

Council Minutes – June 24, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 24, 2008. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Bunten -1.

AFTER THE MEETING was called to order, Reverend Richard Rounds, First Church of God in Christ gave the invocation.

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 James Fournier, Jr., to the Golf Course Advisory Board for a term that would expire on June 30, 2010 was presented.

BOARD APPOINTMENT recommending the re-appointment of William Allen to the Golf Course Advisory Board for a term that would expire on June 30, 2010 was presented.

BOARD APPOINTMENT recommending the re-appointment of James Daniel to the Topeka Metropolitan Transit Authority Board for a term that would expire on June 30, 2012 was presented.

RESOLUTION NO. 8074 introduced by Councilmember John Alcalá granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8075 introduced by Councilmember John Alcalá granting a waiver to the provisions of City of Topeka Code Section 142-355, as amended, relating to parking on unimproved surfaces was presented.

RESOLUTION NO. 8076 introduced by Councilmember John Alcala granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8077 introduced by Councilmember Lana Kennedy granting Topeka Independent Living Resource Center 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 17, 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>
Bennigan's #1732	3251 S Topeka Boulevard
The Car Wash	1814 SW 10 th Street

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

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, June 24, 2008, at 6:00 P.M. relating to vacation request V08S/2 by the City of Topeka to vacate a 50-foot wide strip of platted street right-of-way located NW Grant Street between NW Polk and NW Tyler Streets, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19108 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide strip of platted street right-of-way in Stringham's Addition located on NW Grant Street between NW Polk and NW Tyler Streets, City of Topeka, Shawnee County, Kansas placed on first reading June 17, 2008 was again presented. (V08S/2)

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

Councilmember Kennedy moved to close the public hearing and 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.

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, June 24, 2008, at 6:00 P.M. relating to vacation request V08S/3 by the City of Topeka to vacate a portion of platted street right-of-way located on NW Railroad Street between NW Topeka Boulevard and NW Tyler Street, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19109 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a portion of platted street right-of-way in Curtis Addition located on NW Railroad Street between NW Topeka Boulevard and NW Tyler Street, City of Topeka, Shawnee County, Kansas placed on first reading June 17, 2008 was again presented. (V08S/3)

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

Councilmember Kennedy moved to close the public hearing and 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.

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, June 24, 2008, at 6:00 P.M. relating to vacation request V08S/4 by the City of Topeka to vacate a portion of platted street right-of-way located on NW Howard Street between NW Lincoln and NW Lane Streets, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19110 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a portion of platted street right-of-way in White Oak Grove Subdivision and

located on NW Howard Street between NW Lincoln and NW Lane Streets, City of Topeka, Shawnee County, Kansas placed on first reading June 17, 2008 was again presented. (V08S/4)

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

Councilmember Preisner moved to close the public hearing and 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. 19111 introduced by City Manager Norton N. Bonaparte, Jr., pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan place on first reading June 17, 2008 was again presented.

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

Henry McClure spoke in opposition to the land use plan for the Central Park Neighborhood. He stated that he believes it will have a negative effect on the area and should be amended to utilize the great development opportunities available to the area.

Councilmember Kennedy stated that she believes the plan does not convey the intended character of the Central Park neighborhood. She asked if the garage located in the vicinity of SW 17th and SW Lincoln Streets is in compliance, and if the frontage property located along SW 17th and Clay Streets is zoned properly.

Councilmember Alcalá asked if City staff worked with neighborhood residents to develop the plan, and how was it determined that a new plan was needed. He also asked if there were a large number of residents that attended the meetings in support of the plan, and if the plan is ready to be implemented.

David Thurbon, Planning Department Director stated that the garage is in compliance with code regulations and the Citizens Advisory Council “CAC” makes the determination of which neighborhoods need improvements. He also stated that the CAC worked with Central Park neighborhood residents to develop the plan which is ready for implementation. He noted that it is only a five-year plan and is supported by the Planning Department.

Bill Fiander, Planning Department stated that attendance at each meeting ranged from 25 to 40 citizens. He also stated that upon completion of the neighborhood meetings, a committee was formed to assist with the development of a plan and to report back to the Planning Department on a regular basis.

