

Council Minutes – August 23, 2011

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 23, 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, Chris Stewart, The Bridge provided the invocation.

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

Councilmember Archer moved to suspend the Council Rules to add an amendment to the City-County Parks and Recreation Department consolidation agreement. The motion seconded by Councilmember Manspeaker carried. Councilmembers Everhart and Harmon voted no.

(7-2-0)

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

Mayor Bunten announced the amendment to the consolidation agreement would be placed on the Council agenda under New Business as item 6L.

Councilmember Manspeaker requested to remove item 4B, a board appointment to the Topeka Planning Commission from the consent agenda for further discussion.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Sharon Joseph to the Human Relations Commission for a term ending August 31, 2013 was presented.

RESOLUTION NO. 8367 introduced by Councilmember Karen Hiller, granting KCAC American Red Cross an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8368 introduced by Councilmember Karen Hiller, granting Let's Help an exception 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 August 16, 2011 were presented.

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

BOARD APPOINTMENT recommending Scott Gales to the Topeka Planning Commission for a term ending August 31, 2014 was presented.

Councilmember Manspecker spoke in opposition to the board appointment and expressed concern with Mr. Gales and his involvement in community development. He noted the appointment requires an objective point of view to all aspects of development.

Councilmember Ortiz moved to approve the board appointment. The motion seconded by Councilmember Wolgast carried. Councilmember Manspecker voted "no." (8-1-0)

ORDINANCE NO. 19625 introduced by Interim City Manager, Daniel R. Stanley, creating Chapter 13.35 concerning stormwater management and amending Sections 13.15.010 through 13.15.040 and Sections 13.15.110 through 13.15.150 placed on first reading August 16, 2011 was again presented.

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

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Everhart carried unanimously. (9-0-0)

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

ORDINANCE NO. 19626 introduced by Interim City Manager, Daniel R. Stanley, amending City of Topeka Code Sections 18.35.150, 18.35.200, 18.260.050, and 18.260.060 concerning plats and site plans and specifically repealing said original section placed on first reading August 16, 2011 was again presented. (ACZR11/12)

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

Councilmember Hiller spoke in support of the ordinance. She requested staff review the requirements for individual lots or sites where there is infill redevelopment or substantial changes to existing properties.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Everhart 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.

ORDINANCE NO. 19627 introduced by Interim City Manager Daniel R. Stanley, repealing City of Topeka Code Chapter 17.15 and creating Chapter 17.30 concerning Floodplain Management placed on first reading August 16, 2011 was again presented.

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

Councilmember Manspeaker stated he has discussed floodplain insurance with his constituents and he is concerned they will not be able to afford an insurance plan during these tough economic times.

Councilmember Alcalá reminded the Council an ordinance must be adopted to comply with FEMA regulatory standards by September 29, 2011, as part of the requirement to participate in the flood insurance program or the offer will be suspended.

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

ORDINANCE NO. 19628 introduced by Interim City Manager Daniel R. Stanley, amending City of Topeka Code Sections 18.210.030 and 18.230.030, concerning setbacks and specifically repealing said original sections placed on first reading August 16, 2011 was again presented. (ACZR11/11)

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

Councilmember Ortiz 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.

ORDINANCE NO. 19629 introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for “Ride for Red” event to be held on September 10, 2011 placed on first reading August 16, 2011 was again presented.

Councilmember Hiller gave the staff report.

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

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

ORDINANCE NO. 19630 introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time for “Let’s

Help Music Fest” event to be held on September 3, 2011 placed on first reading August 16, 2011 was again presented.

Councilmember Hiller gave the staff report.

Councilmember Alcalá asked if the City could provide barricades for the event.

Daniel R. Stanley stated he would check and see if barricades would be available.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Alcalá 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. 19631 introduced by Councilmembers Sylvia Ortiz, Richard Harmon and Karen Hiller sitting as the Public, Health and Safety Committee, amending City of Topeka Code Sections 6.20.220 and 6.30.180 concerning permits and taking possession of dogs and cats and specifically repealing said original sections placed on first reading August 16, 2011 was again presented.

Councilmember Hiller gave the staff report.

Councilmember Hiller moved to adopt the ordinance. The motion was seconded by Councilmember Ortiz.

