

Council Minutes – June 10, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 10, 2008. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Mayor Bunten -1. Absent: Councilmember Alcala -1.

AFTER THE MEETING was called to order, Councilmember Preisner asked for a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the re-appointment of Neil Carlson to the Board of Plumbing Examiners for a term that would expire on May 31, 2010 was presented.

RESOLUTION NO. 8069 introduced by Councilmember Brett Blackburn granting Capital Title Insurance Company an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8070 introduced by Councilmember Lana Kennedy granting Potwin Place Neighborhood Association an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8071 introduced by Councilmember Lana Kennedy granting Shawnee County Family Resource Center an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8072 introduced by Councilmember Richard Harmon granting Stardusters Crime Prevention, Inc., an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

Minutes of the regular meeting of June 3, 2008 were 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 NAME</u>	<u>ADDRESS</u>
Fast Lane	512 SW Topeka Blvd.
Steinbock's Meat & Deli	1401 NE Seward Ave.

A 2008 Open After Midnight 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.

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

ORDINANCE NO. 19095 introduced by Councilmember Deborah Swank, amending City of Topeka Code Section 2-181 concerning Boards and Commissions and repealing said original section and repealing Section 2-199 concerning the Convention and Tourism Committee in its entirety placed on first reading June 3, 2008 was again presented.

Councilmember Swank gave the staff report and stated that approval would eliminate the Convention and Tourism Committee, as well as, the overlapping of similar services provided to the City by Visit Topeka, Inc.

Councilmember Ortiz asked how long the Convention and Tourism Committee has been in existence.

Jim Langford, Budget and Finance Director stated that he is not certain when the Convention and Tourism Committee was created; however, the City has allocated funds to the Committee for a number of years.

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

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

ORDINANCE NO. 19097 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2-142 concerning the City's legal department and specifically repealing said original section placed on first reading June 3, 2008 was again presented. The ordinance was deferred from the meeting of May 6, 2008.

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

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Harmon carried. Councilmembers Kennedy and Ortiz voted "no." (6-2-0)

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

ORDINANCE NO. 19096 introduced by Councilmember Lana Kennedy authorizing the sale, consumption and possession of alcoholic liquor at Downtown Rocks the Block to be held in the One Hundred Block of SW Eighth Avenue on June 14, 2008 placed on first reading June 3, 2008 was again presented.

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

Susan Mahoney, Executive Director of Downtown Topeka, Inc., appeared to answer questions and stated that the ordinance is a requirement of the State to comply with the Kansas Department of Alcohol and Beverage Control regulations.

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

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

A PROJECT BUDGET in the amount of \$120,000 and ORDINANCE NO. 19098 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141002.00 (HTE 141300), which provides for traffic signal replacement and minor sidewalk and ramp repair at NE Seward and Freeman, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading June 3, 2008 was again presented.

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

Mayor Buntin questioned the proposed financing of Improvement Project Nos. T-141002, T-141003 and T-141004. He stated that if the projects are financed through general obligation bonds the City would spend a significant amount of money on interest costs. He noted that the City's Revenue fund balance is currently over \$1 million. He also stated that there are other funding sources that could be used such as City Revenue funds, the Police Department Equipment fund, drug money seized by the Police Department Narcotics Unit, or federal grants.

Norton N. Bonaparte, Jr., City Manager stated that the Police Department's General fund was reduced with the intent that if additional funds are needed they could allocate funding from the Equipment fund, or seized drug funds.

Jim Langford, Budget and Finance Director stated that there is no additional funding available to finance the improvement projects.

Norton N. Bonaparte, Jr., cautioned that even though the City's Revenue fund balance is over \$1 million, the majority of the fiscal year remains. He stated that the City must plan ahead

for upcoming expenditures, as well as, property and fuel tax setbacks. He noted that the projects were included in the 2009 Capital Improvement Budget.

Councilmember Kennedy asked if the City could be penalized if the sidewalks and ramps are not repaired or ADA compliant.

Linda Voss, City Traffic Engineer stated that the City would not be penalized because there are other funds specifically designated for ADA upgrades. She stated that the ADA upgrades were included in the cost of the projects so the City would not have to come back at a later date and make the repairs, generating additional costs.

Councilmember Woelfel asked if any of the sidewalks or ramps are hazardous to pedestrian traffic.

Linda Voss stated that the sidewalks and ramps are not a hazard and the traffic signal improvements are being requested due to maintenance issues.

Councilmember Swank asked if there is a cost difference to operate a new traffic signal as opposed to an old traffic signal.

Linda Voss stated that the cost is basically the same. She noted that they are in the process of installing LED energy-efficient light bulbs in all traffic signals.

Councilmember Harmon moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Haynes carried. Councilmembers Woelfel and Preisner voted “no.” Councilmember Blackburn abstained. (5-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Haynes, Swank and Harmon -5. Noes: Woelfel and Preisner -2. Abstain: Blackburn -1. Absent: Alcalá -1.

A PROJECT BUDGET in the amount of \$150,000 and ORDINANCE NO. 19099 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141003.00 (HTE 141310), which provides for traffic signal replacement and minor sidewalk and ramp repair at SW 29th and Oakley, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading June 3, 2008 was again presented.

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

Councilmember Harmon moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Haynes carried. Councilmembers Woelfel and Preisner voted “no.” Councilmember Blackburn abstained. (5-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Haynes, Swank and Harmon -5. Noes: Woelfel and Preisner -2. Abstain: Blackburn -1. Absent: Alcalá -1.

