

City Council Minutes – May 9, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 9, 2006. 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, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Bunten presided. -1.

AFTER THE MEETING was called to order, Councilmember Kennedy gave the invocation.

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

Councilmember Alcalá asked to pull item 3A, a communication relating to the re-appointment of Lorean Williams to the Human Relations Commission from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7797 introduced by Councilmembers John Nave, Sylvia Ortiz, Jeff Preisner and Clark Duffy relating to housing tax credits for family rental housing by Pioneer Group, Inc., was presented.

A COMMUNICATION recommending the appointment of Kenneth Clark to the Topeka Metropolitan Transit Authority Board for a term that would expire on April 30, 2010 was presented.

A COMMUNICATION recommending the appointment of Cheryl Hishmeh to the Parks and Recreation Advisory Board for a term that would expire on July 31, 2010 was presented.

MINUTES of the Regular Meeting of May 2, 2006 were presented.

An Open After Mid-Night License application bearing the approval of the Chief of Police for Topeka Country Club, located at 2700 SW Buchanan, was presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for The Break Room, located at 911 S. Kansas Avenue, was presented.

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

A COMMUNICATION recommending the re-appointment of Ms. Lorean Williams to the Human Relations Commission for a term that would expire on April 30, 2008 was presented.

Councilmember Alcala expressed concern about the attendance of commission members being considered for re-appointments. He stated that he would like attendance records checked, and also if there are other people interested in serving on the commission.

Councilmember Alcala moved to defer the communication for one week. The motion was seconded by Councilmember Kennedy.

Mayor Buntten stated that it is not easy to find people to serve on community boards and commissions. He also stated that he believes Ms. Williams has been a good board member.

Councilmember Alcala stated that his inquiries are general and are not personally directed towards Ms. Williams.

The motion to defer the communication for one week 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, May 9, 2006, at 6:00 P.M. on the advisability of Street Improvement Project No. 60619-00.

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.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He stated that the applicant has requested to postpone items 4A, 4B and 4C on the agenda.

Bill VanDoren, Bartlett & West Engineers explained that the assessment districts associated with item 4A, relating to Street Improvement Project No. 60619, and item 4C relating to Sewer Improvement Project No. 40936-01 need to be reconfigured to make the districts larger and more affordable. He stated that the assessment district associated with item 4B, Sewer Improvement Project No. 40936 is okay and could be voted on this evening. He asked for a two-month extension on the projects to allow for more time to reconfigure the districts.

Councilmember Blackburn moved to table the public hearing, public improvement petition, project budget and resolution for sixty days. 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, May 9, 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 RESOLUTION NO. 7798 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 Blackburn moved to close the public hearing and adopt the committee report to approve. 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, May 9, 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 Preisner moved to table the public hearing, public improvement petition, project budget and resolution for sixty days. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$4,945,554 and ORDINANCE NO. 18633 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 29096-02 which provides for improvements to the Ash Street pump station, and specifically repealing those sections of City of Topeka Ordinance No. 18109 in conflict with this Ordinance placed on first reading May 2, 2006 was again presented.

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

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

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

ORDINANCE NO. 18634 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 on the northeast corner of SE California Avenue and SE 45th Street within

unincorporated Shawnee County, Kansas and adjacent to the City of Topeka Corporate limits, and said land being annexed for all City purposes and specifically repealing City of Topeka Ordinance No. 18606 placed on first reading May 2, 2006 was again presented. (A06/5)

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

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

Councilmember Duffy complimented the Planning staff for expediting the Council's request to annex the area in a timely manner.

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

A RESOLUTION introduced by Councilmember Brett Blackburn directing the City Manager to present a "basic services" budget to the City Council for fiscal year 2007 and expressing the intent of the City Council to reduce bonded indebtedness was presented.

