

City Council Minutes – November 28, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 28, 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, Preisner and Harmon -8. Mayor Bunten presided: -1. Absent: Councilmember Blackburn -1.

AFTER THE MEETING was called to order, Pastor Martin Schmidt, Prince of Peace Lutheran Church, gave the invocation.

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

Councilmember Alcala moved to suspend the Council rules to add a resolution to the agenda authorizing the City Manager to sell surplus fire department self-contained breathing apparatus to the Shawnee Heights Fire District. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

Councilmember Alcala moved to reinstate the Council rules. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

Mayor Bunten noted that the resolution would be placed on the agenda under New Business as Item 5E.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of November 21, 2006 were presented.

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

Business

Godfather's Pizza #17017
Grab-N-Go
Taco Tico

Address

1707 S.E. 29th Street
1531 S.W. Wanamaker Road
2102 N. Topeka Boulevard

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Skinny's Sports Bar & Grill located at 4016 S.W. Huntoon, was presented.

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

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 November 21, 2006.

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

Councilmember Duffy moved to accept the committee report. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

Councilmember Duffy moved to amend the contract by adding the following language, "All water service provided to residential customers in subdivisions in the potential annexed area that are platted after the effective date of this amendment shall be installed with a one (1) inch service line, and a one (1) inch water meter. The motion seconded by Councilmember Alcalá carried. Councilmember Harmon voted "no". (7-1-0)

Dennis Schwartz, General Manager of Rural Water District No. 8 stated that because sizing of water services is a significantly larger issue than the sizing of water lines and water meters, he does not believe the Board would support the amendment at this time. He noted that at this time all other amendments have been negotiated, and an agreement reached.

Councilmember Kennedy asked how the amendments came about, and why they were not included in the original agreement.

Mike Teply, Acting Public Works Director stated that the amendments were recently proposed by Councilmember Duffy.

Mike Engler, Bartlett & West Engineers commended the Council for moving forward with the agreement. He stated that the contract would allow the City to have a tool to facilitate annexation in the future.

Councilmember Duffy explained his reason for proposing the amendment. He stated that Resolution No. 7339 was crafted to outline a policy for City staff to follow when working with rural water district contracts and managing the growth of the city. He also stated that if annexation were to occur, this contract would help address rural water contracts.

Councilmember Preisner moved to approve the contract as amended. The motion seconded by Councilmember Duffy failed. Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes and Harmon voted “no”. (2-6-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River, placed on first reading November 14, 2006 was again presented. The ordinance was deferred from the meeting of November 21, 2006.

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

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

Councilmember Alcalá stated that he is opposed to the ordinance because he believes staff could find another way to accomplish use of the property.

Councilmember Haynes asked if there was another way to acquire the properties.

Brenden Long, City Attorney stated that the only alternative is property negotiations.

The motion to adopt the ordinance failed. Councilmembers Kennedy, Alcala, Ortiz, Haynes and Duffy voted “no”. (3-5-0)

A PROJECT BUDGET in the amount of \$1,292,700 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 60619-00 which provides for paving certain streets located in Horseshoe Bend Subdivision, as more specifically described herein, was presented.

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

Brenden Long, City Attorney suggested that the project budget and resolution be denied because the public improvement petition was not included in the original project.

Councilmember Preisner moved to approve the project budget and resolution. The motion seconded by Councilmember Alcala failed. Councilmembers Alcala, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon voted “no”. (1-7-0)

A PUBLIC IMPROVEMENT PETITION, a PROJECT BUDGET in the amount of \$1,292,700 and RESOLUTION NO. 7894 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 60619-00 which provides for the paving of the Horseshoe Bend Subdivision, as more specifically described herein was presented.

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

Councilmember Preisner moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

RESOLUTION NO. 7895 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Improvement Project

No. 70196-02 which provides for the construction of SW MacVicar Avenue, from SW 6th Street to the eastbound I-70 exit ramp, was presented.

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

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

A COMMUNICATION authorizing the City Manager to execute Contract No. 36888, an amendment to the contract with Cingular Wireless PCS, L.L.C. to increase the size of leased premise to accommodate a diesel generator was presented.

