

Council Minutes – August 2, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 2, 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, Reverend Gordon Glenn, St. John AME gave the invocation.

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

Councilmember Archer moved to suspend the Council Rules to add a resolution and agreement regarding the City-County Parks and Recreation Department consolidation to the Council agenda. The motion was seconded by Councilmember Gray.

Councilmember Archer distributed the consolidation agreement as amended by the County. The amendment excluded the following cemeteries from the City of Topeka Parks List - Exhibit A of the agreement:

- 1.) Item 88., the Curtis Cemetery located at 1200 NW Topeka
- 2.) Item 96., the Mount Auburn Cemetery located at 916 SE California Avenue
- 3.) Item 101., the South Topeka Cemetery located at 1930 SW 27th Street

The motion to suspend the Council Rules to add a resolution and agreement regarding the City-County Parks and Recreation Department consolidation to the Council agenda carried.

Councilmembers Everhart and Harmon voted “no.” (7-2-0)

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

Mayor Bunten announced the resolution and agreement would be placed on the Council agenda under Unfinished Business as item 6C.

Councilmember Alcala requested to pull item 4A, denial of a tort claim appeal for June Christensen from the consent agenda for further discussion.

Upon hearing no objections, Mayor Buntun announced item 4A would be removed from the consent agenda for further discussion.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8359 introduced by Acting City Manager Daniel R. Stanley, granting various neighborhood organizations exceptions to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

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

DENIAL of Tort Claim Appeal for June Christensen in the amount of \$265.03 was presented.

Councilmember Alcala moved to approve the tort claim appeal in the amount of \$265.03. 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 Trafficway Improvement Project No. 70203-00, authorized by Resolution of Advisability and Authorization No. 7785, adopted and approved April 18, 2006.

ORDINANCE NO. 19614 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 placed on first reading July 12, 2011 was again presented.

Daniel R. Stanley, Acting City Manager gave the staff report.

Marian Chaffee spoke in opposition to the special assessment. She stated she did not receive notification of the special assessment on the property and questioned why the area could not be funded in the same manner as the other areas included in the improvement district.

Shawn Bruns, City Engineer and Division Director stated the area of property owned by Ms. Chaffee was not included in the list of projects proposed in the 2004 public vote to receive half-cent sales tax revenue funds.

Councilmember Alcalá stated the JEDO Board approved and prioritized the projects in 2004 to be presented to the public for approval.

Councilmember Everhart asked for an overview of the special assessment process. She inquired how the special assessment is handled if a new property owner is acquired after the improvement district is established.

Shawn Bruns stated the special assessment estimate is based on square footage; the special assessment follows the sale of the property; and it is the responsibility of the realtor to notify the new owner of any special assessments associated with the property. She reported the improvement project was funded with Kansas Department of Transportation funds, City of Topeka funds, Shawnee County funds and property owners located in the improvement district.

Councilmember Hiller asked if this is standard procedure for new developments.

Shawn Bruns stated this is standard procedure which follows state statutes regulating the special assessment process.

Mayor Bunten noted the special assessments are payable over a twenty year period.

Tom Bauman spoke in opposition to the special assessment. He stated he did not receive a notice of the assessment.

Steve Chaffee spoke in opposition to the special assessment. He asked the Council to review the special assessment process because if approved his property taxes would increase by 400%.

Councilmember Archer asked if Mr. Chaffee has sold any of the parcels included in the improvement district, and if so, for how much.

Steve Chaffee stated he has sold a number of parcels since the time the ground was platted and received from \$12,000 to \$24,000 per parcel. He noted they would never be able to develop the property as planned because the tax base is so high.

Mayor Bunten asked if the Chaffee family has any legal recourse.

Mary Feighny, Deputy City Manager stated they could challenge the special assessment through the Shawnee County District Court.

Councilmember Manspeaker asked Councilmember Everhart if constituents have had their questions answered concerning the process.

Councilmember Everhart stated she has spoken to constituents regarding the entire process and believes all questions have been answered.

Councilmember Hiller moved to close the public hearing. The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted "yes." (10-0-0)

Councilmember Archer 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, Manspeaker, Archer, Gray, Harmon and Mayor Bunten -10.

