

Council Minutes – May 15, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 15, 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, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -1.

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

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

A PRESENTATION on the Municipal Court Department was presented by Steve Ebberts, Administrative Municipal Court Judge and Beth Visocsky, Court Administrator.

Councilmember Harmon requested that item 4B, a final plat for Bear Lake Subdivision be pulled from the consent agenda for separate discussion.

Norton N. Bonaparte, Jr., City Manager requested that item 4G, an ordinance approving City expenditures for week ending April 29, 2007 be pulled from the consent agenda for separate discussion.

Councilmemeber Alcala requested that item 4C, a final plat for the Seward Industrial Park Subdivision be pulled from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7946 introduced by Councilmember John Alcala granting a waiver to the provisions of City of Topeka Code Section 142-355, as amended, relating to parking on unimproved surfaces was presented.

A PETITION, PROJECT BUDGET in the amount of \$332,600 and RESOLUTION NO. 7947 introduced by City Manager Norton N. Bonaparte, Jr., amending the boundaries of the

proposed improvement district and authorizing as amended Sanitary Sewer Improvement Project No. 40942, located in Stone Crest Subdivision, as more specifically described herein, pursuant to K.S.A. 12-6a01, et seq., as amended, and rescinding Resolution No. 7779 was presented.

A PETITION, A PROJECT BUDGET in the amount of \$387,100 and RESOLUTION NO. 7948 introduced by City Manager Norton N. Bonaparte, Jr., amending the boundaries of the proposed improvement district and authorizing as amended Sanitary Sewer Improvement Project No. 40943-01, located in Stone Crest Subdivision, as more specifically described herein, pursuant to K.S.A. 12-6a01, et seq., as amended, and rescinding Resolution No. 7780 was presented.

A PETITION, PROJECT BUDGET in the amount of \$929,600 and RESOLUTION NO. 7949 introduced by City Manager Norton N. Bonaparte, Jr., amending the boundaries of the proposed improvement district and authorizing as amended Street Improvement Project No. 60623-01, located in Stone Crest Subdivision, as more specifically described herein, all pursuant to K.S.A.12-6a01, et seq., as amended, and rescinding Resolution No. 7781 was 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>
6 th Street Back Door	610 Wayne St
Moose Lodge 555	1901 N Kansas Ave
Walgreens #03069	1001 SW Topeka Blvd
Walgreens #02846	2915 SW Gage

2007 Cereal Malt Beverage 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>
Mini Mart Express	1611 SE 29 th St
Quality Gas & Shop	1900 N Topeka Ave
Rex's Cenex	2855 SW Wanamaker Rd

<u>Name</u>	<u>Address</u>
Star2	1320 SW 6 th Ave
Steinbock's Meat & Deli	1401 NE Seward Ave, Suite A
Tilton's Westside	1100 W 6 th St
Tilton's Oakland Market	1905 Seward

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

A FINAL PLAT for Bear Lake Subdivision located at the northeast corner of SW Urish Road and SW Huntoon Street, all within the City of Topeka, Shawnee County, Kansas was presented.

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

Paul Kindling, area resident, spoke in opposition to the final plat and stated that area residents have filed a protest petition.

Councilmember Preisner asked if there is a legal case pending regarding the final plat.

Brenden Long, City Attorney stated that the legal case involves the zoning of the area and the City is not directly involved. He also stated that it is his understanding that the issue relates to the types of homes the developer is proposing, not platting of the area. He explained that approval of the final plat would not have an affect on the legal action pending.

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

A FINAL PLAT for the Seward Industrial Park Subdivision located at 4045 NE Seward Avenue contiguous to the corporate limits of the City, but outside the Municipal Service Area of the City of Topeka, all being within unincorporated Shawnee County, Kansas was presented.

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

Councilmember Alcala moved to disapprove the final plat. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn made a substitute motion to approve the final plat. The motion was seconded by Councilmember Preisner.

Councilmember Alcala raised a point of order.

Mayor Bunten ruled that the substitute motion is out of order because it is the direct opposite of the original motion.

Councilmember Blackburn stated that he agrees with the Planning Commission's recommendation to disapprove the final plat.

The motion to disapprove the final plat failed. Councilmembers Kennedy, Woelfel, Swank, Blackburn, Preisner and Harmon voted "no." (3-6-0)

Councilmember Blackburn moved to approve the final plat. The motion seconded by Councilmember Preisner carried. Councilmembers Alcala and Ortiz voted "no." (7-2-0)

ORDINANCE NO. 18876 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of April 23, 2007, through April 29, 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, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

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, May 15, 2007, at 6:00 P.M. to hear and answer objections of taxpayers to the proposed 2007 Operating Budget amendments.

APPROPRIATION ORDINANCE NO. 18877 introduced by City Manager Norton N. Bonaparte, Jr., amending the adopted operating budget for the City of Topeka, for the year 2007, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

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 Kennedy carried. Councilmember Alcalá voted "no." Councilmember Ortiz abstained. (7-1-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -7. Noes: Alcalá -1. Abstained: Ortiz -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, May 15, 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. 60611-02, authorized by Resolution No. 7611, adopted and approved April 19, 2005.

