

Council Minutes – June 28, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 28, 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, Rabbi Debbie Stiel, Temple Beth Sholom gave the invocation.

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

Councilmember Manspeaker moved to suspend the Council Rules to add a resolution granting Leukemia and Lymphoma Society a noise exception to the consent agenda. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Alcalá moved to add a resolution naming depositories and signatories; and a resolution designating the Acting City Manager to the Council agenda. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

Councilmember Ortiz moved to reinstate the Council Rules. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Mayor Bunten announced the resolution granting the noise exception would be placed under the consent agenda as item 4F; the resolution naming depositories and signatories and the resolution designating the Acting City Manager would be placed under New Business on the Council agenda as items 7D and 7E.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8348 introduced by Councilmember John Alcala granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8349 introduced by Councilmember John Alcala granting Fiesta Mexicana 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 Jennifer Sourk to the Washburn University Board of Regents for a term ending June 30, 2015 was presented.

MINUTES of the regular meeting of June 21, 2011 were presented.

A Dance Hall License application for Pulse located at 4117 SW Huntoon, was presented.

RESOLUTION NO. 8350 introduced by Councilmember Chad Manspeaker granting Leukemia and Lymphoma Society (LLS) an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

ORDINANCE NO. 19596 introduced by City Manager Norton N. Bonaparte, Jr., concerning driving under the influence, amending City of Topeka Code Section 10.15.020 and specifically repealing said original section as well as creating Article 4 of Chapter 10.20 consisting of Sections 10.20.230, 10.20.240, 10.20.250 and 10.20.260 placed on first reading June 14, 2011 was again presented.

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

Councilmember Hiller questioned how the new law would change driving under the influence violations.

Craig Spomer, Assistant City Attorney reported the City's driving under the influence fines would increase; and the City would conform to State law ensuring consistent enforcement of the law at City, County and State levels.

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

APPROVAL of a Real Estate Report for disposal of real property located at 2330 NW Furman Road and specifically authorizing the City Manager to execute all documents necessary to dispose of the property was presented.

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

Councilmember Alcalá moved to approve the real estate report. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

APPROVAL of a Real Estate Report for disposal of real property located at 2336 NW Furman Road and specifically authorizing the City Manager to execute all documents necessary to dispose of the property was presented.

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

Councilmember Alcalá moved to approve the real estate report. The motion seconded by Councilmember Gray carried unanimously. (9-0-0)

A RESOLUTION introduced by Councilmember Andrew P. Gray regarding the posting of the Joint Economic Development Organization's (JEDO) public records on the City of Topeka website was presented.

Councilmember Gray gave the staff report and stated the resolution would create accessibility and transparency of JEDO documents to the public. He also stated it would help rebuild the trust between citizens and the Governing Body.

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

Councilmember Alcala referenced an email sent from Vic Miller, Shawnee County Commissioner in support of the resolution and noted Shawnee County would also like to post JEDO documents on their website.

Councilmember Wolgast questioned what documents would be considered public records.

Councilmember Gray stated JEDO minutes, budgets, meeting agendas and handouts would all be considered public records and subject to the Kansas Open Records Act (KORA).

Councilmember Wolgast expressed concern with posting contracts to the website that are not subject to KORA. He stated he believes if other cities are able to review what Topeka is offering it could have a negative effect on GO Topeka's efforts in relocating companies to the area.

Councilmember Gray stated some contracts have non-disclosure statements which would exclude them from being subject to KORA.

Councilmember Manspeaker stated each contract would be different and would have to be reviewed to determine if it would be subject to KORA.

Jackie Williams, City Attorney read Section 31 of K.S.A. 45-221: "Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or

expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.”

Councilmember Harmon commended Councilmember Gray for drafting the resolution; however, he expressed concern with the fact there are not specific public records listed in the resolution. He stated he believes the posting of public records on the website could put the City at a competitive disadvantage.

Councilmember Manspeaker reported a competitive company could at any time submit an open records request and be provided access to JEDO records subject to KORA.

Joseph Ledbetter encouraged the Council to support the resolution. He requested that all JEDO documents from the time of inception be available to the public for review. He expressed concern with JEDO documents being kept haphazardly and inconsistently in two different offices.

Councilmember Everhart asked if one office has all the JEDO documents on file.

Councilmember Manspeaker asked if Mr. Ledbetter has researched other communities in how they are dealing with transparency regarding economic development.

Joseph Ledbetter stated he believes the minutes, budgets and contracts are complete files. He reported the City of Lawrence, Olathe and many other communities are very open with public records and some do not charge for copies or require request forms to be submitted.

Councilmember Gray thanked Mr. Ledbetter for creating better accessibility and simplicity regarding the JEDO documents.

