

## **Council Minutes – April 17, 2007**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 17, 2007. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Alcala -1.

AFTER THE MEETING was called to order, Pastor Tom Watson, El Shaddai Ministries Church of God in Christ, gave the invocation.

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

A PRESENTATION on the Human Relations Commission was presented by Rio Cervantes-Reed, Interim Human Relations Commission Director.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7935 introduced by Councilmember Brett Blackburn granting Jeff Lunceford an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7936 introduced by Councilmember Richard Harmon granting On the Border Mexican Grill and Cantina an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7937 introduced by Councilmember Lana Kennedy granting Downtown Topeka, Inc., and Cumulus Broadcasting an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

RESOLUTION NO. 7938 introduced by Councilmember Lana Kennedy granting Breakthrough House an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

A COMMUNICATION recommending the re-appointment of Ray Delgado to the Civil Service Commission for a four-year term that would expire on April 30, 2011 was presented.

MINUTES of the regular meeting of March 27, 2007 and April 10, 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>Name</u>	<u>Address</u>
Buffalo Wild Wings Grill & Bar	1227 SW Wanamaker Rd
Easy Time Lounge	501 NW Lyman Rd
Fergies Clubhouse Bar	1418 SW Lane
5 <sup>th</sup> Street Pub	435 S. Kansas Ave
Gage Bowl North	200 East Hwy 24
Gage Center Bowl	4200 SW Huntoon
Ichabod Laundra Bar	1501 W 21 <sup>st</sup> Street
Holiday Inn	605 SW Fairlawn
Joletta's	600 NW Paramore St
McDonald's	2933 SW Wanamaker Rd
McDonald's	1640 SW Wanamaker Rd
McDonald's	1201 Gage Blvd
McDonald's	5525 SW 21 <sup>st</sup> Street
McDonald's	3117 SW Topeka Blvd
McDonald's	2880 SE California Ave
McDonald's	1100 S. Kansas Ave
McDonald's	2001 NW Topeka Blvd
Oscar's	1424 SW Lane
Philip Billard Post #1650	3110 SW Huntoon Street
Uncle Bo's at the Ramada Inn	700 SW Jackson Suite 200
Sixth Avenue Ballroom	117 W. 6 <sup>th</sup> Avenue
Skinny's Sport Bar & Grill	4016 SW Huntoon
Spankys Bar and Grill	3100 SW Gage Blvd
Steak N Shake #455	1415 SW Wanamaker Rd
Stingers	2335 NW Clay
Terry's Bar & Grill	522 SW 6 <sup>th</sup> Street
Tewz Enuff	1465 SE Washington
Topeka Country Club	2700 SW Buchanan
The 20's	2910 SW Oakley Suite D

<u>Name</u>	<u>Address</u>
Twilighter Country Club	816 N. Kansas
Wal-Mart Supercenter #5441	2600 NW Rochester Rd

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

#### 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, April 10, 2007, at 6:00 P.M. in conjunction with vacation request V07S/3 by C & J Management, L.L.C., to vacate 20-feet of public street right-of-way located on NE Grantville Road from Soldier Creek to the northern most point of 1831 NE Grantvill Road, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18846 introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of 20-feet of public street right-of-way located on NE Grantville Road from Soldier Creek to the northern most point of 1831 NE Grantville Road, City of Topeka, Shawnee County, Kansas placed on first reading April 10, 2007 was again presented.

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

Councilmember Ortiz moved to close the public hearing and 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, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Absent: Alcalá -1.

#### 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, April 10, 2007, at 6:00 P.M. to consider the adoption of a neighborhood revitalization plan.

ORDINANCE NO. 18847 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 placed on first reading April

10, 2007 was again presented.

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

Councilmember Ortiz distributed an amendment to the neighborhood revitalization plan that increases the property owner rebate from 80% to 95%.

Councilmember Ortiz moved to amend the ordinance as distributed. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

Councilmember Ortiz moved to close the public hearing and adopt the ordinance as amended. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

The ordinance was adopted as amended on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Absent: Alcalá -1.

#### 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, April 10, 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. 60598-02, authorized by Resolution No. 7918, adopted and approved February 28, 2007.

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 Street Improvement Project No. 60598-02 with pavement, curb and gutter and all other contingencies needed to complete the project as defined and described in Resolution No. 7918, adopted and approved February 28, 2007 placed on first reading April 10, 2007 was again presented.

Norton N. Bonaparte, Jr., City Manager requested that the public hearing and ordinance be withdrawn from the agenda due to an incorrect street address.

Upon hearing no objections, Mayor Bunten withdrew the public hearing and ordinance from the agenda.

