

City Council Minutes – January 16, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 16, 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 Bunten 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.

Mayor Bunten pulled the minutes of the regular meeting of January 9, 2006 from the agenda. He stated that the minutes have not yet been completed and will be placed on next week's agenda.

THE CONSENT AGENDA was presented as follows:

Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City Inspectors for El Coyote, Inc., located at 1405 SW 6th Avenue; and Wal-Mart Super Center located at 2600 NW Rochester Road, were presented

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

CONTRACT NO. 37044 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. The contract was deferred from the meeting of January 9, 2007.

Councilmember Haynes distributed an amendment to Section 7 of the contract. The amendment read as follows:

- (1) Strike the second sentence of the section, “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.”
- (2) Insert, “The TCVB’s evaluation and recommendation for funding shall be submitted to a selection committee comprised of three (3) City Councilmembers. The selection committee shall meet and make the final decision on the awarding of all Transient Guest Tax Funds subject to this agreement.”, after the first sentence of the section.
- (3) Add the statement, “or the selection of committee” after the word “City Manager” in the last sentence of the section.

Councilmember Haynes moved to amend the contract as distributed, and approve the contract as amended. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn made a substitute motion to amend the language of amendment by inserting the words, “who shall be nominated and selected by the City Council for one year terms. No Councilmember shall serve two consecutive terms.” after the word “Councilmembers”, in the second sentence of the section; and approve the contract as amended. The motion seconded by Councilmember Preisner carried. Councilmembers Alcala and Haynes voted “no”. (7-2-0)

ORDINANCE NO. 18790 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 placed on first reading January 9, 2007 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 Kennedy carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18791 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 placed on first reading January 9, 2007 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that the six month extension would allow time for further negotiations.

Councilmember Blackburn requested that the City require that utility boxes be placed at the rear of properties, or out of the line of visibility.

Brenden Long, City Attorney stated that the City's right-of-way areas are regulated by state law and the City has limited control. He suggested that the placement of utility boxes be controlled through subdivision regulations.

Councilmember Blackburn moved to adopt the ordinance. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A PROJECT BUDGET in the amount of \$102,400 and ORDINANCE NO. 18792 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 placed on first reading January 9, 2007 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 Nave requested a map of where the new traffic signal controllers would be located.

Councilmember Blackburn requested that the traffic signal control utility boxes be placed underground, or out of the line of visibility.

Councilmember Harmon asked why the traffic signals were being replaced.

Mike Teply, Acting Public Works Director stated that the traffic signals are being replaced because of maintenance issues.

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.

RESOLUTION NO. 7906 introduced by Deputy Mayor Jeff Preisner canceling Council meetings for April 3, 2007, July 3, 2007, December 25, 2007 and January 1, 2008 and establishing a meeting on January 29, 2008, was presented.

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

Councilmember Ortiz moved to amend the resolution by cancelling the meeting of February 27, 2007. The motion seconded by Councilmember Preisner carried. Councilmembers Alcala, Haynes and Harmon voted "no". (6-3-0)

Councilmember Ortiz moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmembers Alcala, Haynes and Harmon voted "no". (6-3-0)

ORDINANCE NO. 18793 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 25, 2006, through December 31, 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. (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 FINAL PLAT for Legend Ridge Estates Subdivision located at the northern boundary of SW Arvonias Place, north of SW 21st Street, was presented. (P06/32)

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

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

ORDINANCE NO. 18794 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 Arvonias 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) placed on first reading January 9, 2007 was again presented. (*PUD06/5*)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Alcala, Preisner and Harmon. There were none declared.

Councilmember Duffy asked if the Planning Department's conditions of approval are included in the proposal.

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

Angela Sharp, Bartlett & West Engineers stated that the request includes the conditions of approval outlined by the Planning Commission.

Councilmember Duffy asked what their objections were to the Planning Department's conditions for approval.

Angela Sharp stated that the Planning Department's conditions for approval were based on the installation of sidewalks prior to the subdivision being fully developed, and securing fire lane/emergency access on SW 21st Street. She stated that they objected to the sidewalk request because they believe the developer should be allowed to follow the City's normal procedure and install the sidewalks as property develops. She also explained that they agree with the Planning Commission's definition of emergency access, and believe that emergency vehicles have the right of entry of all restricted access because they are considered an entity of the governing body.

Councilmember Duffy asked why the Planning Department and the Planning Commission have a different definition of emergency access.

David Thurbon, Planning Director stated that in this case they concur with the Planning Commission.

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

ORDINANCE NO. 18795 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 January 9, 2007 was again presented. (Z06/35)

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

Councilmember Kennedy stated that the Old Town Neighborhood Improvement Association (NIA) has expressed concern with where the driveways and approaches will be located.

Michael Bradley, President of the Old Town NIA stated that they support this portion of the project because it was approved in the overall neighborhood plan. He explained that they have met with St. Francis Hospital representatives and informed them that they would be strongly opposed to any changes in the plans regarding Lincoln Street.

