

City Council Minutes – April 11, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 11, 2006. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Buntten 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 April 4, 2006 were presented.

2006 Open After Mid-Night License renewal applications bearing the approval of the Chief of Police were presented for the following:

<u>Business</u>	<u>Address</u>
Charlie Brown's	840 N. Kansas Avenue
Fergie's Clubhouse Bar	1414 S.W. Lane
Stingers	2335 N.W. Clay
Terry's Bar & Grill	522 S.W. 6 th
Hollywood Video #016-824	400 S.W. 2 nd Street
The Carwash	720 Gage Boulevard
The Carwash	1814 S.W. 10 th
Scotties	901 Fairlawn
Skinny's Bar & Grill	4016 S.W. Huntoon
Goose Too	5630 S.W. 29 th Street
The 20's	2910 S.W. Oakley

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City inspectors for Potwin Express, located at 1320 S.W. 6th Street, was presented.

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

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, April 11, 2006, at 6:00 P.M. on the advisability of Sanitary Sewer Improvement Project No. 40936-00.

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$280,000 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. 40936-00 was presented.

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

Councilmember Nave moved to approve the petition, project budget and resolution. The motion was seconded by Councilmember Ortiz.

Henry McClure, representing a family that owns property in the area spoke in opposition to the assessment costs. He explained that their need for sewer was met ten years ago, and he believes they should not have to participant in the project.

Councilmember Preisner asked how much the property owners were being assessed.

Neil Dobler, Public Works Director stated that the property Mr. McClure is referring to is not part of the sewer district, however, they will be part of the street improvement district.

Terry Hummer, property owner expressed concern with the placement of a manhole on his property. He also asked why he was included in both sewer districts.

Bill Van Doren, Bartlett & West Engineers stated that both the districts were necessary to make the project work. He explained that the first district would consist of building the pump station, and the second district would consist of the installation of service pipes.

Councilmember Blackburn asked if a one-week delay would have an affect on the project.

Bill Van Doren stated that he believes it would not affect the project at this time.

Councilmember Blackburn moved to refer the public hearing, petition, project budget and resolution to the Economic and Community Development Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

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, April 11, 2006, at 6:00 P.M. on the advisability of Sanitary Sewer Improvement Project No. 40936-01.

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$280,000 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. 40936-01 was presented.

Councilmember Blackburn moved to refer the public hearing, petition, project budget and resolution to the Economic and Community Development Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

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, April 11, 2006, at 6:00 P.M. on the advisability of Street Improvement Project No. 60619.

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$1,073,300 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 60619-00 was presented.

Councilmember Blackburn moved to refer the public hearing, petition, project budget and resolution to the Economic and Community Development Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$817,896 and ORDINANCE NO. 18608 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project

budget for Project No. 30127, Phase 7, which provides for design and construction of an extension of the existing Shunga bicycle and jogging trail from the intersection of Topeka Boulevard and Shunga Creek proceeding north and east following Shunga Creek for a distance of approximately 2700 feet as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and specifically repealing City of Topeka Ordinance Nos. 17686 and 17526 placed on first reading April 4, 2006 was again presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Alcalá carried. Councilmember Kennedy voted "no". Councilmember Blackburn abstained. (7-1-1)

The ordinance was adopted on roll call vote as follows: Ayes: Alcalá, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -7. Noes: Kennedy -1. Abstained: Blackburn -1.

A PROJECT BUDGET in the amount of \$809,696 and ORDINANCE NO. 18609 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Project No. 30127, Phase 9, which provides for design and construction of an extension of the Shunga bicycle and jogging trail from the intersection of abandoned Missouri-Pacific Railroad Right of Way and Shunga Creek and proceeding north and east following Shunga Creek for a distance of approximately 5000 feet as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and specifically repealing City of Topeka Ordinance No. 17842 placed on first reading April 4, 2006 was again presented.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Kennedy voted "no". Councilmember Blackburn abstained. (7-1-1)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -7. Noes: Kennedy -1. Abstained: Blackburn -1.