A PROJECT BUDGET in the amount of \$3,000,000 and ORDINANCE NO. 19615 introduced by Acting City Manager Daniel R. Stanley authorizing Street Improvement Project T-701006.00 which will extend SW 17th Street from the existing turnaround west of SW Arvon Place to SW Urish Road, as more specifically described herein placed on first reading July 26, 2011 was again presented.

Daniel R. Stanley, Acting City Manager gave the staff report.

Rodney Ferguson welcomed the new Menards store. He stated the road extension would transform the Valley Glen Subdivision into a commercial area and increase traffic flow into the neighborhood. He suggested turning many of the neighborhood streets into one-way streets or cul-de-sacs so traffic could only exit the neighborhood and improve safety.

Councilmember Gray moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Everhart.

Councilmember Manspeaker stated he initially had concerns with the development because they did not consider the east side of town; however, most of his questions were answered during the Council work session as to why this site was selected. He stated a building of this size would only have one use and cautioned staff as they move forward with the planning phase to consider what would happen if Menards vacates the property.

The motion to approve the project budget and adopt the ordinance 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 PROJECT BUDGET in the amount of \$305,000 and ORDINANCE NO. 19616 introduced by Acting City Manager Daniel R. Stanley authorizing Traffic Signal Improvement Project T-141010.00 which provides for the improvement of the intersection at SW 17th Street and Arvon Place, as more specifically described herein placed on first reading July 26, 2011 was again presented.

Daniel R. Stanley, Acting City Manager gave the staff report.

Councilmember Gray moved to approve the project budget 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.

RESOLUTION NO. 8357 expressing the Governing Body of the City of Topeka and the Board of Shawnee County Commissioners' intention to consolidate the City of Topeka Parks and Recreation Department into the Shawnee County Parks and Recreation Department was presented. (*Contract No. 41460*)

Councilmember Archer gave the staff report and stated the agreement was amended by the Shawnee County Commission to exclude three cemeteries (Curtis Cemetery, Mount Auburn Cemetery and South Topeka Cemetery). He stated the Council discussed the following proposed amendments to the agreement:

- Beginning on Line 122 strike the words, "On or about January 1, 2012."
- Beginning on Line 123 add the following statement, "such payment to be in eight (8) equal installments due February 1 and July 1 of 2012, 2013, 2014 and 2015."
- Beginning on Line 139 strike the words, "On or about January 1, 2012," and "in lump sum."
- On Line 142 add the following statement, "such payment to be in eight (8) equal installments due February 1 and July 1 of 2012, 2013, 2014 and 2015."
- Beginning on Line 146 strike the words, "On or about January 1, 2012," and "in lump sum."
- On Line 151 add the following statement, "such payment to be in eight (8) equal installments due February 1 and July 1 of 2012, 2013, 2014 and 2015."

Councilmember Archer moved to approve the amendments as distributed. The motion was seconded by Councilmember Wolgast.

Jim Parrish spoke in support of the consolidation. He stated in his opinion it would provide an opportunity for a fundamental change in the community and make a positive step towards moving the City forward.

Councilmember Harmon questioned why the Kansas Legislature required a dual majority vote of the City and County regarding approval of consolidation; and why did they include it as part of the consolidation plan.

Jim Parrish stated he does not support the requirement and is not sure why it was included as part of the plan.

Mayor Bunten spoke in support of saving significant amounts of money for the City; however, he has not been shown how much the City would save in the long term if the City and County Parks and Recreation Departments consolidate. He suggested the Council defer the resolution and agreement to a Committee to research in detail the financial implications and effects consolidation would have on City operations.

Councilmember Wolgast spoke in support of the amendments and stated it would address an important aspect of the agreement by paying the financial obligation over a number of years.

Joseph Ledbetter spoke in support of the consolidation and stated approval would progressively move the City forward. He noted dual majority of votes are legal and have stopped many City-County consolidation proposals.

The motion to approve the amendments as distributed carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Archer moved to approve the amendments proposed by the Shawnee County Commission. The motion was seconded by Councilmember Manspeaker. The amendments would exclude the following cemeteries from the City of Topeka Parks List (Exhibit A) of the agreement:

- 4.) Item 88., the Curtis Cemetery located at 1200 NW Topeka
- 5.) Item 96., the Mount Auburn Cemetery located at 916 SE California Avenue
- 6.) Item 101., the South Topeka Cemetery located at 1930 SW 27th Street

Councilmember Hiller expressed concern with the maintenance costs of the cemeteries and encouraged the Council to include them as part of Exhibit A of the agreement.

