

## City Council Minutes – March 6, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 6, 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 Alcala gave the invocation.

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

Ron Miller, Chief of Police presented the “Rolling Meadows Neighborhood Patrol” with a certificate of appreciation for outstanding community service.

Councilmember Blackburn moved to suspend the Council Rules to add an ordinance concerning the movement of buildings and other structures; and a resolution authorizing the purchase of a Topeka Police Department helicopter to the agenda. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

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

Councilmember Alcala moved to pull item 4A, a claim appeal by Rose Mary Medrano; and item 4B, a claim appeal by Leslie Ray from the consent agenda for separate discussion. The motion seconded by Councilmember Ortiz carried. Councilmember Haynes voted “no.” (8-1-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7920 introduced by Councilmember Clark Duffy granting Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of February 20, 2007 were presented.

An Open After Mid-Night License application bearing the approval of the Chief of Police and City Inspectors for Anytime Fitness located at 3627 SE 29<sup>th</sup> Street, was presented.

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

A CLAIM APPEAL by Rose Mary Medrano seeking compensation for damages sustained to her vehicle from a pothole located at 2011 Oakley on October 20, 2006 was presented.

Councilmember Alcalá moved to approve the claim in the amount of \$114.00. The motion seconded by Councilmember Ortiz failed. Councilmembers Haynes, Duffy, Blackburn, Preisner and Harmon voted “no.” (4-5-0)

A CLAIM APPEAL by Leslie Ray seeking compensation for damages sustained to her vehicle from a pothole located near Western and 21st Street on January 19, 2007 was presented.

Councilmember Alcalá moved to approve the claim in the amount of \$95.00. The motion seconded by Councilmember Ortiz failed. Councilmembers Nave, Duffy, Blackburn, Preisner and Harmon voted “no.” Councilmember Haynes abstained. (3-5-1)

A DISCUSSION on the replacement of the SE 4th and Branner Streets Traffic Signal was presented.

Councilmember Alcalá stated that he opposes the use of a roundabout, and in his opinion the traffic signal needs to be completely replaced because of the high volume of vehicle and pedestrian traffic that utilizes the intersection.

Councilmember Ortiz stated that she believes a traffic signal should be installed because a roundabout would jeopardize the safety of children, create traffic hazards, and destroy area sidewalks.

Councilmember Nave stated that a new traffic signal is needed because it would help better control the flow of traffic. He also stated that because the neighborhood has asked for a new traffic signal the City should honor their request.

Councilmember Haynes expressed concern with the maintenance cost associated with installing a new traffic signal.

Councilmember Duffy stated that he would support the City Manager's decision regarding the replacement of the traffic signal.

Councilmember Blackburn stated that he believes the traffic study proves that a roundabout is the best choice for signal replacement.

Councilmember Preisner stated that he has reviewed the traffic study, and respects the professional opinion of the City Traffic Engineer. He also stated that he does not believe the expenditure is appropriate because the funds would have to be bonded.

Councilmember Harmon stated that he is conflicted with the proper course of action because he respects the recommendation that was made by staff, as well as, the concerns expressed by citizens and Councilmembers.

Councilmember Alcalá noted that he received a protest petition from the Oakland Neighborhood Improvement Association and will submit it to the City Clerk's office.

Mayor Bunten stated that the opinions of area constituents should be given a great deal of consideration when making a final decision on the replacement of the traffic signal.

Councilmember Duffy moved to direct the City Manager to prepare an agenda item consistent with the City Traffic Engineer's recommendation to replace the SE 4<sup>th</sup> and Branner Streets signalization with two stop signs on SE 4<sup>th</sup> Street. The motion was seconded by Councilmember Preisner.

Councilmember Alcala made a substitute motion to direct the City Manager to prepare an agenda item to replace the SE 4<sup>th</sup> and Branner Streets signalization with a new traffic signal in the amount of \$148,000 of general obligation bond funds. The motion seconded by Councilmember Ortiz carried. Councilmembers Duffy, Blackburn, Preisner and Harmon voted "no." (5-4-0)

ORDINANCE NO. 18823 introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to CenturyTel Acquisition, L.L.C., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas placed on first reading February 20, 2007 was again presented.

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 Preisner was out of the room. (8-0-0)

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

ORDINANCE NO. 18824 introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to YourTel America, Inc., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas placed on first reading February 20, 2007 was again presented.

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

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Blackburn carried. Councilmember Preisner 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 Harmon -8.

A COMMUNICATION approving and authorizing the City Manager to execute Contract No. 37201, a two-year labor agreement between the City of Topeka and the Fraternal Order of Police Lodge No. 3, was presented.

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

Mayor Bunten noted that the necessary funds to implement the 2007 and 2008 labor agreements for the Kansas Association of Public Employees (KAPE), the International Association of Fire Fighters (IAFF), and the Fraternal Order of Police (FOP) will exceed approximately \$1.9 million over and above what has been appropriated in the budget to cover the costs of the contracts. He cautioned that if the contract is approved as presented, the Council must prepare to increase the mill levy, or make serious cuts in the general fund to cover the costs.

