

City Council Minutes – October 24, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 24, 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, Nave, Haynes, Blackburn, Preisner and Harmon -7. Mayor Bunten presided: -1. Absent: Councilmembers Ortiz and Duffy -2.

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

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

THE CONSENT AGENDA was presented as follows:

A CLAIM by Kay Cooper seeking payment of \$26,500 to settle a sewage backup claim for damages sustained to her residence located at 3322 SW Westwood, was presented.

MINUTES of the regular meeting of October 17, 2006 were presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

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 24, 2006, at 6:00 P.M. to obtain citizen comment and review of a property tax exemption ordinance for improvements to real and personal property on behalf of Reser's Fine Foods, 3167 SE 10th Street, Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18738 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 placed on first reading October 17, 2006 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 Alcala carried. Councilmember Blackburn abstained.

(6-0-1)

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

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 24, 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 Trafficway Improvement Project No. 70197-01, authorized by Resolution No. 7231, adopted and approved April 16, 2002.

ORDINANCE NO. 18739 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, placed on first reading October 17, 2006 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. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Nave, Haynes, Blackburn, Preisner and Harmon -7. Absent: Ortiz and Duffy -2.

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 24, 2006, at 6:00 P.M. to consider the adoption of the neighborhood revitalization plan and designating a revitalization area.

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 placed on first reading October 17, 2006 was again presented.

Norton N. Bonaparte, Jr., City Manager requested that the public hearing and ordinance be deferred for two weeks.

Brenden Long, City Attorney stated that the Topeka Metro News failed to publish the ordinance two consecutive weeks as required by State statute.

Councilmember Preisner moved to defer the public hearing and ordinance for two weeks. The motion seconded by Councilmember Harmon carried unanimously. (7-0-0)

ORDINANCE NO. 18740 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, placed on first reading October 17, 2006 was again presented.

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

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

Councilmember Blackburn asked if there were any parcel's owners that opposed the project.

Mike Teply, Acting Public Works Director stated that there are six parcel owners that oppose the project.

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

ORDINANCE NO. 18741 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 placed on first reading October 17, 2006 was again presented.

Councilmember Blackburn explained that the amendment would allow no more than two temporary signs of various classifications, to be placed on private property, for off-premise advertising during certain hours on Thursday, Friday, Saturday and Sunday.

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

Councilmember Haynes questioned the necessity of the amendment.

Brenden Long, City Attorney stated that the amendment only addresses off-premise temporary advertising and is geared towards regulating open house, garage sale and auction signs. He noted that the four day restriction is a policy decision and is not a requirement.

Councilmember Haynes made a substitute motion to amend the ordinance by deleting the four day restriction. The motion was seconded by Councilmember Alcalá.

Councilmember Kennedy stated that the amendment was included in the temporary sign code because of the amount of complaints received from real estate agents on the need to clean up the appearance of the city.

David Thurbon, Planning Director expressed the importance of the regulation remaining content neutral to avoid future misuse of temporary signs.

Councilmember Haynes withdrew the substitute motion to amend the ordinance by deleting the four day restriction. The second concurred.

Marilyn Winfrey spoke in support of allowing garage sale signs to be placed off-premise for advertising purposes. She also questioned the large amount of temporary signs used by commercial businesses.

Marc Lahr local business owner stated that he believes the regulations will cause a decrease in business because temporary signs give guidance to people who do not speak English, and who do not read the newspaper. He stressed the importance of all businesses being treated equally.

Discussion continued on the importance of making the temporary sign regulations fair, equitable and workable.

David Thurbon stated that the amendment only addresses temporary signage and all other sign issues will be addressed at a later date. He also stated that before a commercial business can post a temporary sign it must be approved by the Public Works Department.

Christy Caldwell and Bill Yanek spoke in support of the ordinance.

The motion to adopt the ordinance carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Nave, Haynes, Blackburn, Preisner and Harmon -7. Absent: Ortiz and Duffy -2.

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. The resolution was deferred from the meeting of October 17, 2006.

Norton N. Bonaparte, Jr., City Manager asked that item 5C a resolution adopting the 2007-2008 Capital Improvement Budget; item 5D a resolution adopting the 2007-2011 Capital Improvement Program; item 5E a resolution authorizing the purchase of a aerial platform apparatus truck; and item 5F a project budget and ordinance authorizing Fire Station Training Tower Improvement Project No. 13154 be deferred for two weeks. He stated that they were unable to meet on Monday, October 23, 2006 to discuss the budget.

