

Council Minutes – December 18, 2007

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

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

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

Councilmember Alcala requested that item 4L, Minutes of the regular meeting of December 4, 2007 be pulled from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the re-appointment of Jim Parrish to the Downtown Business Improvement District Advisory Board for a term that would expire on December 31, 2009 was presented.

A COMMUNICATION recommending the re-appointment of Gary Yager to the Downtown Business Improvement District Advisory Board for a term that would expire on December 31, 2009 was presented.

A COMMUNICATION recommending the re-appointment of Rick Jackson to the Downtown Business Improvement District Advisory Board for a term that would expire on December 31, 2009 was presented.

A COMMUNICATION recommending the re-appointment of Ed Carmona to the Downtown Business Improvement District Advisory Board for a term that would expire on December 31, 2009 was presented.

A COMMUNICATION recommending the appointment of Stephen Tyler to the Downtown Business Improvement District Advisory Board to fill an unexpired term that would end August 31, 2008 was presented.

A COMMUNICATION recommending the re-appointment of Leland Polly to the Citizen Advisory Council for a term that would expire on December 31, 2010 was presented.

A COMMUNICATION recommending the appointment of Marlene Hendrick to the Jayhawk Area Agency on Aging Board of Directors for a term that would expire on December 31, 2010 was presented.

A COMMUNICATION recommending the re-appointment of Frank Ybarra to the Topeka Housing Authority Board of Commissioners for a term that would expire on December 31, 2011 was presented.

A COMMUNICATION recommending the re-appointment of Lonnie Martin to the Topeka Landmarks Commission for a term that would expire on December 31, 2010 was presented.

A COMMUNICATION authorizing the Workers' Compensation Settlement for Duane Hazlett in the amount of \$50,000 was presented.

RESOLUTION NO. 8024 introduced by City Manager Norton N. Bonaparte, Jr., declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 7900 was presented.

2008 Cereal Malt Beverage License renewal applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Hunam Restaurant	5005 W 29 th Street
Lupitas	732 S Kansas Avenue
Sasnak North Inc.	1834 NW Topeka Boulevard
The Spot Tavern	2202 Buchanan

2008 Dance Hall License renewal applications bearing the approval of the Chief of Police and City Inspectors were presented for the following:

<u>Business</u>	<u>Address</u>
Azteca Club	1201 SE 6 th Street
Electric Cowboy	3249 SW Topeka Boulevard
Rendezvous Grille	705 S Kansas Avenue
Sasnak North Inc.	1834 NW Topeka Boulevard
The Tool Shed Tap	921 S Kansas Avenue

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

Minutes of the regular meeting of December 4, 2007 were presented.

Councilmember Alcala referenced Topeka City Council Rules and Procedures 5.2(a)(vi). He encouraged the Council to follow the procedure that has been established concerning the approval of minutes, as well as, requested amendments.

Councilmember Alcala moved to approve the Minutes of the regular meeting of December 4, 2007. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

Councilmember Preisner entered the room.

Councilmember Haynes expressed concern with the recent questions raised by the Shawnee County District Attorney relating to a possible violation of the Kansas Open Meetings Act regarding the communication approving the lease purchase agreement for the Topeka Police Department helicopter. He stated that the resolution would delay action on the helicopter purchase until the investigation concludes.

Councilmember Haynes moved to suspend the Council Rules to add a resolution delaying any action on the lease purchase financing and the purchase of a second helicopter for the Topeka Police Department to the agenda. The motion seconded by Councilmember Ortiz failed. Councilmembers Woelfel, Swank and Blackburn voted “no.” Councilmember Preisner abstained. (5-3-1)

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, December 18, 2007, at 6:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of 2007 Operating Budget funds.

ORDINANCE NO. 19005 introduced by City Manager Norton N. Bonaparte, Jr., amending the adopted operating budget for the City of Topeka, for the year 2007, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

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

Jim Langford, Budget and Finance Director reported that Zoo revenues are as estimated for 2007. He also reported that the Zoo fund would end in a deficit; therefore, he would recommend transferring funds from the General fund to the Zoo fund to offset the deficit.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Blackburn carried. Councilmember Haynes voted “no.” (8-1-0)

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

ORDINANCE NO. 19006 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 112-71 concerning administrative hearings and

specifically repealing said original section placed on first reading December 4, 2007 was again presented.

