

## **Council Minutes – June 14, 2011**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 14, 2011. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9. Mayor William W. Bunten presided -1.

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

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

Councilmember Alcala requested to remove item 4D, a tort claim appeal by Jennifer Dillman from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced item 4D would be removed from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Michelle Smith to the Community Corrections Advisory Board for a term ending June 30, 2013 was presented.

BOARD APPOINTMENT recommending the re-appointment of Lazone Grays to the Community Corrections Advisory Board for a term ending June 30, 2013 was presented.

BOARD APPOINTMENT recommending the re-appointment of Ted Heim to the Community Corrections Advisory Board for a term ending June 30, 2013 was presented.

MINUTES of the regular meeting of June 7, 2011 were presented.

An Open After Midnight License application was presented for La Fiesta located at 1017 NE Seward Avenue.

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

TORT CLAIM APPEAL of Jennifer Dillman in the amount of \$775.72 for damage to the roof of her vehicle caused by ice thrown from a snow blower during a snow removal operation near 4<sup>th</sup> Street and South Kansas Avenue on January 21, 2011 was presented.

Councilmember Alcala spoke in opposition of denying the tort claim appeal. He stated he understands how denials are determined legally, however, in his opinion, the claim is valid and approving it is the right thing to do.

Councilmember Alcala moved to approve denial of the tort claim appeal. The motion seconded by Councilmember Harmon failed. Councilmembers Alcala, Ortiz, Everhart, Manspeaker and Archer voted “no.” (4-5-0)

Councilmember Alcala moved to approve payment in the amount of \$775.72 of the tort claim appeal. The motion seconded by Councilmember Manspeaker carried. Councilmembers Hiller, Wolgast, Gray and Harmon voted “no.” (5-4-0)

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40936-00, authorized by Resolution of Advisability and Authorization No. 7798, adopted and approved May 9, 2006.

ORDINANCE NO. 19578 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Horseshoe Bend Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40936-00, as defined and described in Resolution No. 7798, adopted and approved May 9, 2006 placed on first reading June 7, 2011 was again presented.

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

Councilmember Ortiz moved to close the public hearing and 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, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40945-00, authorized by Resolution of Advisability and Authorization No. 7802, adopted and approved May 16, 2006.

ORDINANCE NO. 19579 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lauren's Bay Villas with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40945-00, as defined and described in Resolution No. 7802, adopted and approved on May 16, 2006 placed on first reading June 7, 2011 was again presented.

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

Councilmember Archer moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Manspeaker 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.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40951-01, authorized by Resolution of Advisability and Authorization No. 8010, adopted and approved October 23, 2007.

ORDINANCE NO. 19580 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lauren's Bay Estates with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40951-01, as defined and described in Resolution No. 8010, adopted and approved October 23, 2007 placed on first reading June 7, 2011 was again presented.

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

Councilmember Archer moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Gray 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.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60610-02, authorized by Resolution of Advisability and Authorization No. 8037, adopted and approved March 4, 2008 rescinding Resolution of Advisability and Authorization No. 7680, adopted and approved September 13, 2005.

ORDINANCE NO. 19581 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Capricorn Woods Subdivision and Capricorn Woods Subdivision No. 3 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60610-02 as defined and described in Resolution No. 8037, adopted and approved March 4, 2008 placed on first reading June 7, 2011 was again presented.

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

Councilmember Everhart moved to close the public hearing and 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, Alcala, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60619-00, authorized by Resolution of Advisability and Authorization No. 7894, adopted and approved November 28, 2006.

ORDINANCE NO. 19582 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Horseshoe Bend Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60619-00 as defined and described in Resolution No. 7894, adopted and approved on November 28, 2006 placed on first reading June 7, 2011 was again presented.

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

Councilmember Wolgast moved to close the public hearing and 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.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60625-00, authorized by Resolution of Advisability and Authorization No. 7801, adopted and approved May 16, 2006.

ORDINANCE NO. 19583 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lauren's Bay Villas Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60625-00 as defined and described in Resolution No. 7801, adopted and approved on May 16, 2006 placed on first reading June 7, 2011 was again presented.

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

Councilmember Archer moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Manspeaker 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.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60635-01, authorized by Resolution of Advisability and Authorization No. 8155, adopted and approved April 28, 2009.

ORDINANCE NO. 19584 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Legend Ridge Estates Subdivision No. 2 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60635-01 as defined and described in Resolution No. 8155, adopted and approved April 28, 2009 placed on first reading June 7, 2011 was again presented.

