

Council Minutes – January 22, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 22, 2008. 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 Buntten presided -1.

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

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

A PRESENTATION was given by City of Topeka Police Chief Ron Miller regarding an update on the Police Department's activities.

Councilmember Haynes distributed a memorandum referencing the opinion of the District Attorney regarding the lease purchase agreement of the Robinson R-44 helicopter. He also distributed a resolution for consideration by the Council directing the City Manager to inform the appropriate parties that the lease purchase agreement for the purchase of the helicopter is null and void.

Councilmember Haynes moved to suspend the Council Rules to add the resolution to the agenda. The motion was seconded by Councilmember Ortiz.

Councilmember Preisner stated that he would oppose adding the resolution to the agenda because the City of Topeka Council Rules and Procedures outlines the process of adding items to the agenda. He also stated that he believes the Council should wait until an opinion is released from the City's Legal staff to help guide them with resolving the issue.

Councilmember Harmon stated that he would oppose adding the resolution to the agenda because he believes it is unfair to the public, City staff and the Council not to be provided with the document prior to the Council meeting.

The motion to suspend the Council Rules and add the resolution to the agenda failed. Councilmembers Kennedy, Swank, Blackburn, Preisner and Harmon voted “no.” (4-5-0)

THE CONSENT AGENDA was presented as follows:

Minutes of the regular meeting of January 15, 2008 were presented.

A Dance Hall License renewal application bearing the approval of the Chief of Police and City Inspectors for Mahogany’s Lounge located at 1307 SW Huntoon, was presented.

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for Jul’s Cocktail Club located at 4117 SW Huntoon, was presented.

The City Clerk noted a correction to the first paragraph on page 16 of the Minutes of the regular meeting of January 15, 2008. She stated that the initial vote reflected Councilmember Harmon as voting “no” on the amendment. The correction was read as follows:

“The motion to amend line 23 of the ordinance by deleting the words “thirty (30) hours” and inserting the words “five days” failed. Councilmembers Kennedy, Woelfel, Swank, Blackburn and Preisner voted “no.” (4-5-0).”

Councilmember Woelfel moved to approve the Minutes of the regular meeting of January 15, 2008 as amended. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

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

Councilmember Preisner moved to override the veto of Ordinance No. 19018 authorizing an increase in court costs and fees. The motion was seconded by Councilmember Blackburn.

Councilmember Preisner stated that the increase in funds would help alleviate a portion of the tax burden from taxpayers regarding the purchase of Police Department equipment.

Councilmember Blackburn encouraged the Council to support the veto override because it could potentially save taxpayers approximately \$250,000 a year.

Councilmember Swank stated that an increase to the Police Department Equipment fund would free up money in the General fund to be used for other needs of the city.

Mayor Bunten stated that in his opinion, the communication authorizing the lease purchase agreement of the Robinson R-44 helicopter is null and void; making the ordinance unnecessary.

The motion to override the veto of Ordinance No. 19018 carried. Councilmembers Alcala, Ortiz and Harmon voted “no.” (6-3-0)

RESOLUTION NO. 8031 introduced by City Manager Norton N. Bonaparte, Jr., establishing a date for a public hearing concerning the adoption of a plan pursuant to the Neighborhood Revitalization Act, K.S.A. 12-17, 114, et seq., was presented.

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

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

ORDINANCE NO. 19023 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 31, 2007, through January 6, 2008, 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 Woelfel 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. 19024 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Misty Harbor Estates No. 3, located north of SW 45th Street and either side of SW Misty Harbor Avenue within the City of Topeka, Shawnee County, Kansas, from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District placed on first reading January 15, 2008 was again presented. (Z07/27)

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 Blackburn 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.

ORDINANCE NO. 19025 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Lauren's Bay Villas, Lauren's Bay Villas No. 2 and Lauren's Bay Estates, located about the west side of SW Wanamaker Road and the south side of SW 42nd Lane within the City of Topeka, Shawnee County, Kansas, from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District placed on first reading January 15, 2008 was again presented. (Z07/28)

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

Mayor Bunten asked if there were any ex parte communications besides Councilmembers Kennedy, Blackburn and Preisner. There were none declared.

Councilmember Ortiz 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.