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

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

A PROJECT BUDGET in the amount of \$130,000 and RESOLUTION NO. 7896 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 13155-00, which provides for two passenger elevators located at the Cyrus K. Holliday building at 620 S.E. Madison as more specifically described herein was presented.

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

Councilmember Haynes asked why the elevator improvements were not included in the remodeling budget of the Cyrus K. Holliday Building.

Mike Teply, Acting Public Works Director stated that the elevator was working fine when the building was being remodeled, but with the increased usage they have not been functioning properly.

Councilmember Ortiz encouraged the Council to support the project because the improvement would better accommodate the large increase in customer traffic.

Councilmember Ortiz moved to approve the project budget and resolution. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

RESOLUTION NO. 7897 introduced by Councilmember Alcalá authorizing the City Manager to sell surplus fire department self-contained breathing apparatus to the Shawnee Heights Fire District was presented.

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

Councilmember Preisner stated that he believes the transaction should be treated as a mutual aid agreement.

Councilmember Preisner moved to amend line 10 of the resolution to reflect a purchase price of \$1 each. The motion was seconded by Councilmember Nave.

Councilmember Duffy asked if the equipment is unsafe and if so, why would they sell the equipment to another fire district.

Chief Giles stated that they have shared their concerns with the Shawnee Heights Fire District regarding the age of the air packs, and the on-going maintenance requirement. He noted that they would assist the Shawnee Heights Fire District in selecting the best equipment.

Councilmember Duffy expressed concern with re-issuing unsafe fire equipment back into service.

The motion to amend line 10 of the resolution to reflect a purchase price of \$1 each carried unanimously. (8-0-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka 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 for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., authorizing Improvement Project No. 84344 which provides for the removal and replacement of concrete curb and gutter throughout the City of Topeka, 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 Councilmembers John Nave, Brett Blackburn and Lana Kennedy, sitting as the Economic and Community Development Committee, repealing City of Topeka Code § 2-494 and amending City of Topeka Code, §§ 2, Article IX and 2-486, 2-487, 2-488, 2-489, 2-490, 2-491, 2-492, and 2-493 establishing a Code of Ethics for elected and appointed officials and employees for the City of Topeka, and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30239-01, which provides for a 10-foot wide trail project, extending the Deer Creek Trail from SE 6th Street to SE 10th Street, 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., amending the project budget and authorizing as amended Improvement Project No. 12060-01, which provides for the replacement of a bridge on SW 29th Street over South Branch Shunganunga Creek near Randolph Street, as more specifically described herein, all pursuant to Section A12-1 of the Code

of the City of Topeka and specifically repealing Ordinance No. 18627 was presented for first reading.

Councilmember Duffy requested additional information on Item 6B, an ordinance authorizing Improvement Project No. 84344 which provides for the removal and replacement of concrete curb and gutter. He stated that before he makes a decision on the ordinance next week he would like an explanation on how the eligibility and priorities of the expenditure of funds were determined for the project.

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

Norton N. Bonaparte, Jr., City Manager stated that the Park Maintenance employee that was recently injured on the job is recuperating. He also announced several upcoming community events. He requested approval of the Council to teach five sessions for the Emerging Leaders Program sponsored by the University of Kansas.

Councilmember Preisner moved to approve the City Manager's request to teach five sessions for the Emerging Leaders Program sponsored by the University of Kansas. The motion seconded by Councilmember Haynes carried. Councilmember Duffy voted "no". (7-1-0)

Councilmember Alcalá moved to reconsider the vote. The motion seconded by Councilmember Duffy carried. Councilmembers Ortiz, Nave and Preisner voted "no". (5-3-0)

Councilmember Alcalá moved to approve the City Manager's request to teach five sessions for the Emerging Leaders Program sponsored by the University of Kansas. The motion seconded by Councilmember Haynes carried. Councilmembers Alcalá, Ortiz and Duffy voted "no". (5-3-0)

Councilmember Duffy gave a brief overview of the article “How to bring High-Tech Jobs to the State of Kansas” by Harold Stone. He also noted a number of statistics relating to the State of Kansas unemployment rates, average medium income and Shawnee County poverty estimates, and stated that he found the trend in the statistics troubling.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:25 p.m.

Iris Walker
City Clerk