

Council Minutes – November 18, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 18, 2008. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Buntten presided -1.

AFTER THE MEETING was called to order, Pastor Mark Waterhouse, Topeka Free Methodist Church gave the invocation.

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

INTRODUCTIONS were given in honor of Dr. Kevin Singer, Unified School District No. 501 Superintendent.

Councilmember Alcalá requested to pull item 4D, a final plat for Bailey Subdivision (P08/21) from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Buntten announced that item 4D would be removed from the consent agenda and placed on the Council agenda under Zoning as item 7B.

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Steve Mohan to the Board of Building and Fire Appeals for a term that would expire on November 30, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Daniel Rowe to the Board of Building and Fire Appeals for a term that would expire on November 30, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Miriam Krehbiel to the Juvenile Corrections Advisory Board to fill an unexpired term that would end on June 30, 2010 was presented.

MINUTES of the regular meeting of October 28, 2008 was presented.

2008 Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Name</u>	<u>Address</u>
Ambrosia	2525 SW 29 th Street
The Break Room	911 S Kansas Avenue
Chatterbox	2121 SE 6 th Street
Heart of America Food Service LLC	One Expocentre Drive
Hunam Restaurant	5005 W 29 th Street
Lupita's	732 S Kansas Avenue

2008 Dance Hall License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Name</u>	<u>Address</u>
The Den	1116 NW Lower Silver Lake
Down Under Lounge	3810 S Topeka Boulevard #B
Kansas Expocentre	One Expocentre Drive

2008 Open After Midnight License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Name</u>	<u>Address</u>
Fragrance World	820 N Kansas Avenue
Jax Drinks & Eatery	555 SW 39 th Street

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

A NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, November 18, 2008, at 6:00 P.M. relating to a public alley right-of-way located east of property at 610 SW 10th Avenue in the Original Town of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19180 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of platted alley right-of-way, located east of property at 610 SW 10th Avenue, City of Topeka, Shawnee County, Kansas placed on first reading October 28, 2008 was again presented. (V08A/2)

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

Councilmember Kennedy moved to close the public hearing and adopt the ordinance.

The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

A NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, November 18, 2008, at 6:00 P.M. to consider the establishment of a redevelopment district for the Southwest Topeka Boulevard Area.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., establishing a Redevelopment District for the Southwest Topeka Boulevard District in Topeka, Kansas, pursuant to K.S.A. 12-1770, et seq., as amended placed on first reading October 21, 2008 was again presented. The public hearing was recessed and the ordinance was deferred from the meeting of October 28, 2008.

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

Councilmember Preisner reported that a number of Councilmembers have questions that have not been answered. He requested to defer the issue until it could be discussed in a work session.

Councilmember Swank stated that she concurred with Councilmember Preisner.

Councilmember Blackburn stated that he would prefer to vote on the issue because all of the necessary information has been provided to make a decision.

Councilmember Preisner moved to recess the public hearing and defer the ordinance until January 27, 2009. The motion seconded by Councilmember Swank carried. Councilmembers Kennedy and Blackburn voted "no." (7-2-0)

RESOLUTION NO. 8126 introduced by City Manager Norton N. Bonaparte, Jr., pursuant to City of Topeka Code Section 130-377 concerning sidewalk repairs at locations more specifically described hereinafter was presented.

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

Councilmember Swank questioned the process of sidewalk assessments and encouraged the City to assess all sidewalks city-wide.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Blackburn carried. Councilmember Swank voted “no.” (8-1-0)

A RELEASE AGREEMENT (*Contract No. 38952*) between the City of Topeka and Metropolitan Topeka Airport Authority (MTAA) was presented.

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

Don Rankin, Water Department Superintendent gave a brief history of the settlement.

Councilmember Preisner moved to approve the release agreement. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

Mayor Bunten requested that items 6C, 6D, 6E and 6F, ordinances approving weekly expenditures for the City of Topeka be read sequentially.

Upon hearing no objections, Mayor Bunten announced that the items would be read sequentially.

ORDINANCE NO. 19181 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 6, 2008, through October 12, 2008, and enumerating said expenditures therein was presented for first and final reading.

ORDINANCE NO. 19182 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 13, 2008, through October 19, 2008, and enumerating said expenditures therein was presented for first and final reading.

ORDINANCE NO. 19183 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 20, 2008, through October 26, 2008, and enumerating said expenditures therein was presented for first and final reading.

ORDINANCE NO. 19184 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 27, 2008, through November 2, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Ortiz moved to adopt items 6C, 6D, 6E and 6F, ordinances approving City expenditures for the period of October 6, 2008 through November 2, 2008. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

The ordinances were adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

RESOLUTION NO. 8127 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-23a.03(2)(g) and 48-23a.03(1) respectively of the Code of the City of Topeka, extending a Conditional Use Permit allowing an Automotive Service Station, Type III (primary use) and Motor Vehicle Sales (secondary use) on property located at 1000 NW Topeka Boulevard to include property currently zoned "X-1" Mixed Use District located at 412 NW Gordon Street in the City of Topeka, Kansas was presented. (CU01/8A)

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

Mayor Buntten asked if there were any exparte communications besides Councilmember Alcala. There were none declared.

