

Council Minutes – September 11, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 11, 2007. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Preisner -1.

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

Mayor Bunten asked for a moment of silent meditation to honor those individuals lost in the 9/11 terrorist attack.

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

Councilmember Ortiz moved to add an ordinance relating to a zoning change request for Jackson Memorial Church of God in Christ, Inc., to the agenda. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

Upon hearing no objections, Mayor Bunten stated that the ordinance would be placed on the agenda under First Readings as item 9C.

Councilmember Alcalá moved to pull item 4C, a resolution granting the Hispanic Heritage Month Committee a noise exception; and item 4D, an ordinance relating to the Mexican Independence Day Celebration from the Consent Agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the re-appointment of Howard Blackmon to the Topeka Planning Commission for a term that would expire on September 30, 2010 was presented.

RESOLUTION NO. 7994 introduced by Councilmember Deborah Swank granting Jeannie Richardson an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

Minutes of the regular meeting of September 4, 2007 was presented.

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

RESOLUTION NO. 7995 introduced by Councilmember Jeff Preisner granting the Hispanic Heritage Month Committee an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

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

Elias Garcia, Hispanic Heritage Month Committee appeared to answer questions.

Councilmember Alcalá moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

ORDINANCE NO. 18961 introduced by Councilmember Jeff Preisner authorizing the sale, consumption, and possession of alcoholic liquor at the Mexican Independence Day Celebration to be held in downtown Topeka on September 15, 2007 placed on first reading September 4, 2007 was again presented.

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

Councilmember Alcalá 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, Alcalá, Ortiz, Woefel, Haynes, Swank, Blackburn and Harmon -8. Absent: Preisner -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, September 11, 2007, at 6:00 P.M. relating to vacation request V07A/6 by Deidre Birzer requesting to vacate the west one-half of an unimproved public alley right-of-way in Keystone Addition located east of 1609 SE 32nd Street, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18962 introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of the west one-half of an unimproved public alley right-of-way in Keystone Addition located east of 1609 SE 32nd Street, City of Topeka, Shawnee County, Kansas placed on first reading September 4, 2007 was again presented. (V07A/6)

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 Kennedy carried unanimously. (8-0-0)

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

A PROJECT BUDGET in the amount of \$130,000 and ORDINANCE NO. 18963 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 14122, which provides for replacing traffic signal, sidewalk, and ramp work at the intersection of SW Clontarf and Burlingame, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading June 19, 2007 was again presented. The project budget and ordinance was deferred from the meeting of August 28, 2007.

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

Councilmember Haynes reported that Unified School District No. 501 did not show an interest in assisting with the replacement of the traffic signal at the committee meeting. He

stated that in his opinion, there is no longer a need to replace the traffic signal because the majority of area students are bused to school.

Councilmember Haynes moved to disapprove the project budget and the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Blackburn asked if there is a less costly alternative regarding replacement of the signal.

Linda Voss, City Traffic Engineer stated that in her professional opinion the traffic signal is the best replacement option because Burlingame is an arterial street. She also stated that replacement is warranted because of the signal's age, and the demographics of where students are located in the area.

Councilmember Alcalá asked if the City would be liable if an accident occurred, and the signal was not upgraded.

Brenden Long, City Attorney stated that it is the professional opinion of City staff to replace the traffic signal, therefore if an accident occurs, the City could be liable. He noted that it is the sole responsibility of the City to replace traffic signals.

Councilmember Woelfel asked if the signal would be removed if it is not replaced.

Linda Voss stated that the traffic signal would remain the same if replacement is not authorized.

Councilmember Haynes questioned if the City has a legal obligation to provide crosswalks for school children.

Brenden Long stated that the Council should base their decision on staff recommendation and the professional opinion of the City Traffic Engineer. He also stated that he believes the City is obligated to help keep citizens safe.

The motion to disapprove the project budget and the ordinance failed. Councilmember Kennedy, Alcala, Ortiz, Woelfel, Swank, Blackburn and Harmon voted “no.” (1-7-0)

Councilmember Haynes moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Kennedy carried. Councilmember Haynes voted “no.” (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Woelfel, Swank, Blackburn and Harmon -7. Noes: Haynes -1. Absent: Preisner -1.

A PROJECT BUDGET in the amount of \$215,000 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70142-04, Part A, which provides for the design of the reconstruction and widening of SE California Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading May 22, 2007 was again presented. The project budget and ordinance was deferred from the meeting of June 5, 2007.

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

Councilmember Woelfel requested additional time to discuss the project with staff.

Councilmember Woelfel moved to defer the project budget and ordinance until November 13, 2007. The motion was seconded by Councilmember Ortiz.

John Nave stated that neighborhood residents support the original project design, and oppose the widening of California Avenue to five-lanes, as well as, the proposed roundabout at the intersection of California Avenue and 37th Street.

The motion to defer the project budget and ordinance until November 13, 2007 carried unanimously. (8-0-0)

RESOLUTION NO. 7996 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the Softball/Sports Facilities Reserve Fund for ongoing maintenance at any Parks and Recreation of Topeka softball facilities, pursuant to City of Topeka Ordinance No. 16269, was presented.

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

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

RESOLUTION NO. 7997 introduced by City Manager Norton N. Bonaparte, Jr., pursuant to City of Topeka Code Section 130-377 concerning sidewalk repairs at locations more specifically described hereinafter, was presented.

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

Councilmember Kennedy moved to approve the resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Swank expressed concern with the fairness of the process and asked if it is based only on complaints.

Shawn Bruns, City Engineer stated that the process is based on complaints only.

Councilmember Swank requested that a new policy be established based on the overall need of sidewalk replacement for the entire city.

Shawn Bruns stated that they do not have enough manpower to randomly inspect sidewalks throughout the city.

Councilmember Blackburn requested that abatement of sidewalks be considered when considering a new policy.

The motion to approve the resolution carried. Councilmembers Swank and Harmon voted “no.” (6-2-0)

ORDINANCE NO. 18964 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 20, 2007, through August 26, 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 unanimously. (8-0-0)

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

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned “C-4” Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas, was presented. (CU07/3)

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

Councilmember Blackburn expressed concern with the criteria of the sign policy. He noted that it does not address the height of a sign. He also asked if there were any other billboard signs of this size located within the city.

David Thurbon, Planning Director stated that there are other billboard signs of this size located on property that is currently zoned as an Industrial District; however, he is not aware of any signs located on property zoned as “C-4” Commercial District.

Councilmember Blackburn moved to remand the resolution back to the Planning Commission for review and consideration of a change in policy. The motion was seconded by Councilmember Ortiz.

Councilmember Alcala stated that he would not support the motion because the Planning Commission has already made a recommendation.

The motion to remand the resolution back to the Planning Commission failed. Councilmembers Kennedy, Alcala, Ortiz and Woelfel voted “no.” (4-4-0)

Councilmember Alcala moved to defer the resolution for one week. The motion seconded by Councilmember Harmon carried. Councilmembers Kennedy and Woelfel voted “no.” (6-2-0)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a 16-foot wide public unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07A/4)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 84349, which provides for ADA sidewalk ramps, 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., 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

2401 SE 11th Street in the City of Topeka, Planned Unit Development District (“M-2” use group) was presented for first reading. (*PUD07/5*)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events.

Mayor Bunten asked if the Council would consider scheduling a retreat to discuss future plans and goals of the City.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:28 p.m.

Brenda Younger
City Clerk