

City Council Minutes – March 27, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 27, 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 and Harmon -8. Deputy Mayor Preisner presided: -1. Absent: Mayor Bunten -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.

Deputy Mayor Preisner noted that Mayor Bunten was unable to attend the Council meeting due to recent heart surgery.

Councilmember Preisner moved to suspend the Council Rules to add a land lease agreement for Steven Porubsky to the agenda. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

Deputy Mayor Preisner stated that the land lease agreement would be placed on the agenda under New Business, as item 6D.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7932 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 March 20, 2007 were presented.

2007 Open After Mid-Night License renewal applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Applebee's Neighborhood Gill & Bar	5828 SW 17 th Street
Boss Hawg's & Pigskin's	2833 SW 29 th Street
The Celtic Fox Irish Pub	118 SW 8 th Street
Cousins Club	1211 S. Kansas Avenue
Denny's	1500 Wanamaker Road
Denny's	3210 SW Topeka Boulevard
Double Deuce Bar & Grill	3701 SW Plaza Drive
Electric Cowboy	3248 SW Topeka Boulevard
Holiday Square Amoco	2901 Topeka Avenue
Hooters of Topeka, L.L.C.	6100 SW 10 th Avenue
IHOP	1731 SW Wanamaker Road
Seabrook Bar & Grill	2105 SW Mission Avenue
Shawnee Country Club	913 SE 29 th Street
Wal-Mart Supercenter #1802	1501 SW Wanamaker Road
Wal-Mart Supercenter #2131	1301 SW 37 th Street
Wood Valley Racquet Club	2909 SW 37 th Street

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

ORDINANCE NO. 18836 introduced by Councilmembers John Nave, Brett Blackburn and Lana Kennedy, sitting as the Economic and Community Development Committee, repealing City of Topeka Code Section 2-494 and amending City of Topeka Code, Sections 2, Article 9 and 2-486, 2-487, 2-488, 2-489, 2-490, 2-491, 2-492, and 2-493 establishing a Code of Ethics for elected and appointed officials and employees for the City of Topeka, and specifically repealing said original sections placed on first reading November 28, 2005 was again presented. The ordinance was referred to the Committee of the Whole from the meeting of February 6, 2007.

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

Bill Gomez spoke in opposition to the ordinance and stated that he believes there are still a number of issues that need to be addressed that are not included in the ordinance. He also thanked Councilmembers Nave and Duffy for their hard work and continued support in resolving important diversity issues.

Councilmember Duffy moved to adopt the amendments reflected in the March 26, 2007 proposed ordinance distributed at the March 27, 2007 Committee of the Whole meeting. The motion seconded by Councilmember Blackburn carried. Councilmembers Ortiz and Haynes voted “no.” (7-2-0)

Councilmember Duffy moved to amend line 176 of the ordinance by adding the phrase, “and approved by the City Council” after the word “police.” The motion seconded by Councilmember Nave carried. Councilmembers Ortiz and Nave voted “no.” (7-2-0)

Councilmember Duffy moved to adopt the ordinance as amended. The motion was seconded by Councilmember Nave.

Councilmember Blackburn made a substitute motion to amend line 152 of the ordinance by adding the words “or promoted” after the word “hired.” The motion was seconded by Councilmember Duffy.

Councilmember Ortiz stated that she would not support the ordinance because she believes the section relating to “Employment of Relatives” is not fair. She explained that she has a number of relatives that work for the City and they should not be discriminated against because she is a member of the Council.

Councilmember Preisner asked if current employees would be grandfathered in.

Councilmember Blackburn asked if language could be included in the ordinance that would exclude current City employees.

Brenden Long, City Attorney stated that a grandfather clause could be added to the ordinance.

Councilmember Haynes asked if the ordinance should specify that the policy does not apply to union employees.

Brenden Long stated that he believes additional language is not necessary because a policy is in place by operation of State law for union employees. He stated that the policy outlined in the ordinance would be a condition of employment that would need to be negotiated.

Norton N. Bonaparte, Jr., expressed concern with inserting language that would specify that the policy does not apply to union employees. He stated that changing the verbiage of the ordinance would complicate future labor negotiations.