Councilmember Alcalá moved to defer items 5C, 5D, 5E and 5F for two weeks. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

RESOLUTION NO. 7881 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River 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 Alcalá voted “no”. Councilmember Blackburn was out of the room. (5-2-0)

ORDINANCE NO. 18742 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 2, 2006, through October 8, 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”. Councilmember Blackburn was out of the room. (5-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Nave, Haynes, Preisner and Harmon -5. Noes: Alcalá and Blackburn -2. Absent: Ortiz and Duffy -2.

A COMMUNICATION regarding the advisability of directing the staff to prepare a resolution requesting Shawnee County Commission approval of annexing Hickory Ridge Estates Subdivision No. 10 was presented.

Michael Berry, representative for the applicant spoke in support of the communication and stated that the developer would like to start the project as soon as possible.

Councilmember Blackburn stated that based on the staff report it is unlikely that the area will be annexed in the near future. He asked if the final plat and sewer service could be approved at this time to allow the project to move forward.

Brenden Long, City Attorney stated that the sewer hardship waiver and final plat must be added to the agenda by suspension of the Council Rules. He noted that approval would require two-thirds vote of the Council.

Councilmember Blackburn made a substitute motion to suspend the Council Rules and add the final plat and sewer hardship waiver for Hickory Ridge Estates Subdivision No. 10 to the agenda. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá stated that under normal circumstances he would support the project, however, he will oppose approval of the final plat and sewer service at this time because the applicant should follow the same process as other applicants. He also asked what the City would profit more from, providing services to the area, or annexation.

David Thurbon, Planning Director stated that the City would gain more profit from providing services to the area.

Councilmember Blackburn withdrew the substitute motion to suspend the Council Rules and add the final plat and sewer hardship waiver to the agenda. The second concurred.

Councilmember Preisner stated that he concurs with Councilmember Alcalá and believes that the applicant should follow the correct process.

Councilmember Preisner moved to approve the communication. The motion seconded by Councilmember Blackburn failed. (0-7-0)

Councilmember Haynes stated that an annexation policy needs to be established to ensure that the process is consistent and fair.

ORDINANCE NO. 18743 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 placed on first reading October 17, 2006 was again presented. (Z06/01)

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcalá carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Nave, Haynes, Blackburn, Preisner and Harmon -7. Absent: Ortiz and Duffy -2.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending City of Topeka Code Section 2-119 concerning the approval of employment and severance agreements, and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. authorizing the issuance, not to exceed \$14,280,000 of aggregate principal amount of General Obligation Bonds, Series 2006-A, and the issuance, not to exceed \$7,875,000 of aggregate principal amount of General Obligation Bonds, Series 2006-B, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive; K.S.A. 12-685 et seq., K.S.A. 12-6A01 et. seq., the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City, all as amended was presented for first reading.

AN ORDINANCE introduced by Councilmember Lana Kennedy amending City of Topeka Code Section 142-611 concerning the riding of skateboards on sidewalks, and specifically repealing said original section 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 announced that the City of Topeka Zoo is hosting the annual “Boo at the Zoo” event on Saturday, October 28, 2006 during the hours of 11:00 a.m. and 4:00 p.m.

Councilmember Kennedy expressed concern with the increase in crimes involving removal of copper piping in new construction and vacant homes. She asked if stronger resale restrictions could be placed on salvage yards and scrape metal facilities.

Councilmember Alcalá thanked the City Manager and staff for implementing a new Procurement Card Policy. He also encouraged everyone to attend a training session on the new policy.

Councilmember Nave stated that he would support stricter regulations on the resale of copper piping because it is also a serious problem in District 4.

Councilmember Haynes stated that he would support tougher restrictions on the resale of copper piping if it would help reduce crime in the community.

Councilmember Blackburn encouraged everyone to attend the November 2, 2006 informative meeting at 4:30 p.m. in the Holliday Conference Room to discuss zoning, planning and infrastructure issues.

Councilmember Alcala questioned the legality of the meeting in regards to the Council forming a quorum.

Brenden Long, City Attorney clarified that the meeting is not an official business meeting.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:12 p.m.

Iris Walker
City Clerk