

City Council Minutes – August 8, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 8, 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, Pastor Sandy Fields, New Mount Zion Baptist Church, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Keith Finney, 6452 SW 24th, to the Board of Building and Fire Appeals for a two-year term that would expire on August 31, 2008, was presented.

A COMMUNICATION recommending the appointment of Matthew Werner, 6401 SW 24th St., to the Board of Building and Fire Appeals for a two-year term that would expire on August 31, 2008, was presented.

A COMMUNICATION recommending the re-appointment of Mr. Darryl Coker, 4540 SW 23rd., to the Downtown Business Improvement District Advisory Board for a two-year term that would expire August 31, 2008, was presented.

RESOLUTION NO. 7843 introduced by Councilmember Clark Duffy, granting Campus Ministry at Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

Minutes of the regular meeting of August 1, 2006 were presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Kennedy 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, August 8, 2006, for the purpose of hearing and answering questions or objections of taxpayers relating to the proposed use of all funds and the amount of tax to be levied for the City of Topeka 2007 Operating Budget.

The following individuals appeared and explained the services their organization provides to the community and requested continued funding for their organization:

<u>Name</u>	<u>Agency</u>
Kate Hamilton	United Way
Barbara Swan	Shawnee County Family Resource Center
Jean Stueve	Jayhawk Area Agency on Aging
William Richards	Human Relations Commission
Anthony Fadale	Human Relations Commission/ADA Upgrades
Debbie Guilbault	Topeka Aids Project
Max Wilson	Prevention & Recovery Service/Safe Streets
Willie Cadoret	Big Brothers Big Sisters of Topeka
Nancy Daniels	Big Brothers Big Sisters of Topeka
David Nolle	Boy Scouts of America
Armond Enelarade	Boy Scouts of America
Bill Edwards	Park and Recreation Programs
Ruth VonStiers	Topeka LuLac Senior
Lowell Manis	Topeka Cemetery
Chris Hutton	Topeka Cemetery
Glenda Overstreet	NAACP
Kevin Siek	Human Relations Commission
Josie Torrez	Human Relations Commission/ADA Upgrades
Sabra Shirrell	Succes by Six
Dr. Susan Voorhees	Prairie Advocacy Center
Douglas Stallbaumer	Prairie Advocacy Center
Susan Mahoney	Downtown Topeka, Inc.
Winston Alexander	Human Relations Commission/ADA Upgrades
Curtis Pitts	Human Relations Commission/Youth Programs
John Homlish	Community Action
Bill Beachy	Human Relations Commission
Jason Chaika	Human Relations Commission
January Kiefer	Human Relations Commission
Mike Bell	Human Relations Commission

Councilmember Preisner moved to close the public hearing. The motion seconded by the 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, August 8, 2006, regarding the City of Topeka's FY 2007 Consolidated Action Plan.

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

Councilmember Ortiz asked Randy Speaker, Housing and Neighborhood Director when the “Incentive Program”, listed on page 36 of the Consolidated Action Plan would be implemented.

Randy Speaker stated that the program was identified by Housing and Urban Development (HUD) as a program they did not want to see continued. He explained that they have asked the Community Advisory Council (CAC) to create a committee that will research the possibility of structuring a similar incentive program that follows HUD regulations. He noted that discussion on the matter would be scheduled for the November meeting.

Councilmember Ortiz stated that she would like to participate in all discussions relating to the implementation of the program.

Kevin Siek expressed concern with cutting funds for the “Accessibility Program”. He urged the Council to re-examine the program and consider increasing funds.

Councilmember Preisner moved to close the public hearing. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A COMMUNICATION authorizing the amendment to the contract between the City of Topeka and Rural Water District No. 8 for the sale of water and specifically authorizing City

Manager Norton N. Bonaparte to execute the contract amendment was presented. The communication was deferred from the meeting of August 1, 2006.

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

Dennis Schwartz, Rural Water District No. 8 General Manager appeared to answer questions.

