

Council Minutes – July 12, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 12, 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 and Gray -8. Mayor William W. Bunten presided -1. Absent: Councilmember Harmon -1.

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

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8353 introduced by Councilmember Sylvia Ortiz, granting Leonard Gonzales an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

APPROVAL of a Workers' Compensation Settlement for Joseph Ralston in the amount of \$28,795.50 for permanent left wrist impairment resulting from line-of-duty injury on February 8, 2010 and subsequent partial fusion surgery on May 25, 2010 was presented.

APPROVAL of a proposed lawsuit settlement in the amount of \$15,000 filed by a United States Postal Service carrier for injuries allegedly sustained by stepping into an uncovered water meter valve box that was covered with leaves was presented.

BOARD APPOINTMENT recommending the appointment of John Davis to the Citizen Advisory Council for a term ending June 30, 2014 was presented.

MINUTES of the regular meeting of June 28, 2011 were presented.

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

Councilmember Alcala moved to suspend the Council Rules to add a resolution regarding employment contract negotiations for the interim city manager position. The motion was seconded by Councilmember Gray.

Councilmember Everhart stated in her opinion Councilmember Archer has already opened contract negotiations.

Councilmember Alcala stated in his opinion Councilmember Archer's communication with Mr. Stanley would be considered fact finding, not negotiations, and would be presented to the Council at the Executive Work Session this evening.

Councilmember Archer reported no promises or agreements have been made between the City and Mr. Daniel R. Stanley. He stated he wanted to know the Council's thoughts on the interim city manager position and apologized if he overstepped the situation. He stated he does not have the authority to negotiate with Mr. Stanley and anything agreed to would have to be presented to the Council for approval.

The motion to suspend the Council Rules to add a resolution regarding employment contract negotiations for the interim city manager position carried. Councilmember Everhart voted "no." (7-1-0)

Councilmember Alcala moved to reinstate the Council Rules. The motion seconded by Councilmember Ortiz carried. Councilmember Everhart voted "no." (7-1-0)

Mayor Buntin announced the resolution would be placed on the Council agenda under New Business as item 6G.

ORDINANCE NO. 19601 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 placed on first reading June 28, 2011 was again presented.

Randy L. Speaker, Deputy City Manager gave the staff report.

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

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

ORDINANCE NO. 19602 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 entireties placed on first reading June 28, 2011 was again presented. (*ACZR11/5 and ACZR11/6*)

Randy L. Speaker, Deputy City Manager gave the staff report.

Councilmember Ortiz asked for an example of where this type of zoning would apply.

David Thurbon, Planning Department Director stated there are no properties in Topeka currently zoned “D&O” Multiple Family Dwelling and Office District and “RA-1” Rural Agricultural District. He reported over the past several years the parcels with this type of zoning designation have disappeared or rezoned to office uses such as those parcels located near SW 21st Street and Indian Hills Road.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

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

RESOLUTION NO. 8354 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. The resolution was deferred from the meeting of June 28, 2011.

Councilmember Gray gave the staff report and recommended approval of the resolution. He reported Shawnee County Commissioners approved a similar resolution last week to post JEDO documents to County's website.

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

Councilmember Wolgast stated he supported deferral of the resolution because he was approached by three business leaders in the community voicing concerns. He reported all questions have been answered and they now have expressed their support the resolution.

Councilmember Manspeaker stated Steve Jenkins, Senior Vice President of Economic Development for the Greater Topeka Chamber of Commerce supported the resolution; however, Doug Kinsinger, President and Chief Executive Officer of GO Topeka and the Greater Topeka Chamber of Commerce expressed concerns with the resolution.

Joseph Ledbetter encouraged the Council to support the resolution. He stated the public has a right to attend JEDO meetings and publicly express their opinion to issues. He stated he believes it is very important to post public documents to the website because it is good public policy.

Christy Caldwell, Vice President Government Relations Greater Topeka Chamber of Commerce reported the Mars Corporation negotiations were high priority during the time the resolution was being considered by the Council and they did not want to hinder negotiations. She thanked the Council for their consideration and deferral of action to allow the Chamber to review the material and consider the ramifications. She stated she supports the resolution.

