

City Council Minutes – November 7, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 7, 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, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Mayor Bunten presided: -1. Absent: Councilmember Nave -1.

AFTER THE MEETING was called to order, Reverend Richard Taylor gave the invocation.

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

Mayor Bunten stated that Councilmember Nave was absent because his mother was in the hospital.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION re-appointing Sam Carkhuff to the Metropolitan Topeka Airport Authority for a three-year term that would expire on November 30, 2009 was presented.

A COMMUNICATION appointing Beverly Thompson to the Jayhawk Area Agency on Aging Advisory Council for a three-year term that would expire on November 30, 2009 was presented.

A COMMUNICATION re-appointing Ed Ramirez to the Metropolitan Topeka Airport Authority for a three-year term that would expire on November 30, 2009 was presented.

A COMMUNICATION authorizing a Workers Compensation Settlement Claim for Timothy Bass was presented.

MINUTES of the regular meeting of October 24, 2006 were presented.

Dance Hall License applications bearing the approval of the Chief of Police and City

Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Down Under Lounge	3810 S. Topeka Boulevard
Heart Attack Jacks	555 S.E. 6 th Street
Sasnak North	1834 N.W. Topeka Boulevard
The Tool Shed Tap	921 S. Kansas Avenue

Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
The Brass Rail	401 N.E. Emmett
The Chatterbox Tavern	2121 S.E. 6 th Street
Cypress Ridge Golf Course	2533 Urish Road
Godfathers Pizza #17016	1835 N. Topeka
Godfathers Pizza #17015	5300 W. 17 th Street
Grover's Smokehouse	1217 S.W. Gage Boulevard
Hunam Restaurant	5005 W. 29 th Street
North Topeka Golf Center	201 S.W. 29 th Street
Pizza Parlor	1919 N.W. Seward Avenue
Porubsky's	508 Sardou
Sasnak North	1834 N.W. Topeka Boulevard

An Open After Mid-Night License application bearing the approval of the Chief of Police for El Monte Billiards located at 2018 S.W. Swygart, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

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 consider the adoption of the neighborhood revitalization plan and designating a revitalization area.

ORDINANCE NO. 18745 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. The public hearing and ordinance were deferred from the meeting of October 24, 2006.

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

Councilmember Ortiz moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

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

ORDINANCE NO. 18744 introduced by City Manager Norton N. Bonaparte, Jr. authorizing the issuance of not to exceed \$13,670,000 aggregate principal amount of General Obligation Bonds, Series 2006-A, and the issuance of not to exceed \$7,570,000 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 placed on first reading October 24, 2006 was again presented.

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

Councilmember Haynes asked if the current policy relating to general obligation bonds was followed.

Jim Langford, Budget and Finance Director stated that \$10.2 million is the amount that they were to limit in the Capital Improvement Program.

The motion to adopt the ordinance carried unanimously. (8-0-0)

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

RESOLUTION NO. 7882 introduced by City Manager Norton N. Bonaparte, Jr., prescribing the form and details of both the General Obligation Bonds, Series 2006-A and Series 2006-B of the City of Topeka, Kansas, in the aggregate principal amount of \$21,240,000, the issuance of which were authorized by the City pursuant to its Ordinance No. 18744 adopted and approved on November 7, 2006, and authorizing certain other documents and actions in connection with the issuance of the Bonds was presented.

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

RESOLUTION NO. 7883 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of temporary notes, Series 2006-A of the City of Topeka, Kansas, in the aggregate principal amount of \$11,470,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2006-A temporary notes of the City, dated November 29, 2005, and for the purpose of providing funds to pay a portion of the cost of certain improvements in the City was presented.

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

ORDINANCE NO. 18746 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 placed on first reading October 24, 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 Ortiz.

Councilmember Duffy asked if the City Manager planned to sign employment contracts for all department directors of the City.

Norton N. Bonaparte, Jr., stated that currently there is not a policy in place that requires his signature on the employment contracts. He explained that each contract would be handled on a case by case basis with final approval by the Council.

