

## City Council Minutes – December 5, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 5, 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, Blackburn, Preisner and Harmon -8. Mayor Bunten presided: -1. Absent: Councilmember Duffy -1.

AFTER THE MEETING was called to order, Councilmember Preisner 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:

A COMMUNICATION recommending the appointment of Sharon Joseph to the Human Relations Commission for an unexpired term that would end on August 31, 2007, was presented.

MINUTES of the regular meeting of November 28, 2006 were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Ameri Gas and Convenience Store located at 4601 S.W. Topeka Boulevard, was presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Joletta's located at 600 N.W. Paramore Street, was presented.

An Open After Mid-Night License application bearing the approval of the Chief of Police and City Inspectors for Buffalo Wild Wings Grill & Bar #400 located at 1227 S.W. Wanamaker Road, was presented.

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

Councilmember Duffy entered the room.

## A 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, December 5, 2006, at 6:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

ORDINANCE NO. 18766 introduced by City Manager Norton N. Bonaparte, Jr. , amending the adopted operating budget for the City of Topeka, for the year 2006, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

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

Jim Langford, Budget and Finance Director explained that the amendments would reflect transfers from the General Fund, General Improvement Fund and half-cent Sales Tax Fund. He also stated that the amendments would increase expenditures from the General Improvement Fund, and authorize expenditures from the Kansas Police and Fire Rate Equalization Fund and the half-cent Sales Tax Fund.

Councilmember Preisner moved to close the public hearing and 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.

A PROJECT BUDGET in the amount of \$519,200 and ORDINANCE NO. 18767 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 6<sup>th</sup> Street to SE 10<sup>th</sup> Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading November 28, 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 Blackburn commended staff for reducing the project engineering design costs. He also stated that he would oppose the project because he believes the funds could be better utilized somewhere else in the city.

Councilmember Alcala stated that he believes the extension of the Deer Creek Trail is an excellent way for the City to utilize funds because the community uses the trail on a daily basis.

The motion to approve the project budget and adopt the ordinance carried.

Councilmember Blackburn voted “no”. (8-1-0)

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

A PROJECT BUDGET in the amount of \$1,447,000 and ORDINANCE NO. 18768 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 29<sup>th</sup> 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, placed on first reading November 28, 2006 was again presented.

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

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

Councilmember Blackburn expressed concern with the lack of financial support given by Shawnee County regarding bridge replacements within the city limits.

Councilmember Harmon questioned the large increase in the project budget.

Bernie Cosby, Engineering Division stated that the original project cost was estimated from the initial bid received from the Kansas Department of Transportation (KDOT) in 2000. He explained that the increase in cost is due to the effects of Hurricane Katrina on the economy, and the large increase in fuel costs over the past year. He noted that the current project budget reflects the updated project cost from KDOT.

The motion to approve the project budget and 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 PROJECT BUDGET in the amount of \$600,000 and ORDINANCE NO. 18769 introduced by City Manager Norton N. Bonaparte Jr. authorizing Street Improvement Project No. 84344 which provides for the removal and replacement of damaged or deteriorated sections of concrete curb and gutter that are on the Transportation Operations Division's Curb Replacement List, placed on first reading on November 28, 2006 was again presented.

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

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

Councilmember Ortiz asked for a copy of the project schedule, and how critical requests would be handled.

Mike Teply, Acting Public Works Director stated that a copy of the project schedule and map would be provided to the Council. He explained that requests would be filled in the order they were received, beginning in 1998 to present. He noted that critical requests would be considered first.

Councilmember Alcala expressed concern with the areas that are listed first on the project schedule. He stated that he believes that there are curbs and gutters located in other areas of the city that are in worse shape.

Councilmember Ortiz noted that there are several areas in District No. 3 that need to be scheduled for repair. She asked where on the list the requests would be placed, and how long it would take to fill them.

Mike Teply stated that it would take approximately three years to fill new requests because they would be placed at the bottom of the list.

Councilmember Nave requested that staff research alternative funding sources for the curb and gutter replacement programs.