A PROJECT BUDGET in the amount of \$150,000 and ORDINANCE NO. 19100 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141004.00 (HTE 141320), which provides for traffic signal replacement and minor sidewalk and ramp repair at SW 25th and Fairlawn, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading June 3, 2008 was again presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Swank carried. Councilmember Woelfel voted “no.” (7-1-0)

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

ORDINANCE NO. 19101 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of May 19, 2008, through May 25, 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 Ortiz carried unanimously. (8-0-0)

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

ORDINANCE NO. 19102 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 3420 SW Fairlawn Road from “R-1” Single Family Dwelling District TO “C-2” Commercial District placed on first reading May 13, 2008 was again presented. The ordinance was withdrawn on May 20, 2008. (Z08/13)

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

Councilmember Preisner asked if the Temporary Restraining Order filed in the Shawnee County District Court relating to zoning proposal Z08/13 on property located at 3420 SW Fairlawn Road has been dismissed.

Eric Smith, Assistant City Attorney stated that Shawnee County District Court Case No. 08-C-757, a Temporary Restraining Order was dismissed on June 5, 2008.

Exparte communications were declared by all Councilmembers.

Councilmember Blackburn asked if there were landscape conditions placed on the approval of the zoning proposal. He stated that the proposal meets the criteria outlined in the Golden Case Factors; therefore, he would vote in support of the request to insure that the proposal receives fair consideration.

David Thurbon, Planning Director confirmed that there were certain conditions placed on the approval of the proposal including, a landscape plan that requires a berm to extend along the frontage line of the development on SW Fairlawn Road; and a detailed landscape plan must be submitted at the time of the site plan review for approval.

Councilmember Haynes asked for clarification of the Planning Department's recommendations.

David Thurbon stated that the Planning Department recommended that options for approval of the development on the site be considered as part of a Planned Unit Development "PUD" plan. He explained that a PUD includes conditions that prohibit certain types of commercial businesses, limits commercial signage, requires architectural elements in harmony with the existing office buildings, and a mix of other uses would be appropriate if compatible with surrounding land uses.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Harmon made a substitute motion to refer the ordinance back to the Planning Commission to consider the recommendations of the Planning Department with the requirement that the development be considered as part of a Planned Unit Development "PUD." The motion seconded by Councilmember Ortiz failed. Councilmembers Kennedy, Woelfel, Swank, Blackburn and Preisner voted "no." (3-5-0)

The motion to adopt the ordinance carried. Councilmembers Haynes and Harmon voted “no”. Councilmember Ortiz abstained. (5-2-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Woelfel, Swank, Blackburn and Preisner -5. Noes: Haynes and Harmon -2. Abstain: Ortiz -1. Absent: Alcala -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 the area near Highway 24 and Furman Road with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40933-01, as defined and described in Resolution No. 7662, adopted and approved July 12, 2005 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 Aquarian Acres Subdivision No. 9 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40917-02, as defined and described in Resolution No. 7660, adopted and approved July 12, 2005 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 Aquarian Acres Subdivision No. 9 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60599-02 as defined and described in Resolution No. 7750, adopted and approved January 31, 2006 was presented for first reading.

AN ORDINANCE introduced by Councilmember John Alcala creating Section 146-18 of the Code of the City of Topeka which establishes a water and wastewater utility rate refund program for the City of Topeka, as well as amending Section 146-47 regarding no free service or discrimination in rates was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 112-3, 112-5, 112-21, 112-22, 112-23, 112-42, 112-44, 112-61, 112-71, 112-72, 112-91, 112-93, 112-154, 112-264, 112-291, and 112-294 through 112-299 concerning property maintenance enforcement authority and specifically repealing said original sections was presented for first reading.

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 announced the opening of a new skate park on June 14, 2008 at 11:00 a.m. at Chesney Park located at 1800 SW Clay Street. He noted that the opening ceremony is part of the Weed & Seed Community Safety Fair.

Councilmember Kennedy asked the City Manager and the Human Resources Department to investigate a complaint recently filed by a firefighter relating to a personnel matter. She stated that it is important for employees to understand and know the boundaries of discussing personnel matters. She also asked who is responsible for advertising Heartland Park of Topeka events.

Councilmember Ortiz expressed concern with the overgrown vegetation in Council District No. 3. She stated that Code Compliance has issued multiple citations and the overgrown vegetation is still not being cut. She asked how the City plans to resolve the problem.

Norton N. Bonaparte, Jr., stated that staff continues to be aggressive in notifying property owners throughout the city that overgrown vegetation needs to be cut; however, due to budget constraints, the City does not have the financial resources to maintain the properties through contractual mowing services.

Councilmember Preisner asked if staff would research the costs the City incurs associated with the Our Lady of Guadalupe Church annual fundraiser, as well as, other similar events throughout the year.

Mayor Bunten announced that a special meeting of the Governing Body would be held on June 12, 2008 at 5:00 p.m. in the City Hall 1st Floor Conference Room. He also expressed concern with the Special Event application process in regards to insurance requirements.

Eric Smith, Assistant City Attorney stated that it has been determined that a Certificate of Public Liability Insurance is not needed for a neighborhood parade; it is only needed for a neighborhood block party.

Val Araiza appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:13 p.m.

Brenda Younger
City Clerk