The motion to adopt the ordinance carried unanimously. (8-0-0)

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

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, relating to the payment of gasoline and/or diesel fuel, amending City of Topeka Code Chapter 30 placed on first reading October 24, 2006 was again presented.

Councilmember Preisner gave the committee report. He listed several advantages to adopting the ordinance including eliminating crime and business loss, and ensuring employee safety in regards to drive-off crimes. He also listed a number of cities that enforce the law and have reduced the overall crime rate.

Councilmember Ortiz expressed concern with the locations that require prepayment of gasoline being ADA compliant.

Councilmember Preisner moved to amend the ordinance by deleting Section 2 in its entirety, starting on line 13 and ending on line 42. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

Councilmember Preisner moved to amend the ordinance by inserting the word “may” after the word “misdemeanor” on line 67. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

Bob Sherburne spoke in opposition to the ordinance and stated that he believes the government should not regulate the prepayment of gasoline.

Karen Viola, Jeff Parker and Christy Caldwell spoke in support of the ordinance.

Sharon Joseph spoke in opposition to the ordinance. She stated that she believes the requirement would add to the discrimination of Americans with disabilities. She explained that most convenient stores and gas stations are not accessible nor do their employees offer assistance to those who are disabled.

Councilmember Alcala stated that he would not support the ordinance because it creates an inconvenience for those people who do not use a debit or credit card.

Councilmember Preisner moved to approve the ordinance as amended. The motion was seconded by Councilmember Blackburn.

Councilmember Kennedy stated that she would not support the ordinance because she believes it would cause an inconvenience for the elderly.

Councilmember Blackburn stated that he spoke with a number of retailers that support the ordinance.

Councilmember Haynes stated that he believes the public is being regulated by the ordinance. He noted that the consumer needs to be protected and not penalized.

Police Chief Miller stated that there were 681 drive offs in 2005 at an average of \$31 each. He explained that the ordinance would eliminate the crime and help resolve the safety issues of employees and other patrons of the business.

Discussion continued regarding the investigation of drive off crimes and the low conviction rate.

Mayor Bunten stated that he believes the ordinance is a positive step for the community and he would encourage the Council to support it.

The motion to adopt the ordinance as amended failed. Councilmembers Kennedy, Alcalá, Ortiz, Haynes, Duffy and Harmon voted “no”. (2-6-0)

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 placed on first reading October 24, 2006 was again presented.

Councilmember Kennedy stated that she has received a number of complaints from downtown business owners and home owners regarding the damage that skateboarders and trick bicycle riders cause.

Councilmember Alcalá asked what the estimated cost of damage is to city property by skateboarders.

Mike McGee, Facility Operations Director stated that he does not have an exact estimate of the cost. He noted that in the past there has been a significant amount of damage sustained to facilities in the downtown area.

Councilmember Duffy asked who would enforce the law and what the penalty would be.

Brenden Long, City Attorney stated that the Police Department would enforce the law and the penalty could entail a fine of up to \$499.

Councilmember Alcalá stated he does not believe the skateboarders pose a threat to the downtown area.

Bob Shereburne stated that he believes the ordinance could not be enforced and limits the ingenuity of young people. He suggested restricting the use of skateboards during work hours to protect the safety of pedestrians.

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Ortiz failed. Councilmembers Alcalá, Ortiz, Duffy, Blackburn and Preisner voted “no”. (3-5-0)

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

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

Councilmember Alcalá moved to approve the final plat. The motion was seconded by Councilmember Ortiz.

Mike Berry, Professional Engineering Consultants appeared to answer questions.

Councilmember Duffy asked if they have received an consent to annex from the developer.

David Thurbon, Planning Director stated that they have received an consent to annex on parcel 10 only.

The motion to approve the final plat carried. Councilmembers Haynes and Duffy voted “no”. (6-2-0)

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

Councilmember Alcalá moved to approve the final plat. The motion seconded by Councilmember Preisner carried. Councilmembers Haynes and Duffy voted “no”. (6-2-0)

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

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

Councilmember Alcalá moved to approve the final plat. The motion was seconded by Councilmember Ortiz.