Councilmember Blackburn distributed an amendment to the resolution. He clarified that the resolution would not restrict funding for the Arts and Social Service Programs. He stated that the Council would decide how much money is allocated to Arts and Social Services programs, and to which groups. He also stated that the resolution sets policy for the Council, insuring that all social groups are considered for funding.

Councilmember Haynes asked if the resolution is necessary because he believes the Charter Ordinance provides direction to the City Manager regarding the budget. He expressed concern with the policy allowing Councilmembers to submit additional budget proposals in the final stages of budget deliberations.

Kate Hamilton, United Way expressed concern with what could be determined “essential” and “nonessential” services. She stated that some of the agencies funded by United Way are included in the budget. She encouraged the Council to give the City Manager an opportunity to come up with a proposal.

Sharolyn Dugger, CASA stated that it is important to give people options if they want to build a strong and prosperous community. She encouraged the Council to think about building the community and making it stronger one person at a time.

Karen Hiller, Housing & Credit Counseling expressed concern with how proposals would be received by the Council if the process is eliminated. She asked that the Council not approve the resolution, and allow the City Manager to implement an orderly process to fund social service agencies.

Councilmember Alcala stated that he would not support the resolution because he does not feel that it is needed, and he does not want to place limitations on the City Manager regarding preparation of the budget.

Councilmember Nave stated that he respects what Councilmember Blackburn is trying to accomplish, but he would like to see what the City Manager’s thoughts are on funding social service agencies.

Councilmember Duffy stated that he appreciates Councilmember Blackburn’s leadership on the issue and he would support the amended resolution.

Councilmember Duffy moved to amend the resolution as distributed by Councilmember Blackburn. The motion was seconded by Councilmember Blackburn.

Councilmember Haynes asked what would be considered an annual budget that would be consistent with the City’s debt management policy.

Jim Langford, Budget and Finance Director stated that it would call for reductions each year in the bonded indebtedness until it becomes consistent with the policy. He suggested that they schedule a work session to discuss the policy, and the Council could come to a consensus on numbers.

Norton Bonaparte, Jr. asked for clarification on what is considered his recommended budget, and a budget that focuses on basic services.

Councilmember Duffy stated that the basic service budget is recommendations that are necessary to keep the city running, in addition to the City Manager's recommended budget.

Councilmember Blackburn stated that the recommended budget would include whatever the City Manager feels is necessary, including social services.

The motion to amend the resolution carried. Councilmembers Alcala, Ortiz and Haynes voted "no". (6-3-0)

The motion to approve the resolution failed. Councilmembers Alcala, Kennedy, Ortiz, Nave, Haynes and Harmon voted "no". (3-6-0)

ORDINANCE NO. 18635 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 17, 2006, through April 23, 2006, and enumerating said expenditures herein was presented for first and final reading.

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

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

A COMMUNICATION regarding a partnership between the Kansas Department of Transportation, the Kansas Department of Corrections and the City of Topeka providing for trash pick-up services to all highways in Topeka except the Kansas Turnpike was presented.

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

Councilmember Preisner moved to approve the communication. The motion was seconded by Councilmember Nave.

Councilmember Ortiz asked if it is necessary to fill the vacant position to support the program. She questioned the number of hours the person would have to work, and if the position could be filled from within the Housing and Neighborhood Department (HND).

Randy Speaker, Housing and Neighborhood Director stated that there is no staff available within HND to fill the position. He also stated that he believes the position is necessary to effectively run the program. He explained that the position would be funded by KDOT and when the project is complete the position would be eliminated.

Councilmember Ortiz moved to eliminate the position and utilize the funds somewhere else. The motion was seconded by Councilmember Alcala.

Councilmember Nave asked the Council to support the communication because the work is needed to help clean up the community.

Mayor Bunten noted that there is a possibility of establishing up to fifteen crews to assist with community clean up. He stated that he believes the additional employment position is essential in making the program run smoothly. He also stated that it is a great opportunity for the City to utilize grant money to get the work done.

