

**Council Minutes – November 6, 2007**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 6, 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, Preisner and Harmon -9. Mayor Bunten presided -1.

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

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

A PRESENTATION on the AZA Accreditation for the Topeka Zoo was conducted by Kristen Veers, Executive Director of the Association of Zoos and Aquariums.

Councilmember Alcalá moved to suspend the Council Rules to add a communication recommending an appointment to the Metropolitan Topeka Airport Authority to the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Mayor Bunten noted that the communication would be placed on the consent agenda as item 4C.

THE CONSENT AGENDA was presented as follows:

Minutes of the regular meeting of October 23, 2007 were presented.

2008 Dance Hall 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>
American Legion Post 400	3029 NW Highway 24
The Den	1116 NW Lower Silver Lake Road
Jeremiah Bullfrogs Bar & Grill	4115 SW Huntoon
Kansas Expocentre	One Expocentre Drive

2008 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>
The Brass Rail	401 Emmett
The Chatterbox Tavern	2121 SE 6 <sup>th</sup> Street
Godfather Pizza	1835 N Topeka Boulevard
Grovers Smokehouse	1217 SW Gage
Heart of America Food	One Expocentre Drive
New China Restaurant	201 SW 29 <sup>th</sup> Street
North Topeka Golf	350 NE US 24 Highway
Pizza Parlor	1919 SE Seward Avenue
Porubsky	508 Sardou
Taco Tico	2102 N Topeka Boulevard
Three Little Pigs	1131 SW Winding Road

A COMMUNICATION recommending the re-appointment of Randy Mettner to the Metropolitan Topeka Airport Authority for a term that would expire on November 30, 2010 was presented.

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

ORDINANCE NO. 18983 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$15,085,000 aggregate principal amount of General Obligation Bonds, Series 2007-D, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 12-110c, K.S.A. 12-685 et seq., K.S.A. 12-6a01 et seq., the Home Rule Authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City, all as amended placed on first reading October 23, 2007 was again presented.

Norton N. Bonaparte, Jr., City Manager stated that approval of the general obligation bonds would finance a number of public infrastructure improvements that have already been approved by the Council that are completed, or under construction.

Jim Langford, Budget and Finance Director reported that the City received four bids, and George K. Baum & Co., was the successful bidder offering an interest rate of 4.3358%.

Councilmember Kennedy 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.

RESOLUTION NO. 8012 introduced by City Manager Norton N. Bonaparte, Jr., prescribing the form and details of both the General Obligation Bonds, Series 2007-D of the City of Topeka, Kansas in the aggregate principal amount of \$15,085,000 the issuance of which were authorized by the City pursuant to its Ordinance No. 18983 adopted and approved on November 6, 2007 and authorizing certain other documents and actions in connection with the issuance of the Bonds, was presented.

Norton N. Bonaparte, Jr., City Manager stated that the resolution prescribes the form and details of the City's Series 2007-D General Obligation Bonds, providing funds to finance the costs of previously authorized capital improvement projects.

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

RESOLUTION NO. 8013 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of temporary notes, Series 2007-A of the City of Topeka, Kansas in the aggregate principal amount of \$9,200,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2006-A Temporary

Notes of the City, dated November 28, 2006 and for the purpose of providing funds to pay a portion of the cost of certain improvements in the City, was presented.

Norton N. Bonaparte, Jr., City Manager stated that the resolution authorizes the issuance of the City's Series 2007-A Temporary Notes, providing funds to temporarily finance the costs of previously authorized capital improvement projects.

Jim Langford, Budget and Finance Director reported that the City received four bids, and RBC Capital Market was the successful bidder, offering an interest rate of 3.3585%.

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

A COMMUNICATION requesting the City Council to appeal the State Historic Preservation Officer's denial of a 6-foot wood privacy fence along SW Taylor Street on property located at 720 SW 12th Street, was presented.