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

A FINAL PLAT for Bailey Subdivision located at 4124 NE Seward Avenue outside the City's Municipal Service Area and within the three-mile extraterritorial jurisdiction of the City of Topeka, all being within unincorporated Shawnee County, Kansas was presented. (P08/21)

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

Councilmember Alcalá questioned the location of the lot and stated that residents have expressed concern with the proposed use.

Councilmember Alcalá moved to defer the final plat for one week. The motion was seconded by Councilmember Ortiz.

Mike Engler, Bartlett & West Engineers stated that deferral of the final plat would place the applicant in violation of permit requirements.

Councilmember Alcalá withdrew the motion to defer. The second concurred.

Councilmember Alcalá stated that he would not support the final plat because residents have expressed concern with the proposed use.

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Alcalá carried. Councilmember Alcalá voted "no." (8-1-0)

A CHARTER ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Co Section A6-16 and Section A6-17, and repealing said original sections was presented for first reading. The charter ordinance was postponed from the meeting of May 13, 2008.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Sections 106-44, 106-46, 106-47, 106-49, 106-52, and 106-74 concerning police officers and firefighters civil service commission and classification and pay plan was presented for first reading. The ordinance was postponed from the meeting of May 13, 2008.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to Comtel Telcom Assets, L.P., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Blue Cross and Blue Shield by removing 1034 SW Polk Street (Lots 350, 352, and 354 only), adding 600 SW 11th Street an adjacent vacated alley to PUD plan was presented for first reading. (*PUD04/6A*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of River Hill Office Campus, to allow for the demolition of the Boam, Stauffer and Power House Buildings, the addition of a 20,000 square foot building footprint of “O&I-2” Office and Institutional District zoning in proposed area “C” and changing allowed use groups to “MS-1” Medical Service District, “O&I-2” Office and Institutional District, “O&I-3” Office and Institutional District and “OS-1” Open Space District on property located at 5800 SW 6th Avenue in the City of Topeka, Kansas was presented for first reading. (*PUD04/7A*)

AN ORDINANCE 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 at the southwest corner of SE 13th Street and SE Long Street from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (“M-1” use group) was presented for first reading. (*PUD08/3*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned “C-

5th Commercial District and located at 123 SE 6th Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading. (*HL08/03*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision, located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V08E/3*)

AN ORDINANCE 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 at 1034 SW Polk Street (Lots 350, 352, and 354 only), 1027 SW Tyler Street and the adjoining vacated alley from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District ALL TO “O&I-2” Office and Institutional District was presented for first reading. (*Z08/16*)

AN ORDINANCE 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 at 825 SW Western Avenue from “R-2” Single-Family Dwelling District TO “M-1” Two-Family Dwelling District was presented for first reading. (*Z08/17*)

AN ORDINANCE 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 at 1900 SW Westport Drive from “C-2” Commercial District TO “C-4” Commercial District was presented for first reading. (*Z08/18*)

AN ORDINANCE 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 at 2114 SW Seabrook Avenue from “R-1” Single Family Dwelling District TO “O&I-2” Office and Institutional District was presented for first reading. (Z08/19)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Courtyard Square, to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street on property located at 904 SW Lincoln Street in the City of Topeka, Kansas was presented for first reading. (Z76/33A)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events; the schedule of the Shawnee County Commission meetings to be televised on City 4; and the Fair Housing Workshop that would be held at the Cyrus K. Holliday Building on December 3, 2008 at 1:00 p.m. He also announced that the SW 21st Street and Urish Road, as well as, the SE 29th Street and Croco Road intersections were open.

Councilmember Kennedy stated that she received a request to install a speed bump or stop sign at the corner of SW Twilight Drive and Oak Parkway. She also inquired on the status of the sidewalk improvements along SE California Avenue from 29th to 37th Streets.

Mike Teply, Public Works Director reported that the asphalt, driveways and approaches are near completion; and the design for the sidewalk and turnpike bridge walkway is almost complete. He also reported that the City is currently in the process of acquiring the right-of-ways along SE California Avenue.

Mayor Bunten requested to meet with each Councilmember to discuss his proposed amendments to City of Topeka Charter Ordinance No. 94.

Councilmember Haynes asked when he would receive a legal opinion on the duties of the Civil Service Commission as outlined in City of Topeka Charter Ordinance No. 94.

Braxton Copley, Deputy City Attorney stated that an opinion would be provided as soon as possible.

Councilmember Haynes suggested that the Legal Department log the amount of time spent on each case to insure the work load is being distributed fairly throughout the department.

Jackie Williams, City Attorney stated that the Legal Department would consider the request.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:43 p.m.

Brenda Younger
City Clerk