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

Councilmember Gray moved to close the public hearing and 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.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. T-401011.00 (HTE 40967-00), authorized by Resolution of Advisability and Authorization No. 8134, adopted and approved January 6, 2009.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement to part of Kaw Half-Breed Reserve No. 2 with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. T-401011.00, as defined and described in Resolution No. 8134, adopted and approve January 6, 2009 placed on first reading June 7, 2011 was again presented.

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

Councilmember Alcala moved to close the public hearing and adopt the ordinance. The motion was seconded by Councilmember Gray.

Terry Cohee spoke in opposition of the amount of the special assessment. He stated he bought the property in good faith and discovered two weeks later he would not be allowed to repair the septic system and would have to connect to the City sewer system. He reported he received a bid from a contractor for \$13,000 to connect to the City sewer system and is now being charged \$18,000 to provide the same service. He stated he believes an additional \$6,000 is an outrageous amount to charge for administrative fees.

Councilmember Everhart asked Mr. Cohee if the contractor bid was submitted to the City.

Terry Cohee stated he did not receive a formal written bid only a verbal confirmation by the contractor of how much the project would cost.

Councilmember Alcala questioned the financial breakdown of the project cost. He stated he would like to receive more information before making a decision.

Councilmember Alcala moved to defer the public hearing and ordinance for one week. The motion was seconded by Councilmember Ortiz.

Councilmember Hiller asked if Mr. Cohee has the option to submit a payment in the amount of \$13,000 to the City at this point in the process.

Randy Speaker, Public Works Director reported other costs are associated with the special assessment process in addition to the total project cost. He stated he would provide a financial breakdown to the Council.

The motion to defer the public hearing and ordinance for one week carried unanimously.  
(9-0-0)

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A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. T-401014.00 (HTE 40970-00), authorized by Resolution of Advisability and Authorization No. 8166, adopted and approved June 9, 2009.

ORDINANCE NO. 19585 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Cedar Crest Office Park Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary



Sewer Improvement Project No. T-401014.00, as defined and described in Resolution No. 8166, adopted and approved June 9, 2009 placed on first reading June 7, 2011 was again presented.

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

Councilmember Harmon moved to close the public hearing and 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, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

#### A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. T-601004.00 (HTE 60641-00), authorized by Resolution of Advisability and Authorization No. 8093, adopted and approved August 26, 2008, rescinding Resolution of Advisability and Authorization No. 8062 adopted and approved May 13, 2008.

ORDINANCE NO. 19586 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lauren's Bay Estates with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. T-601004.00 as defined and described in Resolution No. 8093, adopted and approved August 26, 2008 placed on first reading June 7, 2011 was again presented.

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

Councilmember Archer moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Manspeaker 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.

## A NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. T-601016.00 (HTE 60655-00), authorized by Resolution of Advisability and Authorization No. 8167, adopted and approved June 9, 2009.

ORDINANCE NO. 19587 introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Cedar Crest Office Park Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. T-601016.00 as defined and described in Resolution No. 8167, adopted and approved on June 9, 2009 placed on first reading June 7, 2011 was again presented.

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

Councilmember Harmon moved to close the public hearing and 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.

ORDINANCE NO. 19588 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on a portion of the property located on the west side of NW Buchanan Street and north of NW Gordon Street the centerline of the property being approximately 1,700 feet north of the intersection of Buchanan Street and Gordon Street from "R-1" Single Family Dwelling District TO "X-2" Mixed Use District placed on first reading May 17, 2011 was again presented.  
(Z10/7)

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

Councilmember Alcala stated he discussed the zoning change with area residents who oppose the zoning change; however, there are no legal reasons why the zoning change should not be approved. He noted there is no intent to sell the business.

Exparte communications were declared by Councilmember Alcala.

Teresa Miller appeared and asked if she would be allowed to speak to the proposed zoning change.

Mary Feighny, Deputy City Attorney ruled no public testimony would be allowed at the Council meeting because the public hearing was conducted at the Planning Commission meeting.

Councilmember Hiller expressed concern with the public not being allowed to speak to the issue at the Council meeting. She questioned why the item was deferred.

Councilmember Alcala stated he deferred the ordinance to allow him time to follow-up on issues raised by constituents opposing the zoning change. He reported the proper notification process was followed and no legal protests were filed.

Councilmember Gray asked if the Council could make an exception to allow the public to speak to the item.

Mayor Bunten stated the public hearing was conducted under the provisions of state law at the Planning Commission meeting on December 20, 2010; it would be a violation of Council Rules if the public was allowed to speak; and the applicant was not present to receive the same opportunity to speak to the Council.

Councilmember Hiller asked if the ordinance could be remanded back to the Planning Commission for further discussion.

Mary Feighny stated the Council's recommendation would have to specify to the Planning Commission why the Governing Body failed to approve or disapprove the zoning change. She also stated the Planning Commission would be under no obligation to conduct another public hearing.