The motion to amend the communication failed. Councilmembers Nave, Haynes, Duffy, Blackburn, Preisner and Harmon voted "no". (3-6-0)

The motion to approve the communication carried unanimously. (9-0-0)

City Manager, Norton N. Bonaparte, Jr., pulled item 7A, a zoning petition and ordinance relating to a historical landmark designation on property located at 427 and 429 S. Kansas Avenue from the agenda per the applicant's request.

A ZONING PETITION and ORDINANCE NO. 18636 introduced by City Manager, Norton N. Bonaparte, Jr., designating real property more specifically described herein as a historic landmark and presently zoned "C-5" Commercial District and located at 919 S. Kansas Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading May 2, 2006 was again presented. (HL05/4)

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that the Planning Commission recommended approval by a vote of 8-0-0 on April 17, 2006.

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

Councilmember Blackburn moved to approve the zoning petition 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, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18637 introduced by City Manager, Norton N. Bonaparte, Jr., designating real property more specifically described herein as a historic landmark and presently zoned "C-5" Commercial District and located at 301-305 S. Kansas Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading May 2, 2006 was again presented. (HL06/1)

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that the Planning Commission recommended approval by a vote of 8-0-0 on April 17, 2006.

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

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

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

A ZONING PETITION and 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 3130 SE 21st Street in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "PUD" Planned Unit Development District ("I-1" Light Industrial District, "RR-1" Residential Reserve District and "OS-1" Open Space District) for concrete business office/shops and an extended stay recreational vehicle park placed on first reading May 2, 2006 was again presented. (*PUD06/3*)

Norton N. Bonaparte, Jr., City Manager stated that staff is requesting deferral of the item for one week.

Councilmember Nave moved to defer the zoning petition and ordinance for one week. The motion was seconded by Councilmember Harmon.

Councilmembers Preisner and Ortiz asked why staff is requesting that the item be deferred.

David Thurbon, Planning Director stated that the request for deferral is based on the following reasons:

1. A drainage easement needs to be shown in the plan.
2. A typographical error in the abbreviation of a stream easement needs to be corrected.
3. A note needs to be changed to read that all applicable regulations apply.
4. Unless otherwise stated the "I-1" Light Industrial District usage shall be limited to the uses only listed on the PUD site plan. Also, a note added to the plan stating that no unenclosed storage is permitted within the confines of the PUD site plan area.
5. Spaces of the RV/Trailer Park are to be rented on a daily or weekly basis only. The occupants must remain in the park not more than thirty consecutive days, with no less than five days lapsing between stays.

Councilmembers Nave and Ortiz expressed concern with approving the proposal prior to the stipulations be met.

Councilmember Preisner made a substitute motion to approve the zoning petition and ordinance with the caveat that the requirements are met. The motion seconded by Councilmember Blackburn failed. Councilmembers Kennedy, Alcalá, Ortiz, Haynes, Duffy and Harmon voted "no". (3-6-0)

Exparte communications were declared by Councilmembers Ortiz, Nave, Haynes and Preisner via email, telephone conversations and basic correspondence.

The original motion to defer the zoning petition and ordinance one week carried unanimously. (9-0-0)

RESOLUTION NO. 7799 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-4.02(c)(16) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a recreational basketball court on property currently zoned "R-2" Single Family Dwelling District and located at 1159 SW Lincoln Street and 1308 SW Munson Street in the City of Topeka, Kansas was presented. (CU06/2)

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

Councilmember Ortiz moved to approve the resolution. The motion was seconded by Councilmember Kennedy.

Councilmember Duffy stated that he supports the basketball court and open space in the neighborhood. He also stated that HND has spent money in a way that is inconsistent with the Tennessee Town NIA plan. He noted that the location is in the middle of a single-family residential neighborhood. He questioned how the neighborhood would be affected in regards to enforcement of the facility's hours of operation.