Councilmember Blackburn stated that he believes that JEDO funds should be utilized for the various programs. He also requested that the Council be provided with a new schedule that is sorted by district.

Councilmember Duffy noted that they are researching a number of ways to improve the existing programs.

The motion to approve the project budget and 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.

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 Section 2-494 and amending City of Topeka Code, Section 2, Article IX and Sections 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, placed on first reading November 28, 2006 was again presented.

Councilmember Nave stated that there were a number of issues that need resolved before adopting the new policy. He suggested that the ordinance be referred to the Committee of the Whole.

Councilmember Nave moved to refer the ordinance to the Committee of the Whole. The motion seconded by Councilmember Ortiz carried. Councilmember Alcala voted “no”. (8-1-0)

A COMMUNICATION regarding the proposed demolition of the residential structure located at 320 SW Taylor Street, was presented.

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

Councilmember Preisner moved that the demolition be approved based upon all relevant factors that there is no feasible or prudent alternative to the proposal. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

A CONTRACT between the City of Topeka and Visit Topeka, Inc., concerning the expenditure and distribution of Transient Guest Tax funds in 2007 subject to the provisions of Resolution 7827, was presented.

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

Councilmember Preisner explained that the contract outlines the criteria that must be followed when allocating Transient Guest Tax funds, and it also allows the Topeka Convention

and Visitors Bureau to contract with any agency, organization or group of firms to promote conventions and tourism within the city.

Councilmember Preisner moved to approve the contract. The motion was seconded by Councilmember Harmon.

Stu Ents, Bill Michaud and Terry Ozment spoke in support of the contract and noted the importance of allowing a professional organization to promote the City of Topeka and generate more tourism.

Councilmember Alcala asked how the number of heads-on-beds would be tracked, and who would serve on the tourism committee.

Councilmember Blackburn asked if the number of heads-on-beds for each individual event could be tracked.

Bill Michaud stated that each hotel, as well as, the tourism committee will track the overall number of heads-on-beds being generated from events. He explained that it would be difficult to track the numbers for each event separately because the majority of hotel reservations are made through the internet which does not provide event tracking information.

Councilmember Ortiz suggested that the tourism committee research the policies that are being used by other near by cities such as Lawrence and Manhattan, because they absorb the overflow of people if the hotels in Topeka have no vacancies.

Councilmember Blackburn expressed concern with implementing a clear policy on how Transient Guest Tax funds will be allocated.

Richard Forester, Topeka Convention and Visitors Bureau stated that the contract outlines the criteria that must be followed regarding the allocation of funds.

Councilmember Alcalá made a substitute motion to refer the contract to the Economic and Community Development Committee. The motion was seconded by Councilmember Kennedy.

Councilmember Preisner stated that he opposes sending the contract to committee because if the stipulations of the contract are not followed it is null and void. He also noted that the Council has final approval on how the funds are allocated.

Councilmember Alcalá expressed concern with the proposed make-up of the tourism committee, and non-elected officials allocating Transient Guest Tax funds.

Councilmember Haynes made a substitute motion to refer the contract to the Committee of the Whole. The motion was seconded by Councilmember Alcalá.

Councilmember Duffy noted that they are close to establishing a clear policy on the allocation of Transient Guest Tax funds.

The substitute motion to refer the contract to the Committee of the Whole carried. Councilmembers Nave, Duffy, Blackburn and Preisner voted “no”. (5-4-0)

Councilmember Preisner moved to discuss Item 5D, an ordinance establishing a Code of Ethics for elected and appointed officials and employees for the City of Topeka, and Item 6B, a contract between the City of Topeka and Visit Topeka Inc., at the same work session. The motion seconded by Councilmember Blackburn failed. Councilmembers Alcalá, Kennedy, Ortiz, Nave, Haynes, Blackburn and Harmon voted “no”. (2-7-0)

Councilmember Blackburn moved to schedule a meeting on Monday, December 11, 2006 at 5:30 p.m. to discuss the contract between the City of Topeka and Visit Topeka, Inc. The motion was seconded by Councilmember Nave.