Steve Brown and Mark Law, developers of the property appeared for questions.

The motion to approve the final plat carried. Councilmembers Haynes and Duffy voted “no”. (6-2-0)

RESOLUTION NO. 7884 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2007-2008 Capital Improvement Budget for the City of Topeka, Kansas was presented.

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

Michael Bradley expressed concern with the reduction of funding for recreational centers. He stated that he believes the centers play a vital role in the quality of life in Topeka.

Jim Langford, Budget and Finance Director distributed the November 6, 2006 Committee of the Whole amendments to the 2006, and 2007-2011 Capital Improvement Program.

(See Attachment A)

Councilmember Preisner moved to adopt the committee report. The motion was seconded by Councilmember Kennedy.

Councilmember Haynes questioned the funding source for the Elevation Parkway Project. He stated that it was his understanding that the project would be funded by any available source except general obligation bonds.

Jim Langford stated that the funding source that is listed under item 7 of the amendments is a clerical error and he would correct it.

Mayor Bunten stated that in his opinion the priorities of the Council need to be reconsidered because there are curbs, gutters and alleys that need to be repaired, and houses that need to be razed to create more green space. He also stated that at some point the deterioration of the city's infrastructure is going to have to be addressed. He explained that the funds being spent on helicopters and aerial equipment could go a long way toward the improvement of infrastructure in the city.

Councilmember Blackburn stated that purchasing equipment for the Fire and Police Departments at this time saves the City a large amount of money in the long run. He also noted that there is a large amount of money that is currently set aside for infrastructure repairs.

Councilmember Haynes asked for clarification on area coverage of the water and sewer line development listed in the Heartland Park Phase II amendment. He also asked if the City would save money if the project was stair-stepped over several years.

Mike Teply, Acting Public Works Director clarified what area would be served. He also stated that the City would not save any money if the project was spread out over several years.

Mayor Bunten noted that the funding to replace the concrete on the Heartland Park drag strip and modifications in the amount of \$2, 550,000 would be financed with GO Topeka funds. He explained that authorization of this amount of funding by the Joint Economic and Development Organization Board would require a change in board policy.

Councilmember Duffy stated that the funds used for Heartland Park improvements fall within the specific guidelines of the Comprehensive Metropolitan Plan by implementing an economic development benefit to the community.

Councilmember Ortiz requested that the funding necessary to construct Fire Station No. 13 be included in the 2008 Capital Improvement Program.

Councilmember Harmon made a substitute motion to accept the committee report. The motion seconded by Councilmember Ortiz carried. Councilmembers Haynes and Duffy voted “no”. (6-2-0)

Councilmember Harmon moved to amend the 2008 Capital Improvement Program (CIP) by adding the cost of acquisition of land for the construction of Fire Station No. 13, to be funded from the California Street project listed in the 2011 CIP. The motion was seconded by Councilmember Preisner.

Councilmember Duffy stated that he believes the California Street project needs to be completed.

Councilmember Harmon stated that it was not his intent to eliminate the California Street project from the CIP.

Councilmember Harmon withdrew the motion to amend the 2008 CIP. The second concurred.

Councilmember Harmon moved to add \$2.5 million to the 2008 CIP for the acquisition of land for the construction of Fire Station No. 13 and reduce the contingency line amount by \$600,000. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

Councilmember Preisner moved to add \$100,000 to the 2007 CIP for ramps, curb cuts, and other ADA upgrades to the Central Park Community Center. The motion seconded by Councilmember Duffy carried. Councilmember Haynes and Blackburn voted “no”. (6-2-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

RESOLUTION NO. 7885 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.

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

Karen Hiller, Central Topeka Turnaround Team spoke in support of the 2007-2011 Capital Improvement Program.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Kennedy carried. Councilmembers Alcalá and Ortiz were out of the room. (6-2-0)

RESOLUTION NO. 7886 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. 12-110c, was presented.