A PROJECT BUDGET in the amount of \$51,091,810 and ORDINANCE NO. 18610 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the City Council of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 12-195, *et. seq.*, and all amendments thereto, and repealing City of Topeka Ordinance No. 18577 placed on first reading April 4, 2006 was again presented.

NOTICE OF INTENTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the City Council of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 12-195, *et. seq.*, and all amendments thereto was presented.

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

Councilmember Alcala moved to approve the project budget, adopt the ordinance and approve the notice of intention. The motion was seconded by Councilmember Preisner.

Councilmember Duffy stated that he recalled that the Kansas Avenue Fly-off was to be funded by the one-half cent sales tax. He noted that because the supporters of the project could

not wait for the generation of sales tax revenue to pay for the cost of the fly-off because it was needed in 2004 for the grand opening of the Grant Overland Station, the Council authorized payment from the general fund. He stated that the project should include all the costs that were originally intended to be included.

Neil Dobler, Public Works Director stated that there has been two project budgets for the Kansas Fly-off project. He explained that the original repair cost to the Topeka Boulevard Bridge is the only item not covered under this project budget. He clarified that the fly-off is considered part of the Topeka Boulevard Bridge and they intend to pay the remainder of the project from the one-half cent sales tax revenue.

Councilmember Duffy asked how much of the five separate projects he mentioned is not being financed by the original quarter cent sales tax.

Neil Dobler clarified how the five projects would be financed now, compared to what was approved in the original project budget.

Councilmember Kennedy asked when the bid letting would be, and if it was normal procedure to approve the project budget prior to the bid procedure.

Neil Dobler stated that KDOT would bid the project next week. He also stated that the procedure that was followed was normal for KDOT projects because an authorization to expend funds must be approved before a bid can be submitted.

Councilmember Alcalá explained the history of the funding of the Kansas Avenue Fly-off.

Councilmember Duffy asked who would decide how to spend the sales tax revenue if the project is paid from another source.

Neil Dobler stated that he believes it would revert back to the decision of the voters.

Councilmember Blackburn asked what assurances they have that the structural analysis of the project is accurate and a large change order would not be submitted at a later date.

Neil Dobler stated that it is always a possibility with a project of this magnitude. He explained that if there were a significant increase in the cost of the project, the additional cost would be covered by funds allocated for other street projects.

Councilmember Duffy read from the City Council Minutes of November 4, 2003 which listed the six components of the bridge project that were to be included in the question on the ballot.

Councilmember Alcalá noted that the City and County met after the November 4, 2003 City Council meeting and finalized what components would be included on the ballot question.

The motion to approve the project budget, adopt the ordinance and approve the notice of intention carried. Councilmembers Kennedy, Duffy and Blackburn voted "no". (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcalá, Ortiz, Nave, Haynes, Preisner and Harmon -6. Noes: Kennedy, Duffy and Blackburn -3.

A PROJECT BUDGET in the amount of \$142,467 and RESOLUTION NO. 7782 introduced by City Manager Norton N. Bonaparte, Jr., describing and authorizing Improvement Project No. 40857-02, which provides for the construction of a sanitary sewer line along SE 10th Street from SE Deer Creek Road to SE Rice Road as more specifically described herein was presented.

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

Councilmember Ortiz moved to approve the project budget and the resolution. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$136,500 and RESOLUTON NO. 7783 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Improvement Project No. 28569-00 which provides for the design and right-of-way acquisition to install a new 12” water main on Huntoon Street from Urish Road to Executive Drive and on Urish Road from 17th Street to Red Oaks Place as more specifically described herein and specifically rescinding Resolution No. 7585 was presented.

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

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

A RESOLUTION introduced by Councilmembers Clark Duffy, Jeff Preisner and John Nave amending the City of Topeka Personnel Code relating to ethical standards was presented.

Councilmember Preisner stated that they would like to place the resolution in committee. He explained that this would allow the resolution to coincide with the resolution establishing a code of ethics policy, that is currently in the Economic and Community Development Committee.

Councilmember Preisner moved to refer the resolution to the Economic and Community Development Committee. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

A COMMUNICATION asking the Council to endorse an application by the Topeka Civic Theatre & Academy to the State Department of Commerce for community service tax credits was presented.