Councilmember Hiller moved to remand the ordinance back to the Planning Commission based on the fact the Commission did not hear all of the public testimony. The motion died due to a lack of a second.

Councilmember Alcala moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten 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 Bunten -10.

RESOLUTION NO. 8343 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 18.185.050 of the Topeka Municipal Code (TMC), approving a Conditional Use Permit to allow for unenclosed outdoor equipment/product storage on property currently zoned "X-2" Mixed Use District and located at 1105 and 1501 NW Lower Silver Lake Road and property located on the west side of NW Buchanan Street and north of NW Gordon Street the centerline of the property being approximately 1,700 feet north of the intersection of NW Buchanan Street and NW Gordon Street in the City of Topeka, Kansas was presented.

*(CU10/7)*

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

Exparte communications were declared by Councilmembers Alcala and Everhart.

Councilmember Alcala reported the public was allowed to speak at the Planning Commission meeting.

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

ORDINANCE NO. 19589 introduced by City Manager Norton N. Bonaparte, Jr., concerning immobilization and impoundment of vehicles for unpaid parking tickets creating Article 11 of Chapter 10.60 of the Code of the City of Topeka, amending 10.10.160 and repealing said original section placed on first reading June 7, 2011 was again presented.

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

H.R. Cook, Marion Lane Candles spoke in support of the ordinance. He asked if the Council would consider amending the booting timeline. He reported a vehicle could be left on South Kansas Avenue for up to 48 hours, absorbing coveted parking and lost revenue from parking meters.

Councilmember Hiller expressed concern with the vulnerability of the vehicle when booted for 48 hours.

Norton N. Bonaparte, Jr., reported the City preferred to grant additional time for a person to pay the parking tickets instead of adding additional towing and impoundment fees along with parking violation fees.

Councilmember Ortiz listed examples of towing and payment plan options used by other cities of similar population size. She spoke in opposition of the ordinance and stated she believes the boot is not necessary; the number of parking violations should be increased to eight (8) before a vehicle is immobilized; and hand-held devices should be utilized by parking control officers for accuracy. She also expressed concern with the safety of parking control officers in regards to citizen reaction when immobilizing vehicles.

Councilmember Ortiz moved to refer the ordinance to the Public, Health and Safety Committee. The motion was seconded by Councilmember Gray.

Councilmember Gray stated he believes booting is an aggressive approach to parking violations and suggested finding a more pragmatic solution.

Councilmember Manspeaker stated he believes towing vehicles would generate more fees than booting vehicles.

Councilmember Wolgast reported a public hearing was conducted on the issue and he is not sure how much additional information could be obtained. He stated the majority of people in the community support the ordinance and believes the City has a right to collect the unpaid fees.

Councilmember Alcala spoke in support of the ordinance and stated he received a considerable amount of constituent calls expressing support of the ordinance.

Councilmember Everhart stated she also received many constituent calls expressing support of the ordinance. She asked how a person currently making payments on unpaid parking tickets would be affected by the new ordinance.

Mary Feighny, Deputy City Attorney reported the ordinance would not apply to those individuals currently making payments on unpaid parking tickets.

The motion to refer the ordinance to the Public, Health and Safety Committee failed. Councilmembers Alcala, Everhart, Wolgast, Archer and Harmon voted “no.” (4-5-0)

Councilmember Wolgast moved to adopt the ordinance. The motion was seconded by Councilmember Archer.

Councilmember Ortiz made a substitute motion to amend line 22 of the ordinance by increasing the number of unpaid parking tickets issued from three (3) to eight (8). The motion died due to a lack of a second.

The motion to adopt the ordinance carried. Councilmembers Ortiz and Gray voted “no.”  
(7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Everhart, Wolgast, Manspeaker, Archer and Harmon -7. Noes: Ortiz and Gray -2.

RESOLUTION NO. 8344 introduced by Deputy Mayor John Alcala, relating to the repair of the curb at Quincy Elementary School, 1500 NE Quincy was presented.

Councilmember Alcala gave the staff report and displayed pictures of the deteriorating curb. He stated he believes the section of curb has become a safety hazard because it is the bus loading area for school children.

Councilmember Alcala moved to approve the resolution. The motion was seconded by Councilmember Gray.

Councilmember Ortiz asked if the project would be funded with sales tax revenue funds.

Norton N. Bonaparte, Jr., City Manager stated the project is not included in the plan and all sales tax revenue funds have been allocated for other projects at this time. He reported if approved, the project would be placed at the top of the list ahead of other projects prioritized by staff.