Terry Bertels, Parks and Recreation Department Director stated the Curtis Cemetery, South Topeka Cemetery and the Mount Auburn Cemetery are currently maintained at a cost of approximately \$10,000 a year.

Councilmember Ortiz clarified Parks and Recreation Department staff does not maintain all of the cemeteries listed in Exhibit A, some of the property maintenance is subcontracted.

Councilmember Everhart spoke in opposition to the amendment and expressed concern with the City having on-going expenses in maintaining the cemeteries.

Councilmember Everhart made a friendly amendment to include a provision requiring the County to maintain the cemeteries without ownership.

Councilmember Archer stated Shawnee County has offered to maintain the cemeteries without ownership responsibilities.

The motion to approve the County's amendments to exclude the three cemeteries from Exhibit A of the agreement carried. Councilmembers Hiller, Everhart, Harmon and Mayor Bunten voted "no." (6-4-0)

Councilmember Archer moved to approve the agreement as amended. The motion was seconded by Councilmember Manspeaker.

Councilmember Harmon stated he has a proposed amendment due to the City's recent commitment to the revitalization of the downtown area.

Councilmember Harmon made a substitute motion to strike the property identified on the City of Topeka Parks List (Exhibit A) Item No. 47 – Kansas Avenue Streetscapes (1.3 acres of flower beds located along the medians of Kansas Avenue) The motion seconded by Councilmember Archer carried unanimously. Mayor Bunten voted “yes.” (10-0-0)

Councilmember Harmon stated the transferring of properties involves substantial staff commitment; title work and recording fees and questioned who would be responsible for the associated costs.

Judy Olander stated 1/3 of the park parcels have acquisition or conveyance restrictions that would make title transfers labor-intensive.

Councilmember Harmon made a substitute motion to amend Section 2, subparagraph a(i), by inserting the statement, “The County is responsible for deed, and/or transfer of document preparation, including, but not limited to, title work and recording fees, as well as, any costs associated with or occasioned by the conveyance or attempted conveyance of any real estate which is the subject of this agreement.” The motion was seconded by Councilmember Everhart.

Councilmember Alcala spoke in opposition to the amendment. He stated he believes the title fees and document preparation could be worked out at a later date.

Councilmember Archer spoke in opposition to the amendment. He stated he believes it would bring an end to consolidation efforts.

Councilmember Alcala stated he supports moving forward with the consolidation and would not support any more amendments to the document.

The substitute motion to amend Section 2, subparagraph a(i) by inserting the statement, “The County is responsible for deed, and/or transfer of document preparation, including, but not

limited to, title work and recording fees, as well as, any costs associated with or occasioned by the conveyance or attempted conveyance of any real estate which is the subject of this agreement.” failed. Councilmembers Hiller, Alcala, Ortiz, Manspeaker, Archer and Gray voted “no.” (4-6-0)

Councilmember Hiller distributed a handout titled “Parks and Recreation Consolidation 20 Year Financial Impact for Citizens – General Fund Taxes Only Assumptions.” She expressed concern with the City’s tax liability; services and programs expectations; and bond indebtedness responsibilities.

Councilmember Hiller made a substitute motion to amend the agreement to create an Attachment B titled, “Inventory of Programs and Services” and Attachment C “List of Future Plans and Commitments.” The amendments were as follows beginning on line 78 of the agreement:

Section 3. “PROGRAMS AND SERVICES

- a. Programs and Services currently operated by the City shall be maintained at current levels or improved and expanded levels for a period of at least one (1) year after the date of transfer.
- b. An inventory of current programs and services is attached as Attachment B.
- c. By agreement, and at the City’s option, the County will convey programs and services back to the City if the County fails to abide materially by the terms of the agreement.

Section 4. PLANNED PARK, FACILITY AND PROGRAM DEVELOPMENT

- a. A list of property acquisition and improvement, park development, capital improvement and program and service development plans is attached as Attachment C to this agreement.
- b. The County understands that there is a citizen expectation that the County will proceed with these improvements as planned.