Councilmember Gray expressed concern with the lack of representation from the Chamber in regards to speaking to the item when it was presented to the Council on June 28, 2011. He stated he believes the relationship between the City Council and Greater Topeka Chamber of Commerce is stressed and the Chamber should appear to answer questions when requested.

Councilmember Hiller thanked the Council for allowing time to review the resolution in detail. She stated other cities have posted these types of documents in the same manner and have not had any issues.

Councilmember Manspeaker stated he believes the behavior displayed by the representatives of the Greater Topeka Chamber of Commerce has been unacceptable.

The motion to approve the resolution carried unanimously. (8-0-0)

APPROVAL of an Agreement between the City of Topeka, the Kansas Department of Transportation (KDOT), the Kansas Turnpike Authority and Shawnee County for the reimbursement of property acquisition costs and the conveyance of surplus property located near SE 21st Street and Rice Road to KDOT and specifically authorizing the City Manager to execute the agreement and quitclaim deeds was presented. (*Contract No. 41432*)

Randy L. Speaker, Deputy City Manager gave the staff report.

Councilmember Ortiz moved to approve the agreement. The motion seconded by Councilmember Everhart carried unanimously. (8-0-0)

APPROVAL of a Real Estate Purchase Agreement between the City of Topeka and Railroad Heritage, Inc., for the purchase of property located at 225 NW Curtis in the amount of \$400,000 for Project No. T-301014.00 Great Overland Station Park, and specifically authorizing the Mayor to execute the agreement was presented.

Randy L. Speaker, Deputy City Manager gave the staff report.

Councilmember Alcala referenced a resolution drafted in 2002 relating to the same project and at that time there were no funds for the project. He stated in his opinion the resolution is confusing and he has questions that he would like to discuss with City staff members, as well as, Great Overland Station staff members before making a decision on the property.

Councilmember Alcala moved to defer the real estate purchase agreement for two weeks. The motion was seconded by Councilmember Ortiz.

Councilmember Gray stated he concurs with Councilmember Alcala. He stated he believes there is not sufficient information to make an informed decision at this time and asked if an appraisal has been completed on the property.

Councilmember Alcala invited Councilmembers to attend the meetings with City and Great Overland Station staff members to receive more information.

Councilmember Hiller stated she would appreciate a document from staff outlining the situation.

Joseph Ledbetter spoke in opposition to the agreement and requested the Council review the appraisal closely. He noted the appraisal for 225 NW Curtis was conducted on May 20, 2006 by David Craig and stated he believes it was appraised at \$400,000.

Councilmember Manspeaker requested the Council receive a copy of the appraisal before the July 19, 2011 Council meeting.

Randy Speaker, Deputy City Manager reported a copy of the appraisal has been placed in the Council office for review; however, he will distribute a copy to the Council.

The motion to defer the real estate purchase agreement for two weeks carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$700,000 and RESOLUTION NO. 8355 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. T-291022.00 which provides for the correction of inflow and infiltration into the City's sanitary collection system was presented.

Randy L. Speaker, Deputy City Manager gave the staff report.

Braxton Copley, Office of Utilities and Transportation Director gave a brief overview of how the new system's functionality would improve after corrected.

Councilmember Ortiz moved to approve the project budget and resolution. The motion seconded by Councilmember Wolgast carried unanimously. (8-0-0)

ORDINANCE NO. 19603 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 13, 2011, through June 19, 2011, and enumerating said expenditures therein presented for first and final reading.

Randy L. Speaker, Deputy City Manager gave the staff report.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Manspeaker carried unanimously. (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.

ORDINANCE NO. 19604 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 20, 2011, through June 26, 2011, and enumerating said expenditures therein presented for first and final reading.

Randy L. Speaker, Deputy City Manager gave the staff report.

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

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

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

<u>Business Name</u>	<u>Address</u>
6 th Street Quick Stop	1107 SW 6 th Avenue
Topeka Fuel Center	1320 SW 6 th Avenue

Councilmember Ortiz moved to approve the retail cereal malt beverage license applications as presented. The motion seconded by Councilmember Archer carried unanimously. Mayor Bunten voted “yes.” (9-0-0)

RESOLUTION NO. 8356 introduced by Deputy Mayor John Alcalá concerning the negotiation of an employment contract with the Interim City Manager was presented.