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

Councilmember Woelfel questioned if the ordinance would create an additional court process.

Mike McGee, Deputy Public Works Director stated that the ordinance would allow the property owner to resolve a code violation issue through an administrative hearing process instead of Municipal Court. He also stated that the new process would be similar to the process implemented by the cities of Wichita and Kansas City, Kansas.

Councilmember Blackburn asked if the Topeka Police Department and the Code Compliance Division agree with the new process.

Sergeant Ron Jeanneret, Topeka Police Department stated that they agree with the new process.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Kennedy 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 PROJECT BUDGET in the amount of \$346,216 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-861000.00 (HTE 862590), which provides for an additional public parking lot benefiting the College Hill Redevelopment District, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 4, 2007 was again presented.

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

Councilmember Haynes asked for a financial breakdown of the project.

Mike Teply, Interim Public Works Director stated that the City's cost estimate would be \$291,000. The financial breakdown was as follows:

- \$129,612 for construction costs
- \$5,000 for inspections fees
- \$2,000 for administrative fees
- \$136,288 for the cost of the acquisition of property
- \$5,000 for contingency
- \$13,100 for Temporary Notes.

Councilmember Alcala expressed concern with the City providing additional funding for the project. He stated that the developer has not met the terms of the agreement that expire on December 31, 2007. He requested that the project be deferred until after the first of the year to allow time for the issues to be resolved. He also asked what the financial implications would be to the City.

Jim Langford, Budget and Finance Director stated that because some of the properties would not be completed by December 31, 2007 there would be a decrease in the amount of property tax revenue generated which was to be used for the bond payment. He noted that the City would be responsible for the shortage of funds regarding the bond payment.

Councilmember Alcala moved to defer the project budget and ordinance until after the first of the year. The motion was seconded by Councilmember Ortiz.

Councilmember Preisner stated that he would not support the motion to defer because the project budget was included in the 2008 Capital Improvement Budget, and the project schedule was delayed due to various eminent domain issues.

Councilmember Swank stated that she would not support the motion to defer because she believes the project would help improve property values in Central Topeka.

Councilmember Alcala asked if the City was responsible for the delay in the project schedule.

Brenden Long, City Attorney stated that the City was not responsible for the delay in the project schedule.

MaryLou Herring, area resident expressed concern with asking taxpayers to provide additional funding for a parking lot project that is not needed in a blighted neighborhood.

The motion to defer the project budget and ordinance until after the first of the year failed. Councilmembers Kennedy, Woelfel, Swank and Preisner voted “no.” Councilmember Blackburn abstained. (4-4-1)

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Swank failed. Councilmembers Alcala, Ortiz, Haynes and Harmon voted “no.” Councilmember Blackburn abstained. (4-4-1)

Norton N. Bonaparte, Jr., City Manager stated that item 7B, a communication approving the Developer Agreement between the City of Topeka and Washburn-Lane Parkway Renovations, L.L.C., for Improvement Project No. T-861000.00; and item 7C a communication approving an Agreement for Professional Services between the City of Topeka and the Washburn-Lane Parkway Renovations, L.L.C., for Improvement Project No. T-861000.00 is no longer needed due to the previous action taken by the Council on item 7A.

Upon hearing no objections, Mayor Bunten announced that items 7B and 7C would be withdrawn from the agenda.

A COMMUNICATION authorizing the City Manager to execute a three-year labor agreement between the City of Topeka and Street Section Teamsters Local No. 696 was presented. (*Contract No. 37962*)

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

Councilmember Haynes moved to approve the communication. The motion was seconded by Councilmember Alcalá.

Mark Thiel, Transportation Operations Director thanked City Administration and Union members for their efforts in reaching an agreement. He also commended the Street Maintenance Crews for their hard work during the recent ice storm.

Councilmembers Kennedy, Woelfel and Harmon also commended Street employees for their efforts during the recent ice storm.

The motion to approve the communication carried unanimously. (9-0-0)

A COMMUNICATION by Travis and Kimberley Johnson requesting a waiver to the provisions of the Shawnee County Wastewater Management Plan for the property located at 1830 NW Tyler Street in the City of Topeka was presented.

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

Councilmember Alcalá asked what the estimated cost would be for the applicant to connect to the City's sewer system.

Mike Teply, Interim Public Works Director stated that the cost would be \$36,000.

