

## City Council Minutes – February 13, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 13, 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 Kennedy gave the invocation.

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

A PRESENTATION on the “SE 4<sup>th</sup> and Branner Street Traffic Signal Replacement,” was presented by Mike Teply, Acting Public Works Director.

Councilmember Blackburn moved to suspend the Council Rules to add a charter ordinance establishing a limitation on the growth of City expenditures to the agenda; and a resolution concerning the imposition of a one percent (1.00%) retailer’s sax tax increase to the February 20, 2007 agenda. The motion seconded by Councilmember Kennedy carried. Councilmember Haynes voted “no.” (8-1-0)

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of February 6, 2007 were presented.

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

## 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, February 13, 2007, at 6:00 P.M. in conjunction with vacation request V06S/3 by Washburn-Lane Parkway Renovations, L.L.C., relating to the vacation of a tract of land in the SW 16<sup>th</sup> Street public right-of-way beginning at a point 22.85 feet east of the NW Corner of Lot 1, Block "D," College Hill Redevelopment Subdivision.

ORDINANCE NO. 18810 introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a tract of land in the SW 16<sup>th</sup> Street public right-of-way beginning at a point 22.85 feet east of the NW Corner of Lot 1, Block "D," College Hill Redevelopment Subdivision, City of Topeka, Shawnee County, Kansas placed on first reading February 6, 2007 was again presented. (V06S/3)

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

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Blackburn 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.

## 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, February 13, 2007, at 6:00 P.M. on the advisability of amending the project budget and authorizing, as amended, Trafficway Impact Fee Improvement Project No. 70183-00.

A PROJECT BUDGET in the amount of \$5,317,197 and ORDINANCE NO. 18811 introduced by City Manager Norton N. Bonaparte, Jr., amending and authorizing Trafficway Impact Fee District No. 70183-00, which provides for the construction of S. Kansas Avenue from SW 37<sup>th</sup> Street to the Interstate 470 and S. Topeka Boulevard intersection as more specifically described herein, all pursuant to City of Topeka Code Section 130-761 et seq., and

City of Topeka Code A12-1 and specifically repealing City of Topeka Ordinance No. 18346 placed on first reading February 6, 2007 was again presented.

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

Councilmember Haynes questioned the request for an increase in funding for the project.

Mike Teply, Acting Public Works Director stated that the project budget increased by \$1.5 million due to the acquisition of property, and the increase in the cost of materials. He noted that the original project budget was created in 2004.

Councilmember Haynes asked if it is necessary to approve the general obligation bond funding for the project, before the final cost of property acquisition is determined.

Brenden Long, City Attorney stated that it is necessary to approve the funding at this time, because the price estimates for the acquisition of property will be based on the approved project budget.

Russell Briggs, Frank Sabatini, Jim Caplinger, Jr., and Jay Ives spoke in support of the project.

Councilmember Haynes asked if they considered forming a benefit district for the area.

Brenden Long stated that a trafficway impact fee district is the equivalent to a benefit district.

Councilmember Harmon asked why the project did not move forward in 2004.

Mike Teply stated that the project was delayed because they began researching property acquisition costs and realized that the project budget amount was not sufficient.

Councilmember Preisner moved to close the public hearing, approve the project budget and adopt the ordinance. The motion seconded by Councilmember Haynes carried.

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

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

ORDINANCE NO. 18812 introduced by City Manager Norton N. Bonaparte, Jr., authorizing initiation of condemnation proceedings to acquire property for Trafficway Impact Fee Improvement Project No. 70183-00, which provides for the construction of S. Kansas Avenue from SW 37<sup>th</sup> Street to the Interstate 470 and S. Topeka Boulevard intersection placed on first reading February 6, 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending Topeka City Code Sections 134-143 and 134-169, subdivision regulations, relating to parkland acquisition and development, as well as streets, repealing said original sections, placed on first reading February 6, 2007 was again presented.

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

Councilmember Blackburn moved to remand the ordinance back to the Planning Commission to make certain all necessary revisions are included. The motion seconded by Councilmember Kennedy carried. Councilmember Alcalá voted “no.” (8-1-0)

ORDINANCE NO. 18813 introduced by City Manager Norton N. Bonaparte, Jr., concerning the redevelopment project plan for Heartland Park Topeka and amending the project

plan and budget as established by City of Topeka Ordinance No. 18541 placed on first reading February 6, 2007 was again presented.

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

Councilmember Duffy moved to adopt the ordinance. The motion seconded by Councilmember Haynes carried. Councilmembers Alcala and Ortiz voted “no.” (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -7. Noes: Alcala and Ortiz -2.

ORDINANCE NO. 18814 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 142-187 regarding speed limits and specifically repealing said original section placed on first reading February 6, 2007 was again presented.

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

Councilmember Kennedy 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.

A PROJECT BUDGET in the amount \$155,736 and ORDINANCE NO. 18815 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 14119-00, which provides for replacement of an existing traffic signal at North Kansas Avenue and Paramore Street, and specifically repealing City of Topeka Ordinance No. 18724 placed on first reading February 6, 2007 was again presented.