Councilmember Alcalá gave the staff report.

Councilmember Alcalá moved to approve the resolution. The motion seconded by Councilmember Manspeaker carried. Councilmember Everhart voted “no.” (7-1-0)

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 of Arbor Valley and The Vineyard subdivisions with piping, manholes, engineering and all other contingencies needed to complete Main and Lateral Sanitary Sewer Improvement Project No. 40898-01, as defined and described in Resolution No. 8253, adopted and approved May 11, 2010 was presented for first reading.

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 of MacVicar Avenue from SW 6th Street to Interstate 70 with pavement, curb and gutter and all other contingencies needed to complete

Trafficway Improvement Project No. 70196-02 as defined and described in Resolution No. 8026, adopted and approved January 8, 2008 was presented for first reading.

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, in the area of Rockfire at the Lake and East Lake Shawnee Estates Subdivisions for the improvement of the intersection of SE 45th Street and Croco Road as well as improvements to SE Croco Road from SE 39th Street to SE 44th Street as provided for in Trafficway Improvement Project No. 70203-00 as defined and described in Resolution No. 7785, adopted and approved on April 18, 2006 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project NO. T-601020.01, which provides for street improvements to Kansas Avenue between 7th Street and 9th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841015.00 which provides for curbs, gutters and street repair at locations throughout the City, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 13.10.030 and 13.10.080 concerning the water department and creating the misdemeanor crime of trespass on the Kansas River and specifically repealing said original sections as well as repealing Section 13.10.110 in its entirety 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 Ordinance by Section 18.50.050 of the Topeka Municipal Code (TMC) by providing for certain changes in zoning on property located

at 1733 SW Western Avenue from “M-2” Multiple Family Dwelling District TO PUD (“M-2” Multiple Family use group plus exhibition staging area) and adding it to the Kansas Expo Master Planned Unit Development Plan was presented for first reading. (Z96/21E)

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

Randy Speaker, Deputy City Manager announced Jim Langford, Budget and Finance Director would be retiring from the City and wished him well. He reported over 60 families have attended flood insurance and requirement meetings to learn more about the new flood plain requirements. He stated constituents need to obtain flood insurance no later than September 29, 2011 in order to receive the preferred risk rate. He encouraged citizens to call 368-4470 for more information on flood plain requirements. He also announced the USDA inspected the Topeka Zoo and their only concern was the fence. He noted the City has already taken steps to resolve the fence issues and would begin receiving bids for the repair of the fence in two weeks.

Councilmember Hiller commended all those involved in bringing the Mars Chocolate North American Plant to the Topeka-Shawnee County area. She thanked the citizens of Topeka and Shawnee County for having faith in the system and allowing taxpayer dollars to fund economic development within the community.

Councilmember Alcalá complimented Brendan Wiley, Zoo Director for the improvements he has made at the zoo. He requested scheduling a work session to discuss the Zoo so the Council could be more proactive and assist the Zoo Director with any upcoming issues.

Councilmember Ortiz announced the grand opening of the Dollar General store at SE 6th and Golden; and the Jackson Park Spray Park has been repaired as is now working. She thanked City staff for working hard to repair the spray park. She reported a pothole at 1913 SE Sage and

requested it be repaired as soon as possible. She invited the community to participate in the Fiesta Mexicana celebration July 12th through 16th.

Councilmember Wolgast reminded citizens to attend the flood plain meetings to receive important information necessary to obtain flood insurance required by FEMA and mortgage holders.

Councilmember Manspeaker reported he distributed water to the homeless this past weekend and encouraged Councilmembers to become involved in all aspects of the community and learn about their constituents. He commended Jim Langford, Budget and Finance Director on his retirement. He commented on the JEDO announcement concerning the Mars Chocolate North America Company building a facility in Topeka and stated it is exciting news for the community.

Councilmember Gray thanked Councilmembers for supporting the resolution concerning the posting of JEDO documents on the City's website, allowing the public to view how JEDO funds are being spent.

Joseph Ledbetter appeared to speak under public comment.

Councilmember Alcala 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 7:07 p.m.

Brenda Younger
City Clerk