

Council Minutes – February 5, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 5, 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, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Ortiz -1.

AFTER THE MEETING was called to order, State Chaplain Colonel Don Davidson and Reverend Richard Guilfoil, Lakeview Church of the Nazarene gave the invocation.

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

A PRESENTATION of the 2007 Topeka Armed Forces Personnel of the Year Awards was conducted by David Fisher, Topeka Military Relations Committee.

Norton N. Bonaparte, Jr., City Manager requested that item 7A, an ordinance requesting a zoning change on property located at 6642 SW 29th Street (*Z07/10*); and item 7B, an ordinance requesting a zoning change on property located at 3420 SW Fairlawn Road (*PUD07/7*) be considered first on the agenda. He stated that approval of item 7B requires seven affirmative votes of the Council and he has been informed that at least one Councilmember would be leaving the meeting early.

Upon hearing no objections, Mayor Bunten announced that items 7A and 7B would be considered first on the agenda.

Councilmember Haynes distributed a resolution directing the City Manager to notify Municipal Services Group, Inc., and Shreib-Air, Inc., that the lease purchase agreement for the acquisition of the Robinson R-44 helicopter is null and void for the reasons stated within the

Shawnee County District Attorney's legal opinion dated January 19, 2008. He stated that he believes the City will be faced with a lawsuit if they do not attempt to resolve the matter.

Councilmember Alcalá moved to suspend the Council Rules to add the resolution to the agenda. The motion seconded by Councilmember Haynes failed. Councilmembers Kennedy, Swank, Blackburn and Preisner voted "no." (4-4-0)

ORDINANCE NO. 19033 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 placed on first reading January 22, 2008 was again presented. The ordinance was deferred from the meeting of January 29, 2008. (Z07/10)

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

Councilmember Preisner spoke in support of the zoning proposal.

Mayor Bunten asked if there were any exparte communications besides Councilmembers Alcalá, Blackburn and Preisner. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Absent: Ortiz -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 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) placed on first reading January 22, 2008 was again presented. The ordinance was deferred from the meeting of January 29, 2008. (*PUD07/7*)

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

Exparte communications were declared by all Councilmembers.

Councilmember Harmon asked if the ordinance should be deferred until all nine Councilmembers are present.

Braxton Copley, Interim City Attorney stated that the Council would not be required to defer the ordinance until all Councilmembers are present. He suggested that because the zoning proposal was subject to a protest petition, and in fairness to those involved, they could defer the ordinance until a date certain.

Councilmember Alcala left the meeting.

Councilmember Harmon moved to defer the ordinance until February 12, 2008. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8033 introduced by Councilmembers Sylvia Ortiz and Jeff Preisner expressing support for the Cornerstone Apartments, L.P., Apartment Development Project was presented.

RESOLUTION NO. 8034 introduced by Councilmembers Jack Woelfel, Sylvia Ortiz and Jeff Preisner expressing support for the Zimmerman Properties, L.L.C., Development Project was presented.

Minutes of the regular meeting of January 29, 2008 were presented.

AN Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for Hy-Vee #1658 located at 2951 SW Wanamaker Road, was presented.

A Dance Hall 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.

Councilmember Kennedy moved to approve the consent agenda. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE NO. 19030 introduced by City Manager Norton N. Bonaparte, Jr., relating to the designation of a street name, more specifically naming the unnamed street located between NW US 24 Frontage Road and NW 25th Street to NW Stover Road placed on first reading January 29, 2008 was again presented. (SNC08/1)

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

Councilmember Preisner moved to adopt the Joint Shawnee County Resolution and City of Topeka Ordinance. The motion seconded by Councilmember Swank carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -7. Absent: Alcalá and Ortiz -2.

A PROJECT BUDGET in the amount of \$125,000 and ORDINANCE NO. 19031 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301001.00, which provides for replacing an existing pump station at Cypress Ridge Golf Course, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading January 29, 2008 was again presented.

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

Councilmember Preisner spoke in support of the project and stated that the improvement would assist in the irrigation of the golf course.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Harmon carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -7. Absent: Alcalá and Ortiz -2.

A REQUEST from Steve Harlan and Harlan Family Trust seeking an annexation exemption prior to receiving sewer and water service from the City on a 114-acre tract of land located at the northwest corner of SW Topeka Boulevard and SW University Drive within unincorporated Shawnee County, Kansas was presented.

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

Councilmember Blackburn asked if the area would be considered an island annexation, and if so, would the request for annexation have to be made by the City.

David Thurbon, Planning Department Director stated that the area would be considered an island annexation which would have to be requested by the City. The Planning Department recommends approval of the request because the area would be located too far outside of city limits to provide services.

Neil Dobler, Bartlett & West Engineers appeared to answer questions.

Councilmember Blackburn moved to approve the request. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

A FINAL PLAT for Harlan Industrial Park Subdivision located about the northwest corner of SW Topeka Boulevard and SW University Drive within unincorporated Shawnee County, Kansas was presented. (P07/1)

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

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

ORDINANCE NO. 19032 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 14, 2008, through January 20, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Preisner left the meeting.

Councilmember Blackburn moved to adopt the ordinance. The motion seconded by Councilmember Harmon carried unanimously. (6-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Woelfel, Haynes, Swank, Blackburn and Harmon -6. Absent: Alcala, Ortiz and Preisner -3.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., adopting a neighborhood revitalization plan and designating a revitalization area, all as provided for in K.S.A. 12-17, 114 et. seq., Neighborhood Revitalization Act was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2-446 concerning the definitions used in Chapter 2, Division 4, Commodities, Fixed Assets, and Real Property and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 60-foot wide portion of a platted access control easement located along the east line of Lot 1, Block "D", Rockfire at the Lake Subdivision on SE Croco Road, City of Topeka, Shawnee County, Kansas was presented for first reading. (V07RA/1)

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

Norton N. Bonaparte, Jr., City Manager reported that the transferring of 40 to 50 firefighters within the Topeka Fire Department at the end of each year is standard procedure. He stated that an entire company or station, as a whole, would not be transferred. He also stated that the Topeka Police Department is investigating the complaint raised by Councilmember Alcalá from the meeting of January 29, 2008 relating to possible harassment and personal property damage. He also reported that City staff met with Shawnee County Commissioners regarding the consolidation of the Information Technology Departments and based on the comments made by the County, they do not believe the County is willing to consolidate the departments under City management. He requested that the Council review the consolidation information that he forwarded to them and report back with any questions or concerns regarding further action by the City. He announced upcoming Code Compliance Division Open House events; and the Topeka Police Department's Sesquicentennial Celebration on February 10, 2008 from 11:00 a.m. to 2:00 p.m. at the Law Enforcement Center.

Councilmember Haynes urged the public to express their views regarding the District Attorney's legal opinion, and the purchase of the Robinson R-44 helicopter to the City Council office and City Administration.

Councilmember Blackburn requested that the City Attorney clarify how many affirmative votes of the City Council are needed to override a Mayoral veto.

Mayor Bunten asked when he would receive an update on the review of the City Manager's report regarding the 2008 Programs and Initiatives set forth by the City Council in

Resolution No. 8022. He also requested that City staff review Charter Ordinance No. 94 as soon as possible to clear up the questions that have recently been raised regarding a Mayoral veto.

Norton N. Bonaparte, Jr., stated that he anticipated the 2008 Programs and Initiatives report would be complete in one week.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:10 p.m.

Brenda Younger
City Clerk