Councilmember Everhart asked if sales tax revenue funds have been set aside for similar projects if there is a need in other districts. She also asked if there are projects with a higher priority status than this particular curb project.

Mayor Bunten stated the cost of the project (\$7,000) is not a large sum; however, he believes it would set precedence if the Council approves the resolution. He stated the policy for Public Works repair projects is first come first serve; however, if approved the project would be added to the top of the list for repairs and would change the list of projects within the plan.

Councilmember Alcala stated he believes the project would not set future precedence because it is a safety issue.

Councilmember Gray spoke in support of the resolution and asked if the project would be completed before the next school year begins.

Councilmember Alcala stated he would request the repairs be complete before school starts.

Councilmember Manspeaker questioned the need for a project plan if the Council plans to add and remove projects at will.

Councilmember Hiller questioned if approval of the project would cause other projects prioritized by staff to be reorganized on the list.

Councilmember Alcala stated it was not his intent to override staff project plan recommendations and suggested using funds allocated for other repair projects in District No. 2 to repair the curb.

Councilmember Everhart stated she understands the curb is a safety issue; however, she has tried to resolve the same type of issue in District No. 4 with no success. She questioned if she should propose a similar resolution to resolve the problem.

Braxton Copley, Office of Utilities and Transportation Director reported there is a standard operating procedure for prioritizing curbs and gutters while trying to balance the interests of citizens and the City. He stated he is currently drafting a project list for the \$500,000 of sales tax funds that are earmarked for curb, gutter and alley repairs to be presented to the Council for review.

Councilmember Harmon asked which project would be delayed or removed from the plan if this project is approved.



Braxton Copley stated he could not say exactly which project would be changed or removed and noted there is approximately 131 linear feet of curbs and gutters in need of repair within the City.

Councilmember Manspeaker stated it was his understanding the City delayed street improvements until a plan was in place. He questioned the Council's confidence in the current plan and stated the Council needs to decide whether the project is important enough to pre-empt the plan.

Councilmember Hiller stated the plan was established with the \$500,000 of sales tax revenues needed for the first couple of years to get through the backlog of repair projects then staff would add to the list as projects were completed.

The motion to approve the resolution carried. Councilmembers Hiller and Harmon voted "no." (7-2-0)

ORDINANCE NO. 19590 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of May 23, 2011, through May 29, 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 Gray carried. Councilmember Harmon was out of the room. (8-0-0)

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

A DEMOLITION PERMIT REQUEST submitted by Mr. Charles Bates for a garage located to the rear of his property located at 1257 SW College Avenue was presented.

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

Councilmember Ortiz moved to approve the demolition permit based on the determination there is no feasible alternative to the requested demolition of the structure which has been deemed to be a contributing feature of the property and surrounding historic district as reflected in the College Avenue National Register of Historic Places nomination survey. The motion seconded by Councilmember Gray carried. Mayor Bunten voted “yes.”

Councilmembers Everhart and Manspeaker voted “no.” (8-2-0)

A Retail Cereal Malt Beverage License application for Hy-Vee Gas located at 6011 SW 29<sup>th</sup> Street was presented.

Councilmember Ortiz moved to approve the retail cereal malt beverage license application as presented. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

AN ORDINANCE introduced by Councilmember John Alcala authorizing the sale, consumption, and possession of alcoholic liquor as part of the Fiesta Mexicana at specified locations and times was presented for first reading.

AN ORDINANCE introduced by Councilmember John Alcala authorizing the sale, consumption and possession of alcoholic liquor as part of the Fiesta Mexicana parade and Street Party at specified locations and times was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located on the west side of SW Woodbridge Drive approximately 530 feet north of the intersection of SW 10<sup>th</sup> Avenue and SW Woodbridge Drive from “D&O” Multiple-Family Dwelling and Office District TO “M-2” Multiple-Family Dwelling District was presented for first reading. (Z11/9)

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

Norton N. Bonaparte, Jr., City Manager announced a Brick Street and Sidewalk Forum would be held June 15<sup>th</sup> at the Cyrus K. Holliday building located at 620 SE Madison at 6:00 p.m.; and Council Work Sessions would be televised prior to Council meetings every Tuesday at 5:15 p.m., and rebroadcast weekly every Wednesday at 1:00 p.m., and Saturday and Sunday at 9:00 a.m.

Councilmember Ortiz reported the Samuel Jackson Park Spray Park was not functioning correctly and asked when the issue would be resolved.

Councilmember Archer stated the Easter Seals Capper Foundation is a tremendous asset to the community and encouraged the Council to visit with Pam Walstrom, Vice President of Development to gain a better understanding of their impressive operations.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:45 p.m.

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Brenda Younger  
City Clerk