Councilmember Everhart asked what the procedure would be if a dog or cat is lost, not licensed, and the owner lives within city limits.

Councilmember Hiller stated the ordinance does not outline a procedure; however, an animal could not leave the shelter without the owner obtaining a license.

Craig Spomer, Chief Prosecutor stated the intent of the ordinance is to require pet owners to license their animals before they are released to the owner, the procedure would be determined by the Animal Control Division and treated as an administrative matter.

Councilmember Hiller noted Animal Control Officers would be allowed to return lost pets to their owner if they are properly licensed.

Councilmember Alcalá spoke in opposition to the ordinance. He stated he believes a procedure should be implemented for the licensing of animals, as well as, the penalizing of pet owners who do not license their pets.

Councilmember Hiller stated there are many factors to consider when licensing an animal; therefore, the Committee wanted the procedure to be handled administratively. She noted the language in the current ordinance stipulates an animal could not be retrieved unless they are licensed; however, it was not being enforced.

Councilmember Alcalá questioned why the issue was not being enforced when fees to release animals from the shelter were being paid by pet owners.

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

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

ORDINANCE NO. 19623 introduced by Interim City Manager Daniel R. Stanley, authorizing the issuance of \$9,855,000 aggregate principal amount of Full Faith and Credit Star Refunding Bonds Series 2011-A (Heartland Park) of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, and K.S.A. 10-427 et seq., all as amended and supplemented placed on first reading August 16, 2011 was again presented.

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

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

ORDINANCE NO. 19624 introduced by Interim City Manager, Daniel R. Stanley, authorizing the issuance of \$25,765,000 aggregate principal amount of General Obligation Improvement and Refunding Bonds, Series 2011-A of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 10-427 et seq., K.S.A. 12-6a01 et seq., and Charter Ordinance No. 89 of the City, all as amended placed on first reading August 16, 2011 was again presented.

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

Councilmember Gray questioned the eight (8) park projects listed for bond payment.

Daniel R. Stanley stated completion of the park projects would demonstrate good faith intent regarding implementation of the Capital Improvement Plan. He noted most of the park projects would be completed before the consolidation of City-County departments.

Mayor Bunten stated he has discussed the park projects with Terry Bertels, Parks and Recreation Department Director, and Mr. Bertels believes the improvements are important. He noted some of the projects have already been approved.

Councilmember Alcalá stated the completion of the projects would show good faith and fulfill a promise to taxpayers.

Councilmember Wolgast moved to adopt the ordinance. The motion seconded by Councilmember Alcalá 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. 8364 introduced by Interim City Manager Daniel R. Stanley, prescribing the form and details of the Full Faith and Credit Star Refunding Bonds Series 2011-

A (Heartland Park) of the City of Topeka, Kansas, in the aggregate principal amount of \$9,855,000 the issuance of which was authorized by the City pursuant to its ordinance passed and approved August 23, 2011; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

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

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

RESOLUTION NO. 8365 introduced by Interim City Manager, Daniel R. Stanley, prescribing the form and details of General Obligation Improvement and Refunding Bonds, Series 2011-A of the City of Topeka, Kansas, in the aggregate principal amount of \$25,765,000 the issuance of which was authorized by the City pursuant to its ordinance passed and approved August 23, 2011; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

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

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

RESOLUTION NO. 8366 introduced by Interim City Manager Daniel R. Stanley, authorizing and directing the issuance of Temporary Notes Series 2011-A of the City of Topeka, Kansas, in the aggregate principal amount of \$15,230,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2010-A and Series 2010-B Temporary Notes of said City, dated September 29, 2010, and pay a portion of the cost of certain improvement in said City was presented.

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

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

RESOLUTION NO. 8369 introduced by Interim City Manager Daniel R. Stanley, concerning the City of Topeka’s participation in the State of Kansas Municipal Investment Pool and rescinding City of Topeka Resolution No. 8006 was presented.

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

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

RESOLUTION NO. 8370 introduced by Interim City Manager Daniel R. Stanley, 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. 8351 was presented.

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

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

A PETITION, A PROJECT BUDGET in the amount of \$116, 450 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8371 introduced by Interim City Manager Daniel R. Stanley, authorizing Waterline Improvement Project No. T-281036 which provides for water service to Horseshoe Bend Subdivision No. 2 and No. 3 as more specifically described herein was presented.