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

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Kennedy carried. Councilmember Preisner voted “no”. (7-1-0)

A PROJECT BUDGET in the amount of \$291,200 and AN ORDINANCE 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 24, 2006 was again presented.

Norton N. Bonaparte, Jr., City Manager requested that the project budget and ordinance be removed from the agenda.

Councilmember Ortiz objected to removing the item from the agenda

Councilmember Preisner moved to table the project budget and ordinance for six months. The motion was seconded by Councilmember Harmon.

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

Councilmember Blackburn asked how the project would be funded.

Brenden Long, City Attorney stated that a new resolution would have to be prepared to add the project to the CIP.

Councilmember Blackburn stated that he would not support the project because it would require that taxes be raised to fund a project that is not necessary.

The substitute motion to approve the project budget and adopt the ordinance failed. Councilmembers Kennedy, Haynes, Duffy, Blackburn, Preisner and Harmon voted “no”. (2-6-0)

A COMMUNICATION from City Manager Norton N. Bonaparte, Jr., outlining and seeking approval of the funding recommendations of the Topeka-Shawnee County Alcohol-Drug

Abuse Advisory Council for the 2007 grant awards from the Special Alcohol Program Fund, 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 Haynes.

Councilmember Duffy asked what the capital improvements were.

Jim Olson, Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council Chair clarified that anything beyond \$500,000 would be capitalized over time.

The motion to approve the communication carried. Councilmember Alcala was out of the room. (7-1-0)

A RESOLUTION introduced by Councilmembers Jeff Preisner and Clark Duffy concerning annexation by the City of Topeka and rescinding City of Topeka Resolution No. 7711 was presented.

Councilmember Alcala left the meeting.

Councilmember Preisner withdrew his support of the resolution to allow for staff to move forward with possible annexation of the Municipal Service Area.

Councilmember Duffy stated that he agrees with Councilmember Preisner because he believes the City should not provide services to areas where the City does not get financial return.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Duffy failed. Councilmembers Kennedy, Ortiz, Haynes and Blackburn voted “no”. (3-4-0)

RESOLUTION NO. 7887 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Trafficway Improvement Project No. 70190-01, Part B, which provides for the reconstruction of East 6th Street to five lanes wide between Golden Avenue and Market Street, 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. Councilmembers Kennedy and Blackburn voted “no”. (5-2-0)

ORDINANCE NO. 18747 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 9, 2006, through October 15, 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 Ortiz carried unanimously. (7-0-0)

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

ORDINANCE NO. 18748 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 16, 2006, through October 22, 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 Ortiz carried unanimously. (7-0-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing improvement Project No. 29093-02 which provides for installation of a new force main from the Deer Creek Pump Station to the Oakland Wastewater Treatment Plant, as more specifically described herein was presented for first reading.

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., City Manager authorizing the initiation of condemnation proceedings to acquire property for Improvement Project # 606270, for the second phase park expansion of the Betty Phillips Park formerly known as Hi-Crest Park was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 26-523 and establishing § 26-524 regarding building and building regulations relating to demolition, and repealing said original section was presented for first reading.

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 on the northeast corner of SE Klein Street and SE 4th Street in the City of Topeka, Kansas from “R-2” Single Family Dwelling District TO “X-2” Mixed Use District was presented for first reading. *(Z06/11)*

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing improvement Project No. 70142-03, Part B, which provides for the widening of California Avenue 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., instituting a real estate lien upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the

cost for sewage collection and treatment where such payments to the City have not been made due to neglect, failure or refusal to pay, pursuant to K.S.A. 12-631k 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 City Hall would be closed on November 10, 2006 in observance of Veteran's Day. He also announced that admission to the City of Topeka Zoo would be free on Veteran's Day. He invited the public to attend the Helen Hocker Theater Open House event on Tuesday, November 14, 2006 from 7:00 p.m. to 9:00 p.m.

Councilmember Ortiz congratulated Fire Chief Giles on his appointment to the Kansas State Association of Fire Chiefs.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:20 p.m.

Iris Walker
City Clerk