Council Minutes – January 12, 2010

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 12, 2010. 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, Woelfel, Wolgast, Swank, Archer, Preisner and Harmon -9. Mayor Bunten presided -1.

AFTER THE MEETING was called to order, Councilmember Harmon asked for a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 5, 2010 were presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Joletta’s located at 600 NW Paramore Street was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

Councilmember Harmon moved to add a resolution relating to the City of Topeka’s 2010 Legislative agenda for the 2010 Legislative Session to the January 19, 2010 Council agenda. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of $1,983,000 and ORDINANCE NO. 19367 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301017.00 (HTE 302960), which provides for a new swimming pool and bath house, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 8, 2009 was again presented. The project budget and ordinance was deferred from the meeting of December 15, 2009.
Norton N. Bonaparte, Jr., City Manager gave the staff report.

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

Councilmember Alcala gave a brief overview of the history of Garfield Swimming Pool. He stated that the new swimming pool would be more environmentally friendly; and operate twenty percent more efficiently than the old swimming pool. He encouraged the Council to support the project.

The motion to approve the project budget and adopt the ordinance carried.

Councilmember Woelfel voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Wolgast, Swank, Archer, Preisner and Harmon -8. Noes: Woelfel -1.

MOTION to override Mayoral veto of City of Topeka Ordinance No. 19354 authorizing $529,600 for Improvement Project No. T-301005.00 (HTE 302840), providing for an extension of the Landon Trail was presented. The project budget and ordinance were vetoed by the Mayor on December 15, 2009. The motion to override the Mayoral veto was deferred from the meeting of January 5, 2010.

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

Councilmember Preisner moved to override the Mayoral veto of City of Topeka Ordinance No. 19354 authorizing Landon Trail Extension Project No. T-301005.00 in the amount of $529,600. The motion was seconded by Councilmember Swank.

Councilmember Alcala asked where the trail improvements would take place; and if horseback riding is allowed on the trail.
Terry Bertels, Parks and Recreation Department Director reported that the project would extend the existing Landon Trail beginning at SE 25th Street east of Kansas Avenue, and progress to the south along the Missouri-Pacific Railroad tracks to SE 32nd Street. He stated that horseback riding is allowed on the Landon Trail.

Councilmember Harmon asked if the issues raised by Mr. Foster at the January 5, 2010 Council meeting have been reviewed by the Legal Department.

Braxton Copley, Deputy City Attorney reported that the Legal Department has reviewed Mr. Foster’s concerns and determined that the City of Topeka has the right to construct the trail; and the trail was properly rail-banked. He also reported that under the Kansas Recreational Trail Act the City has the right and duty to develop and maintain the portion of the trail that is located in city limits; and the pending court cases would not have any effect on the construction of the portion of the trail located in city limits.

John Purvis, Kanza Rails-Trail Conservancy President spoke in support of the project and stated that the trail is greatly utilized in Topeka. He reported that nearly fifty miles of the trail has been completed in seven counties; and each county has a volunteer group that continues to work hard in completing the trail and connecting communities.

Councilmember Woelfel asked how much the Kanza Rails-Trail Conservancy organization is contributing financially to the construction or maintenance of the trail; and if they are receiving any financial assistance from townships and counties.

John Purvis reported that the organization is funded solely through membership dues, grants and charitable contributions. He stated that the organization has contributed funds for the construction of trails south of city limits.
Councilmember Woelfel spoke in opposition to the project. He stated that in his opinion there is no justification for the City to expend funds on the project during these tough economic times.

The motion to override the Mayoral veto of City of Topeka Ordinance No. 19354 authorizing Landon Trail Extension Project No. T-301005.00 in the amount of $529,600 carried. Councilmember Woelfel voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Wolgast, Swank, Archer, Preisner and Harmon -8. Noes: Woelfel -1.

RESOLUTION NO. 8232 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire permanent sanitary sewer and temporary construction easements for construction of the Southwest Interceptor, Project No. T-401009.00 to extend sanitary sewer coverage into an area southwest of Topeka was presented.

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

Mayor Bunten asked how the project would be funded.

Norton N. Bonaparte, Jr., stated that the project would be funded through utility revenue funds.

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

ORDINANCE NO. 19368 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 21, 2009, through December 27, 2009, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.
Councilmember Preisner left the room.

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

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

ORDINANCE NO. 19369 introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located on the northeast corner of SW Lincoln Street and SW 12th Street and a tract located at the southwest corner of SW Munson Avenue and SW Buchanan Street from “R-2 Single Family Dwelling District TO “PUD” Planned Unit Development District (M-2 use group) placed on first reading January 5, 2010 was again presented. (PUD04/8)

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

Mayor Bunten asked if there were any ex parte communications besides Councilmembers Alcala and Ortiz. There were none declared.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcala, Ortiz, Woelfel, Wolgast, Swank, Archer, Harmon and Mayor Bunten -9. Absent: Preisner -1.

Norton N. Bonaparte, Jr., stated that the developer has requested to withdraw item 8A, an ordinance authorizing a zoning change in Grand Oaks Subdivision (Z00/34B) from the Council agenda.
Upon hearing no objections, Mayor Bunten announced that item 8A would be withdrawn from the Council agenda.


AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire permanent sanitary sewer and temporary construction easements for construction of the Southwest Interceptor, Project No. T-401009.00, to extend sanitary sewer coverage into an area southwest of Topeka was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced that the 2010 United States Census would be discussed on January 14, 2010 at the Cyrus K. Holliday building at 1:30 p.m. He expressed the importance of collecting an accurate count and encouraged citizens to participate in the census count for Topeka and Shawnee County. He also announced that the police report regarding the incident involving four off-duty police officers on March 18, 2008 would be
presented by Police Chief Ron Miller on January 15, 2010 at the Cyrus K. Holliday building at 2:00 p.m.

Councilmember Hiller commended event organizers for coordinating the Living the Dream Event and encouraged Councilmembers and the community to attend.

Councilmember Alcala questioned if the owners of the Hot Pockets Bar have been cited violations relating to the clean-air ordinance; and if any of the operating licenses for the establishment have been suspended or revoked due to the violation of the clean-air ordinance. He noted that historically an establishment would have to violate the law prior to losing any type of operating business license.

Braxton Copley, Deputy City Attorney stated that he is not aware of any citations that have been issued to business owners for violating the clean-air ordinance. He reported that the City, as well as, the Chief of Police has the ability to revoke or suspend a license permit if there is a violation under City Code. He stated that he would meet with the Police Department to discuss the issue and report back to Councilmember Alcala.

Councilmember Harmon stated that he appreciates public interest in City government business.

John Nave appeared to speak under public comment.

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:51 p.m.