

City Council Minutes – September 26, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 26, 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 and Harmon -8. Deputy Mayor Preisner presided: -1. Absent: Mayor Bunten -1.

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

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7867 introduced by Councilmember John Alcala granting El Centro an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7868 introduced by Councilmember Clark Duffy, granting First Congregational Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7869 introduced by Councilmember John Alcala granting the Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7870 introduced by Clark Duffy, granting Washburn University and the American Heart Association an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7871 introduced by Councilmember Lana Kennedy granting House of Barbecue an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

Minutes of the regular meeting of September 19, 2006, were presented.

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

Councilmember Duffy moved to suspend the council rules to add a final plat for the College Hill Redevelopment Subdivision to the agenda. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

Councilmember Duffy moved to reinstate the council rules. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Deputy Mayor Preisner stated that the final plat would be placed on the agenda as item 6D, under Planning.

ORDINANCE NO. 18717 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$32,375,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-A, and \$22,600,000 Combined Utility Refunding Revenue Bonds, Series 2006-B, of the City of Topeka, Kansas, under the authority of K.S.A. 10-116a and K.S.A. 10-1201 et seq., and all amendments thereto placed on first reading September 19, 2006 was again presented.

Jim Langford, Budget and Finance Director gave the staff report. He stated that a total of seven bids were received, and Prager, Sealy & Company was awarded the bid offering a true interest rate of 4.3%. He also stated that the bonds were refinanced for the same amount of

years, realizing a cost savings of over \$4 million, and reducing the overall debt service payments for the next seven years.

Councilmember Ortiz moved to approve the ordinance. The motion seconded by Councilmember Nave 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.

RESOLUTION NO. 7866 introduced by City Manager Norton N. Bonaparte, Jr., authorizing a call for redemption prior to maturity of the City's outstanding Combined Utility Revenue Bonds, Series 1998-B and Series 2001-A, and setting the terms of the City's Combined Utility Refunding Revenue Bonds, Series 2006-A and 2006-B, was presented.

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

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

ORDINANCE NO. 18718 introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during El Centro's Blue Moon Bash event, at specified locations and times placed on first reading September 19, 2006 was again presented.

Councilmember Alcala moved to 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.

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code Section 146-37 concerning water service to an owner of real

property outside city limits, and specifically repealing said original section placed on first reading September 19, 2006 was again presented.

Councilmember Duffy stated that there are a number of amendments that the Council would like to make to the ordinance prior to approval.

Councilmember Duffy moved to defer the ordinance for two weeks. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$128,000 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70123-01, which provides for a traffic study to determine proper traffic control and geometry, and preparation of plans, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading September 19, 2006 was again presented.

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

Councilmember Duffy stated that Councilmember Blackburn researched the design fee process and recommended that the design fee be reduced by 20%.

Councilmember Duffy moved to reduce the project budget to \$97,524. The motion was seconded by Councilmember Blackburn.

Councilmember Haynes stated that he does not understand why the funding for the design fee is approved prior to receiving an actual design bid on the project.

Mike Teply, Acting Public Works Director stated that the actual design fee is not negotiated until the Request for Proposal process is complete, and a bid is awarded.

Brenden Long, City Attorney stated that the current process followed is mandated by city ordinance. He explained that in order to solicit bids the City must have a funding source in place, and approval of the project.

Councilmember Haynes asked if the policy could be changed.

Brenden Long stated that they would review the process, and determine if a change could be made that would allow the design cost to be determined prior to approval of funding.

Councilmember Haynes asked if a two week delay would create a problem for the project.

Mike Teply stated that a delay would not affect the project.

Councilmember Haynes made a substitute motion to defer the project budget and ordinance for two weeks. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

ORDINANCE NO. 18719 introduced by City Manager Norton N. Bonaparte, Jr., concerning uniform traffic manual adopted, amending City of Topeka Code Section 142-123, and specifically repealing said original section placed on first reading September 19, 2006 was again presented.

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

Councilmember Ortiz moved to adopt the ordinance. The motion was seconded by Councilmember Haynes.

Councilmember Alcala asked if adoption of the ordinance would affect the new roundabout slated for construction at the corner of 4th and Branner.

Mike Teply, Acting Public Works Director stated that it would not affect the project.

The motion to adopt the ordinance 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 requesting approval of the Real Estate Report for the disposal of City of Topeka Surplus property (excess right-of-way) located in the vicinity of S.E. 21st Street and Rice Road was presented.

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

Councilmember Duffy asked if the City would receive all of the income or only a shared portion.

Mike Teply, Acting Public Works Director stated that the City would not receive any income from the transaction.