Councilmember Duffy stated that he would oppose the amendment because it limits people who may want to become an elected official.

Councilmember Ortiz stated that she supports the implementation of a Code of Ethics, but disagrees with the adoption of the ordinance because of how it is written.

Councilmember Blackburn withdrew the substitute motion. The second concurred.

Councilmember Nave stated that he believes it is important to establish a Code of Ethics, however, he is concerned with the language of the ordinance because it limits the promotion of City employees.

Councilmember Alcala expressed concern with the language of the ordinance and suggested that they discuss the ordinance at the next Committee of the Whole meeting.

Councilmember Alcala moved to refer the ordinance to the April 24, 2007 Committee of the Whole meeting. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn stated that he would not support referring the ordinance back to committee because the issue has been discussed by the Council for more than two years. He also stated that in his opinion, the Council has had sufficient amount of time to make an informed decision.

Councilmember Haynes stated that he believes adopting a policy that does not apply to union employees is not accomplishing what the Council intended. He noted that he would oppose the ordinance.

Councilmember Duffy stated that he believes that the ordinance is a cornerstone and displays to the community that the City of Topeka is an ethical organization.

Councilmember Nave stated that he concurs with Councilmember Duffy, however, he believes that the Council should continue to make changes and improve the language of the ordinance.

The motion to adopt the ordinance as amended carried. Councilmembers Alcala, Ortiz and Haynes voted “no.” (6-3-0)

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

ORDINANCE NO. 18837 introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for the purpose of obtaining a loan from the Kansas Water Pollution Control Revolving Fund for the purpose of financing a Wastewater Treatment Project placed on first reading March 20, 2007 was again presented.

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

Councilmember Alcala 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning building codes, repealing City of Topeka Code Sections 26-137, 26-139 through 157 placed on first reading March 20, 2007 was again presented.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning building codes, amending City of Topeka Code Section 26, Article IV, Division 2; and amending City of Topeka Code Sections 26-39, 26-116, 26-118, 26-119, 26-136, and 26-138 and specifically repealing said original sections placed on first reading March 20, 2007 was again presented.

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

Councilmember Blackburn stated that item 5C, an ordinance repealing the 1997 Uniform Building Code; and item 5D, an ordinance adopting the 2006 International Building Code would significantly change the City's building code. He suggested that the ordinances be referred to the Economic and Community Development Committee for further review and suggested changes.

Councilmember Blackburn moved to refer items 5C and 5D to the Economic and Community Development Committee. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$358,000 and ORDINANCE NO. 18838 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 12052, which provides for replacement of functionally obsolete bridge on SW 10th Street approximately ½ mile west of Wanamaker Road, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 20, 2007 was again presented.

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

Councilmember Harmon moved to approve the project budget and 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 of \$80,400 and ORDINANCE NO. 18839 introduced by City Manager Norton N. Bonaparte, Jr., for Improvement Project No. 70198-02 which provides for the preliminary design phase, as described herein, to improve S.W. 21st Street from the existing five lane section west of S.W. Wanamaker Road to the improvements at the S.W. Urish Road intersection and authorizing the same placed on first reading March 20, 2007 was again presented.

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

Councilmember Kennedy moved to approve the project budget and 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.

A PROJECT BUDGET in the amount of \$78,000 and ORDINANCE NO. 18840 introduced by City Manager Norton N. Bonaparte, Jr., for Improvement Project No. 70198-03 which provides for the preliminary design phase, as described herein, to improve S.W. 21st Street from the improvements at the S.W. Urish Road intersection to S.W. Indian Hills Road and authorizing the same placed on first reading March 20, 2007 was again presented.

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

Councilmember Nave moved to approve the project budget and 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, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18841 introduced by Deputy Mayor Jeff Preisner concerning the establishment of annual goals and objectives for the City Manager and the establishment of a procedure for the evaluation of the performance of the City Manager placed on first reading March 20, 2007 was again presented.

