra Bar	1501 SW 21 st Street
Joletta's	600 NW Paramore
Los Charros	4111 SW Gage Center Drive
Landmark Grill	605 SW Fairlawn Road
Midwest Elks Lodge 1441	1316 SE Madison
Shawnee Golf Club	913 SE 29 th Street
Tequila's Mexican Restaurant & Bar	2911 SW 29 th Street
Topeka Performing Arts Center	214 SE 8 th Avenue
Uncle Bo's	420 SE 6 th Street

APPROVAL of Committee of the Whole Recommendation, "that the Council would use the internal process through Human Resources to search for Interim City Manager candidates and the hiring for that position," was presented.

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

A PROJECT BUDGET in the amount of \$1,100,000 and ORDINANCE NO. 19555 introduced by City Manager Norton N. Bonaparte, Jr., 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 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 April 26, 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-291015.00 which provides for the Oakland Wastewater Treatment Plant biofilter replacement 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, Office of Utilities and Transportation Director stated the project would improve efficiency and provide longer life to the system.

Councilmember Alcala stated the project would also significantly reduce the odor in the Oakland area.

Councilmember Alcala moved to approve the project budget, adopt the ordinance and notice of intention. The motion seconded by Councilmember Hiller carried unanimously.

Mayor Buntten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Buntten -10.

A PROJECT BUDGET in the amount of \$250,000 and ORDINANCE NO. 19556 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 placed on first reading April 26, 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-291017.00 which provides for emergency backup power for Shunga Pump Station, and 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, Office of Utilities and Transportation Director stated the project is being requested for two reasons, (1) if the pump station lost power without a backup power source, the sanitary sewer system would overflow into Shunga Creek and; (2) the U.S. Environmental Protection Agency mandated the pump station have an emergency backup power source.

Councilmember Wolgast moved to approve the project budget, adopt the ordinance and notice of intention. The motion seconded by Councilmember Manspeaker carried unanimously. Mayor Buntten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Buntten -10.

ORDINANCE NO. 19557 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 placed on first reading April 26, 2011 was again presented.

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

Mayor Buntten, Councilmember Everhart and Councilmember Gray asked if the amendment would implement additional fees.

David Thurbon, Planning Department Director stated the amendments are a correction to the Topeka Municipal Code that should have been done years ago; however, the City has always

charged a land use fee so there is no increase in fees. He noted the amendment would allow an easier method to correct fees when necessary by a resolution approved by the Council.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Archer carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -10.

RESOLUTION NO. 8327 introduced by City Manager Norton N. Bonaparte, Jr., establishing filing fees for land use was presented. (ACZR10/3)

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

RESOLUTION NO. 8328 introduced by City Manager Norton N. Bonaparte, Jr., requesting cancellation of unclaimed warrants pursuant to K.S.A. 10-816 with all balances reverting to the fund upon which the warrants were drawn was presented.

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

Councilmember Ortiz asked if the checks issued are null and void after a certain date; and if so, is the City still responsible for the payment if deemed a legitimate payment.

Norton N. Bonaparte, Jr., stated the unclaimed paychecks and vendor payments listed are dated two years ago or more; however, if it is determined at a later date to be a legitimate expense the City would be required to pay.

Councilmember Alcalá asked what process is followed by the City regarding cancelled checks.

Jim Langford, Budget and Finance Director stated checks issued by the City includes a printed statement on the check, “void after six months;” however, State law allows for a two year waiting period from the issue date. He noted the governing body would then declare the checks void and the monies would return to the respective funds.

Mayor Bunten expressed concern with being required to vote on the resolution. He stated the Legal Department has determined he should vote on the majority of Council items and by doing so it virtually eliminates his power of veto. He stated he believes it was not the intent of the people to limit his veto power in accordance with City of Topeka Charter Ordinance No. 94 which is governed by Home Rule Authority.

Councilmember Alcalá asked if the Mayor would keep veto power authority if he abstained from voting on the resolution.

Eric Smith, Assistant City Attorney stated he would research the issue and report back to the Council.