Councilmember Haynes moved to refer the communication to the Policy and Finance Committee. The motion seconded by Councilmember Blackburn carried. Councilmember Alcalá voted “no”. (8-1-0)

ORDINANCE NO. 18691 introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sidewalk repair to real properties, more specifically described hereinafter, all pursuant to the authority found in Topeka City Code 130 - 373 through 378 and Topeka City Code 126 - 96 through 102, inclusive, and repealing Ordinance No. 18396 placed on first reading August 1, 2006 was again presented.

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

Councilmember Duffy asked if the individuals that are being assessed are eligible for any of the six sidewalk repair assistance programs currently available.

Mike McGee, Deputy Public Works Director stated that none of the individuals qualify because the repairs predate the programs and have already been completed.

Councilmember Duffy encouraged staff to establish a policy for each program to insure that the six programs do not have a cross over purpose before budget deliberations are complete.

Councilmember Blackburn questioned the notification process.

Mike McGee stated that individuals are given a 30 day notice to repair the sidewalk, and if additional time is needed, it is usually granted.

Councilmember Blackburn requested a list of the addresses where the sidewalks are being repaired, and asked that the list be categorized by Council District.

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

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

AN ORDINANCE and A PROJECT BUDGET in the amount of \$6,200,000 introduced by Councilmember Richard Harmon, authorizing Improvement Project No. 60629-00 which provides for certain public improvements for the River Hill Project including improvement of 6th Street from Wanamaker Road east approximately 3,000 feet; the improvement of Wanamaker Road from 6th Street north approximately 2,800 feet; construction of a public street from 6th Street, at a point approximately 2,800 feet east of Wanamaker Road northerly, then westerly to Wanamaker Road at a point approximately 2,000 feet north of 6th Street; construction of water lines and sewer mains to service the development - all on public right-of-way or easements, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading August 1, 2006 was again presented.

Councilmember Harmon stated that in the last 36 hours a number of issues have been brought to his attention regarding the River Hill Project. He noted that he has a number of questions he would like resolved, therefore, he would request that items 6C, an ordinance and project budget, 6D a communication, and 6E a resolution, all relating to the River Hill Project be deferred for 60 days.

Councilmember Harmon moved to defer action on the ordinance and project budget for 60 days. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A COMMUNICATION approving the Declaration of Improvement Covenants and Restrictions (Agreement) and authorizing the City Manager to execute the Agreement on behalf of the City was presented.

Councilmember Harmon moved to defer action on the communication for 60 days. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending the 2006-2007 Capital Improvement Budget, was presented.

Councilmember Harmon moved to defer action on the resolution for 60 days. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 7844 introduced by Councilmember John Alcala expressing the City Council's request for information from the City Manager, was presented.

Councilmember Alcala explained that the resolution requests that the City Manager submit to the Council a document listing his short and long-term goals. He stated that the document would provide the community with a clear picture of how the City Manager intends to run the city.

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

Councilmember Preisner stated that although he believes the resolution is a very important tool to guide the City Manager, he believes the budget should take priority at this time. He suggested that they allow the City Manager more time to fill the Council's request.

Councilmember Preisner made a substitute motion to amend the resolution by striking the word "immediately" from line 21 and inserting "on or before Tuesday, October 3, 2006" on line 22. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Councilmember Alcala moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmember Duffy voted “no”. (8-1-0)

RESOLUTION NO. 7845 introduced by Councilmember John Alcala expressing the City Council's request for weekly status reports regarding the hiring of a new Chief of Police was presented.

Councilmember Alcala explained that the intent of the resolution is to provide a procedure that would close the communication gap between the City Manager and the Council.

Several Councilmembers questioned the current breakdown in communication and stressed the importance of informing the Council in a timely manner on all issues.

Councilmember Alcala moved to approve the resolution. The motion seconded by Councilmember Ortiz carried. Councilmember Duffy voted “no”. (8-1-0)

ORDINANCE NO. 18692 introduced by Norton N Bonaparte, Jr., allowing and approving City Expenditures for the period July 17, 2006, through July 23, 2006, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Alcala voted “no”. (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Noes: Alcala -1.