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

Councilmember Wolgast asked about the specifics of the project.

Steve LaCasse, Bartlett and West Engineers reported there are three projects in Horseshoe Bend Subdivision Nos. 2 and 3; a Waterline Extension Project, a Sanitary Sewer

Project and a Street Improvement Project. He stated the subdivision is a benefit improvement district that includes 50 lots.

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

A PETITION, A PROJECT BUDGET in the amount of \$353,270 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8372 introduced by Interim City Manager Daniel R. Stanley, authorizing Sanitary Sewer Improvement Project No. T-401026.00 which provides for sewer service for Horseshoe Bend Subdivision No. 2 and No. 3 as more specifically described herein was presented.

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

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

A PETITION, A PROJECT BUDGET in the amount of \$869,500 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8373 introduced by Interim City Manager Daniel R. Stanley, authorizing Street Improvement Project No. T-601024.00 which provides for paving streets in Horseshoe Bend Subdivision No. 2 and No. 3 as more specifically described herein was presented.

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

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

A PETITION, A PROJECT BUDGET in the amount of \$21,000 and RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 8374 introduced by Interim City Manager Daniel R. Stanley, authorizing Sanitary Sewer Improvement Project No. T-401029.00 which provides for sewer service for North Park Addition as more specifically described herein was presented.

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

Councilmember Alcalá moved to approve the petition, project budget and resolution.

The motion seconded by Councilmember Gray carried unanimously. Mayor Bunten voted “yes.”
(10-0-0)

NO Retail Cereal Malt Beverage License Applications were presented.

A FINAL PLAT for Deffenbaugh Development Subdivision located at 711 NE US Highway 24 was presented. (*P10/21*)

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

Councilmember Manspeaker asked what the primary use of the facility would be.

David Thurbon, Planning Department Director stated the facility would be a solid waste transfer station. He reported the property has a strict Planned Unit Development zoning designation which includes fencing and clean-up requirements.

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

APPROVAL of a proposed amendment to Paragraphs 6B and 6D of City of Topeka Contract No. 41460 concerning the consolidation agreement for the City of Topeka and Shawnee County Parks and Recreation Departments. (*Contract No. 41525*)

Councilmember Archer gave the staff report and outlined the amendments to the agreement as follows:

- Increase the total number of board members from 7 to 15 (9 members appointed by the City Council and 6 members appointed by the County Commission)
- Changing the selection process from Mayoral appointment to appointment by the Council with each Councilmember nominating one person
- Staggered terms of office
- Council appointments shall be made by September 16, 2011

Councilmember Archer moved to approve the contract amendment. The motion was seconded by Councilmember Manspeaker.

Councilmember Manspeaker stated approval of the amendment would demonstrate the City's support of the consolidation.

Mayor Bunten asked when the advisory board would become effective.

Councilmember Archer stated the Shawnee County Parks and Recreation Advisory Board would become effective September 16, 2011 and would be independent of the City. He reported the amendment would allow representation of all Council Districts; focus on consolidation; and make the County Commission responsive to the Board.

Councilmember Hiller questioned the number of board members and believes it may not be constructive to have such a large number. She expressed concern with not having sufficient time to review the proposal.

Councilmember Archer stated it would provide a broader representation and play a key role in the City-County Parks and Recreation Department consolidation.

Councilmember Gray spoke in support of the agreement and thanked Councilmember Archer for suggesting one person be appointed by each Councilmember, representing the city as a whole.

Councilmember Wolgast asked if a deadline was established in the original consolidation agreement.

Councilmember Archer stated a September 16th deadline was established in the original agreement. He stated he understands a smaller board would be more focused; however, the proposed board structure would represent all areas of the city.

Councilmember Alcalá stated the large number of board members would ensure diversity.

Mayor Bunten noted the Council could appoint a resident inside or outside of their Council District.

Councilmember Hiller stated there is no specific language in the amendment regarding County Commissioners appointing people within city limits.

Councilmember Archer stated the County Commissioners would appoint one person within the City limits.

