

Council Minutes – November 13, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 13, 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 Kennedy gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Sharon Joseph to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009 was presented.

A COMMUNICATION recommending the appointment of Michael Byington to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009 was presented.

A COMMUNICATION recommending the appointment of Brenda Eddy to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009 was presented.

A COMMUNICATION recommending the appointment of Albert Lewis to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009 was presented.

A COMMUNICATION recommending the appointment of Melissa Powers to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009 was presented.

A COMMUNICATION recommending the appointment of Joshanna Stone to the Human Relations Commission for a term that would expire on November 30, 2009 was presented.

A FINAL PLAT for Wanamaker North Addition Subdivision located at 1025, 1029 and 1035 SW Wanamaker Road in the City of Topeka, Shawnee County, Kansas was presented.
(P07/30)

Minutes of the regular meeting of November 6, 2007 were presented.

A Dance Hall License renewal application bearing the approval of the Chief of Police and City Inspectors for Skinny's Sport Bar & Grill located at 4016 SW Huntoon, was presented.

A Cereal Malt Beverage License renewal application bearing the approval of the Chief of Police and City Inspectors for Lynn's Place located at 2212 Sardou, was presented.

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

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, November 13, 2007, at 6:00 P.M. relating to vacation request V07A/7 by Board of Shawnee County Commissioners for public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 18985 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 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas placed on first reading November 6, 2007 was again presented. (V07A/7)

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 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, November 13, 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 Lateral Sanitary Sewer District No. 40858-03, authorized by Resolution No. 7526, adopted and approved September 21, 2004.

ORDINANCE NO. 18986 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 placed on first reading November 6, 2007 was again presented.

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

Councilmember Harmon 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 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, November 13, 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 Lateral Sanitary Sewer District No. 40906, authorized by Resolution No. 7334, adopted and approved April 22, 2003.

ORDINANCE NO. 18987 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 placed on first reading November 6, 2007 was again presented.

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

Councilmember Woelfel 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 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, November 13, 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 Sanitary Sewer Improvement Project No. 40915-02, authorized by Resolution No. 7592, adopted and approved March 8, 2005.

ORDINANCE NO. 18988 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 placed on first reading November 6, 2007 was again presented.

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

Councilmember Woelfel 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.

RESOLUTION NO. 8017 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program (CIP) for the City of Topeka, Kansas was presented. The resolution was deferred from the meeting of November 6, 2007.

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

Councilmember Woelfel distributed an amendment to the 2008-2012 CIP regarding the widening of SE California Avenue. The amendments were as follows:

- To postpone the improvements from SE 29th Street to the Kansas Transportation Authority (KTA) Bridge until 2013, and begin the mill and overlay project in the Spring of 2008;
- The improvements from SE 41st Street to SE 45th Street will be five lanes;
- No sidewalks will be installed;
- A four-way stop will be provided at the intersection of SE 37th Street and SE California Avenue; and
- The project will begin at SE 45th Street and work north towards SE 21st Street

Councilmember Woelfel moved to amend the 2008-2012 CIP as distributed. The motion was seconded by Councilmember Preisner.

Norton N. Bonaparte, Jr., City Manager noted that the 2008-2012 CIP had been reduced by \$696,284 to provide funding for Kansas Avenue Improvement Project No. 70183-00.

Jim Langford, Budget and Finance Director explained the necessary changes needed in the 2008-2012 CIP to offset the \$696,284. The amendments were as follows:

- Shift \$255,000 for the Gage Park Victorian Lighting Project from 2010 to 2011;
- Shift \$250,000 for the SW 10th Street Sidewalk Project from 2008 to 2011;
- Shift \$100,000 for the Washburn Lane Parkway Project in 2009 to the General Improvement Fund;
- Shift \$95,000 for Community Center Window & Door Replacement in 2010 to 2011; and
- Reduce \$600,000 in 2011 for the Zoo's Australian Down Under Adventure Project.

