

City Council Minutes – January 9, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 9, 2007. 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 Buntten presided: -1.

AFTER THE MEETING was called to order, Councilmember Harmon 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 authorizing a Workers' Compensation Settlement for Carolina Flores was presented.

MINUTES of the regular meeting of December 19, 2006 were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Arturo's Mexican Restaurant located at 105 SE 10th Street, was presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Sharkey's of Topeka located at 5217 SW 28th Court, was presented

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Haynes carried. Councilmember Duffy voted "no". (8-1-0)

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.

Councilmember Preisner distributed the following amendment to Section 7 of the contract.

- Strike the sentence “The City Manager shall consider the TCVB’s evaluation and recommendation but the City Manager will award funds to recommended applicants as he or she deems appropriate.”
- Add the sentence, “The TCVB’s evaluation and recommendation shall be submitted to a selection committee comprised of three (3) City Councilmembers, who shall be nominated and selected by the City Council. The selection committee shall meet and make the final decision on the awarding of all Transient Guest Tax Funds subject to this agreement.”

Councilmember Preisner moved to approve the amendment. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá asked how many members would serve on the selection committee.

Councilmember Preisner stated that the selection committee would consist of three Councilmembers.

Councilmember Blackburn stated that he believes the amendment is a good compromise because it places stipulations on the allocation of Transient Guest Tax funds. He explained that the stipulation would insure that the funds are being spent according to the will of the Council and provide an excellent check and balance system.

Councilmember Haynes suggested that the three Councilmembers that are selected to serve on the committee rotate annually.

Councilmember Haynes made a substitute motion to modify the language of the amendment by adding the stipulation that “committee members must rotate on an annual basis.”

The motion was seconded by Councilmember Alcalá.

Councilmember Blackburn suggested that the amended language reflect that committee members could not serve two consecutive terms.

Councilmember Haynes withdrew the motion to modify the language of the amendment. The second concurred.

Councilmember Haynes made a substitute motion to defer the contract for one week to clarify the language of the amendment. The motion was seconded by Councilmember Alcalá.

Councilmember Preisner stated that he would not support deferring the contract for one week, however, he would support modifying the language of the amendment.

Councilmember Alcalá requested that prior to the approval of the contract that guideline parameters and a standard formula for determination of funds be established. He also asked if TCVB would charge the City a service fee to administer applications and make recommendations to the Council.

Jim Langford, Budget and Finance Director stated that the service fee charged by TCVB is 10% of the total amount of money allocated for the distribution of grants.

The motion to defer the contract for one week carried. Councilmembers Nave, Duffy, Blackburn and Preisner voted “no”. (5-4-0)

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 placed on first reading December 5, 2006 was again presented.

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

Tom Zeltner, owner of Tom's Auto Repair stated that he does not believe that the City is offering a sufficient amount of help to relocate his business.

Councilmember Ortiz asked if he has considered the property located on the corner of East 6th and Taft Streets.

Mr. Zeltner stated that he has contacted the property owner and he is not interested in selling the property.

Councilmember Kennedy asked Mr. Zeltner what his needs are as a business owner.

Mr. Zeltner stated that his goal is to maintain a prosperous business and remain in the same area.

Councilmember Alcala asked if a representative from the City has contacted him to assist with the relocation process.

Mr. Zeltner stated that he has had conversations with Rusty Rakestraw, and attempted to contact several other City Departments. He noted that he has not received a return call from the City.

Councilmember Alcala asked the City Manager to follow up on the relocation obligations that were promised to Mr. Zeltner by the City. He also requested a copy of the original relocation agreement.

Councilmember Alcala moved to defer the ordinance for two weeks to allow time for the City to contact Mr. Zeltner and update the Council on the situation. The motion was seconded by Councilmember Ortiz.

Councilmember Duffy asked what the funding source of the project would be, and if they should consider building around the property. He stated that it was his understanding that the

Neighborhood Improvement Associations would not support the project if it would involve the use of eminent domain.

Jim Langford, Budget and Finance Director stated that the project would be funded by general obligation bonds.

Mike Teply, Acting Public Works Director stated that the property must be acquired because a storm sewer runs along the north boundary of the property. He noted that additional utility work has already begun on the property.

Councilmember Blackburn asked if the project could be realigned to salvage Mr. Zeltner's property.

Mike Teply stated that there would be additional costs associated with the relocation of the project.

Councilmember Blackburn stated that he believes it is time to resolve the eminent domain policy issues because the same problem continues to reoccur.

Pat DeLapp stated that he does not believe the City is offering a fair price for the purchase of his property.

Discussion continued by several Councilmembers on the inconsistencies of the City's relocation process, appraisal process, and eminent domain policy.

The substitute motion to defer the ordinance for two weeks carried. Councilmembers Duffy and Preisner voted "no". (7-2-0)

ORDINANCE NO. 18785 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 placed on first reading December 19, 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 Alcala.

Councilmember Duffy asked where the property owners were located, and what would happen if the City did not provide services to those areas.

