

City Council Minutes – October 17, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 17, 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 Bunten presided: -1.

AFTER THE MEETING was called to order, Councilmember Duffy 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:

RESOLUTION NO. 7878 introduced by Councilmember Bill Haynes granting WatKansas Vanaram, a Buddhist Temple, an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

MINUTES of the regular meeting of October 10, 2006 were 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, October 17, 2006, at 6:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60598 Phase 1, authorized by Resolution No. 7419, adopted and approved November 25, 2003.

ORDINANCE NO. 18729 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 Street Improvement Project No. 60598-01 H, located at approximately SE 22nd Terrace and SE Croco Road, with concrete curb and gutter, asphalt

pavement, storm drainage facilities and all other contingencies required to complete Street Improvement Project No. 60598-01 H, as defined and described in Resolution No. 7419, adopted and approved November 25, 2003 placed on first reading October 10, 2004 was again presented.

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

Councilmember Preisner moved to close the public hearing and adopt 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.

ORDINANCE NO. 18730 introduced by Councilmember Clark Duffy amending City of Topeka Code Sections 2-326, 2-328, 2-331, 2-332, and 2-335 concerning the expenditure of monies from special funds established by the City Council, and specifically repealing said original sections placed on first reading October 10, 2006 was again presented.

Councilmember Duffy stated that the amendment is a clean up measure from the prior form of government. He explained that the amendments are based on the provisions articulated in the law, giving the City Manager the authority to expend funds. He also requested that a report of all expenditures be distributed to the Council by the end of the budget year.

Councilmember Duffy moved to adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Harmon noted a typographical error on line 80 of the ordinance.

Brenden Long, City Attorney stated that the error had been corrected.

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

A PROJECT BUDGET in the amount of \$175,000 and ORDINANCE NO. 18731 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Project No. 30245-00, which provides for the design and construction of selected water line upgrades and additions at Gage Park, S.W. 625 Gage Boulevard, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading October 10, 2006 was again presented.

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

Councilmember Blackburn moved to reduce the design fee of the project budget by 20% or \$2,459. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

Councilmember Blackburn moved to approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

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

ORDINANCE NO. 18732 regulating traffic and vehicles within the city limits of Topeka, Kansas, that adopts by reference the Standard Traffic Ordinance for Kansas Cities, 2006 Edition placed on first reading October 10, 2006 was again presented.

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

Councilmember Preisner moved to adopt 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18733 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 142-152 to amend and delete certain provisions of the

current edition of the Standard Traffic Ordinance for Kansas Cities, and specifically repealing said original section placed on first reading October 10, 2006 was again presented.

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)

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

ORDINANCE NO. 18734 introduced by City Manager, Norton N. Bonaparte, Jr., relating to court ordered costs and fees, witness fees, contempt powers, warrants, arrest procedures, sentencing procedures and parole, repealing City of Topeka Code Sections 50-47, 50-49 and 50-50, amending City of Topeka Code Sections 50-26, 50-41, 50-54, 50-60, 50-64, 50-99 and 50-101, and repealing said original sections placed on first reading July 11, 2006 was again presented. The ordinance was deferred from the meeting of October 10, 2006.

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

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

Councilmember Blackburn made a substitute motion to amend the ordinance by deleting Sections 6, 7, 8, and 9; adding a new subsection (7) after line 84 that states, "Police Department Equipment Fund \$5.00" and renumber the subsequent subsections that follow the new language. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Frank Kirtdoll stated that he believes the amendments made to the ordinance should be presented in the form of a charter ordinance.

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

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

ORDINANCE NO. 18735 introduced by Councilmember John Nave concerning the Topeka Human Relations Commission amending City of Topeka Code Sections 86-1, 86-2, 86-51, 86-53, 86-68, 86-79 and 86-112 and specifically repealing said original Sections, placed on first reading July 11, 2006 was again presented.

Councilmember Nave thanked everyone for providing their input on the issue. He stated that he believes the ordinance addresses the concerns of the Council, as well as the public.

