

## **Council Minutes – September 18, 2007**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 18, 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, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Blackburn -1.

AFTER THE MEETING was called to order, Councilmember Preisner asked for a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7998 introduced by Councilmember Deborah Swank 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 September 11, 2007 was presented.

Dance Hall License applications bearing the approval of the Chief of Police and City Inspectors for Mahogany's Lounge located at 1307 SW Huntoon, and Three Little Pigs located at 1131 SW Winding Road, were presented.

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Kennedy 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, September 18, 2007, at 6:00 P.M. relating to vacation request V07A/4 by Roy V. Uhl Company, Inc., requesting to vacate a portion of a 16-foot wide public improvement 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.

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 3<sup>rd</sup> Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas placed on first reading September 11, 2007 was again presented.

(V07A/4)

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

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Alcala questioned the intended use of the property. He reported that last summer he received complaints from area residents regarding the smell of sewage. He stated that it was confirmed that there were trucks stored on the property that were being used for the purpose of hauling waste that was extracted from portable restrooms. He noted that the trucks were cleaned out on a daily basis, and the wastewater run-off was being disposed of in the City's storm water system.

David Thurbon, Planning Department Director stated that he was only aware of the applicant operating a mud-jacking business.

Councilmember Alcala made a substitute motion to defer the public hearing and ordinance for one week. The motion seconded by Councilmember Ortiz carried unanimously.

(8-0-0)

A PROJECT BUDGET in the amount of \$500,000 and ORDINANCE NO. 18965 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 placed on first reading September 11, 2007 was again presented.

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

Kim Dietrich, Topeka Independent Living Resource Center, Inc., spoke in support of the project. She also expressed concern with certain sidewalks that were recently replaced that did not comply with ADA regulations.

Mike Teply, Interim Public Works Director stated that the sidewalks Ms. Dietrich is referring to were replaced by private residents which are not required to comply with ADA regulations.

Councilmember Kennedy asked if they could establish a policy that would require all sidewalks that are installed to be ADA compliant.

Councilmember Ortiz moved to approve the project budget 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, Preisner and Harmon -8. Absent: Blackburn -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 deferred from the meeting of September 11, 2007 was presented. (CU07/3)

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

Councilmember Haynes moved to approve the resolution. The motion was seconded by Councilmember Woelfel.

Councilmember Preisner requested that the resolution be deferred for one week to allow additional time for the City to meet with the Kansas Department of Transportation (KDOT) to resolve the vegetation issues.

Geoff Cook, Larmar Inc., stated that they would prefer that the billboard be erected at a height that maintains the desired visibility and is free of vegetation. He noted that the new modern structure would allow access to the south end of the property for the patrons of the hotel that is being constructed.

Norton N. Bonaparte, Jr., City Manager stated that he was informed that a representative from KDOT would be contacting the City on Wednesday, September 19, 2007 to discuss the vegetation issue.

Councilmember Preisner made a substitute motion to defer the resolution for one week. The motion seconded by Councilmember Alcalá carried. Councilmember Woelfel voted “no.” (7-1-0)

A COMMUNICATION introduced by City Manager Norton N. Bonaparte, Jr., relating to a lease purchase agreement for the purchase of an Enterprise Resource Planning (ERP) System for the City of Topeka, was presented.

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

Councilmember Preisner moved to approve the communication. The motion seconded by Councilmember Swank carried. Councilmembers Alcalá and Ortiz voted “no.” (6-2-0)

ORDINANCE NO. 18966 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 27, 2007 through September 2, 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 Alcala voted "no." (7-1-0)

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

ORDINANCE NO. 18967 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 11<sup>th</sup> Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "PUD" Planned Unit Development District ("M-2" use group) placed on first reading September 11, 2007 was again presented. (*PUD07/5*)

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

Mayor Bunten asked if there were any exparte communications besides Councilmember Ortiz. There were none declared.

Councilmember Ortiz moved to 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, Preisner and Harmon -8. Absent: Blackburn -1.

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

Norton N. Bonaparte, Jr., City Manager requested a 30-day extension to complete the City-County Interlocal Agreement regarding consolidation of the IT Departments. He announced that City 4 is extending the deadline for the Topeka Mysteries and Legends Contest until Friday, September 20, 2007 at 5:00 p.m. He also announced that the Topeka Zoo received re-accreditation from the American Zoo and Aquarium Association on September 17, 2007.

Councilmember Woelfel moved to extend the deadline for completion of the City-County IT Department Consolidation Interlocal Agreement for 30 days. The motion seconded by Councilmember Kennedy carried. Councilmember Preisner left the room. 7-0-0

Councilmember Alcalá asked who requested installation of power locks and windows in a Fire Department vehicle, what were the costs associated with the request, and who authorized the expenditure. He also asked how City Administration plans to resolve the issues between the Fire Department's Administration and the union. He requested that the Council be updated on the situation on a regular basis, and believes the problems should have been resolved prior to the union participating in a "vote of no confidence."

Richard Johnson and Kent Dederick appeared to speak under public comment.

Norton N. Bonaparte, Jr., City Manager stated that he has scheduled a meeting with Kent Dederick, IAFF Local Union No. 83 President on Friday, September 21, 2007 to discuss the issues raised by the Fire Department.

Councilmember Alcalá asked if there were any safety issues that need to be addressed immediately.

Kent Dederick stated that in his opinion there are 54 Lieutenant helmets that need to be replaced at this time.

Councilmember Alcalá moved to direct the City Manager to meet with Kent Dederick on Wednesday, September 19, 2007 to discuss any safety issues that have been raised by the Topeka Fire Department. The motion seconded by Councilmember Ortiz failed. Councilmembers Woelfel, Haynes and Swank voted “no.” (4-3-0)

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:37 p.m.

---

Brenda Younger  
City Clerk