ORDINANCE NO. 18878 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. 60611-02 with pavement, curb and gutter and all other contingencies needed to complete the project as defined and described in Resolution No. 7611, adopted and approved April 27, 2005 placed on first reading April 24, 2007 was again presented.

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

Councilmember Blackburn moved to close the public hearing 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, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

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, May 15, 2007, at 6:00 P.M. relating to vacation request V07E/1 by Miller's Glen Development Company, L.L.C., for a platted utility easement located at 2338 SW Lowell Lane, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18879 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 placed on first reading March 6, 2007 was again presented. (V07E/1)

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. (9-0-0)

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

A REVISED PROJECT BUDGET in the amount of \$40,493,243 and ORDINANCE NO. 18880 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 29091-05, which provides for the replacement of the aeration basins and secondary clarifiers at the Oakland Wastewater Treatment Plant (WWTP) along with other necessary improvements as more specifically described pursuant to City of Topeka Code A12-1 and pursuant to K.S.A. 10-101 and 10-1201, et seq., and all

amendments thereto and repealing Sections 1, 2, 3 and 4 of City of Topeka Ordinance No. 18509 placed on first reading May 8, 2007 was again presented.

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

Councilmember Preisner moved to approve the revised project budget and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

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

ORDINANCE NO. 18881 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.

Councilmember Kennedy gave the committee report and stated that the Economic and Community Development Committee recommended approval by a vote of 3-0-0 on May 10, 2007.

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, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18882 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.

Councilmember Kennedy gave the committee report and stated that the Economic and Community Development Committee recommended approval by a vote of 3-0-0 on May 10, 2007.

Keith Finney, President of Finney and Turnipseed Transportation and Civil Engineering, L.L.P., appeared to answer questions and spoke in support of the ordinance.

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, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

A COMMUNICATION approving Contract No. 37410, a three-year labor agreement between the City of Topeka and AFSCME Local 1294 of the Water Division, was presented.

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

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

RESOLUTION NO. 7950 introduced by Councilmember Brett Blackburn amending Topeka City Council Rules and Procedures 7.1 concerning City Council committees and the designation of the committee chair was presented.

Councilmember Blackburn stated that the resolution designates the deputy mayor to serve as the chair of the Budget Committee, Long-Range Planning Committee, and the Committee of the Whole.

Councilmember Blackburn moved to approve the resolution. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” (8-1-0)

A PROJECT BUDGET in the amount of \$100,000 and RESOLUTION NO. 7951 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. 24118-00 which provides for the removal and replacement of damaged or hazardous concrete/brick sidewalks throughout the City as more specifically described herein was presented.

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

Councilmember Preisner commended staff for their efforts, and encouraged continued funding of the sidewalk programs. He stated that he believes the community truly benefits from the programs.

Councilmember Alcala moved to approve the project budget and resolution. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned "R-2" Single-Family Dwelling District and located at 1625 SW Central Park Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4, was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a corrected 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. 40886-02 established by City of Topeka Ordinance No. 18393 and specifically repealing said ordinance was presented for first reading.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 16-foot wide utility easement located west of SW Cambridge Avenue about 140-

feet north of SW 41st Street, City of Topeka, Shawnee County, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a corrected 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. 60561-02 established by City of Topeka Ordinance No. 18395 and specifically repealing said Ordinance was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported that staff continues to work with area flood victims and will meet with the Federal Emergency Management Agency (FEMA) on Wednesday, May 16, 2007. He thanked the thirteen City employees who assisted with the Greensburg, Kansas tornado disaster. He also announced that the “Law Enforcement Memorial” event will be held on May 17, 2007 at 9:00 a.m. at the Law Enforcement Center; the Human Relations Commission Town Hall meeting will be held on May 17, 2007 at 6:00 p.m. in the Holliday Conference Room; the Zoo will host the “Twilight Tours at the Zoo” event on May 18, 2007 at 7:30p.m.; and the Helen Hocker Theater will host the “Langston Hughes' Little Ham Musical” on May 19, 2007 at 8:00 p.m.

Councilmember Blackburn commended City staff for their prompt response to flood victims.

Councilmember Ortiz commended staff for their prompt response to flood victims. She stated that there are still people who need help with disposing of flood debris and asked how they

can continue to receive help. She also announced that TARC is offering free shredding services this week.

The City Manager instructed Councilmembers to forward the addresses of the individuals who still need assistance with flood clean up to his office to be added to the pick up schedule.

Councilmember Kennedy commended City staff, as well as, the community for assisting with flood clean up.

Councilmember Swank commended City staff and the community for assisting with flood clean up efforts. She also stated that she looks forward to receiving help from FEMA because there is still more clean up to be done. She thanked the American Red Cross for helping flood victims obtain new debit cards.

Councilmember Blackburn asked when the City plans to distribute information on sewer back up prevention.

The City Manager reported that staff is gathering information, and as soon as it becomes available, it will be distributed.

Charles VanHorn appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:10 p.m.

Brenda Younger
City Clerk