Mike Teply, Acting Public Works Director stated that all of the property owners were located outside the city limits and services would have to be provided by another entity.

Councilmember Duffy stated that he believes they should consider discontinuing the services.

The motion to 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 \$3,149,780 and ORDINANCE NO. 18786 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish Road and SW 21st Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 19, 2006 was again presented.

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

Brenden Long, City Attorney stated that there is a residential structure located on the northeast corner of SW Urish Road and SW 21st Street that may need to be acquired for the

project. He explained that if the property could not be acquired through the regular negotiation process then it would have to be acquired through the eminent domain process.

Councilmember Preisner moved to approve the project budget 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 COMMUNICATION authorizing the City Manager to execute Contract No. 37028 between the City of Topeka and Reser's Fine Foods, Inc., to permit encroachment of private pretreatment sewer into public right-of-way of S.E. 10th Street and S.E. Payless Drive, and at the Deer Creek Interceptor Sewer easement was presented.

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

Councilmember Ortiz moved to approve the communication. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A FINAL PLAT for Southwest Industrial Plaza Subdivision No. 3 on property located adjacent to the east side of the Kansas Turnpike between SW 53rd Street and SW 57th Street, within the Municipal Service Area and the three-mile extraterritorial jurisdiction of the City of Topeka, all being within unincorporated Shawnee County, Kansas was presented. (P06/37)

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

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

RESOLUTION NO. 7904 establishing the City of Topeka legislative agenda for the 2007 legislative session was presented.

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

Mayor Bunten requested that the following amendments be included in the resolution:

- Urge the legislature to move forward and adopt the Ad Valorem Tax Relief Fund in 2008 or 2009, instead of 2010.
- Support legislation that amends suspended driver's license statutes to allow for more cost effective and reasonable enforcement of penalties for violations.

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

Witney Damron, League of Kansas Municipalities gave a brief overview of the priorities they have set for the City of Topeka. He also stated that the second item of the resolution would encompass the Ad Valorem Tax Relief fund amendment.

Councilmember Haynes made a substitute motion to amend the resolution by including the request to support legislation that amends suspended driver's license statutes to allow for more cost effective and reasonable enforcement of penalties for violations. The motion was seconded by Councilmember Alcala.

Councilmember Blackburn moved to delete lines 29 and 30 of the resolution. The motion died due to lack of second.

Councilmember Duffy stated that he believes they should focus on the items that directly affect the City.

Brenden Long, City Attorney stated that the resolution asks the Council for direction and establishes general support of the legislative agenda.

Norton N. Bonaparte, Jr., asked if the Council needs to provide direction on specific priorities at this time.

Witney Damron stated that direction is not needed at this time.

The substitute motion to amend the resolution carried. Councilmembers Duffy, Blackburn and Preisner voted “no”. (6-3-0)

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

A RESOLUTION introduced by Councilmembers Brett Blackburn and Lana Kennedy concerning the consolidation of various departments of Shawnee County and the City of Topeka, was presented.

Councilmember Kennedy stated that the resolution would allow for the City of Topeka to enter into discussions with the Board of Shawnee County Commissioners concerning consolidation of certain departments to eliminate duplication of services and save taxpayers money.

Vic Miller, Shawnee County Commissioner gave a brief overview of the consolidation studies that have already been conducted on the Planning Departments, Zoo Department, Parks and Recreation Departments and Information Technology Departments. He stated that he believes that the consolidation of the Public Works Departments and the Contracts and Procurement Departments would not be beneficial. He also stated that the Emergency Communications Department has been consolidated for ten years and is operated by Shawnee County. He stated that consolidation of the City Clerk and County Clerk offices seems feasible at this time because the City Clerk position is vacant, and in his opinion, there may be some duplication in services.

Councilmember Harmon asked if the County would consider approving the resolution if the context was more generalized.

Vic Miller stated that the County would not approve the resolution because they believe City and County employees have already invested too much time in researching city-county consolidation.

Councilmember Duffy stated that he supports the consolidation of the two governments forming one governmental body. He explained that he is opposed to the resolution because in his opinion both governments must be under the direction of professional management before consolidation of services should be considered. He also noted his disappointment in the managing of the previous joint city-county planning commission.

Councilmember Blackburn stated that the main goal of the resolution is to consider the functional consolidation of City and County departments, and save the taxpayers money.

Councilmember Alcala stated that he supports consolidation. He asked the City Manager to explore the different avenues of departmental consolidation and assess the cost savings. He also requested that in the future all consolidation proposals be distributed to the Council.

Councilmember Kennedy asked the City Manager to research future efficiencies regarding city-county departmental consolidation.

Councilmember Haynes made a substitute motion to direct the City Manager to meet with the Shawnee County Board of Commissioners regarding the Parks and Recreation Department Consolidation Plan. The motion was seconded by Councilmember Kennedy.

Councilmember Blackburn suggested that they disapprove the resolution and introduce a new resolution that incorporates the proposed amendments.