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

RESOLUTION NO. 7921 introduced by City Manager Norton N. Bonaparte, Jr. authorizing the transfer and expenditure of general fund monies for the replacement of vehicles for the Topeka Police Department 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. 18825 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 5, 2007, through February 11, 2007, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Alcala asked staff to continue monitoring field purchase orders, as well as, procurement card purchases to make certain that the most cost effective method of purchasing items for the City is being utilized.

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.

RESOLUTION NO. 7922 authorizing the City Manager to proceed with the purchase of a helicopter for the Topeka Police Department utilizing lease-purchase financing was presented.

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Nave carried. Councilmember Haynes voted "no." (8-1-0)

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 2024 SW Fairlawn Road in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "C-1" Commercial District was presented for first reading. (Z07/2)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr. designating real property more specifically described herein as a historic landmark and presently zoned C-5"

Commercial District and located at 731 S. Kansas Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading. (*HL07/01*)

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 2114 SW Seabrook Avenue in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District, TO "O&I-1" Office and Institutional District was presented for first reading. (*Z06/31*)

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 908 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. (*Z07/4*)

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 northeast corner of SW Urish Road and SW Huntoon Street within the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "PUD" Planned Unit Development District (M-1 and R-1 use groups) was presented for first reading. (*PUD06/4*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 14126, which provides for intersection modifications and traffic signal at 1-470 Exit Ramp, Huntoon and Arvonnia, 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., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District No. 40025-06 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40025-06, as defined and described in Resolution No. 7635, adopted and approved June 7, 2005 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60614-01 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60614-01 as defined and described in Resolution No. 7636, adopted and approved June 7, 2005 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the scope of the project and authorizing as amended Improvement Project No. 60627-00, which provides for neighborhood infrastructure improvements in seven targeted areas, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka and specifically repealing Ordinance 18644 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a neighborhood revitalization plan and designating a revitalization area, all as provided for in K.S.A. 12-17, 114 et. seq., Neighborhood Revitalization Act, was presented for first reading.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a platted utility easement located at 2338 SW Lowell Lane, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07E/1)



AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, removing a certain portion of 8th Street from the right-of-way to allow Celtic Fox to sell alcoholic liquor as part of the St. Patrick's Day Street Fair on March 17, 2007 was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy concerning the movement of buildings and other structures on City right-of-way, amending City of Topeka Code Sections 26-582, 130-36, and 54-132 and repealing said original sections 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 Connie Potter, the Parks and Recreation employee who was injured on the job is making a steady recovery. He stated that she is undergoing extensive physical therapy and is now able to walk with assistance. He also announced that the City of Topeka is accepting applications for Historic Preservation funding and for more information call 785-368-3728.

Councilmember Kennedy commended Councilmember Duffy for introducing the ordinance concerning the movement of buildings and other structures. She stated that the ordinance provides the necessary administrative tools to move the house blocking street access on 16th Street and Washburn Avenue.

Councilmember Alcalá asked for an update on the agreement between WeStar Energy and the City regarding the trimming of trees. He noted that trees are still being butchered throughout the city. He also asked if the tree trimmings could stop until an agreement is signed.

Brenden Long, City Attorney stated that an agreement will be placed on the agenda in the next two weeks. He noted that the agreement outlines several safeguards that regulate the

trimming of trees. He also stated that the City does not have the authority to stop the trimming of trees because it is regulated by the KCC.

Councilmember Duffy stated that a copy of a resolution, as well as, the proposed agreement between the City and WeStar Energy would be included in the Council's weekly packet. He also stated that the agreement would not completely resolve the problem, but it would be a starting point.

Councilmember Blackburn stated that he believes the only way they can control the trimming of trims until an agreement is signed is for Councilmembers to become personally involved in the process.

Councilmember Ortiz announced that the City is accepting applications for the Summer Youth Employment Program.

Councilmember Haynes stated that he believes the Council should provide better budgetary direction for staff.

The City Manager stated that the Council would receive a staff recommended proposal outlining the Council's specific concerns regarding the preparation of the 2008 Operating Budget. He noted that the proposal would be discussed in a work session at the end of April.

Councilmember Duffy explained that the ordinance relating to the movement of buildings and other structures further outlines the responsibility of the permittee. He also asked if a complaint regarding the house blocking street access on 16th Street and Washburn Avenue has been filed, and if so, has an administrative hearing date been established.

Brenden Long stated that a complaint has been filed with the City Clerk's office, and they are in the process of setting an administrative hearing date.

Councilmember Duffy expressed concern with the information provided in a recent newspaper article relating to river front development. He stated that it is important for the City and the River Front Authority to find a way to work together.

Councilmember Blackburn expressed concern with the upcoming 2008 budget process. He encouraged the Council to find ways to reduce spending.

Councilmember Preisner announced that there would be a Committee of the Whole meeting on March 26, 2007 at 5:30 p.m. in the Cyrus K. Holliday Building Sunflower Conference Room.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:56 p.m.

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Brenda Younger  
Interim City Clerk