

Council Minutes – November 20, 2007

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 20, 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.

Councilmember Woelfel moved to suspend the Council Rules to add a resolution amending the approved 2008-2012 Capital Improvement Program, and a resolution amending the approved 2008-2009 Capital Improvement Budget to the agenda. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Councilmember Woelfel stated that he is requesting that \$250,000 be allocated for the installation of sidewalks along the east side of SE California Avenue beginning at the pedestrian walkway at the Kansas Transportation Authority (KTA) Bridge and extending through SE 38th Street; and install sidewalks along the south side of SE 37th Street from SE California Avenue to Long Street.

Mayor Bunten stated that the items would be placed on the agenda under New Business as items 7B and 7C.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the re-appointment of Jacqueline Bugg to the Civil Service Commission for a term that would expire on November 30, 2011 was presented.

A COMMUNICATION approving the sale of 14 parcels of City property auctioned on November 15, 2007 and specifically authorizing the City Manager to execute contracts, deeds and any other instruments or documents necessary to convey these properties to the highest bidders was presented.

A COMMUNICATION approving the real estate reports and the method of disposal of four adjoining parcels that have been approved by all City departments for disposal and authorizing the City Manager to execute any and all documents or instruments to close the real estate transaction was presented.

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

A FINAL PLAT for the DuMoss Subdivision on property located at 4145 and 4225 NW Green Hills Road outside the City's Municipal Service Area and within the City's extraterritorial three-mile jurisdiction, all being within unincorporated Shawnee County, Kansas was presented.
(P07/18)

Minutes of the regular meeting of November 13, 2007 were presented.

Councilmember Woelfel noted a correction to the minutes on page 414. He explained that the last amendment relating to the 2008-2012 Capital Improvement Program should read, "The project will begin at SE 45th Street and work north towards SE 21st Street."

Upon hearing no objections, Mayor Bunten stated that the minutes would be approved as corrected.

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 20, 2007, at 6:00 P.M. relating to vacation request V07S/6 by Reser's Fine Foods to vacate 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.

ORDINANCE NO. 18994 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 placed on first reading November 13, 2007 was again presented. (V07S/6)

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Ortiz moved to close the public hearing and 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.

ORDINANCE NO. 18995 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 Arvonía Place within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading November 13, 2007 was again presented. (A07/8)

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to 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, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18996 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 placed on first reading November 13, 2007 was again presented. (*PUD04/5B*)

Randy Speaker, Deputy 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, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18997 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 29, 2007, through November 4, 2007, and enumerating said expenditures therein was presented for first and final reading.

Randy Speaker, Deputy City Manager gave the staff report.

Councilmember Preisner moved to 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, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

RESOLUTION NO. 8019 introduced by Councilmember Jack Woelfel, authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas and rescinding Resolution No. 8017 was presented.

Councilmember Woelfel moved to amend the 2008-2012 Capital Improvement Program by allocating \$250,000 for the installation of sidewalks along the east side of SE California Avenue beginning at the pedestrian walkway at the KTA Bridge and extending through SE 38th Street; and install sidewalks along the south side of SE 37th Street from SE California Avenue to Long Street. The motion was seconded by Councilmember Ortiz.

Jim Langford, Budget and Finance Director reported that the \$250,000 would be shifted from the 2009 Elevation Parkway funds.

Councilmember Alcalá made a substitute motion to amend the 2008-2012 Capital Improvement Program by allocating \$425,000 for the installation of sidewalks along the east and west sides of SE California Avenue beginning at the KTA Bridge and extending through SE 38th Street; and install sidewalks along the south side of SE 37th Street from SE California Avenue to Long Street. The motion seconded by Councilmember Ortiz failed. Councilmembers Kennedy, Woelfel, Swank, Blackburn and Preisner voted “no.” (4-5-0)

Councilmember Preisner called the question. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá challenged the call to the question.

Mayor Buntin asked the Council to vote on if the question shall be called, and debate would cease. The motion failed. Councilmembers Alcalá, Ortiz, Haynes, Swank and Harmon voted “no.” (4-5-0)

Councilmember Alcalá made a substitute motion to amend the 2008-2012 Capital Improvement Program by allocating \$554,000 for the installation of sidewalks along the east side of SE California Avenue beginning at SE 29th Street and extending through SE 45th Street. The motion was seconded by Councilmember Ortiz.

Councilmember Harmon expressed concern with area residents not given the opportunity to speak to the issue because the item was added to the agenda at the meeting.

Councilmember Woelfel stated that he spoke with area residents and they believe it is crucial that sidewalks are installed along the east side SE California Avenue.

Fred Martinez, Rolling Meadows Neighborhood Improvement Association President stated that their main concern is the safety of the children and pedestrians. He also stated that the installation of sidewalks are not necessary along the west side of SE California Avenue. He requested that sidewalks are installed along the east side of SE California Avenue, as well as, along the south side of SE 37th Street from SE California Avenue to Long Street, making SE California Avenue ADA accessible from SE 21st Street to SE 37th Street.

Councilmember Preisner asked if any part of the newly installed sidewalks would be located in the County.

David Thurbon, Planning Director stated that approximately 500 feet of the sidewalk located between SE 39th Street and SE 41st Street would be located in the County.

