

City Council Minutes – January 30, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 30, 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 Preisner asked for a moment of silent meditation.

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

A PRESENTATION on the Topeka Police Department's Focused Enforcement Initiative Program was presented by Ron Miller, City of Topeka Police Chief.

Councilmember Blackburn moved to suspend the Council Rules to add an ordinance amending the Standard Traffic Ordinance of Kansas Cities to the agenda. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Councilmember Blackburn moved to reinstate the Council Rules. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

Mayor Bunten stated that the ordinance would be placed on the agenda under Unfinished Business, item 5E.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 23, 2007 were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for The Dock located at 2838 SE 29th Street, was presented

An Open After Mid-Night License application bearing the approval of the Chief of Police and City Inspectors for Wiplash located at 2107 SE California Avenue, was presented

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

ORDINANCE NO. 18802 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 23, 2007.

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

Patt DeLapp stated that he believes that the appraisal conducted by the Shawnee County Appraisers Office is incorrect because it does not reflect the correct square footage of his home. He also stated that in his opinion, it would be in his best interest to receive a cash allowance for the replacement of his home based on the replacement cost listed on his homeowner's insurance policy.

Councilmember Kennedy asked if a private appraisal has been conducted on the property.

Councilmember Haynes stated that fair market value needs to be considered when determining the comparative replacement cost of the home.

Mr. DeLapp stated that he believes an additional appraisal would be a waste of time because he is arguing replacement cost of the house, which he believes is not solely determined by fair market value.

Norton N. Bonaparte, Jr., noted that if the project is approved final compensation will be determined by a District Court Judge.

Councilmember Ortiz stated that she was informed by Mr. DeLapp's insurance company that they would pay up to \$57,000 for the replacement of his home. She noted that a judge has the authority to order three separate appraisals on the property, and generally people will get more following litigation.

Councilmember Harmon asked if they have reached an agreement with Mr. Zeltner.

Brenden Long, City Attorney stated that they have not reached agreement, and Mr. Zeltner has obtained counsel.

Mike Teply stated that they have attempted to contact the financial institute that owns the property Mr. Zeltner is interested in buying and have not received a return call.

Randy Speaker, Housing and Neighborhood Director noted that the property is in foreclosure status.

Councilmember Blackburn moved to amend the ordinance by excluding Parcel No. 5. The motion was seconded by Councilmember Kennedy.

Mike Teply stated that the acquisition of Mr. Zeltner's property is crucial to the project.

Councilmember Kennedy asked if both property owners were offered the same compensation package regarding relocation.

Brenden Long stated that the same practice is used for all condemnation cases because the relocation package is mandated by the federal government.

The motion to amend the ordinance failed. Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon voted "no." (1-8-0)

Councilmember Alcalá stated that it is unfortunate that an agreement cannot be reached, however, it is time to move forward with the project.

Councilmember Kennedy stated that she concurred with Councilmember Alcalá.

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 \$164,745 and ORDINANCE NO. 18803 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 29th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading January 23, 2007 was again presented.

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

Councilmember Alcala asked if all options were considered, including 2-way and 4-way stops.

Mike Teply, Acting Public Works Director stated that they have considered various options, and it was determined that the safest option would be signalization.

Councilmember Ortiz asked if they considered removing the median.

Mike Teply stated that this project only replaces signalization and allows for minor ramp repairs. He also stated that they are researching the removal of medians at other locations.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Duffy voted “no”.

(8-1-0)

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

A PROJECT BUDGET in the amount of \$100,000 and ORDINANCE NO. 18804 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 placed on first reading January 23, 2007 was again presented.

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

Councilmember Alcalá 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18805 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 placed on first reading January 23, 2007 was again presented.

NOTICE OF INTENTION to make improvements under Improvement Project No. 26054-00 which provides for the sanitary and storm sewer improvements, water line improvements, street improvements, public parking, street light relocation, sidewalks, public landscaping and other appurtenances needed in the College Hill Redevelopment District generally bounded by SW 17th Street to SW 13th Street and SW Washburn Avenue and SW Lane Street 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, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, 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 the cost thereof pursuant to K.S.A. 10-101 and 10-1201, *et seq.*, and all amendments thereto, was presented.

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

Michael Bradley expressed concern with Neighborhood Improvement Association funding being used for the project.

Councilmember Duffy introduced an amendment that would shift the funding source of the project from neighborhood improvement funds, to general obligation bonds. He stated that acceptance of the committee report would implement the amendment.