Councilmember Kennedy asked if the NIA is aware of the future plans of the hospital to build a new 20,000 square foot medical facility.

Michael Bradley stated that they are aware of the plans, and approve of the new facility because it will be constructed within the Medical Service District.

Councilmember Kennedy encouraged the Council to remain sensitive to area homeowners regarding approval of future zoning change requests.

Councilmember Duffy stated that he believes as a governing body they need to be very cautious to improve the integrity of the neighborhood, and also allow for logical growth of the medical facility. He also stated that he would support this portion of the project because the NIA has expressed their support. He noted that the medical facility has already expressed intent to encroach on residential properties for future development.

Mayor Buntten asked if there were any exparte communications.

exparte communications were declared by Councilmembers Kennedy, Ortiz, Nave, Duffy, Blackburn, Preisner and Harmon.

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

ORDINANCE NO. 18796 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 January 9, 2007 was again presented. (HL06/2)

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

Mayor Bunten asked if there any exparte communications besides Councilmember Ortiz. There were none declared.

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

ORDINANCE NO. 18797 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 placed on first reading January 9, 2007, was again presented. (HL06/3)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Nave moved to 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..

ORDINANCE NO. 18798 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 placed on first reading January 9, 2007 was again presented. (Z06/36)

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

Councilmember Blackburn asked if approval of the zoning request would allow for spot zoning.

David Thurbon, Planning Director stated that the surrounding properties are zoned industrial, and the downtown area is zoned as a Mixed Use District which includes a combination of residential, commercial and industrial zoning.

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Kennedy carried. Councilmember Ortiz voted “no”. (8-1-0)

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

ORDINANCE NO. 18799 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 placed on first reading January 9, 2007 was again presented. (Z03/46A)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Kennedy and Alcala. There were none declared.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Alcala 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 City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 26054-00, which provides for sanitary and storm sewer improvements, water line improvements, street improvements, public parking, street light relocation, sidewalks, public landscaping and other related appurtenances for a complete project in the College Hill Redevelopment District, as more specifically described herein, certain portions of which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof pursuant to City of Topeka Code Section A12-1 and pursuant to K.S.A. 10-101 and 10-1201, *et seq.*, and all amendments thereto and repealing City of Topeka Ordinance No. 18591 was presented for first reading.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of all of SW 7th Street in Westwood Addition, extending from the east line of SW Park Lane located north of 700 SW Park Lane, City of Topeka, Shawnee County, Kansas was presented for first reading. (V06S/4)

AN ORDINANCE introduced by Councilmember Brett Blackburn amending Section 107 of the current edition of the Standard Traffic Ordinance for Kansas Cities, 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 reported that an official written relocation agreement does not exist between Tom Zeltner and the City of Topeka. He stated that a comment was made by a City employee to Mr. Zeltner stating that, "The City would help him find a place to relocate his business and move." He noted that Mr. Zeltner could not recall the employee's name. He also stated that Randy Speaker, Housing and Neighborhood Director would meet with Mr. Zeltner to continue assisting him with the relocation process. He 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.

Councilmember Kennedy asked the City Manager to respond to an article published in the January 2007 addition of TK Magazine relating to sign regulations. She stated that she believes the article insinuates that the City of Topeka is not business friendly.

Councilmember Ortiz announced that TARC is offering free shredding services this week.

Councilmember Duffy stated that he is going to offer amendments to the ordinance relating to the College Hill Redevelopment Project No. 26054-00 at the January 23, 2007 Council meeting. He noted that the amendments would be discussed at the Economic and Community Development Committee meeting on Friday, January 19, 2007.

Councilmember Nave announced that there would be an Economic and Community Development Committee meeting held on January 19, 2007 at 12:00 noon in the City Council Office.

Councilmember Blackburn asked Brenden Long, City Attorney to contact WeStar Energy officials regarding the trimming of trees throughout the city. He stated that the trimming of trees are destroying mature trees, affecting the beautification of the city, and creating potential tree falling hazards.

Councilmember Preisner announced that there would be a Brookfield Westridge Homeowners Association meeting held on January 18, 2007 at 7:00 p.m. in the LDS Church cafeteria located on SW Kingsrow Road.

Councilmember Harmon announced that there would be a Policy and Finance Committee meeting on January 22, 2007 at 4:00 p.m. in the Cyrus K. Holliday Building Sunflower Conference Room.

Brenden Long, City Attorney stated that they have met with WeStar Energy and KCC officials regarding the trimming of trees on several different occasions. He also stated that they would provide the Council an update on contract negotiations, and what has transpired up to this point. He stated that they plan to revisit the issue with WeStar Energy and KCC officials in the near future.

Councilmember Duffy stated that he believes WeStar Energy officials are ready to move forward with an agreement, and maintain a good working relationship with the City of Topeka.

Councilmember Ortiz suggested that the extra wood that is left over as a result of the trimming of trees be donated to those in need.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:05 p.m.

Brenda Younger
Interim City Clerk