

Council Minutes – February 19, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 19, 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, Evangelist Tim Douthart, Church of Christ Highland Park gave the invocation.

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

Councilmember Haynes moved to adjourn into executive session for a time period not to exceed 45 minutes to discuss legal matters relating to the Shawnee County District Attorney's legal opinion regarding the lease purchase agreement of the Robinson R-44 helicopter. The motion seconded by Councilmember Blackburn carried. Councilmembers Kennedy, Ortiz and Preisner voted “no.” (6-3-0)

Following a 45-minute time period, the meeting reconvened into open session and Mayor Buntten announced that no action had been taken.

AN EMERGENCY ORDINANCE introduced by Councilmember Haynes to invalidate the multi-year lease purchase agreement for the acquisition of a Robinson R-44 helicopter approved by the City Council on December 4, 2007 pursuant to Topeka City Code Sections A-21(a), A2-24(a)(ix), A2-30(f), and K.S.A. 10-1116(c) was presented.

Councilmember Haynes read the ordinance in its entirety. He stated that in his opinion, the letter dated February 1, 2008 from the Shawnee County District Attorney requiring immediate action by the City Council, justifies an emergency situation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT of David Hedstrom to the Topeka Parks and Recreation Advisory Board for a term that would expire on February 28, 2012 was presented.

A WORKERS COMPENSATION SETTLEMENT CLAIM for Denis Calderwood in the amount of \$23,746.07 was presented.

A WORKER'S COMPENSATION SETTLEMENT CLAIM for Billy Hester in the amount of \$60,000 was presented.

Minutes of the regular meeting of February 12, 2008 were presented.

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

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, February 19, 2008, 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 Street Improvement Project No. 60605-00 H, authorized by Resolution No. 7648, adopted and approved June 21, 2005 and rescinding Resolution No. 7484.

ORDINANCE NO. 19038 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 Aquarian Center Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60605-00 as defined and described in Resolution No. 7648 adopted and approved June 21, 2005 placed on first reading February 12, 2008 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 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 FINAL PLAT for Clearwater Crossing Subdivision located at the southwest corner of the intersection of SE 45th Street and SE Indiana Avenue extended, contiguous to the city limits and within the City's Municipal Service Area and within the three-mile extraterritorial jurisdiction of the City of Topeka all being within unincorporated Shawnee County was presented. (P07/4)

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

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

ORDINANCE NO. 19039 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 28, 2008, through February 3, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Woelfel 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.

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 February 5, 2008. (*PUD07/7*)

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

Exparte communications were declared by all Councilmembers.

Councilmember Kennedy moved to accept the Planning Commission's recommendation to approve the proposal. The motion was seconded by Councilmember Preisner.

Councilmember Preisner stated that the development would generate an estimated \$420,000 in annual property tax revenue. He also stated that he believes it would be an excellent project to boost economic development in the City of Topeka.

Councilmember Blackburn stated that he would support the proposal. He noted that the proposal meets all of the criteria listed in the *Golden vs. the City of Overland Park* Kansas Supreme Court case.

Councilmember Haynes stated that he would not support the proposal. He stated that the proposal does not fit the 2025 Land Use and Growth Management Plan, and approval would be allowing an exception to the plan without justification.

Councilmember Harmon referenced the *Golden vs. the City of Overland Park* Supreme Court case and the various factors involved. He stated that he has reviewed staff concerns and reviewing agencies' comments and determined that he could not find substantial reason not to support the proposal.

Braxton Copley, Interim City Attorney stated that a protest petition was filed against the proposal; therefore, approval would require seven affirmative votes of the City Council.

The motion to accept the Planning Commission's recommendation to approve the proposal failed. Councilmembers Alcalá, Ortiz and Haynes voted "no." (6-3-0)

ORDINANCE NO. 19040 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 west of SW Arvonía Place between SW Huntoon Street and SW 17th Street from "RR-1" Residential Reserve District TO "C-4" Commercial District placed on first reading February 12, 2008 was again presented. (Z08/1)

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

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

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. 19041 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 directly west of 1622 SW Arvonía Place from "RR-1" Residential Reserve District TO "O&I-3" Office and Institutional District placed on first reading February 12, 2008 was again presented. (Z08/2)

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

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

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

ORDINANCE NO. 19042 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 1218 SW 10th Avenue from “O&I-1” Office and Institutional District TO “R-2” Single Family Dwelling District placed on first reading February 12, 2008 was again presented. (Z08/3)

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

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

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

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 6424

and 6646 SW Huntoon Street in the City of Topeka, Kansas from “O&I-1 Office and Institutional District TO “PUD” Planned Unit Development District (permitted uses in the O&I-1 District, R-A District, limited to vineyards and grape arbors production, processing and storage of wine and honey; bed and breakfast inn with satellite cabins; reception, conference, and assembly facility; and retail sales incidental and subordinate to the principle uses allowed was presented for first reading. (*PUD07/6*)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide portion of a 100-foot wide platted drainage easement being the west 50-feet of the east 100-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision, located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V07E/12*)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a platted utility easement in Shawnee Hills Village Subdivision No. 2 and located at 1515 SW Arrowhead Road, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V08E/1*)

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 Gail Subdivision with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40832-01, as defined and described in Resolution No. 7816, adopted and approved June 20, 2006 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 Woodland Court Subdivision with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Improvement Project No. 40941-00, as defined and described in Resolution No. 7820, adopted and approved June 27, 2006 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 Tanglewood Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60500-02 as defined and described in Resolution No. 7859, adopted and approved September 12, 2006 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 Legal Department has recommended approval of the claim filed against the Topeka Police Department in relation to a Police dog causing damage to a vehicle. He announced upcoming Zoo events and Code Compliance Open House events. He also announced that the Oakland Community Center would be hosting the 30th Anniversary Open House event on February 21, 2008 from 9:00 a.m. to 11:30 a.m. He reported that the traffic lights at the intersection of 4th and Branner Streets have been removed. He stated that safety cones have been placed at the intersection to alert residents of the remaining hardware that will be used for the pedestrian signals and handicap curbs that would be installed within a few weeks, weather permitting. He referenced the draft letter of support to Representative Nancy Boyda regarding the new Air Force KC-X tanker proposal

submitted by Boeing. He stated that upon Council's approval, he would submit the letter to Representative Boyda.

The Council agreed by unanimous consent to send the letter of support to Representative Nancy Boyda.

Councilmember Kennedy thanked the Topeka Police Department and the Shawnee County Sherriff's Department for their cooperation with other local agencies involved in the recent high speed chase along Interstate 70 involving a robbery suspect.

Councilmember Alcalá asked for a financial update on the Tax Increment Financing Bonds used to finance the College Hill Redevelopment Project, and the Full Faith and Tax Credit Increment Bonds used to finance the Heartland Park Project.

Travis Wilson appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:35 p.m.

Brenda Younger
City Clerk