ORDINANCE NO. 19026 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 4300 SW Drury Lane from "M-1" Two Family Dwelling District with a Special Use Permit for a Non-Profit Agency Headquarters TO "O&I-1" Office and Institutional District placed on first reading January 15, 2008 was again presented. (Z07/29)

Councilmember Blackburn stated that the proposal could depict spot zoning.

David Thurbon, Planning Department Director stated that the proposed area would not be considered spot zoning because the surrounding land use primarily consists of office and institutional uses even though the base zoning is residential. He also stated that the Planning Department believes a transition exists between the zoning districts; therefore, the proposed use would be compatible with the area.

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

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Sections 106-53, 106-57 and 106-58 concerning police promotion procedure was presented for first reading.

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 3420 SW Fairlawn Road in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "PUD" Planned Unit Development District ("O&I-2" and "C-1" use groups) was presented for first reading. (*PUD07/7*)

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 6642 SW 29th Street from "RR-1" Residential Reserve District TO "O&I-2" Office and Institutional District was presented for first reading. (*Z07/10*)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a six-month extension of the franchise agreement for Southwestern Bell Telephone Company d/b/a AT and T Kansas was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported that the impression given by the Shawnee County Commission, to City staff, from the meeting of January 17, 2008, was that they

would only consider a joint Planning Commission and Planning Department under the control of the County. He stated that the traffic lights on the northeast and southwest corners of SE Seward and SE Chandler Streets would be replaced with wooden street light poles by Westar Energy, Inc., in 2 to 3 weeks. He gave a brief overview of the process that would be used to fill the City Attorney position. He also stated that one nation-wide search for the Human Resources Director position is being conducted. He also announced upcoming Code Enforcement Division Open House events; and the opening of community ponds for ice skating.

Councilmember Kennedy commended Street Maintenance crews for their hard work during the recent ice storm.

Councilmember Alcala expressed concern with the amount of time the Human Resources Director position has remained vacant. He thanked the City Manager for responding to the questions he asked at last week's Council meeting in a timely manner.

Councilmember Haynes asked for an update on the purchase of the Robinson R-44 helicopter.

Norton N. Bonaparte, Jr., reported that the contract has been executed and the down payment has been made.

Councilmember Haynes asked if the Legal staff could supply the Council with an opinion on the issues related to the lease purchase agreement for the Robinson R-44 helicopter by next week. He stated that he would like to discuss the matter at next week's work session.

Norton N. Bonaparte, Jr., stated that a legal opinion would be released by City staff, following a complete review of the matter.

Councilmember Preisner inquired on the Mayor's veto power of Resolution No. 8030 authorizing a Conditional Use Permit for property located at 2900 SE 6th Avenue.

Councilmember Harmon asked the Legal Department to research the possible legal ramifications that could result from breach of contract for the lease purchase agreement of the Robinson R-44 helicopter.

Councilmember Alcalá asked the Legal Department to research what options the City has in recovering the money spent for the down payment of the helicopter.

Mayor Bunten expressed concern with the cost of fuel expenses for the Fleet Division next year. He noted that the Division's fuel expenses have exceeded the budget for the past two years. He inquired on privatizing smaller City parks; options relating to the consolidation of the City and County IT Departments; the implementation of beneficial programs that would make the city safer; and the use of unmanned aerial vehicles to patrol the city.

Norton N. Bonaparte, Jr., stated that they are researching the best option regarding privatization of smaller City parks. He also stated that he has scheduled a meeting on January 31, 2008 with the Shawnee County Commissioners regarding the use of outside contractors to manage the IT Departments. He stated that Police Chief Ron Miller is researching the use of unmanned aerial vehicles.

Mayor Bunten requested to review the completed study relating to the privatization of smaller City parks. He requested that the City Manager report back to the Council following the meeting of January 31, 2008 with the Shawnee County Commission. He also stated that he is looking forward to reviewing the City Manager's report on the 2008 Programs and Initiatives set forth by the Council from the meeting of October 27, 2007.

Ronald Lassiter, Laura Autrey, Connie Ulmer, Rosie Longfellow, Loretta Carmen, Phyllis Cory, Joe Foreman and John Ulmer appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:44 p.m.

Brenda Younger
City Clerk