David Thurbon stated that enforcement would be based on a complaint basis only.

Sandra Lassiter, Co-Paster for Faith Temple Church of God in Christ stated that everyone in the neighborhood is on board with the project, including five area churches. She also stated that they have not had to deal with any major crime issues in the past.

Councilmember Alcala stated that he is confident that Mr. Ron Lassiter and his staff will make the facility as safe and successful as possible.

Johann Freeland stated that he has organized programs for the children and teenagers to participate in to provide structure and guidance. He also stated that in the near future he would like to branch out and include other areas of the city.

Councilmember Blackburn suggested that they post the basketball court's hours of operation for law enforcement purposes.

Exparte communications were declared by Councilmembers Kennedy, Alcala and Ortiz via email, telephone conversations and basic correspondence.

The motion to approve the resolution carried unanimously. (9-0-0)

RESOLUTION NO. 7800 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-23a.03(2)(1) of the Code of the City of Topeka, approving Conditional Use Permit to establish a motor vehicle sales lot on property currently zoned "X-1" Mixed Use District and located at 1005 NW Topeka Boulevard in the City of Topeka, Kansas was presented. (CU06/3)

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

Councilmember Alcala moved to approve the resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn asked why they do not have to comply with the landscape ordinance.

David Thurbon stated that the landscape ordinance only applies to new square footage, not existing space, however, because it is a Conditional Use Permit request the Council can require a certain amount of landscaping.

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

The motion to approve the resolution carried unanimously. (9-0-0)

AN ORDINANCE 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, for the improvement of Street Improvement Project No. 60468, Phase 6 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60468, Phase 6 as defined and described in resolution No. 7518 adopted and approved September 7, 2004, effective September 17, 2004 was presented for first reading.

AN ORDINANCE 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, for the improvement of Street Improvement Project No. 60343, Phase 2 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60343, Phase 2 as defined and described in resolution No. 7472 adopted and approved May 11, 2004, effective May 19, 2004 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to building and trade permits, amending City of Topeka Code Section 26-53 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to boards and commissions, repealing Topeka City Code Section 26-221, amending Topeka City Code Section 2-181 and repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30265-00, which provides for a new roofing system for Central Park Community Center, 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., relating to Sunday sale of alcoholic liquor and cereal malt beverage in the original package within the City of Topeka, amending Sections 1 and 2 of Ordinance 18523 and repealing said original sections 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 on the south side of the Kansas Turnpike, approximately ¼ mile west of West Edge Road within

unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes and specifically repealing City of Topeka Ordinance No. 18593 was presented for first reading. (A06/3)

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

Norton Bonaparte, Jr., City Manager announced that the City recently lost an employee. He expressed his condolences to the family.

Councilmember Kennedy explained the time line on the fire that occurred last week in her district. She stated that the Fire Department's response time was reasonable, especially in five o'clock traffic. She commended the fire crews for their prompt response and the daily sacrifices they make to keep the community safe.

Councilmember Ortiz stated that there is one more neighborhood cleanup scheduled for this weekend. She explained that Project Takeover/Makeover 2006 is scheduled on Saturday, May 13, 2006 at 9:00 a.m. in the Highland Crest Neighborhood. She also thanked all of the volunteers for their hard work and participation.

Councilmember Nave stated that there would be an Economic and Community Development Committee meeting held on May 7, 2006 at 1:00 p.m. in the City Council Office.

Councilmember Harmon stated that there would be a Policy and Finance Committee meeting held on May 15, 2006 at 5:00 p.m. in the City Council Office.

Councilmember Blackburn asked for update on the search for a Police Chief.

Norton Bonaparte, Jr., stated that they would have a group of candidates within a month.

Councilmember Haynes asked for update on the hiring of a labor management attorney.

Norton N. Bonaparte, Jr., stated that he would make an announcement regarding the position within the next two weeks.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:55 p.m.

Iris Walker
City Clerk