#### 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, April 10, 2007, at 6:00 P.M. relating to vacation request V07A/1 by Bahm Demolition, Inc., relating to the vacation of a platted alley located within Shawnee Place, an Addition to the City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18848 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a platted alley located within Shawnee Place, an Addition to the City of Topeka, Shawnee County, Kansas placed on first reading April 10, 2007 was again presented.  
(V07A/1)

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. (8-0-0)

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

A PETITION, PROJECT BUDGET in the amount of \$427,105 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 60626 which provides for paving of SW 30<sup>th</sup> Terrace west from Wanamaker Road, as more specifically described herein, was presented.

Norton N. Bonaparte, Jr., City Manager requested that the petition, project budget and resolution be withdrawn from the agenda due to a change in the benefit district.

Upon hearing no objections, Mayor Bunten withdrew the petition, project budget and resolution from the agenda.

ORDINANCE NO. 18849 introduced by City Manager Norton N. Bonaparte, Jr.,

allowing and approving City expenditures for the period of March 12, 2007, through March 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 Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Blackburn was out of the room. (7-0-0)

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

ORDINANCE NO. 18850 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 19, 2007, through March 25, 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. Councilmember Blackburn was out of the room. (7-0-0)

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

ORDINANCE NO. 18851 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of March 26, 2007, through April 1, 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 Woelfel carried. Councilmember Blackburn was out of the room. (7-0-0)

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

ORDINANCE NO. 18852 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 placed on first reading March 27, 2007 was again presented. (Z07/3)

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

Mayor Bunten asked if there were any exparte communications besides Councilmembers Kennedy, Ortiz, Woefel, Haynes, Swank and Blackburn. There were none declared.

Councilmember Ortiz 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, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Absent: Alcalá -1.

AN ORDINANCE introduced by Councilmember John Alcalá, authorizing Improvement Project No. 14103-01, which provides for replacement of existing traffic signal and necessary sidewalk and ramp modifications at SE Fourth Street and SE Branner Street, 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., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 14115-00, for a traffic signal removal and installation of stop signs and the creation of a cul-de-sac on Central Avenue at the location of North Kansas Avenue and North Gordon Avenue and Central Avenue was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property interest for Improvement Project No. 70142-02, which provides for the removal of the medians at the intersection of 25<sup>th</sup> Street and California and the construction of sidewalk on the west side of California Avenue from 21<sup>st</sup> Street to 29<sup>th</sup> Street was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30264-00, which provides for improvements to existing Creative Play/Civitan Play shared play area to update conditions and to meet ADA standards, 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., authorizing Improvement Project No. 30269-00, which provides for new walks throughout the botanical garden area in Old Prairie Town, 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., authorizing Improvement Project No. 30274-00, which provides for restrooms at Gage Park and Oakland Park, 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., authorizing Improvement Project No. 30276, which provides for resurfacing and maintenance of roadways and parking lots at various parks throughout Topeka, 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., instituting a



real estate lien upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the cost for sewage collection and treatment where such payments to the City have not been made due to neglect, failure or refusal to pay, pursuant to K.S.A. 12-631k was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning streets, sidewalks, and other public places, repealing City of Topeka Code Sections 130-176, 130-177, 130-196 through 130-207, 130-231 through 130-238, 130-261 through 130-264, 130-281 through 130-284, 130-301 through 130-310, and 130-331 through 130-333, amending City of Topeka Code Chapter 130, Article 4 and Sections 130-156 through 130-165, and repealing said original sections was presented for first reading.

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., 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 2315 and 2325 NW Clay Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District and "I-1" Light Industrial District TO "C-4" Commercial District was presented for first reading. (Z07/5)

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

1010 SW Polk Street in the City of Topeka, Kansas from “M-3” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District was presented for first reading. (Z07/7)

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 1021 SW Tyler Street in the City of Topeka, Kansas from “M-3” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District was presented for first reading. (Z07/8)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., establishing an Americans with Disabilities Act Advisory Council for the City of Topeka, Kansas, amending City of Topeka Code Section 2-181, and specifically repealing said original section 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 thanked the Capital Federal Foundation for their \$250,000 donation to the City of Topeka Zoological Park Creatures of Darkness Exhibit. He also announced that the second phase of the 2007 Takeover/Makeover Project would begin on April 21st at 9:00 a.m. in the Kansas Expocentre parking lot; the City is offering free double-ground mulch the week of April 16th, and free disposal of yard materials on April 21st; the Zoo will host the “Twilight Tours at the Zoo” on April 20th; the Oakland Community Center will host the “All Star T-Ball Clinic” on April 21st; the Central Park Community Center will host the “Old School vs. New School Basketball Fundraiser” on April 21st; the “BMX Bike Clinic” will be held at the Heartland BMX Track on April 21st; and the Topeka Fire Department Citizen’s Academy will begin on April 25th.

Councilmember Blackburn announced that the Kansas Coyotes Professional Football Team opening season game is on Saturday, April 21, 2007.

Mayor Bunten stated that he believes the first phase of the 2007 Takeover/Makeover Project was a success.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:45 p.m.

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Brenda Younger  
City Clerk