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

Councilmember Kennedy presented 23 petitions from area neighbors supporting the fence proposal. She also distributed pictures and gave a brief history of the rehabilitation of the property. She noted that only one person expressed opposition to the proposal.

Brenden Long, City Attorney stated that the Council must make a determination that there is no feasible or prudent alternative to maintain the fence at its current height.

Councilmember Blackburn moved to approve the communication based on the determination that there is no feasible or prudent alternative to maintain the fence at its current height. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A COMMUNICATION approving the sale of a vacant lot located in the 1900 block of N. Kansas Avenue to David and Teresa Johnson and specifically authorizing the City Manager to

execute the contract, deed and any other documents necessary to close the transaction, was presented.

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

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

A COMMUNICATION from City Manager Norton N. Bonaparte, Jr., outlining and seeking approval of the funding recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council for the 2008 grant awards from the Special Alcohol Program Fund, was presented.

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

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

RESOLUTION NO. 8014 to submit an application for use of Transportation Enhancement Funds set forth by the Federal Transportation Equity Act for the 21st Century for the Landon Trail Project from approximately SE 25th Street to SE 37th Street in the City of Topeka, was presented.

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

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Haynes carried. Councilmembers Kennedy and Blackburn voted “no.” (7-2-0)

RESOLUTION NO. 8015 introduced by Councilmember Lana Kennedy concerning the impact of federal law on the access of Topeka citizens to inpatient rehabilitation care and services, was presented.

Councilmember Kennedy asked the Council for their support of the resolution.

Paul Livingston, CEO of Kansas Rehabilitation Hospital of Topeka asked the Council to support legislature's House of Representatives Bill 1459, and Senate Bill 543 as sound public policy. He stated that the proposed legislation would help alleviate the impact of inpatient rehabilitation care and services affected by the federal regulation known as the "75 Percent Rule."

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

Norton N. Bonaparte, Jr., City Manager requested that item 6I, a resolution adopting the 2008-2012 Capital Improvement Program, be presented before item 6H, a resolution adopting the 2008-2009 Capital Improvement Budget.

Upon hearing no objections, Mayor Bunten announced that the agenda items would be presented in the order requested by the City Manager.

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas, was presented.

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas, was presented.

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

Jim Langford, Budget and Finance Director distributed a response to the questions raised by Councilmembers at the November 5, 2007 Capital Improvement Program (CIP) and the Capital Improvement Budget (CIB) work session discussion.

Councilmember Alcalá asked if there would be an additional cost to begin the California Avenue Improvement Project at SE 45<sup>th</sup> Street, and work north.

Shawn Bruns, City engineer stated that there is no cost difference, it would only rearrange the project, not change it; however, there would be a cost increase if the project were increased to five lanes instead of three lanes.

Councilmember Haynes asked if the cost included the 37<sup>th</sup> Street roundabout.

Shawn Bruns stated that cost of the roundabout construction is included in the CIP but the actual design, has not been done.

Norton N. Bonaparte, Jr., City Manager stated that the amount allocated for the project is not adequate for the construction of five lanes. He stated that the CIB would need to be increased by \$2.1 million to accommodate the change.

Councilmember Alcala stated that 123 protest petitions were submitted to the City Clerk's office in opposition to increasing California Avenue to five lanes, as well as, the proposed 37<sup>th</sup> Street roundabout.

Fred Martinez, Rolling Meadows Neighborhood Improvement Association President spoke in opposition of the California Avenue five-lane proposal and the 37<sup>th</sup> Street roundabout. He stated that area residents fear the increase in traffic flow would increase area crime rates.

Vicki Smith, area resident spoke in opposition of the five-lane proposal and the 37<sup>th</sup> Street roundabout. She stated that she believes it is a waste of taxpayers' money and that the City should invest the money in curbs, gutters and street improvements for the Highland Park area.

Councilmember Woelfel stated that the five-lane proposal would accommodate the anticipated increase in traffic flow in the next 20 to 30 years. He also stated that he would support staff's recommendation regarding the 37<sup>th</sup> Street intersection.