David Thurbon, Planning Director stated that the applicant has an alternative route to a sewer line that could be extended from the YMCA building as part of a benefit district; which would cost substantially less than connecting to the City's sewer system and nearby grinder pump station.

Councilmember Preisner moved to support the Planning Department's recommendation to disapprove the communication. The motion seconded by Councilmember Kennedy carried. Councilmembers Alcalá and Ortiz voted "no." (7-2-0)

A PETITION, REVISED PROJECT BUDGET in the amount of \$5,747,300 and RESOLUTION NO. 8025 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Street Improvement Project No. 60632-01 which provides for street construction at Lauren's Bay Estates, pursuant to K.S.A. 12-6a01, et seq., as amended, and rescinding City of Topeka Resolution of Advisability and Authorization No. 8011 was presented.

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

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

Norton N. Bonaparte, Jr., City Manager stated that item 7E, an appeal of the denial of a dance hall license by the Electric Cowboy located at 3249 SW Topeka Avenue, City of Topeka, Shawnee County, Kansas was no longer needed. He reported that the real estate property taxes have been paid in full.

Upon hearing no objections, Mayor Buntin announced that item 7E would be withdrawn from the agenda.

Councilmember Preisner left the meeting.

ORDINANCE NO. 19007 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 19, 2007, through November 25, 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 Haynes carried unanimously. Councilmember Alcalá voted "no." (7-1-0)

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

ORDINANCE NO. 19008 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 26, 2007, through December 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 Alcalá voted “no.” Councilmember Kennedy was out of the room. (6-1-0)

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

Norton N. Bonaparte, Jr., City Manager requested that item 8A, an ordinance authorizing a zoning change at 901 SW Topeka Boulevard be withdrawn from the agenda as requested by the applicant. (Z07/25)

Upon hearing no objections, Mayor Bunten announced that item 8A would be withdrawn from the agenda.

ORDINANCE NO. 19009 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 518 and 522 SW 39th Street and property located at the southwest corner of SW Topeka Boulevard and SW 39th Street from “R-1” Single Family Dwelling District TO “C-4” Commercial District placed on first reading December 4, 2007 was again presented. (Z07/26)

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

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

Councilmember Harmon 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30268-00, which provides for a new air conditioning system for the gymnasium at Garfield Community Center, 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 a 20-foot utility easement in the Original Town of Topeka and located west of 1021 SW Tyler Street, City of Topeka, Shawnee County, Kansas was presented for first reading.

(V07E/16)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-241000.00 (HTE 241190), which provides for construction of a sidewalk along SE California Avenue, 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., designating real property more specifically described herein as an historic landmark and presently zoned "C-5" Downtown Commercial District and located at 716 and 720 SW Jackson Street in the City of

Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

(HL07/07)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned “M-2” Multiple-Family Dwelling District and located at 1118 SE Madison Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

(HL07/08)

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

Norton N. Bonaparte, Jr., City Manager announced the December Mysteries and Legends Contest winner and upcoming community events.

Councilmember Kennedy commended City staff for their hard work and dedication during the holiday season. She also thanked the Topeka Rescue Mission for their contributions to the community.

Councilmember Alcala asked when the Council would receive an overview of the proposed Topeka-Shawnee County Parks and Recreation Department Consolidation Plan. He also referenced Ordinance No. 18841 and asked how the quarterly evaluation process of the City Manager would be handled. He noted that the Council is required to provide the City Manager with a written annual evaluation prior to March 31 of each year.

Norton N. Bonaparte, Jr. stated that an overview of the consolidation plan would be available for review by the Council in the next couple of months.

Councilmember Blackburn stated that an evaluation form could be obtained from the City Council office. He requested that each Councilmember complete an evaluation form and submit it directly to the City Manager for his review.

Councilmember Woelfel asked if the evaluation policy outlined in Ordinance No. 18841 has changed.

Brenden Long, City Attorney stated that the evaluation policy has not changed; however, in the past, the Council has allowed the Deputy Mayor to determine the process of how the evaluation of the City Manager would be handled.

Councilmember Blackburn stated that as Deputy Mayor, he would prefer that each Councilmember submit a quarterly evaluation to the City Manager for his review. He also commended the Topeka Rescue Mission for their contributions to the community.

Councilmember Swank commended City employees for their hard work during the recent ice storm.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:32 p.m.

Brenda Younger
City Clerk