

## City Council Minutes – January 23, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 23, 2007. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn and Harmon -8. Mayor Bunten presided: -1. Absent: Councilmember Preisner -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 stated that Councilmember Preisner was out of town on business.

A PRESENTATION on the Housing and Neighborhood Department Operations was presented by Randy Speaker, Housing and Neighborhood Director.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7907 introduced by Councilmembers Brett Blackburn and Clark Duffy expressing support for the Ventana Estates Subdivision Development Project was presented.

MINUTES of the regular meeting of January 9, 2007 and January 16, 2007 were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for The Celtic Fox located at 118 SW 8<sup>th</sup> Street, was presented

An Open After Mid-Night License application bearing the approval of the Chief of Police and City Inspectors for the 6<sup>th</sup> Street Pub located at 435 S. Kansas Avenue, was presented

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

## 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, January 23, 2007, at 6:00 P.M. relating to a vacation request to vacate 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.

ORDINANCE NO. 18800 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 placed on first reading January 16, 2007 was again presented. (V06S/4)

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 Nave carried unanimously. (8-0-0)

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

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. The ordinance was deferred from the meeting of January 9, 2007.

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

Councilmember Ortiz asked if the City has reached an agreement with the property owners.

Mike Teply, Acting Public Works Director stated that the City has not reached an agreement with four of the property owners. He explained that they are moving forward with condemnation proceedings for the acquisition of Parcel No. 12 as recommended by the Legal Department; they are waiting to receive notarized documents from the owner of Parcel No. 11; they are continuing to assist Mr. Zeltner with the relocation process; and they met with Mr. DeLapp on January 12, 2007 and he rejected their offer.

Councilmember Ortiz stated that she would like to defer the ordinance for one week to allow time to review Mr. DeLapp's homeowner insurance policy, and continue negotiations with Mr. Zeltner.

Councilmember Ortiz moved to defer the ordinance for one week. The motion was seconded by Councilmember Alcalá.

Councilmember Haynes stated that he believes a homeowner insurance policy should not be a factor in determining the appraisal value of a home. He also stated that the replacement cost listed on an insurance policy is generally much higher than the fair market value price. He also asked if Mr. DeLapp has hired his own appraiser to assess the property.

Brenden Long, City Attorney stated that the standard practice of the City is to use a certified appraisal officer to assess the value of a property. He also stated that Mr. DeLapp has not had an appraisal conducted on his property.

Councilmember Nave asked if the City has reviewed Mr. DeLapp's homeowner insurance policy.

Jerry Kane, Land Acquisition Inc., stated that he informed Mr. DeLapp that Kansas State Statute defines "just compensation" as the fair market value of a property. He also stated that he believes fair market value has been established through the City's property appraisal.

Pat DeLapp stated that he does not agree with the City's offer because he believes it is not a fair price.

The motion to defer the ordinance one week carried. Councilmembers Nave and Haynes voted "no". (6-2-0)

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 placed on first reading January 16, 2007 was again presented.

Councilmember Blackburn explained that the amendment would allow fire officials during an emergency, or law enforcement officers in the performance of their duties who are working with canines to leave their motor vehicles unattended, as long as, the vehicle is secure from unauthorized entry.

Councilmember Blackburn moved to adopt the ordinance. The motion was seconded by Councilmember Haynes.

Councilmember Alcala asked if the amendment included emergency vehicles and City utility vehicles.

Councilmember Blackburn suggested that they introduce a different amendment that would specify which departments need the exemption.

Brenden Long, City Attorney stated that they would need to discuss the issue with staff to determine which departments need to be included in the amendment.

Councilmember Alcala stated that he would prefer to adopt one ordinance that would regulate departmental vehicle exemptions across the board.

Councilmember Alcala moved to refer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn suggested that the language of the ordinance be amended to include “emergency vehicles.”

Councilmember Alcalá stated that he believes the issue should be discussed in committee because in his opinion the language of the amendment is very limited.

The motion to refer the ordinance to the Policy and Finance Committee carried unanimously. (8-0-0)

RESOLUTION NO. 7908 authorizing expenditure from the crime prevention fund to support the Third Judicial District Drug Court program was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He explained that the resolution would allow for an expenditure of up to \$15,560 of revenue from the tobacco paraphernalia and novelty item license fee to support the drug court program.

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

Clifford Cormier stated that he recently purchased a Tobacco and Novelty Retail License from the City and believes the money should not be appropriated because the license is illegal according to state statute.

Councilmember Kennedy asked if the ordinance is legitimate.

Brenden Long, City Attorney stated that the ordinance is legal and allows for the sale of some tobacco novelty products that are not considered drug paraphernalia.

Councilmember Nave thanked all of the individuals who have contributed to the success of the drug court program.

The motion to approve the resolution carried unanimously. (8-0-0)

A FINAL PLAT for the Topeka Veterinary Hospital Subdivision located on the northwest corner of SW 21st Street and SW Stutley Road, within the Municipal Service Area and 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 Ortiz moved to approve the final plat. The motion seconded by Councilmember Nave carried. Councilmember Duffy voted “no”. (7-1-0)

ORDINANCE NO. 18801 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 1, 2007, through January 7, 2007, 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 unanimously. (8-0-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 14121, which provides for replacement of the existing traffic signal, and minor sidewalk and ramp work at South Kansas Avenue and South 29<sup>th</sup> 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., authorizing Improvement Project No. 30275-00, which provides for the purchase and installation of two play

structures as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka 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 the City of Topeka, the Jayhawk Area Agency on Aging, and the Topeka Independent Living Resource Center created the “Snow Relief Team” who assisted twenty-seven special need families with the removal of snow from their driveways and sidewalks. He announced that Safe Streets, in collaboration with the Topeka Police Department is offering a free four hour training session for citizens wanting to assist in the reduction of crime in their neighborhoods. He advised citizens to contact Safe Streets at 785-266-4606 for more information. He also announced that the City is accepting applications for historical preservation funding, and advised citizens who wish to receive financial assistance for the restoration of historical homes to call 785-368-3728, or visit the City’s website.

Councilmember Kennedy expressed concern with the increase of city-wide crimes that involve shootings, and questioned if the new Conceal and Carry Law is to blame. She asked the City Manager to meet with the Police Chief and organize a crime summit to address the problem.

Mayor Bunten stated that he believes the sales tax proposal he presented at the January 23, 2007 work session would help reduce crime by providing financial assistance to the Police Department.

Norton N. Bonaparte, Jr., City Manager stated that Police Chief Miller is scheduled to make a presentation on the “Focused Enforcement Initiative” at the January 30, 2007 Council meeting which will address city-wide crime issues.

Councilmember Blackburn noted that the Police Department is in the process of creating several crime prevention programs that focus on community policing. He also announced that he would introduce the amended version of his tax shift proposal in the next few weeks.

Councilmember Kennedy asked in the last 20 years how many murders still remain unsolved, and requested that the information be televised on the City 4 Government Access Channel.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:07 p.m.

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Brenda Younger  
Interim City Clerk