Councilmember Swank asked if residential housing could exist within a Mixed-Use District, and if staff would support a Planned Unit Development “PUD” District.

Councilmember Blackburn asked why a Mixed-Use District was not included in the plan.

David Thurbon stated that residential zoning could exist within a Mixed-Use District and the Planning Department recommended that a Mixed-Use District be incorporated in the plan. He noted that the Planning Commission decided not to amend the plan to include the recommendation.

Councilmember Alcala stated that he would support the amendment to the plan because the Planning Department is not excluding any new area development and is open to accepting amendments to the plan.

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

Councilmember Haynes stated that it was his understanding that the intent of the plan was to allow the core area to remain residential.

David Thurbon stated that the core residential neighborhood would remain intact; however, it must first be stabilized and strengthened in order to attract commercial and retail businesses.

The motion to adopt the ordinance carried. Councilmembers Kennedy, Woelfel and Swank voted “no.” Councilmember Blackburn abstained. (5-3-1)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Haynes, Preisner and Harmon -5. Noes: Kennedy, Woelfel and Swank -3. Abstain: Blackburn -1.

ORDINANCE NO. 19112 introduced by Deputy Mayor Jeff Preisner, repealing City of Topeka Code Chapter 2, Article 9, concerning the Code of Ethics, in its entirety placed on first reading June 17, 2008 was again presented.

Councilmember Preisner gave the staff report and stated that a special committee will be appointed to review the City of Topeka Code of Ethics Policy.

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

Councilmember Haynes stated that he believes Resolution No. 7473 establishing a Code of Ethics for the City of Topeka serves the purpose, and an additional policy is not needed.

Councilmember Alcala stated that he believes the document needs to be revised.

The motion to adopt the ordinance carried. Councilmember Blackburn voted “no.” Councilmembers Alcala and Ortiz abstained. (6-1-2)

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

ORDINANCE NO. 19113 introduced by Councilmember John Alcala authorizing the sale, consumption and possession of alcoholic liquor as part of the Fiesta Mexicana at specified locations and times placed on first reading June 17, 2008 was again presented.

Councilmember Alcala gave the staff report.

Councilmember Alcala 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. 19114 introduced by Councilmember John Alcala authorizing the sale, consumption and possession of alcoholic liquor as part of the Fiesta Mexicana parade and street party at specified locations and times placed on first reading June 17, 2008 was again presented.

Councilmember Alcala gave the staff report.

Councilmember Alcala 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. 19115 introduced by Deputy Mayor Jeff Preisner, amending City of Topeka Code Section 154-121 concerning rates of fare offered by taxicabs in the City of Topeka and specifically repealing said original section placed on first reading June 17, 2008 was again presented.

Councilmember Preisner gave the staff report and stated that the increase is due to increasing fuel costs. He noted that the last taxicab fare rate increase was implemented in 2005.

Larry Cobler spoke in support of the ordinance and stated that he believes the taxicab business is a vital source of transportation for the citizens of Topeka.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcalá 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 Councilmember John Alcalá 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 services or discrimination in rates placed on first reading June 10, 2008 was again presented. The ordinance was deferred from the meeting of June 17, 2008.

Councilmember Alcalá requested to defer the ordinance for two weeks. He stated that due to health reasons he has not had the opportunity to meet with staff to discuss the program details and answer any questions he might have.

Councilmember Alcalá moved to defer the ordinance for two weeks. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Norton N. Bonaparte, Jr., City Manager requested that item 7A, a resolution concerning the City of Topeka hiring procedures be withdrawn from the agenda.

Councilmember Woelfel stated that several Councilmembers have raised questions relating to the e-verify program and he would like the opportunity to address them.

Upon hearing no objections, Mayor Buntin announced that the item would be withdrawn from the agenda.

ORDINANCE NO. 19116 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 2, 2008, through June 8, 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 Alcalá 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.