The motion seconded by Councilmember Harmon failed. Councilmembers Alcala, Ortiz, Manspeaker, Archer and Gray voted “no.” (5-5-0)

Councilmember Manspeaker called the question.

The motion to approve the agreement as amended carried. Councilmembers Hiller, Everhart, Harmon and Mayor Bunten voted “no.” (6-4-0)

Councilmember Archer moved to approve the resolution which adopts the contract as amended. The motion seconded by Councilmember Manspeaker carried. Councilmembers Hiller, Everhart, Harmon and Mayor Bunten voted “no.” (6-4-0)

RESOLUTION NO. 8360 introduced by Acting City Manager Daniel R. Stanley authorizing and adopting for the City of Topeka, Kansas, the 2011-2015 Capital Improvement Program and the 2011-2012 Capital Improvement Budget and rescinding certain portions of Resolution No. 8306 was presented.

Daniel R. Stanley, Acting City Manager gave the staff report.

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

AN AMENDMENT to the Pledge of Revenues Agreement dated June 1, 2006 by and among the City of Topeka, Kansas; Shawnee County, Kansas; the Joint Economic Development Organization (JEDO); and the U.S. Bank National Association, St. Louis, Missouri in connection with the City’s Sales Tax Revenue Bonds, Series 2006 (Topeka Boulevard Bridge) was presented. (*Contract No. 41477*)

Pam Simecka, Acting Budget and Finance Director gave the staff report. She gave a brief description of the bond refunding and refinancing process.

Joseph Ledbetter asked the reason for the amendment and stated he has seen a number of bond issues that have been refinanced well beyond the life of the projects.

Councilmember Alcalá reported extension of bond years has not taken place in the past four to six years.

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

ORDINANCE NO. 19617 introduced by Acting City Manager Daniel R. Stanley, allowing and approving City expenditures for the period of July 11, 2011, through July 17, 2011, an enumerating said expenditures therein was presented for first and final reading.

Daniel R. Stanley, Acting City Manager gave the staff report.

Councilmember Gray moved to 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, Alcalá, Ortiz, Everhart, Wolgast, Manspeaker, Archer, Gray and Harmon -9.

There were no Retail Cereal Malt Beverage License Applications.

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

Daniel R. Stanley, Acting City Manager stated he is reviewing the Council agenda process to make it more efficient. He reported there have been 17 water main breaks within the last two days because of the high heat temperatures and it compounds the City’s ability to complete road work and traffic flow. He also reported that a pilot project of 30 solar powered parking meters would be installed in the vicinity of 8th Street and would utilize credit card operations.

Mayor Bunten inquired how the City would pay for the water main break repairs.

Randy Speaker, Public Works Director stated staff is reviewing the budget; however, because there have been so many breaks in such a short period of time the City may have to consider subcontracting some of the repairs.

Councilmember Hiller commended the Water Department crews for working quickly and effectively on the water main repairs. She thanked staff for providing information to her so that she is able to explain the situation to constituents. She congratulated Hughes Conoco business for being added to the National Historic Register.

Councilmember Alcalá requested the City Manager review Work Session and Council agendas for repetitiveness. He stated he does not see the need for a work session item if it is scheduled to be presented before the Council during a meeting.

Councilmember Ortiz invited the community to attend local National Night Out events. She thanked the City Manager for expediting the clean up of the medians along SE California Avenue. She asked for a review of the parking meter hours because currently in the downtown area the signs state 8:00 a.m. to 6:00 p.m.

Councilmember Everhart reported many potholes along SE 21st Street from SE California Avenue to SE Carnahan.

Councilmember Wolgast commended fellow Councilmembers for their significant steps in moving the community forward and working together.

Councilmember Manspecker encouraged the community to participate in the National Night Out events. He stated he concurs with Councilmember Ortiz and would like the parking meter hours reviewed.

Councilmember Archer stated he concurs with Councilmember Wolgast and commended the Council for approving the City-County Parks and Recreation consolidation. He congratulated Manhattan, Kansas for being voted the “Best Small Places for Business and Careers” by Forbes magazine.

Councilmember Gray encouraged the community to attend the Let’s Help Concert on September 3, 2011.

Joseph Ledbetter appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:29 p.m.

Brenda Younger
City Clerk