Councilmember Haynes asked how the \$10 million CIP cap requirement would be honored.

Jim Langford stated that the reduction in funds for the Zoo's Australian Down Under Adventure Project would ensure that the 2008-2012 CIP conforms to the cap requirement.

Discussion ensued by several Councilmembers regarding staff's recommendation of the SE California Avenue Improvement Project, and if it would accommodate future traffic flow.

Vickie Smith, Amy Kenworthy and Fred Martinez spoke in opposition to the five-lane widening proposal of SE California Avenue, and the roundabout at the intersection of SE 37th Street and SE California Avenue.

Councilmember Blackburn asked how much it would cost to repair SE California Avenue from SE 29th Street to the KTA Bridge. He also asked how much the 2008-2012 CIP would be reduced if the project was eliminated.

Mike Teply, Interim Public Works Director stated that it would cost \$300,000 to repair SE California Avenue from SE 21st Street to the KTA Bridge.

Jim Langford stated that if the SE California Avenue Project is eliminated in its entirety, the 2008-2012 CIP would be reduced by \$9.1 million.

The motion to amend the 2008-2012 CIP as distributed by Councilmember Woelfel failed. Councilmembers Alcalá, Ortiz, Haynes, Swank, Blackburn and Harmon voted “no.” (3-6-0)

Councilmember Harmon moved to amend the 2008-2012 CIP as distributed by Jim Langford. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Blackburn moved to amend the 2008-2012 CIP by allocating \$300,000 of the \$9.1 million earmarked for the SE California Improvement Project to be used for the repair of SE California Avenue from SE 29th Street to the KTA Bridge; and disperse the remaining \$6.1 million to other city-wide infrastructure projects. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá, Ortiz and Harmon voted “no.” (6-3-0)

Councilmember Alcalá moved to amend the 2008-2012 CIP by removing \$1.5 million from the 2010 Topeka Boulevard Interchange Project and disperse the funds to other city-wide infrastructure projects. The motion was seconded by Councilmember Kennedy.

Councilmember Preisner expressed concern with reducing the funding for the Highway 24 Corridor Project due to potential safety hazards.

The motion to amend the 2008-2012 CIP by removing \$1.5 million from the 2010 Topeka Boulevard Interchange Project and disperse the funds to other city-wide infrastructure projects failed. Councilmembers Woelfel, Swank, Blackburn, Preisner and Harmon voted “no.” (4-5-0)

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

RESOLUTION NO. 8018 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget (CIB) for the City of Topeka, Kansas was presented. The resolution was deferred from the meeting of November 6, 2007.

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

Councilmember Blackburn moved to amend the 2008-2009 CIB to reflect the changes made to the 2008-2012 CIP. The motion seconded by Councilmember Preisner carried.

Councilmember Kennedy was out of the room. (8-0-0)

Fred Martinez and John Nave expressed concern with the type of improvements approved by the Council; and the importance of including sidewalks in the project to help ensure the safety of area children.

Councilmember Blackburn moved to approve the resolution as amended. The motion seconded by Councilmember Alcala carried. Councilmembers Alcala, Ortiz and Harmon voted “no.” (6-3-0)

A PROJECT BUDGET in the amount of \$204,800 and ORDINANCE NO. 18989 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 placed on first reading November 6, 2007 was again presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Haynes 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.

Norton N. Bonaparte, Jr., City Manager stated that item 6D, a project budget in the amount of \$215,000 and an ordinance authorizing Trafficway Improvement Project No. 70142-04, Part A, which provides for the design of the reconstruction and widening of SE California Avenue was not necessary due to the previous action taken by the Council amending the 2008-2012 Capital Improvement Program.

Upon hearing no objections, Mayor Bunten removed the item from the agenda.