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

Councilmember Alcala 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.

RESOLUTION NO. 7914 introduced by City Manager Norton N. Bonaparte, Jr., granting a waiver of the requirements of City of Topeka Code Section 138-76 et seq., relating to property tax exemptions for the SPS Processing Facility located at 3801 NW 14<sup>th</sup> Street in the City of Topeka, Kansas was presented.

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

Councilmember Alcala moved to approve the resolution. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

RESOLUTION NO. 7915 introduced by Councilmembers John Alcala, Sylvia Ortiz, and Lana Kennedy requesting the City Manager to set policy regarding City employees' contact with the public, was presented.

Councilmember Alcala moved to approve the resolution. The motion seconded by Councilmember Kennedy carried. Councilmember Preisner voted "no." (8-1-0)

RESOLUTION NO. 7916 introduced by City Manager Norton N. Bonaparte, Jr., describing the areas to be considered priorities for 2007 Target Areas for federal and city funding as allocated within the 2007 City budget. Furthermore, a designation of the areas to be considered priorities for 2007 Planning Target Areas for future federal and city funding as may be allocated within the 2008 and 2009 City budgets was presented.

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

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

ORDINANCE NO. 18816 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 22, 2007, through January 28, 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 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.

ORDINANCE NO. 18817 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 2131 SW Gage Boulevard in the City of Topeka, Kansas from "PUD" ("O&I-1" Office and Institutional District and "C-1" Commercial District use groups) TO "C-2" Commercial District, placed on first reading February 6, 2007 was again presented. (Z06/34)

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

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

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmembers Duffy and Harmon voted "no." (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Blackburn and Preisner -7. Noes: Duffy and Harmon -2.

ORDINANCE NO. 18818 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 northeast corner of SE 15<sup>th</sup> Street and SE Adams Street in the City of Topeka, Kansas from "I-2" Heavy Industrial District and "R-1" Single Family Dwelling District ALL TO "C-2" Commercial District, placed on first reading February 6, 2007 was again presented. (Z07/1)

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

Councilmember Ortiz noted that the public meeting held on February 7, 2007 was very productive because it allowed area residents and developers to resolve their differences.

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

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., regulating public offenses within the corporate limits of the City of Topeka, Kansas; incorporating by reference the "Uniform Public Offense Code for Kansas Cities," edition of 2006, with certain deletions and omissions; adopting new language regarding attempted offenses; and amending City of Topeka Code Section 54-8, creating City of Topeka Code Section 54-9 and specifically repealing original City of Topeka Code Sections 54-36, 54-37, 54-38, 54-39, 54-40, 54-41, 54-42, 54-72, 54-74, 54-101, 54-103 and 54-121 in their entirety was presented for first reading.



AN ORDINANCE introduced by Councilmember Sylvia Ortiz regulating the distribution, acquisition, possession and use of graffiti implements was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 28509-01 which provides for the installation of two (2), twenty (20) inch water lines on the new Topeka Boulevard Bridge over the Kansas River 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 a portion of the cost thereof pursuant to K.S.A. 10-101 and 10-1201, et. seq., and all amendments thereto and repealing City of Topeka Ordinance No. 18555 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 stated that the City received a request from the Shawnee Heights Fire Department for the purchase of 16 additional Self Contained Breathing Apparatus, and 16 additional air cylinders. He asked the Council how to proceed with the sale of the equipment, and noted that the previous policy established a purchase price of \$1 per unit.

Councilmember Preisner moved to proceed with the sale of the equipment as outlined in the previous policy. The motion seconded by Councilmember Alcalá carried unanimously.

(9-0-0)

The City Manager also announced that the Human Relations Commission will host the “Human Relations in Topeka Facing Justice” event on February 15, 2007, at 6:00 p.m. in the Cyrus K. Holliday Building Conference Room; and Safe Streets in collaboration with the Topeka Police Department will offer a free, 4 hour Citizens Patrol Training Session, on February 17, 2007, during the hours of 9:00 a.m. and 1:00 p.m.

Councilmember Kennedy commended City staff for their hard work and dedication in removing ice and snow from city streets.

Mayor Bunten requested that they schedule a work session to discuss the charter ordinance and resolution introduced by Councilmember Blackburn.

Norton N. Bonaparte, Jr., City Manager suggested that they discuss the matter at the February 20, 2007 work session.

Mayor Bunten stated that he believes that a work session would not allow enough time for discussion.

Councilmember Blackburn explained that the charter ordinance would establish a limitation on the growth of City expenditures, and the resolution relates to the imposition of a one percent increase in retailer’s sale tax for the general purpose of providing property tax relief.

After discussion, the Council agreed that they would contact Councilmember Blackburn regarding any questions they have relating to the charter ordinance and resolution.

Councilmember Duffy recommended that the City begin condemnation proceedings on the house blocking street access at 16<sup>th</sup> Street and Washburn Avenue.

Councilmember Harmon announced that there would be a Policy and Finance Committee meeting on February 19, 2007, at 4:00 p.m. in the City Council office.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:19 p.m.

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Brenda Younger  
Interim City Clerk