Councilmember Harmon made a substitute motion to defer the resolution until July 12, 2011 to identify what documents should not be made available to the public. The motion was seconded by Councilmember Wolgast.

Councilmember Gray stated he believes deferral is not necessary because he is referring to the accessibility of documents only subject to KORA.

Councilmember Manspeaker stated he would not support the deferral of the resolution because representatives of the Greater Topeka Chamber of Commerce did not appear before the Governing Body to explain their uncertainty or concerns with posting their records.

Councilmember Hiller asked if other communities have had confidentiality issues posting public documents online.

Councilmember Manspeaker reported most of the communities he researched did not have separate entities for the purpose of economic development it was usually handled internally; however, most of the cities posted their public documents online.

The substitute motion to defer the resolution until July 12, 2011 to identify what documents should not be made public carried. Councilmembers Alcala, Manspeaker, Archer and Gray voted “no.” (5-4-0)

ORDINANCE NO. 19597 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 6, 2011, through June 12, 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 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.

Retail Cereal Malt Beverage License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
East Quick Stop	3100 SE 6 th Street
Fast Lane	512 SW Topeka Boulevard
Hy-Vee Gas	6011 SW 29 th Street
Topeka Quick Stop	1020 NW Topeka Boulevard

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

ORDINANCE NO. 19598 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 18.265.010, 18.265.020, 18.265.030 and 18.265.040 concerning wind energy regulations and specifically repealing said original section placed on first reading June 14, 2011 was again presented. (ACZR11-02)

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

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

ORDINANCE NO. 19599 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 Urish Road approximately 425 feet north of SW 21st Street from “O&I-2” Office and Institutional District TO “PUD” Planned Unit Development

District (“C-2” use group) placed on first reading June 14, 2011 was again presented.

(PUD11/2)

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

Exparte communications was declared by Councilmember Gray.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Wolgast 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, Manspecker, Archer, Gray, Harmon and Mayor Bunten -10.

ORDINANCE NO. 19600 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 at 1001 NE Atchison Avenue from “I-1” Light Industrial District TO “PUD” Planned Unit Development District (“M-3” Multiple Family Dwelling District use group) placed on first reading June 14, 2011 was again presented. *(PUD11/4)*

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

Exparte communications were declared by Councilmembers Alcalá and Ortiz.

Councilmember Wolgast stated the project is an excellent infill project for the City and a good example of redevelopment for older buildings.

Councilmember Alcalá stated he concurs with Councilmember Wolgast and believes the development will be an asset to the community.

Councilmember Alcalá 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, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -10.

RESOLUTION NO. 8351 introduced by Deputy Mayor John Alcalá naming banks and savings institutions that are designated as depositories for all City of Topeka accounts and authorizing signatories and rescinding City of Topeka Resolution No. 8059 was presented.

Councilmember Alcalá gave the staff report.

Councilmember Alcalá moved to approve the resolution. The motion seconded by Councilmember Archer carried unanimously. (9-0-0)

RESOLUTION NO. 8352 introduced by Deputy Mayor John Alcalá concerning the designation of an acting City Manager was presented.

Councilmember Alcalá gave the staff report and reported that Daniel R. Stanley has been chosen for the Acting City Manager position. He read Mr. Stanley's employment background and stated he believes Mr. Stanley would be a good steward of the citizens.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Archer.

Councilmember Everhart stated she would support the resolution because the Council needs to move forward in the hiring process for the City Manager position; however, it was her hope to hire internally as it would have been more cost-effective.

The motion to approve the resolution carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning the elimination of zoning districts "RA-1" Rural Agriculture District and "D&O" Multiple-Family Dwelling and Office District, amending City of Topeka Code Sections 18.20.020, 18.50.020, 18.210.020 and 5.40.100 and specifically repealing said original sections and repealing Chapter

18.60 and Chapter 18.120 in their entirety was presented for first reading. (*ACZR11/5 and ACZR11/6*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 14.30.010, 14.30.060 and 14.30.130 concerning National Electrical Code and specifically repealing said original sections was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced there would be no City Council meeting on July 5th due to the holiday.

Councilmember Manspeaker expressed concern with the deferral of the resolution concerning posting of Joint Economic Development Organization documents to the City of Topeka website. He stated the City should be on the frontline addressing issues and he is not optimistic about the situation. He questioned why JEDO and GO Topeka did not attend the meeting to voice their concerns with posting public records to the website and believes it displays a level of disrespect for Councilmembers and the public.

Councilmember Gray expressed concern with the deferral of the resolution concerning the posting of JEDO documents to the City of Topeka website and hopes Councilmembers get the answers they need to make an informed decision in two weeks.

Joseph Ledbetter, John Ham and Bill Gomez appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:22 p.m.

Brenda Younger
City Clerk