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

Councilmember Haynes distributed the following amendment to the ordinance:

- Amend line 13 by inserting the words, "Review and" after the word "Objectives."
- Amend line 15 by inserting the statement, "To assist the City Council with this responsibility, the City Manager shall provide the City Council with proposed goals and objectives prior to April 15 of each year." after the word "year."
- Amend the ordinance beginning on line 22 by deleting the statement, "This evaluation shall focus on how effectively the City Manager is accomplishing the goals established by the Council in how she/he is carrying out her/his responsibilities in key performance areas." and insert the statement, "This review shall occur quarterly and shall focus on the City Manager's progress in meeting the goals and objectives established by the City Council. The City Council shall provide the City Manager with a written annual evaluation prior to March 31 each year."

Councilmember Preisner moved to amend the ordinance as distributed by Councilmember Haynes. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

Councilmember Nave moved to adopt the ordinance as amended. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

The ordinance was adopted as amended on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A FINAL PLAT for Perdue Subdivision located on property in which the centerline of the tract is located approximately 735 feet south of NE 50th Street, and 1350 feet west of NE Indian Creek Road outside the City's Municipal Service Area, and within the three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas was presented. (P07/3)

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

Councilmember Blackburn moved to approve the final plat. The motion seconded by Councilmember Haynes carried. Councilmember Duffy voted “no.” (8-1-0)

RESOLUTION NO. 7933 introduced by Councilmembers Richard Harmon, Bill Haynes, John Alcala and Sylvia Ortiz concerning an agreement with Kansas Children’s Discovery Center, Inc., for the construction and operation of a children’s learning center at Gage Park was presented.

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

Councilmember Harmon explained that the resolution directs the City Manager to enter into discussions with the representatives from the Kansas Children’s Discovery Center regarding the lease of property at Gage Park.

Councilmember Nave stated that he believes the Kansas Children’s Discovery Center would be a great educational opportunity for children.

Joann Morrell appeared to answer questions, and spoke in support of the project.

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

ORDINANCE NO. 18842 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 5, 2007, through March 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 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.

CONTRACT NO. 37263 an agricultural land lease agreement between the City of Topeka and Steven Porubsky in the amount of \$19,626.75 for the lease of property located at NW 17th and Landon Road, was presented.

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

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

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner establishing a schedule of city council meeting times and places for the next two years as provided for by City of Topeka Code Section 2-27 was presented for first reading.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of an east/west platted utility easement in Alice Lots located at 1938 NW Taylor Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07E/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 2829 and 2831 SW Arrowhead Road within the City of Topeka, Kansas from "M-2" Multiple-Family Dwelling District TO "O&I-1" Office and Institutional District was presented for first reading. (Z07/3)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to Universal Telecom, Inc., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a portion of platted alley right-of-way in Klein's Addition located between SE Branner and SE Chandler Streets and SE 2nd and SE 3rd Streets, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07A/2)

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

Norton N. Bonaparte, Jr., City Manager announced that the Gage Park Mini-Train and Carousel will be open limited hours beginning March 28th; Project Takeover/Makeover will begin on March 31st at the Kansas Expocentre parking lot; Garfield Community Center will be hosting the Daddy/Daughter Date Night on March 31st; the Topeka Zoo will be hosting the Spring Fling on April 6th; Rice, Garfield and Central Park Community Centers will be hosting Easter Egg Hunts on April 7th; and the Topeka Fire Department Citizen's Academy begins on April 25th.

Councilmember Nave stated that he enjoyed working with the City Council and the community. He encouraged the Council to continue their efforts to improve the quality of life for the citizens of Topeka.

Councilmember Ortiz encouraged citizens to vote on Tuesday, April 3, 2007.

Councilmember Kennedy commended Councilmembers Nave and Duffy for their contributions to the city.

Councilmember Blackburn commended Councilmembers Nave and Duffy for their hard work while serving on the City Council.

Councilmember Preisner stated that he believes the new form of government has developed in a positive way and changed the city for the better. He also thanked Councilmembers Nave and Duffy for their dedication while serving on the City Council.

Bill Gomez appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:14 p.m.

Brenda Younger
City Clerk