Councilmember Duffy moved to accept the committee report. The motion was seconded by Councilmember Preisner.

Councilmember Haynes asked why a benefit district was not established for the project.

Brenden Long, City Attorney stated that it is not the City's exclusive practice to establish benefit districts for all new developments. He explained that there are a number of factors to consider, and generally benefit districts are established for new housing developments.

Councilmember Blackburn stated that he received an email from a constituent questioning the legality of the funding source.

Randy Speaker, Housing and Neighborhood Director stated that the funding is legitimate. He explained that in the past there have been questions raised regarding the legality of shifting neighborhood funds. He stated that the process has been clarified and the problem alleviated.

Councilmember Alcalá asked why they are asking taxpayers to pay an additional \$2.2 million in infrastructure costs for the project. He also stated that he believes that the City has already spent too much money on the project, as well as, the contract states that the developer would absorb any additional costs.

Brenden Long clarified that the contract initially obligated the City to spend \$1.5 million in infrastructure costs, however, the bids for the project came in significantly higher than expected after the design was completed.

Councilmember Alcalá asked why the additional expense was not added to the TIF Benefit District.

Brenden Long stated that the money generated from the TIF Benefit District can only be used for repayment of TIF Bonds.

Councilmember Alcalá stated that he would not support the project because the initial contract agreement is not being honored, and the taxpayers are being asked to pay the additional costs. He suggested that they consider establishing a benefit district to cover the costs.

Councilmember Alcala made a substitute motion to defer the ordinance for two weeks to allow more time to review the contract. The motion was seconded by Councilmember Haynes.

Councilmember Duffy asked how the bid process would be impacted if the project is delayed for two weeks.

Brenden Long stated that the bids would remain open for approximately three more weeks. He explained that if they do not execute an agreement at the end of the three weeks, the bidding process would have to start over.

Councilmember Duffy stated that the City made a commitment to the developer to provide infrastructure and utilities and he believes they should honor their contractual obligations. He stated that he would oppose the substitute motion because of the bid process deadline.

Brenden Long stated that there is a 15 day protest period once the contract is authorized by the Council.

Councilmember Alcala withdrew the substitute motion to defer the ordinance for two weeks. The second concurred.

Councilmember Haynes requested that they schedule a work session to further review the contract.

Councilmember Alcala made a substitute motion to defer the ordinance for one week. The motion was seconded by Councilmember Haynes.

Councilmember Duffy expressed concern with the City not fulfilling their contractual obligations.

Bill Newsome referred to the contract stipulations outlined in section 3.12 of the contract. He stated that they are requesting additional funding because the acquisition of property was much higher than anticipated.

Councilmember Blackburn questioned the estimated cost of the request, and if an actual project was established.

Neil Dobler, Bartlett & West Engineers stated that the cost was based on estimates established in 2005.

Jeff Hunt, Engineering Department stated that when the project cost was estimated a project was not identified.

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

Councilmember Duffy withdrew the motion to accept the committee report. The second concurred.

Councilmember Duffy moved to adopt the committee report, and approve the notice of intention and the project budget. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá, Ortiz and Haynes voted “no”. (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Nave, Duffy, Blackburn, Preisner and Harmon -6. Noes: Alcalá, Ortiz and Haynes -3.

ORDINANCE NO. 18806 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 on January 16, 2007 was again presented.

Councilmember Blackburn gave the committee report and stated that the Policy and Finance Committee recommended approval as amended by a vote of 2-0-0 on January 29, 2007.

Councilmember Blackburn moved to adopt the committee report. The motion seconded by Councilmember Alcala carried. Councilmember Haynes abstained. (8-0-1)

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

RESOLUTION NO. 7909 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2007-2008 Capital Improvement Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7884 was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report. He stated that item 6A, a resolution amending the 2007-2008 Capital Improvement Budget; and item 6B, a resolution amending the 2007-2011 Capital Improvement Program are companion documents to the previous ordinance authorizing the College Hill Redevelopment Project.

Councilmember Duffy moved to amend the resolution to reflect the previous action taken by the Council on the College Hill Redevelopment Project. The motion seconded by Councilmember Nave carried. Councilmembers Alcala, Ortiz and Haynes voted “no”. (6-3-0)

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

RESOLUTION NO. 7910 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2007-2011 Capital Improvement Program for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7885 was presented.