Mayor Bunten expressed concern with a 15 member board. He stated he believes the current City of Topeka Parks and Recreation Advisory Board would have worked very well.

Councilmember Archer stated in his opinion, the large number of board members would ensure the City-County Parks and Recreation Department consolidation would remain an important part of the city's future.

The motion to approve the contract amendment carried. Councilmembers Hiller, Wolgast, Harmon and Mayor Bunten voted "no." (6-4-0)

RESOLUTION NO. 8375 introduced by Interim City Manager Daniel R. Stanley, in accordance with Section 18.95.030 of the Topeka Municipal Code (TMC) approving a Conditional Use Permit to allow for a vehicle surface parking lot in association with a principal use on property currently zoned "M-1a" Limited Multiple-Family Dwelling District located at 513 and 519 SW Taylor Street in the City of Topeka, Kansas was presented. (CUI0/4)

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

No ex parte communications were declared.

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

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing the issuance of \$19,465,000 aggregate principal amount of Combined Utility Improvement and Refunding Revenue Bonds, Series 2011-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-116a and K.S.A. 10-1201 et seq., and all amendments thereto was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, authorizing the issuance of \$5,425,000 aggregate principal amount of General Obligation Bonds, Series 2011-B (special assessment improvements) of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, and K.S.A. 12-6a-01 et seq., all as amended was presented for first reading.

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520c, as amended, generally located at the southeast corner of SW Gary Ormsby Drive and SW US Highway 75 within unincorporated Shawnee County, Kansas and said land being annexed for all City purposes was presented for first reading. *(A11/1)*

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

Daniel R. Stanley, Interim City Manager announced there would be no City Council meeting August 30, 2011, the 5th Tuesday of the month; and September 6, 2011 pursuant to Resolution No. 8300. He also announced the MTPO would host two meetings to discuss

updating the 2040 Long-Range Transportation Plan on August 25, 2011 at 11:30 a.m. and 4:30 p.m. in the Holliday Conference Room located at 620 SE Madison.

Councilmember Hiller commented on the Mars Corporation groundbreaking ceremony held August 23, 2011 and stated she is proud to welcome the new company to the community. She commended the Interim City Manager and staff for making prompt decisions regarding storm debris clean up. She encouraged the community to visit the Brown v. Board of Education historical site to view a locally-produced art exhibit.

Councilmember Alcalá commended the Interim City Manager and staff for organizing clean up efforts after the severe storm. He reported a constituent is experiencing bug infestation from a neighboring property; however, he is hopeful he has found a solution to the problem. He stated he would follow up with the constituent on August 24, 2011 to see if the issue has been resolved.

Randy Speaker, Deputy City Manager stated the City made contact with the landlord of the property and he has hired an exterminator to eliminate the bug infestation problem. He reported Code Compliance would continue to monitor the situation to make sure it is resolved.

Councilmember Ortiz thanked the Interim City Manager and the Topeka Fire and Police Departments for their assistance with the storm debris clean up. She commended U.S.D. 501 for remembering the firefighters who assisted in the recent fire incident at Topeka High School.

Councilmember Wolgast acknowledged the Mars Corporation groundbreaking ceremony and stated it was uplifting to see the plans and leadership in action. He stated the Sunflower Soccer fund increase would be discussed at the next Transient Guest Tax Committee meeting, as well as, the process of drafting a charter ordinance.

Councilmember Manspeaker thanked the Interim City Manager for initiating a city-wide clean up plan after the severe storm. He read a statement concerning the addition of the Mars

Corporation to the Topeka community and expressed concern with taxpayers essentially paying for the facility in years to come.

Councilmember Archer thanked Councilmembers for their support of the Parks and Recreation consolidation agreement amendment. He encouraged citizens to contact their Council representative if they wish to serve on the Parks and Recreation Advisory Board.

Councilmember Gray thanked the Interim City Manager for mobilizing a clean up effort after the storm. He stated he is pleased to see a proactive approach on a recent scrap metal issue and hopes a resolution would come soon.

Daniel R. Stanley stated he accepts the Council's thanks on behalf of all of the City employees that would continue to help with the clean up efforts in weeks to follow.

Nancy Johnson, Jason Fizell and Pat Mullin appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:44 p.m.

Brenda Younger
City Clerk