

Council Minutes – March 18, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 18, 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 Haynes gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

ADVISORY COUNCIL APPOINTMENT of Sheryl Nestelroad to the City of Topeka ADA Advisory Council for a term that would expire on March 31, 2010 was presented.

Minutes of the regular meeting of March 11, 2008 were presented.

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

ORDINANCE NO. 19054 introduced by City Manager Norton N. Bonaparte, Jr., relating to the designation of street names, more specifically changing the name of SE Quincy Street in Hilltop Subdivision No. 2 to SE Horseshoe Bend Drive placed on first reading March 11, 2008 was again presented. (SNC08/3)

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

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 \$519,000 and ORDINANCE NO. 19055 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-861001.00 (862600), which provides for Americans with Disabilities Act improvements to various facilities, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 11, 2008 was again presented.

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

Ami S. Hyten, Topeka Independent Living Resource Center Assistant Executive Director encouraged the Council to approve the project. She stated that the upgrades are a much needed improvement to City facilities.

Councilmember Woelfel asked if the improvements are necessary at this time, and would there be any legal ramifications to the City if the improvements are not made.

Councilmember Blackburn asked if the upgrades would be considered a part of the City's progressive plan in bringing the City into compliance. He also asked if additional funding would be needed for other ADA upgrades.

Mike McGee, Public Works Deputy Director stated that this project is the most important piece in bringing the City into compliance by addressing the ADA facility deficiencies that have existed for a long time. He also stated that if the project is delayed any further it could seriously jeopardize the progress they have made over the past year.

Councilmember Alcalá expressed concern with the U.S. Department of Justice penalizing the City because there are still ADA issues that need to be addressed. He noted that other Cities have been sued for similar non-compliant ADA issues.

Mike McGee stated that they do not anticipate a need for increased funding because the City sets aside annual funding for curb cut improvements, which is what he believes has kept the

City from being penalized by the U.S. Department of Justice. He noted that the Programs, Services and Activities ADA issues have been addressed.

Councilmember Swank stated that she strongly supports the project and believes the City is ultimately responsible for making sure that the required ADA improvements are made, and the City remains in compliance.

Councilmember Ortiz moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Woelfel 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 \$150,000 and ORDINANCE NO. 19056 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-301004.00 (302830), which provides for heating, ventilation and air-conditioning for the Tropical Rain Forest at the Topeka Zoo, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 11, 2008 was again presented.

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

Councilmember Woelfel asked what it would cost to make the existing equipment work.

Mike Coker, Zoo Director stated that he would have to research the exact cost. He explained that the existing swamp coolers are 12 years old and have always struggled to maintain the building climate, with no back up system when the equipment fails. He stated that the new HVAC equipment would maintain the climate of the building more effectively because it is more energy efficient, and it would come equipped with a back up system.

Councilmember Harmon moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Swank 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.

CONTRACT AMENDMENT NO. 38220 to Contract No. 11617 and Waiver of the requirement of Resolution No. 7339 authorizing the City Manager to execute an agreement between the City of Topeka and Rural Water District No. 6 Shawnee, operating as Consolidated Rural Water District No. 3 Shawnee, was presented.

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

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

A FINAL PLAT for Cherry Creek North Subdivision No. 2 located at the northwest corner of NW 35th Street and NW Button Road, within the north growth area but outside the City's Municipal Service Area (MSA) and within the three-mile extraterritorial jurisdiction of the City of Topeka all being within unincorporated Shawnee County, Kansas was presented.

(P05/29)

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

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Haynes carried. Councilmember Blackburn voted "no." (8-1-0)

A PROJECT BUDGET in the amount of \$50,000 and RESOLUTION NO. 8041 introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Sidewalk Project No. T-241002.00 (241210) which provides for the removal and replacement of damaged

or hazardous concrete/brick sidewalks throughout the City as more specifically described herein was presented.

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

Councilmember Preisner commended staff for utilizing a program that benefits the entire city.

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

A PETITION, A PROJECT BUDGET in the amount of \$380,613 and RESOLUTION NO. 8042 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. T-601001.00 (606380) which provides for street improvements to Frazier Avenue between 3rd Street and 4th Street, as more specifically described herein was presented.

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

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

ORDINANCE NO. 19057 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 25, 2008, through March 2, 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 moved to adopt the ordinance. The motion seconded by Councilmember Swank carried. Councilmember Alcalá 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: Alcalá -1.

ORDINANCE NO. 19058 introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned "M-3" Multiple-Family Dwelling District and located at 900 SW Tyler Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading March 11, 2008 was again presented. (*HL08/01*)

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 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. 19059 introduced by City Manager, Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a 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 located at 2625 NW Rochester Road from "I-1" Light Industrial District and "R-1" Single Family Dwelling District ALL TO "PUD" Planned Unit Development District ("C-4" Commercial District use group and "RR-1" Residential Reserve District use group limited to kennel and/or animal hospital with unenclosed structures containing animals and a pet cemetery) placed on first reading March 11, 2008 was again presented. (*PUD08/1*)

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

Councilmember Blackburn asked if the proposal should be amended at this time to include the additional 28,000 square feet needed to complete Phase II of the project in years to come.

David Thurbon, Planning Department Director stated that amendment could be made as a condition of the PUD at this time.

John Ladson, Bartlett & West Engineers stated that he believes the amendment is not necessary at this time. He explained that eventually, when the funding is raised, the applicant would request approval of the additional square footage. He also stated that the Planning Commission agreed to approve the additional footage needed to complete Phase II of the project.

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

Councilmember Alcalá 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. 19060 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 a property generally located south of SE 15th Street between SE Maryland Avenue and SE Adams Street from "M-2" Multiple-Family Dwelling District and C-4" Commercial District ALL TO "C-2" Commercial District placed on first reading March 11, 2008 was again presented. (Z08/5)

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

Mayor Bunten asked if there were any ex parte communications besides Councilmembers Kennedy, Alcala, Ortiz and Blackburn. 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. 19061 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 a property located southeast of the intersection of SE 29th Street and 360 feet east of SE Croco Road from "R-1" Single-Family Dwelling District TO "C-2" Commercial District placed on first reading March 11, 2008 was again presented. (Z08/8)

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

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

Councilmember Woelfel 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., pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan was presented for first reading. (CPA 08/1)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events. He also encouraged citizens to watch, and voice their opinion on the City 4 program titled “City of Topeka Presents” following the Council meeting.

Councilmember Alcalá commended City 4 staff for their work and stated that the programs have vastly improved over the past year.

Councilmember Ortiz requested information on the energy saving light bulbs that are being distributed free to the public at local community centers. She also requested information on the 2008 Project Take Over/Make Over.

Councilmember Preisner welcomed the members of the Leadership Greater Topeka Class of 2008. He asked staff to provide him with a financial update of each city-owned community center, including operational costs and the amount of revenue generated.

Randy Speaker, Housing and Neighborhood Director announced that Phase I of the 2008 Project Take Over/Make Over would take place on April 5, 2008 at 8:00 a.m.; and Phase II of the project would take place on April 19, 2008 at 8:00 a.m. He noted that project participants should meet in the Kansas Expocentre parking lot.

Councilmember Preisner moved to adjourn into executive session for a time period not to exceed 60 minutes to discuss legal matters relating to a Communication approved by the Council that is subject to attorney-client privilege. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Following a 60-minute time period, the meeting reconvened into open session and Councilmember Ortiz announced that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:55 p.m.

Brenda Younger
City Clerk