Councilmember Haynes distributed the following amendments to the ordinance:

- Insert the following new language after line 133, “(c) Upon the filing of a complaint, a complainant shall be advised by the Human Relations Commission staff of any additional remedies, rights and obligations potentially available to the complainant under State and Federal Civil Rights Law, as may be appropriate. Specifically, the Human Relations Commission staff shall advise complainants of the requirement that they file their complaints with the Equal Employment Opportunity Commission (EEOC) and/or the Kansas Human Rights Commission (KHRC) in order to preserve their rights to bring suit under Federal Anti-discrimination Laws. The Human Relations Commission staff will assist the complainant in the filing of all such complaints with the EEOC and the KHRC, if requested.”
- Insert the following language after the word “follows” on line 137, “articles 30, 32, 33, 34, 41, 42, 43, 45 and 80”

Councilmember Haynes moved to amend line 133 of the ordinance as distributed. The motion was seconded by Councilmember Alcala.

Councilmember Duffy asked if they should include the amendment to line 137.

Brenden Long, City Attorney suggested that the Council adopt both amendments in their entirety, because they were approved in committee.

Councilmember Haynes withdrew the motion to amend line 133. The second concurred.

Councilmember Haynes moved to amend lines 133 and 137 of the ordinance as distributed. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Sharon Joseph, Ruby Collins and Kevin Siek spoke in support of the ordinance, and expressed the importance of protecting people with all types of disabilities at the local government level.

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

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

Councilmember Preisner moved to override the Mayor's veto of Ordinance No. 18726 establishing a Police Department Equipment fund. The motion was seconded by Councilmember Blackburn.

Mayor Bunten explained why he vetoed the ordinance. He stated that creating the fund limits the use of general fund monies, which may need to be utilized elsewhere.

Councilmember Haynes stated that he would not support the motion because he believes it creates another fund the Council would have to keep track of.

Councilmember Blackburn stated that he believes the fund provides taxpayer relief because it is funded by those individuals who commit crimes.

The motion to override the Mayor's veto of Ordinance No. 18726 carried. Councilmembers Alcalá, Ortiz and Haynes voted "no". (6-3-0)

A PROJECT BUDGET in the amount of \$255,000 and ORDINANCE NO. 18736 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No.

30271-00, which provides for improvements to Gage Park located at 625 SW Gage Boulevard, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading October 10, 2006 was again presented.

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

Councilmember Blackburn moved to reduce the design fee for the project by 20% or \$3,563.20. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Preisner moved to approve the project budget and adopt the ordinance as amended. The motion was seconded by Councilmember Harmon 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 PROJECT BUDGET in the amount of \$291,200 and ORDINANCE NO. 18737 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 13154-00, which provides for the design and construction services for improvements to the existing 1963 Fire Station Training Tower, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading October 10, 2006 was again presented.

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

Councilmember Ortiz moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Alcala.

Councilmember Preisner noted that the Capital Improvement Budget (CIB) process has not been completed, and the Fire Department's Capital Improvement Program priorities have not been established.

Councilmember Preisner made a substitute motion to defer for one week. The motion seconded by Councilmember Haynes carried. Councilmembers Kennedy, Alcalá, Ortiz and Harmon voted “no”. (5-4-0)

Norton N. Bonaparte, Jr., City Manager asked that item 6A, a resolution adopting the 2007-2008 Capital Improvement Budget, and item 6B, a resolution adopting the 2007-2011 Capital Improvement Budget be deferred for one week because the process has not been completed.

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2007-2008 Capital Improvement Budget for the City of Topeka, Kansas was presented.

Councilmember Alcalá moved to defer the resolution for one week. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2007-2011 Capital Improvement Program for the City of Topeka, Kansas was presented.

Councilmember Haynes moved to defer the resolution for one week. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A RESOLUTION introduced by City Manager, Norton N. Bonaparte, Jr., setting forth the City of Topeka's intention to acquire one (1) aerial platform apparatus, pursuant to K.S.A. 12-110(c), was presented.

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

Howard Giles, Fire Chief stated that the department's aerial fire truck is 26 years old, and is currently being used to haul equipment because it is in need of repair. He noted that it would take approximately one year from the order date to receive a new truck.

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

Councilmember Preisner made a substitute motion to defer the resolution for one week. The motion seconded by Councilmember Blackburn carried. Councilmembers Kennedy, Alcala, Ortiz and Harmon vote “no”. (5-4-0)

RESOLUTION NO. 7879 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the transfer of Police Department General Fund dollars to the General Fund Contingency, was presented.