Councilmember Blackburn withdrew the motion to schedule a meeting on December 11, 2006.

Councilmember Preisner announced that there would be a Committee of the Whole meeting on December 18, 2006 at 5:30 p.m. in the Cyrus K. Holliday Building to discuss the contract between the City of Topeka and Visit Topeka, Inc.

RESOLUTION NO. 7898 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21<sup>st</sup> 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. Councilmember Nave was out of the room. (8-1-0)

A PROJECT BUDGET in the amount of \$46,000 and RESOLUTION NO. 7899 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 13149-02 which provides for upgrades for the vacant space previously used by “Water Express” located in City Hall, as more specifically described herein was presented.

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

Councilmember Preisner moved to approve the project budget and resolution. The motion seconded by Councilmember Haynes carried. Councilmembers Blackburn and Alcalá voted “no”. Councilmember Nave was out of the room. (6-3-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., eliminating out of town Courtesy Tickets and rescinding City of Topeka Resolution No. 6383, was presented.

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

Councilmember Blackburn questioned how the elimination of the courtesy tickets would affect the City's parking revenue.

Councilmember Ortiz stated that she believes one courtesy ticket, not three, is acceptable. She also stated that she would not support the resolution because she believes that courtesy tickets are a positive action that encourages visitors to return to Topeka. She noted that additional tourism information is provided on the back of the ticket.

Councilmember Duffy noted that Resolution No. 6383 already stipulates the enforcement of issuing only one courtesy ticket. He stated that he believes the tickets serve as a valuable service to the City. He requested a report on the amount of revenue lost from allowing free parking on Kansas Avenue.

Mike Teply, Acting Public Works Director stated that they would gather the information regarding lost revenue and report back to the Council.

Councilmember Nave stated that he concurs with Councilmember Ortiz.

Councilmember Preisner stated that he believes the resolution should be disapproved, and the enforcement of courtesy tickets should be handled administratively.

Councilmember Preisner moved to approve the resolution. The motion was seconded by Councilmember Haynes.

Linda Windler, downtown business owner suggested that the language of the downtown parking rules be clarified, that they allow two courtesy tickets per person, and install parking meters on the east side of City Hall to generate more parking revenue.

The motion to approve the resolution failed. (0-9-0)

ORDINANCE NO. 18770 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 13, 2006, through

November 19, 2006, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Preisner was out of the room. (8-1-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., exempting certain property, more specifically property owned by Frito-Lay, 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 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas 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 north of SE 45th Street about 1,830-feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District was presented for first reading. (Z06/23)

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 Code of the City of Topeka, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas

from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District was presented for first reading. (Z06/27)

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 Code of the City of Topeka, by providing for certain changes in zoning on property located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "OS-1" Open Space District was presented for first reading. (Z06/28)

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 Roby Place in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District TO "C-3" Commercial District was presented for first reading. (Z06/32)

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 at 1201 SW Oakley Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with a Conditional Use Permit for a cultural facility ALL TO "O&I-2" Office and Institutional District was presented for first reading. (Z06/33)

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

Norton N. Bonaparte, Jr., City Manager stated that the 2007 Operating Budget is available for review on the City's website. He announced that the Human Relations Commission monthly meeting will be held on December 4, 2006 at 5:30 p.m. in the Cyrus K. Holliday Building First Floor Conference Room; the Topeka Immigrant's Forum on Housing and Financial Education will be held on December 8, 2006 at the Ramanda Inn, 420 S.E. 6th Avenue from 8:30 a.m. to 3:00 p.m; the Topeka Police Department will host the National Safety Council Defensive Driving Course on December 9, 2006 from 9:00 a.m. to 3:00 p.m. at the Topeka Police Department, 320 S. Kansas Avenue; and the Garfield Community Center will host the 25th Annual Children's Christmas Shopping Spree on December 9, 2006 from 9:00 a.m. to 3:00 p.m.

Councilmember Harmon noted that December 5, 2006 marks the 152nd Year Anniversary of the City of Topeka.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:59 p.m.

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Iris Walker  
City Clerk