The substitute motion to allocate \$554,000 for the installation of sidewalks along the east side of SE California Avenue beginning at SE 29th Street and extending through SE 45th Street failed. Councilmembers Kennedy, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon voted “no.” (2-7-0)

Councilmember Blackburn called the question.

The motion to amend the 2008-2012 Capital Improvement Program by allocating \$250,000 for the installation of sidewalks along the east side of SE California Avenue beginning at the pedestrian walkway at the KTA Bridge and extending through SE 38th Street; and install sidewalks along the south side of SE 37th Street from SE California Avenue to Long Street carried unanimously. (9-0-0)

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

RESOLUTION NO. 8020 introduced by Councilmember Jack Woelfel, adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas and rescinding Resolution No. 8018 was presented.

Councilmember Preisner moved to amend the 2008-2009 Capital Improvement Budget to reflect the previous changes made to the 2008-2012 Capital Improvement Program. The motion seconded by Councilmember Preisner carried. Councilmembers Alcala and Ortiz voted “no.” (7-2-0)

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

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 placed on first reading November 13, 2007 was again presented. (Z07/20)

Randy Speaker, Deputy City Manager gave the staff report.

Mayor Bunten asked if there were any exparte communications besides Councilmembers Kennedy, Alcalá, Woelfel, Swank, Preisner and Harmon. There were none declared.

Brenden Long, City Attorney explained the Council's voting options on the proposal as follows:

1. Adopt the recommendation of the Planning Commission by ordinance subject to a three-fourths majority vote (7 of 9);
2. Override the Planning Commission's recommendation by a two-thirds majority vote (6 of 9) or;
3. Return such recommendation back to the Planning Commission for further consideration with a statement specifying the basis for the City Council's failure to approve or disapprove. If the case is remanded back to the Planning Commission it would still require a three-fourths majority vote of the City Council to approve the rezoning.

Councilmember Woelfel moved to adopt the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Woelfel called the question.

Councilmember Blackburn challenged the call. The motion died due to a lack of a second.

The motion to adopt the ordinance failed. Councilmembers Alcalá, Haynes, Preisner and Harmon voted "no." (5-4-0)

ORDINANCE NO. 18898 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 placed on first reading November 13, 2007 was again presented. (Z07/21)

Randy Speaker, Deputy City Manager gave the staff report.

Mayor Bunten asked if there were any exparte communications besides Councilmembers Kennedy and Woelfel. There were none declared.

Councilmember Kennedy disclosed that she is a co-worker to an individual that opposes the zoning change; therefore, she would abstain from voting.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Blackburn carried. Councilmembers Haynes and Harmon voted “no.” Councilmember Kennedy abstained. (6-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Woelfel, Swank, Blackburn and Preisner -6. Noes: Haynes and Harmon -2. Abstained: Kennedy -1.

Councilmember Preisner requested that the Council reconsider the previous action taken on item 8A, an ordinance authorizing a zoning change on property located at 2425 SE California Avenue (Z07/20).

Councilmember Preisner moved to remand the ordinance back to the Planning Commission to impress upon the applicant to consider a Planned Unit Development “PUD” zoning change for the property. The motion was seconded by Councilmember Blackburn.

Brenden Long, City Attorney stated that approval would require seven affirmative votes because protest petitions have been filed against the proposal.

The motion to remand the ordinance back to the Planning Commission to impress upon the applicant to consider a Planned Unit Development “PUD” zoning change for the property carried. Councilmembers Alcala and Haynes voted “no.” (7-2-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Section 126-66 through 126-71 concerning approval procedure for City financed developer projects was presented for first reading.

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AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 142-381 and Section 142-452 concerning parking rates and specifically repealing said original sections 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 Sanitary Sewer District No. 40771 with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40771, as defined and described in Resolution No. 6671, adopted and approved September 24, 1996 was presented for first reading.

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

Randy Speaker, Deputy City Manager announced that City offices will be closed November 22, 2007 and November 23, 2007 in observance of the Thanksgiving Holiday. He also announced the City of Topeka and two area agencies have joined together to provide limited snow removal service for older citizens and those with a disability who qualify. He stated that citizens can obtain more information about the Snow Relief Team assistance by calling the Jayhawk Area Agency on Aging or the Topeka Independent Living Resource Center. He also announced that the schedule for the Code Enforcement and Community Officers Open House Events in the ten maintenance code areas would be release in January or February of 2008.

Councilmember Kennedy announced that the Miracle on Kansas Avenue Christmas Parade would be held on November 24, 2007 at 5:30 p.m.

Councilmember Alcalá asked if a date has been scheduled to remove the traffic signal infrastructure at the intersections of SE 4th and Branner Streets, and SE Chandler and Seward Streets. He also asked when pedestrian flashers and street lights would be installed at the intersection of SE 4th and Branner Streets.

Randy Speaker stated that the traffic signal infrastructure would be removed from both intersections on November 26, 2007 and the pedestrian flashers and street lights would be installed as soon as possible.

Councilmember Ortiz announced that the Topeka High School High School Musical would be featured on Good Morning America, KTKA Channel 9 on November 26, 2007 between 7:00 a.m. and 9:00 a.m.

Mayor Bunten requested that the Council meet to discuss the City's upcoming legislative agenda.

Ray Martinez appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:30 p.m.

Brenda Younger
City Clerk