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

Norton N. Bonaparte, Jr., City Manager reported that at last week’s Council meeting a citizen stated that city code requires the City to abate properties with grass, weed and vegetation violations; however, upon review of the current city code, the City is not required to proceed with abatement of the properties. He also announced that City4 is televising a new program titled “Extreme Weather Preparedness” following the Council meeting.

Councilmember Kennedy announced that city residents are being surveyed by telephone. She stated that citizens are being asked if they would oppose or support a property tax increase. She asked if the survey is being conducted by the City, and if a media announcement could be released to clarify the issue. She also asked the Mayor if he would like the Council to submit names of individuals that are qualified to serve on the Planning Commission.

Norton N. Bonaparte, Jr., stated that the survey is being conducted by private citizens, and he would authorize a media release to clarify the issue.

Mayor Bunten stated that he would welcome suggested appointments to the Planning Commission by the Council. He noted that a resume must accompany each recommendation.

Councilmember Alcalá asked if the City is proceeding with the abatement of properties that have failed to comply with grass, weed and vegetation violations. He also asked if the ordinance that mandates the code violation process requires abatement by the City.

Norton N. Bonaparte, Jr., stated that the City is proceeding with the necessary abatement of all violations except grass, weed and vegetation violations due to budget cuts.

Braxton Copley, Interim City Attorney stated that the ordinance outlines that abatement issues are handled at the discretion of the Police Chief.

Councilmember Alcalá stated that if there are no funds available to proceed with the abatement of properties that have been cited with overgrown vegetation violations then they should consider reviewing the operations of the Code Compliance Division to determine if there is a need for a reduction in manpower.

Councilmember Ortiz stated that she has received a large number of complaints relating to overgrown vegetation and the closing of Fire Engine No. 3. She requested that a curfew sign be posted at the new Chesney Skate Park. She expressed concern with the increasing graffiti problems in Council District No. 3 and how the City plans to address the problem. She also asked if the ordinance outlining the abatement process has been rescinded.

Braxton Copley stated that he does not recall that the ordinance has been rescinded; however, he will confirm the status of the ordinance and report back to the Council.

Councilmember Swank commended the Heartland Visioning meeting facilitators. She also commented on the large number of citizens that have attended the meetings and the important role the visioning process will play in the future of the community.

Councilmember Preisner gave a preliminary update on the alleged Code of Ethics violations filed against Councilmembers Alcala and Ortiz. He noted that the Council has sixty days to review the violations. He also asked if the City would be required to issue a new Request for Proposal “RFP” if a new contract with Community First, Inc., is approved.

Braxton Copley stated that it would be a policy decision of the Council. He suggested that they schedule a work session to discuss the Council’s options.

Norton N. Bonaparte, Jr., stated that it was his understanding that the Council directed staff to construct a new contract that would include the original contract terms and a sixty-day extension.

Mayor Bunten questioned where in the process the City is in regards to the Summer School renovation project. He stated that it was his understanding that the process is being delayed by Community First, Inc. He encouraged Community First, Inc., to make a commitment because there are other entities interested in renovating or purchasing the building.

Norton N. Bonaparte, Jr., stated that staff has communicated to Community First, Inc., the importance of executing the contract. He noted that as soon as the contract is executed it would be presented to the Council for consideration.

Councilmember Preisner left the meeting.

Larry Cobler, Sandra Lassiter, Greg Moody, George Collins, JoAnn Peavler and Deborah Edwards appeared to speak under public comment.

Councilmember Kennedy moved to adjourn into executive session at 7:43 p.m. for a time period not to exceed thirty minutes to discuss a personnel matter relating to a non-elected City employee. The motion seconded by Councilmember Alcala carried unanimously.

Councilmember Woelfel was out of the room. (7-0-0)

The meeting reconvened into open session at 8:15 p.m. and Mayor Bunten announced that no action had been taken.

Councilmember Kennedy moved to adjourn into executive session for a time period not to exceed fifteen minutes to discuss a personnel matter relating to a non-elected City employee. The motion seconded by Councilmember Alcalá carried unanimously. (7-0-0)

The meeting reconvened into open session at 8:24 p.m. and Mayor Bunten announced that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:32 p.m.

Brenda Younger
City Clerk