Councilmember Duffy moved to amend the resolution to reflect the previous action taken by the Council on the College Hill Redevelopment Project, and approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá, Ortiz and Haynes voted “no”. (6-3-0)

A PROJECT BUDGET in the amount of \$50,000 and RESOLUTION NO. 7911 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. 30277-00 which provides for the improvement of sidewalks and fencing at the Topeka Zoo as more specifically described herein was 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 seconded by Councilmember Alcalá carried. Councilmember Harmon was out of the room. (8-0-0)

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

A RESOLUTION introduced by Mayor Bill Bunten concerning the imposition of a two-tenths of one percent (0.20%) retailer’s sales tax as provided by K.S.A. 12-187, as amended was presented.

Mayor Bunten explained that approval of the resolution would allow the question to be placed on the April 3, 2007 general election ballot. He stated that the revenue generated from the Special Purpose Tax would allow the City to be more proactive against drug related crimes, code compliance property issues, and much needed infrastructure repairs.

Councilmember Haynes distributed an amendment to the resolution. He stated that the amendment would insure that the revenue is placed in a special fund, and only used for the purposes specified.

Councilmember Haynes moved to amend the resolution as distributed. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn stated that he believes the amendment gives future Councilmembers the ability to raise the City's bonded indebtedness.

Discussion continued by several Councilmembers regarding the following issues:

- Creating an ongoing expense of hiring additional City personnel without identifying an ongoing revenue source
- Determining the need for more narcotic and other law enforcement officers
- Differentiating between the need for more money, or better management of departments
- Accomplishing the needs of the City with existing resources
- Researching overall departmental operations before allocating specified funding for improvements

Ron Miller, Police Chief stated that the proposal is the Mayor's solution to the City's drug related crime problems. He indicated that he still is conducting a departmental optimization study, and would like to make his own decision regarding the best way to utilize the funds for overall departmental operations.

The motion to amend the resolution failed. Councilmembers Kennedy, Nave, Duffy, Blackburn and Harmon voted "no". (4-5-0)

Mary Lou Herring stated that she believes the tax proposal is premature and suggested that the City Manager and Police Chief assess departmental needs, and make recommendations before money is allocated. She also suggested that the City ask Washburn University to contribute to crime prevention funding.

Councilmember Alcala stated that he would support the resolution because he believes it is a good process to follow.

Councilmember Haynes stated that he concurs with Councilmember Alcala.

Norton N. Bonaparte, Jr., reported that the overall departmental optimization is not complete at this time, however, they continue to move forward in a new direction to better assess operations.

Mayor Bunten stated that he believes that the tax proposal is the best way to address the City's needs. He also stated that he would continue to research ways to improve the community and fight crime.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Alcala failed. Councilmembers Kennedy, Nave, Duffy, Blackburn and Harmon voted "no." (4-5-0)

ORDINANCE NO. 18807 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 8, 2007, through January 14, 2007, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Duffy moved to adopt the ordinance. The motion seconded by Councilmember Preisner 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., authorizing the issuance of not to exceed \$14,500,000 aggregate principal amount of General Obligation

Refunding Bonds, Series 2007-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive; K.S.A. 10-427 et seq., all as amended 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 Safe Streets in collaboration with the Topeka Police Department will be offering a free session on the Crime Free Multi-Housing Program for landlords and property owners on February 6, 2007, at the Prevention and Recovery Services Building located at 2209 SW 29th Street; and a public meeting to discuss the Metropolitan Topeka Long Range Transportation Plan will be held on February 8, 2007, at the Topeka Public Library located at 1515 SW 10th Street. He also announced that the spring session of the Topeka Police Department Citizen's Academy is full, and they will continue to accept applications for the fall session scheduled to begin in November.

Councilmember Ortiz announced that there would be a meeting on February 7, 2007 at the Hillcrest Community Center at 6:30 p.m. to discuss the SE 15th Street and SE Adams Street Area Project. She encouraged area residents to attend the meeting because the developer would be present to answer questions.

Councilmember Nave stated that he believes that the meeting would provide an excellent opportunity for the community and the developers to resolve their differences.

Councilmember Blackburn commended staff for revising the Code Compliance Department and encouraged similar optimization for all City departments.

Norton N. Bonaparte, Jr., City Manager stated that each Councilmember would be invited to meet with the Chief of Police to discuss the new Crime Initiative Programs.

Councilmember Preisner thanked the Mayor for introducing the Special Purpose Sales Tax resolution, and taking the initiative to help clean up the city.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:26 p.m.

Brenda Younger
Interim City Clerk