

## City Council Minutes – March 13, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 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, Duffy, Blackburn, Preisner and Harmon -7. Mayor Bunten presided: -1. Absent: Councilmembers Nave and Haynes -2.

AFTER THE MEETING was called to order, Councilmember Alcala gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7923 introduced by Councilmember Richard Harmon granting Jul's Grill Room and Cocktail Club an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

A COMMUNICATION recommending the appointment of James Daniel to the Topeka Metropolitan Transit Authority Board for an unexpired term ending on June 30, 2008 was presented.

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

Councilmember Kennedy moved to approve the consent agenda. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

### 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, March 13, 2007, at 6:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40025-06, authorized by Resolution No. 7635, adopted and approved June 7, 2005.

ORDINANCE NO. 18826 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, placed on first reading March 6, 2007 was again presented.

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

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

Councilmember Preisner made a substitute motion to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

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

#### 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, March 13, 2007, at 6:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60614-01, authorized by Resolution No. 7636, adopted and approved June 7, 2005.

ORDINANCE NO. 18827 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, placed on first reading March 6, 2007 was again presented.

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 Harmon carried unanimously. (7-0-0)

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

A PROJECT BUDGET IN THE AMOUNT OF \$299, 219 and ORDINANCE NO. 18828 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 Arvonja, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading March 6, 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 seconded by Councilmember Ortiz.

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

A PROJECT BUDGET IN THE AMOUNT OF \$1,500,000 and ORDINANCE NO. 18829 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 placed on first reading March 6, 2007 was again presented.

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

L.J. Polly, Community Advisory Council Chair stated that the Elmhurst Neighborhood Improvement Association, as well as, the Community Advisory Council supports the project.

Councilmember Duffy moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

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

ORDINANCE NO. 18830 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 placed on first reading March 6, 2007 was again presented.

Councilmember Duffy stated that the ordinance would help avoid the same problem in the future. He also reported that the house blocking street access on 16<sup>th</sup> and Washburn has been moved.

Councilmember Haynes entered the room.

Councilmember Duffy moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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

A RESOLUTION introduced by Councilmember Clark Duffy directing the City Manager to enter into an agreement with Westar Energy for managing of City right-of-way trees was presented.

Councilmember Duffy explained that the intent of the agreement is to educate the community on the tree trimming process, and how to best manage tree growth in City right-of-ways.

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

Councilmember Alcalá distributed an amendment to the agreement that would add a new section relating to the preservation of historical trees. The amendment read as follows, “Any tree having a 75 inch circumference at the four-foot level will be considered historical by nature. In order to preserve the integrity and historical nature of a tree based on these measurements, pruning will be done in accordance with the City Forester’s direction.”

Councilmember Alcalá made a substitute motion to amend the agreement as distributed. The motion was seconded by Councilmember Ortiz.

Councilmember Duffy stated that he believes Section 7 of the agreement addresses the preservation of historical trees.

Adam Moser, City Forester stated that he believes that the amendment would jeopardize the execution of the agreement because it would set strict limitations on the trimming of trees. He also stated that in his opinion, Section 7 of the agreement addresses the preservation of certain trees.

Councilmember Blackburn stated that he believes tree trimming standards should be based on species, not size.

Councilmember Alcalá withdrew the substitute motion to amend the agreement. The second concurred.

Councilmember Alcalá stated that he believes the verbiage in Section 7 needs to be clarified, as well as, guidelines specified to make certain that historical trees are protected.

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

Councilmember Duffy stated that he would oppose the motion to defer the resolution for one week because WeStar Energy, Inc., has agreed to sign the agreement as presented. He also stated that he believes they should allow the professionals the opportunity to address Councilmember Alcalá's concerns by utilizing the standards outlined in Section 7 of the agreement.

Councilmember Blackburn stated that he concurs with Councilmember Duffy, and believes that the problem should be handled on a case by case basis.

The motion to defer the resolution for one week carried. Councilmembers Duffy, Blackburn and Preisner voted "no." (5-3-0)

A PROJECT BUDGET in the amount of \$250,000 and RESOLUTION NO. 7924 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. 30273-00 which provides for the design and construction of a new exhibit for Mountain Lions and North American River Otters 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 the resolution. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

ORDINANCE NO. 18831 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 12, 2007, through February 18, 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 if the procurement card (P-Card) process is being utilized properly, and reviewed on a regular basis.

Norton N. Bonaparte, Jr., stated that the P-Card process is being used correctly, and reviewed on a regular basis by the Financial Department.

Councilmember Blackburn stated that he believes the best way to ensure that the City is receiving the lowest price available when purchasing items with a P-Card is to require the documentation of three competitive quotes.

Councilmember Ortiz stated that she concurs with Councilmember Blackburn.

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

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

ORDINANCE NO. 18832 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 placed on first reading March 6, 2007 was again presented. (HL07/01)

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

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 Haynes carried unanimously. (8-0-0)

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

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 placed on first reading March 6, 2007 was again presented. (Z06/31)

Norton N. Bonaparte, Jr., City Manager requested that the ordinance be deferred for one week. He stated that the full Council must be present to vote, because area residents filed a protest petition against the zoning proposal.

Councilmember Preisner moved to defer the ordinance for one week. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

ORDINANCE NO. 18833 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 placed on first reading March 13, 2007 was again presented. (Z07/4)

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

Exparte communications were declared by Councilmembers Kennedy, Alcala, Ortiz, Haynes and Blackburn.



Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

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

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE CITY COUNCIL, were presented.

Norton N. Bonaparte, Jr., City Manager announced that the Zoo is hosting “Twilight Tours at the Zoo” on March 16, 2007, and April 20, 2007 during the hours of 7:30 a.m. and 9:00 p.m.; and the “12<sup>th</sup> Annual Spring Break at the Zoo” beginning on March 19, 2007 and ending on March 23, 2007.

Councilmember Kennedy announced that the St. Patrick’s Day Parade will begin at 12:00 noon on March 17, 2007 at 6<sup>th</sup> and Harrison.

Councilmember Ortiz commended the Fire Department for releasing safety tips regarding smoke alarms. She also encouraged citizens and Councilmembers to attend the Citizens Fire Academy.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:56 p.m.

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Brenda Younger  
Interim City Clerk