Councilmember Wolgast moved to approve the resolution. The motion seconded by Councilmember Archer carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

A PETITION, A PROJECT BUDGET in the amount of \$25,000 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8329 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. T-401027.00 which provides for connection to the City’s sewer system for property located at 1148 SW Jewell Avenue, as more specifically described herein was presented.

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

Councilmember Manspeaker gave a description of the events leading up to the sanitary sewer connection at 1148 SW Jewell. He stated he spoke with the homeowners and they

confirmed this would remedy the situation. He suggested future homeowners have sewer lines scoped before purchasing a property to know how it is connected to the main sewer lines. He expressed concern with similar sewer connection problems causing homeowners to move away from the central part of the city due to the financial burden they could endure repairing the system.

Councilmember Gray asked if the homeowner is paying for improvements on public property.

Councilmember Hiller stated the homeowner is paying 100% of the project cost and the City is assisting with the financing of the project.

Councilmember Manspeaker clarified the sewer line would be installed on public property because the neighbor would not allow access to their private property.

Councilmember Manspeaker moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Wolgast carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

NO Retail Cereal Malt Beverage License applications were presented.

ORDINANCE NO. 19558 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 11, 2011, through April 17, 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 Everhart 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.

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

Norton N. Bonaparte, Jr., City Manager announced the Joint Economic Development Organization meeting minutes are available for review in the City Clerk's office. He also announced citizens interested in becoming a reserve police officer should attend an informational meeting scheduled May 7th at the Law Enforcement Center at 7:00 p.m.; the Topeka Police Department is hosting a summer camp for children and parents could call 368-9066 for more information; the Housing and Neighborhood Development Department is accepting applications from citizens needing financial assistance with utilities on May 6th starting at 8:30 a.m. at the Cyrus K. Holliday building located at 620 SE Madison. He asked citizens to contact Corrie Wright at 368-3711 for more information.

Councilmember Hiller listed the various opportunities the City offers to citizens to experience emergency situations and how to react in them. She reported the Citizen's Academy has just awarded the participants with a t-shirt and medallion for completing the program and stated it was well received by all. She noted the program would be available periodically throughout the year.

Councilmember Alcalá expressed concern with the inconsistency of the building permit process and stated he has received several calls from constituents concerning property located at 3923 SW 40th Terrace. He stated a structure on the property has been built on a City easement without a building permit. He distributed a draft advertisement of the Interim City Manager position and requested the Council review the profile before the May 4th Committee of the Whole meeting.

Councilmember Ortiz encouraged Councilmembers to participate in the Citizen's Academy training. She noted she has attended the Citizen's Academy in the past and it illustrates what emergency personnel encounter in certain situations. She announced National Train Day is May 7th and reported train ridership is up 14%; Shawnee County is offering free disposal of household hazardous waste to all residents on May 11th. She also thanked Hands on Topeka, which is made up of local United Methodist Churches for cleaning up City parks on April 30th.

Councilmember Everhart announced Dornwood Softball Complex's opening day is May 7th for girls' softball and invited the community to attend the games.

Councilmember Wolgast announced May is National Preservation Month and mentioned outstanding improvement efforts to quality of life in the community; the North Topeka Art District is hosting a grand opening of the Community Art Building on May 6th and 7th. He reported the program is a joint effort made up of Topeka Public Schools, Washburn University and Mulvane Art Museum.

Councilmember Manspeaker stated the Bicycle Project Program in the downtown area is a great effort developed by a group of people who saw a need in the community and is open Saturdays from 9:00 a.m. to 2:00 p.m. weekly. He reported interested citizens can volunteer and learn how to fix a bike to earn a bike.

Councilmember Alcalá commended the community-oriented Bicycle Program. He encouraged the Council to see how they can contribute to the program.

Councilmember Gray also commented on the Bicycle Project Program and stated it is a great program for the community. He announced the Topeka Magic is a new soccer team to the Topeka area and invited the community to attend the games.

Mayor Bunten announced the amateur hockey tournament starts May 7th and invited citizens to attend and cheer on the Topeka RoadRunners. He commented on the park cleanup efforts and encouraged others to do the same and take part in cleaning up the community.

Andrew Ginn appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:26 p.m.

Brenda Younger
City Clerk