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

Carol Reese, Civic Theatre & Academy explained the project and asked the Council to approve the communication.

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

ORDINANCE NO. 18611 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 20, 2006, through March 26, 2006, and enumerating said expenditures herein was presented for first and final reading.

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

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18612 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 6446 SW Huntoon Street, the centerline of the tract being approximately 1,775 feet east of SW Urish Road and being adjacent to SW Huntoon Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-3" Single Family Dwelling District placed on first reading April 4, 2006 was again presented. (Z06/5)

A FINAL PLAT for Jules Ridge Subdivision located at 6446 SW Huntoon Street within the corporate limits of the City of Topeka, was presented. (P05/36)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Blackburn moved to approve the zoning petition, adopt the ordinance and approve the final plat. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18613 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 6446 SW Huntoon Street, the center line of the tract being approximately 2,450 feet east of SW Urish Road and 415 feet north of SW Huntoon Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "M-1a" Limited Multiple Family Dwelling District placed on first reading April 4, 2006 was again presented. (Z06/6)

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

Mayor Buntén asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18614 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 6446 SW Huntoon Street, the center line of the tract being approximately 2,445 feet east of SW Urish Road and being adjacent to SE Huntoon Street in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “O&I-1” Office and Institutional District placed on first reading April 4, 2006 was again presented. (Z06/7)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18615 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 1139 SW Gage Boulevard in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “O&I-2” Office and Institutional District placed on first reading April 4, 2006 was again presented. (Z06/8)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A FINAL PLAT for Harvest Moon Subdivision No. 2 located at 3618 N. Kansas Avenue between NW 35th and NW 39th Streets, was presented. (P06/10)

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

Councilmember Alcalá moved to approve the final plat. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project, KPWSLF Project No. 2417; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project, KPWSLF Project No. 2418; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for

the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project, KPWSLF Project No. 2419; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project, KPWSLF Project No. 2420; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70142-02, Part B, which provides for improvements on S.E. California Avenue between S.E. 21st Street and S.E. 29th 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., amending City of Topeka Code Division 2, Amendments, to include a new Section 26-430.3, Section 603.4.6 Protection from lawn sprinklers and irrigation systems and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 60627-00, which provides for neighborhood infrastructure

improvements in seven targeted areas, 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., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at the northwest corner of SW Urish Road and SW 10th Avenue within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 29103-01 which provides for improvements to the sanitary sewer service to Deer Creek South basin, and specifically repealing section of City of Topeka Ordinance No. 18441 in conflict with this Ordinance was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 29103-01 for a sanitary sewer extension for property located along East Edge Road, and on SE 45th Street from West Edge Road to Croco Road and North along Croco Road approximately one half mile and north along West Edge Road and extending north to the Kansas Turnpike was presented for first reading.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE CITY COUNCIL, were presented.

Norton N. Bonaparte, Jr., City Manager provided information in response to requests made by several Councilmembers last week. He stated that the City no longer receives funding for sewers not connected to the city sewers. He also stated that the Cypress Ridge Golf Course

RFP would be placed on the agenda in two weeks. He stated that the Water Department is in the process of contacting other utility companies to see if they are interested in participating in a combined utility payment center.

Mayor Bunten announced that the second “Make Over Take Over” area clean up would take place on Saturday, April 15, 2006 beginning at 8:00 a.m. at the Scott Magnet School.

Councilmember Ortiz encouraged the Councilmembers and community to participate in the clean up and invited everyone to stay for lunch at 1:00 p.m.

Councilmember Blackburn announced that the Economic & Community Development Committee meeting would be held on April 19, 2006, at 12:00 noon in the City Council Office. He also asked David Thurbon, Planning Director for clarification on the landscape ordinance.

Councilmember Harmon announced that the Policy and Finance Committee meeting would be held on April 17, 2006 at 5:00 p.m. in the City Council office.

Councilmember Preisner stated that he received an anonymous letter from someone in the Transportation Operations Division. He noted that the letter was conveyed to the City Manager for follow up.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:25 p.m.

Iris Walker
City Clerk