Councilmember Blackburn asked if it would be possible to install sidewalks, at this time to accommodate the pedestrian traffic and improve the appearance of the neighborhood, and delay the street widening project for five years.

Mike Teply, Interim Public Works Director agreed that Councilmember Blackburn's request was feasible.

Councilmember Alcalá stated that he believes the cost of acquiring property would double if the project is not completed in its entirety.

Councilmember Kennedy commended City staff for attempting to accommodate future growth in the East Topeka area.

Councilmember Harmon moved to defer the resolution adopting the 2008-2012 Capital Improvement Program for one week to allow staff time to make recommendations regarding the additional funding needed for the Kansas Avenue Improvement Project No. 70183-00 in the amount of \$700,000. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá made a friendly amendment to defer the resolution adopting the 2008-2012 CIP, and the resolution adopting the 2008-2009 CIB for two weeks, and create separate resolutions for both three-lane and five-lane proposals for the California Avenue Improvement Project to be placed on next week's agenda.

Councilmember Blackburn made a substitute motion to defer the resolution adopting the 2008-2012 Capital Improvement Program, and the resolution adopting the 2008-2009 Capital Improvement Budget for one week. The motion seconded by Councilmember Kennedy failed. Councilmember Alcalá, Ortiz, Haynes, Swank and Harmon voted "no." (4-5-0)

Discussion ensued by several Councilmembers regarding the necessity of constructing separate resolutions for each street widening proposal.



Brenden Long, City Attorney clarified that the 2008-2012 CIP includes the original three-lane proposal for the California Avenue Improvement Project.

Councilmember Alcalá called the question.

The motion to defer the resolution adopting the 2008-2012 Capital Improvement Program, and the resolution adopting the 2008-2009 Capital Improvement Budget for one week to allow staff time to make recommendations regarding the additional funding needed for the Kansas Avenue Improvement Project No. 70183-00 in the amount of \$700,000 carried.

Councilmember Woelfel voted “no.” Councilmember Kennedy was out of the room. (7-1-0)

ORDINANCE NO. 18984 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 8, 2007 through October 14, 2007 and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcalá 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.

RESOLUTION NO. 8016 introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-13.02(c)(4) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a pet crematorium on property currently zoned "O&I-2" Office and Institutional District and located at 1137 SW Gage Boulevard in the City of Topeka, Kansas was presented. (CU07/5)

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

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

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

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 the improvement of River Hill Subdivision with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40858-03, as defined and described in Resolution No. 7526, adopted and approved September 24, 2004 was presented for first reading.

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 Main and Lateral Sanitary Sewer Improvement Project No. 40906, as defined and described in Resolution No. 7334, adopted and approved April 22, 2003 was presented for first reading.

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 the improvement of a portion of Woodglen Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40915-02, as defined and described in Resolution No. 7592, adopted and approved March 8, 2005 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 the City of

Topeka Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21<sup>st</sup> Street was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 141280, which provides for approximately 64 new traffic signal controllers, 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., relating to the vacation of public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7<sup>th</sup> Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07A/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 the south west corner of the intersection of SW Wanamaker Road and SW 30<sup>th</sup> Terrace from "O&I-2" Office and Institutional District TO "C-2" Commercial District was presented for first reading. (Z07/22)

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 the southeast corner of the intersection of SW 37<sup>th</sup> Street and SW Fairlawn Road from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District was presented for first reading. (Z07/23)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events; Meet the Manager Sessions; and the winner of the City 4 Mysteries and Legends Contest. He also announced that City offices would be closed on Monday, November 12, 2007 in observance of Veteran's Day.

Councilmember Ortiz encouraged citizens to utilize TARC's paper-shredding services November 12, 2007 through November 16, 2007.

Councilmember Harmon commended staff for earning the Association of Zoos and Aquariums Accreditation.

Sandy Lassiter and Aaron Edwards appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:56p.m.

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Brenda Younger  
City Clerk