ORDINANCE NO. 18990 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. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21st Street placed on first reading November 6, 2007 was again presented.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Blackburn 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 FINAL PLAT for the ADR Industrial Park Subdivision on property located at the northeast corner of U.S. 75 Highway and NW 25th Street, all being within the Municipal Service Area and contiguous to the City of Topeka, Shawnee County, Kansas, was presented. (P06/33)

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

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

A COMMUNICATION approving a Real Estate Purchase Agreement between the City of Topeka and Community First, Inc., for the sale of the Sumner School property located at 330 SW Western, City of Topeka, Kansas and specifically authorizing the City Manager to execute the agreement and all documents and instruments necessary to close the transaction, was presented.

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

Deborah Edwards and Aaron Edwards spoke in support of the communication and asked the Council to support the proposal.

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

ORDINANCE NO. 18991 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 15, 2007, through October 21, 2007, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Alcala voted “no.” (8-1-0)

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

ORDINANCE NO. 18992 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period October 22, 2007, through October 28, 2007, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried. Councilmember Alcala voted “no.” (8-1-0)

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

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 30th Terrace from "O&I-2" Office and Institutional District TO "C-2" Commercial District placed on first reading November 6, 2007 was again presented. (Z07/22)

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

Councilmembers Preisner and Blackburn expressed concern with staff’s recommendation regarding the transitional zoning of the area.

Mayor Bunten asked if there were any exparte communications besides Councilmembers Kennedy, Alcala, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon.

Councilmember Preisner moved to adopt the ordinance. The motions seconded by Councilmember Blackburn failed. Councilmembers Alcala, Ortiz, Woelfel, Haynes and Harmon voted “no.” (4-5-0)

Brenden Long, City Attorney stated that the Council has the option to remand the ordinance back to the Planning Commission for other zoning considerations.

Councilmember Preisner moved to remand the ordinance back to the Planning Commission to consider rezoning the property to a “C-1” Classification. The motion seconded

by Councilmember Kennedy carried. Councilmembers Alcala, Ortiz, Woelfel and Haynes voted “no.” (5-4-0)

ORDINANCE NO. 18993 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 37th Street and SW Fairlawn Road from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District placed on first reading November 6, 2007 was again presented. (Z07/23)

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 Blackburn 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.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property generally located north of SW 17th Street approximately 797-feet west of SW Arvonja Place within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading. (A07/8)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Arbor Valley Subdivision, by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to a maximum 300 dwelling units (202 dwelling

units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street in the City of Topeka, Kansas was presented for first reading. (*PUD04/5B*)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide strip of public street right-of-way located along the east side of SE Deer Creek Parkway about 600 feet south of SE 6th Avenue, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V07S/6*)

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 2425 SE California Avenue in the City of Topeka, Kansas from “R-1” Single-Family Dwelling District TO “C-2” Commercial District was presented for first reading. (*Z07/20*)

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 609 SW MacVicar Avenue in the City of Topeka, Kansas from “R-2” Single-Family Dwelling District TO “C-4” Commercial District was presented for first reading. (*Z07/21*)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events and Meet the Manager Sessions.

Councilmember Alcala asked that signalization located at the intersections of SE 4th and Branner Streets, and SE Chandler and Seward Streets be completely removed.

Mayor Bunten distributed paperwork regarding the Council's Retreat on October 27, 2007. He stated that a resolution would be introduced to the Council regarding the Council's discussions on the needs of the City and how those needs would be funded.

Councilmember Blackburn announced that the potholes located on SE California Avenue located between SE 29th Street and SE 37th Street would be repaired as soon as possible.

Councilmember Preisner stated that it is standard practice for traffic signal infrastructure to remain in place for six months in case the signals need to be reinstalled.

Councilmember Harmon asked if pedestrian flashers would be installed at the intersection of SE 4th and Branner Streets.

Mike Teply, Interim Public Works Director stated that when the SW 29th Street and Randolph Bridge Project is complete the signals would be moved to the SE 4th and Branner Streets Intersection.

David M. Price appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:12 p.m.

Brenda Younger
City Clerk