Councilmember Haynes withdrew the substitute motion. The second concurred.

Councilmember Nave noted that the City Manager would distribute a report of his review of the Information Technology Consolidation Employee Proposal by the end of the month.

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

RESOLUTION NO. 7905 introduced by City Manager Norton N. Bonaparte, Jr., setting the public hearing for amending the project budget and authorizing, as amended, Trafficway Impact Fee Improvement Project No. 70183-00, which provides for the construction of S. Kansas Avenue from SW 37th Street to the Interstate 470 and S. Topeka Boulevard intersection as more specifically described herein was presented.

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

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcala carried. Councilmember Kennedy was out of the room. (8-1-0)

ORDINANCE NO. 18787 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 4, 2006, through December 10, 2006, and enumerating said expenditures therein was presented for first and final reading.

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

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

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

ORDINANCE NO. 18788 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 11, 2006, through December 17, 2006, and enumerating said expenditures therein was presented for first and final reading.

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

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

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

ORDINANCE NO. 18789 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 18, 2006, through December 24, 2006, and enumerating said expenditures therein was presented for first and final reading.

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

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

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

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr. designating real property more specifically described herein as a historic landmark and presently zoned "O&I-2" Office and Institutional District and located at 1201 SW Oakley Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

(HL06/2)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., designating real property more specifically described herein as a historic landmark and presently zoned "R-2" Single Family Dwelling District and located at 1215 SW College Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

(HL06/3)

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 the northern boundary of SW Arvonnia Place, north of SW 21st Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "PUD" Planned Unit Development District (M-2, O&I-2 and C-2 use groups) was presented for first reading. (*PUD06/5*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Pioneer Adams Towne Homes, which will bring a commercial property into the multi-family development, increasing the total number of units to 47 and adding garages to the town home units (total of 38 garages) on the properties located on the northeast corner of SE 21st Street and SE Adams Street and along SE 21st Street, between SE Massachusetts and SE Pennsylvania Avenues within the City of Topeka, Kansas was presented for first reading. (*Z03/46A*)

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 912 SW Lane Street in the City of Topeka, Kansas from "M-1" Two Family Dwelling District TO "MS-1" Medical Service District was presented for first reading. (*Z06/35*)

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 100 S. Kansas Avenue in the City of Topeka, Kansas from "I-2" Heavy Industrial District TO "D-3" Downtown Mixed Use District was presented for first reading. (*Z06/36*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 14116-01, which provides for procuring approximately 32 new traffic signal controllers, 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., 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 for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a six (6) month extension of the franchise agreement for Southwestern Bell Telephone L.P. d/b/a AT & T Kansas 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 would be accepting recycled Christmas trees until January 31, 2007 at the Yard Materials Site located at I-70 Highway and MacVicar. He also announced that the Topeka Police Department is accepting applications for the Topeka Police Department Citizens Academy at the Law Enforcement Center located at 320 S. Kansas Avenue. He noted that City offices would be closed on Monday, January 15, 2007 in observance of the Martin Luther King Holiday.

Councilmember Kennedy stated that she has received several complaints from constituents regarding a registered sex offender living across the street from Meadows Elementary School. She asked the Council to support an ordinance she will introduce that would prohibit sexual offenders from living within 500 feet of a school.

Councilmember Alcala stated that he received a complaint from a citizen regarding the behavior of a City employee. He requested a meeting with the City Manager to discuss the establishment of an employee behavioral policy.

Councilmember Ortiz requested that all weekly memorandums be sent to the Council. She also asked when they would receive a copy of the Information Technology Employee Consolidation Proposal. She noted that the graffiti in District No. 3 has increased, and requested a meeting with Ron Miller, Chief of Police and Randy Speaker, Housing and Neighborhood Director to discuss implementing a graffiti removal procedure.

Norton N. Bonaparte, Jr., City Manager stated that the Council would receive a report on his review of the consolidation proposal by the end of the month.

Councilmember Duffy stated that there is a house located on SW 16th Street between Washburn and Lane Streets that has been blocking street access for over two months. He asked when the house would be moved.

Brenden Long, City Attorney stated that he is not sure when the house will be moved because there is not an ordinance in place that regulates this type of situation. He noted that the property owner has been issued several tickets in regards to removal of the house.

Councilmember Blackburn stated that he believes they should consider purchasing more effective surveillance equipment to address the graffiti problems. He also stated that they would discuss his tax shift proposal at the work session on Saturday, January 13, 2007.

Councilmember Preisner announced that there would be a work session held on Saturday, January 13, 2007 at 9:00 a.m. in the Washburn University Memorial Union Kansas Room to discuss sales tax and revenue issues.

Councilmember Harmon asked for an update on the prostitution issues in District No. 1.

Norton N. Bonaparte, Jr., City Manager stated that the Topeka Police Department would make a presentation on the “Focused Enforcement Initiative” at the January 30, 2007 work session which will address city-wide prostitution issues.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8.55 p.m.

Brenda Younger
Interim City Clerk