ORDINANCE NO. 18693 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 1814 SE Madison within the City of Topeka, Kansas from "I-1"

Light Industrial District with a Resolution of Intent for "I-2" Heavy Industrial District TO "I-2" Heavy Industrial District placed on first reading August 1, 2006 was again presented. (Z05/13)

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

David Thurbon, Planning Director stated that the Planning Department recommended disapproval of the proposal because it is not consistent with the 2025 Land Use and Growth Management Plan. He noted that they alternatively recommended I-1 "Light Industrial District" for the property.

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

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Blackburn carried. Councilmembers Preisner and Harmon voted "no". Councilmember Haynes abstained. (6-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Duffy and Blackburn -6. Noes: Preisner and Harmon -2. Abstained: Haynes -1.

Councilmember Duffy commended the Planning Department staff for their hard work in eliminating all pending resolution of intent documents.

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 1222 SW 10th Avenue from "O&I-1" Office and Institutional District TO "R-2" Single-Family Dwelling District placed on first reading August 1, 2006 was again presented. (Z06/19)

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

Councilmember Kennedy asked if ownership of the property has changed since the initial request was submitted.

David Thurbon, Planning Director stated that he is not aware of a change in ownership at this time.

Councilmember Kennedy suggested that they defer action on the item until current ownership is clarified.

Councilmember Kennedy moved to defer action on the ordinance for one week. The motion was seconded by Councilmember Duffy.

Councilmember Blackburn questioned if clarification of ownership is a viable reason to defer action.

Brenden Long, City Attorney stated that question of ownership is not a viable reason.

Councilmember Duffy stated that it was his intent to clarify if the proposed zoning change is the best possible use of the property.

Brenden Long stated that clarification of intended property use could be considered a viable reason to defer action on the item.

The motion to defer action on the ordinance for one week carried. Councilmembers Haynes and Blackburn voted “no”. (7-2-0)

ORDINANCE NO. 18694 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 3212 SW Huntoon Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District placed on first reading August 1, 2006 was again presented. (Z06/20)

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 adopt the ordinance. 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, Preisner and Harmon -9.

ORDINANCE NO. 18695 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 1100 SW Gage Blvd. in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District with a Special Use Permit for a Non-Profit Agency Headquarters TO "O&I-1" Office and Institutional District placed on first reading August 1, 2006 was again presented. (Z06/18)

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

David Thurbon, Planning Director stated that the property would be used for a not-for-profit agency. He explained that application was made with the intent that the property would be assessed at a higher value, raising collateral for loan purposes. He stated that area residents are opposed to the proposal because of the increase in traffic volume.

Councilmember Blackburn stated that he would support the proposal because the agency provides a great service to the community. He noted that because the property is located on one of the busiest streets in the city, it is doubtful that a person would buy the property for residential use.

Councilmember Harmon stated that he would not support the request because the traffic in front of the establishment is very congested and area residents oppose the zoning change.

Councilmember Preisner noted that there could be deed restrictions on the property if it was given to the agency for a specific use.

Councilmember Preisner moved to defer the ordinance for one week to research the property deed. The motion was seconded by Councilmember Duffy.

Councilmember Blackburn made a substitute motion to adopt the ordinance. The motion was seconded by Councilmember Alcala.

Mayor Bunten asked if there were any additional exparte communications besides Councilmember Harmon. There were none declared.

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

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the purchase, possession and consumption of cereal malt beverages during the Burnin Downtown event, at specified locations and times 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 requested that the Council contact the Council Office staff with any questions regarding Councilmember Preisner's budget proposal presented at the Monday evening budget hearing.

Councilmember Ortiz announced that a Back-To-School Fair would be held on Saturday, August 12, 2006 from 10:00 a.m. to 2:00 p.m. at the Quincy Street Topeka Transit Bus Station.

Councilmember Nave announced that there would be an Economic and Community Development Committee meeting held on August 9, 2006 at 9:30 a.m. at the Phillip Billiard Airport, Building 17.

Councilmember Haynes announced that there would be a Public, Health and Safety Committee meeting held on August 9, 2006 at 4:00 p.m. in the City Council Office.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:30 p.m.

Iris Walker
City Clerk