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

RESOLUTION NO. 7872 introduced by City Manager Norton N. Bonaparte, Jr. to rescind Resolution of Advisability and Authorization No. 7771 which authorized Main and Lateral Sanitary Sewer Improvement Project No. 40898-01 in the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive, was presented.

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

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

A PETITION, a PROJECT BUDGET in the amount of \$24,500 and RESOLUTION NO. 7873 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Improvement Project No. 60364-02 which provides for a turn-a-round at the east end of Southwest Reeder Street in front of the Kuhn-Smith Subdivision, pursuant to K.S.A. 12-6a01, *et seq.*, and rescinding City of Topeka Resolution of Advisability and Authorization No. 7647, was presented.

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

Councilmember Preisner moved to approve the petition, project budget and resolution.

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

ORDINANCE NO. 18720 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 4, 2006, through September 10, 2006, and enumerating said expenditures therein was presented for first and final reading.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Haynes 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.

A COMMUNICATION from Indian Hills Land Development Corporation through their consulting engineer requesting an exemption from Sec. 146-256.C(2) requiring annexation prior to sewer service from the City as provided for under Sec. 146-256.C(6)(iii) and (iv) on a 29.07-acre tract located 1900 feet west of SW Urish Road and 2200 feet north of SW 21st Street within unincorporated Shawnee County, Kansas was presented.

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

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

Councilmember Duffy questioned the need for the waiver, and if the area can be annexed.

Mike Engler, Bartlett & West Engineers stated that the Hidden Valley Subdivision is almost entirely surrounded by subdivisions that are located adjacent to city limits, with the

exception of one small area. He explained that the City has received consent to annex from all the areas in question, and already provides the areas with city services.

Councilmember Duffy asked if the project is time sensitive.

Mike Engler stated that the project is time sensitive due to the amount of money the developer has already invested in the project, and the fact that a delay would cause a large number of employees to be laid off. He noted that at this time the developer is only requesting permission for sewer hook-up, not annexation.

David Thurbon, Planning Director noted that the City adopted an ordinance that does not allow unilateral annexation until 2009.

Councilmember Haynes stated that in his opinion the Council would be going back on their word if they allow annexation. He questioned if the City is legally obligated to proceed with approval of the request because in the past similar cases have resulted in litigation.

Brenden Long, City Attorney stated that each case is dealt with separately, including determination of hardship.

The motion to approve the communication carried. Councilmembers Haynes and Duffy voted "no". (7-2-0)

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 10 located approximately 130-feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas, was presented. (P06/27)

Norton N. Bonaparte, Jr., City Manager stated that the applicant has requested that the final plats for Hickory Ridge Estates Subdivisions No. 10 and No. 11 be tabled for 30 days.

Councilmember Nave moved to table the final plat for Hickory Ridge Estates Subdivision No. 10 for 30 days. The motion seconded by Councilmember Harmon carried unanimously.

(9-0-0)

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 11 located at the southwest corner of NW 35th Street and NW Button Road within unincorporated Shawnee County, Kansas, was presented. (P06/26)

Councilmember Ortiz moved to table the final plat for 30 days. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

A FINAL PLAT for College Hill Redevelopment Subdivision located between SW 13th Street and SW Byron Street; and between SW Washburn Avenue and SW Lane Street; also including property at the northwest corner of SW 17th Street and SW Washburn Avenue; and at the southeast corner of SW 14th Street and SW Lane Street within the City of Topeka, Kansas, was presented.

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

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

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 between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also including property at the northwest corner of SW 17th Street and SW Washburn Avenue and at the southeast corner of SW 14th Street and SW Lane Street from "M-1" Two-Family Dwelling District, "O&I-2" Office and Institutional District, "C-2" Commercial District and "C-4" Commercial District ALL TO "PUD" Planned Unit Development District ("M-2" Multiple-

Family Dwelling District and "C-2" Commercial District use groups) was presented for first reading. (*PUD06/1*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. relating to the designation of street names, more specifically changing the name of SW Bines Way and SW Elmo Drive in Bines Addition to SE Bines Way and SE Elmo Drive, was presented for first reading. (*SNC06/1*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30127-12, which provides for the development of plans and specifications to extend the existing Shunga Multipurpose Trail, 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 streetlights, amending Topeka City Code Chapter 130, and Sections 134-77, 134-167, and 134-175 and specifically repealing said original Sections was presented for first reading.

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

Councilmember Duffy requested that the Hidden Valley Subdivision and surrounding area be placed on the list of pending requests for annexation.

Councilmember Kennedy encouraged everyone to attend the "Burin Downtown" event held on September 29th and 30th.

Councilmember Preisner encouraged everyone to attend the Heartland Park Racing event held on September 27, 2006.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:59 p.m.

Iris Walker
City Clerk