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

Councilmember Blackburn stated that he would not support the resolution because in his opinion, the funding source of the monies for the Police Department’s Incentive Program should not have been eliminated.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Nave carried. Councilmember Kennedy and Blackburn voted “no”. (7-2-0)

RESOLUTION NO. 7880 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Water System Improvement Project No. 28580-00, for water main transmission extension along Highway 75 from the north end of the Westgate Bridge north to Lower Silver Lake Road, then east to Austin Avenue, was presented.

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

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

ORDINANCE NO. 18737 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 25, 2006, through October 1, 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 Haynes carried. Councilmember Alcalá 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: Alcalá -1.

A FINAL PLAT for Urban Hills Subdivision No. 18 located approximately 2,850 feet north of NW 46th Street, between NW Jennings Road and NW Brickyard Road within unincorporated Shawnee County, Kansas was presented. (P06/31)

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

Councilmember Preisner moved to approve the final plat. The motion was seconded by Councilmember Kennedy.

Councilmember Duffy noted that the developer constructed a plan thirty years ago. He explained that the rules have changed since submitting the original plan and the developer does not want to comply with the rules. He stated that he opposes the approval of the final plat because it is contrary to current city policies relating to tax equity and fairness.

Councilmember Haynes stated that the developer has agreed to annexation, however, the property is not adjacent to city limits and the City would have to have the County’s permission to annex the property.

Councilmember Haynes made a substitute motion to request that staff prepare the necessary information for annexation and present it to the Council for review. The motion was seconded by Councilmember Alcala.

Councilmember Blackburn asked if the consent to annex has been received, and would a two week delay have an effect on the project

Mel Chatman, Cook, Flatt & Strobel Engineers stated that the applicant has submitted a consent to annex and is ready to start the project as soon as possible.

Councilmember Preisner withdrew the motion to approve. The second concurred.

Councilmember Blackburn made a substitute motion to defer the final plat for two weeks. The motion seconded by Councilmember Duffy carried. Councilmember Kennedy voted "no".
(8-1-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the City of Topeka, by providing for certain changes in zoning on property located at the southeast corner of SW Van Buren Street and SW Hampton Street in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District TO "C-4" Commercial District was presented for first reading.
(Z06/01)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. adopting a neighborhood revitalization plan and designating a revitalization area, all as provided for in K.S.A. 12-17, 114 *et. seq.*, Neighborhood Revitalization Act was presented for first reading.

AN ORDINANCE introduced by Councilmembers Brett Blackburn and Lana Kennedy relating to temporary signs by amending Section 48-31.01 of the Zoning Code and Sections 118-276 and 118-277 of the Sign Code was presented for first reading.

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., exempting certain property, more specifically property owned by Reser's Fine Foods, Inc. from property taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at approximately 3167 SE 10th Street, Topeka, Shawnee County, Kansas, and repealing City of Topeka Ordinance No. 18403 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Water System Improvement Project No. 28580-00, for water main transmission extension along Highway 75 from the north end of the Westgate Bridge north to Lower Silver Lake Road, then east to Austin Avenue 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 Industrial Boulevard with pavement, curb and gutter and all other contingencies needed to complete Trafficway Improvement Project No. 70197-01 as defined and described in Resolution No. 7231 adopted and approved April 16, 2002 was presented for first reading.

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

Councilmember Kennedy asked for a response from the Council regarding her request to schedule a work session for Fire Department employees. She stated that the work session would allow employees the opportunity to voice their concerns about interdepartmental issues only, and not interfere with contact labor negotiations.

Councilmember Alcala clarified that the recent press release involving Fire Department employees was not released during actual labor contract negotiations, however, he still believes it was inappropriate because the process was still moving forward. He also stated that he received several calls expressing concern with the Police Departments' murder investigation process. He also asked for the status on two pending cases, and what information the victims' families are being given.

Councilmember Ortiz thanked everyone who participated in the Fire Department Open Houses held this past week.

Councilmember Blackburn asked the Council to attend the November 2, 2006 Planning Commission meeting.

Councilmember Preisner requested that an equipment replacement budget for Brookfield West Park be included in the adoption of the 2007-2008 Capital Improvement Budget.

Councilmember Alcala asked if there were any park funds available to use for the purchase of the replacement equipment.

Terry Bertels, Acting Parks and Recreation Director stated that he would review the park budget and report back to the Council.

Bill Rayburn, Frank Kirtdoll and JoAnn Peavler appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:04 p.m.

Iris Walker
City Clerk