

## **Council Minutes – July 8, 2008**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 8, 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 and Harmon -8. Mayor Bunten -1. Absent: Councilmember Preisner -1.

AFTER THE MEETING was called to order, Councilmember Harmon requested a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 19118 introduced by City Manager Norton N. Bonaparte, Jr., adopting a twelve month extension of the franchise for Southwestern Bell Telephone Company d/b/a AT & T Kansas placed on first reading July 1, 2008 was again presented.

Minutes of the regular meeting of July 1, 2008 were presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for That Place located at 3701 SW Place Drive, was presented.

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for La Fiesta located at 1017 NE Seward Avenue, was presented.

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

Councilmember Alcalá moved to suspend the Council Rules to add an ordinance concerning the utility franchise fee refund program to the agenda. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

Mayor Bunten stated that the ordinance would be placed on the agenda under First Readings as item 6D.

#### 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, July 8, 2008, at 6:00 P.M. relating to the vacation of a 12-foot wide strip of platted utility easement in Lauren's Bay Estates located on the west side of SW Stonybrook Drive at SW 46<sup>th</sup> Street, extended, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19119 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 12-foot wide strip of platted utility easement in Lauren's Bay Estates located on the west side of SW Stonybrook Drive at SW 46<sup>th</sup> Street, extended, City of Topeka, Shawnee County, Kansas placed on first reading July 1, 2008 was again presented. (V08E/2)

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

Councilmember Alcalá moved to close the public hearing and 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, Ortiz, Woelfel, Haynes, Swank, Blackburn and Harmon -8. Absent: Preisner -1.

#### 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, July 8, 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 Sanitary Sewer Improvement Project No. 40942, authorized by Resolution No. 7947, adopted and approved May 15, 2007 and rescinding Resolution No. 7779, adopted and approved April 4, 2006.

ORDINANCE NO. 19120 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 Stone Crest Subdivision and Stone

Crest Subdivision No. 2 with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40942-00, as defined and described in Resolution No. 7947, adopted and approved May 15, 2007 placed on first reading July 1, 2008 was again presented.

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 Woelfel carried unanimously. (8-0-0)

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

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ORDINANCE NO. 19121 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 Stone Crest Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40943-01, as defined and described in Resolution No. 7948, adopted and approved May 15, 2007 placed on first reading July 1, 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. (8-0-0)

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

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Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, July 8, 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. 60623-01, authorized by Resolution No. 7949, adopted and approved May 15, 2007, and rescinding Resolution No. 7781, adopted and approved April 4, 2006.

ORDINANCE NO. 19122 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 Stone Crest Subdivision with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60623-01, as defined and described in Resolution No. 7949, adopted and approved May 15, 2008 placed on first reading July 1, 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. (8-0-0)

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

ORDINANCE NO. 19123 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 26-446, 26-448, 26-449, 26-458, 26-459, and 26-463 to 26-466 concerning backflow prevention and cross connection control and specifically repealing said original sections and section 26-450 through 26-454, 26-457, 26-460, 26-461, 26-462 and 26-464 placed on first reading July 1, 2008 was again presented.

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

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

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

ORDINANCE NO. 19124 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 146-47 regarding no free service or discrimination in rates placed on first reading June 10, 2008 was again presented. The ordinance was deferred from the meeting of June 24, 2008.

Councilmember Alcala gave the staff report.

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

Mayor Bunten asked what the estimated refund amount would be.

Mike Teply, Public Works Director stated that it could cost between \$60,000 and \$120,000 and has the potential of costing \$722,000 if the maximum number of people who qualify, apply for a refund.

Councilmember Blackburn stated that he would oppose the ordinance because it would be unfair to the customers who do not qualify for the program and live on a fixed income to absorb the cost.

Councilmember Harmon asked if the program would apply to the combined utility customers.

Mike Teply stated that the combined utility customer refund would cost approximately \$60,000.

Councilmember Swank asked if an additional rate increase would be necessary to make up for the financial shortfall of scheduled water improvement projects if the ordinance is approved.

Mike Teply stated that potentially an additional rate increase may be needed; however, they would review operational costs first to see if there are feasible cuts that could be made.

Councilmember Woelfel stated that he believes the program would be discriminatory and create a special class of people; therefore, he would oppose the ordinance.

Councilmember Alcala withdrew the motion to adopt the ordinance. The second concurred.

Councilmember Alalca moved to amend lines 47 and 76 of the ordinance by changing the date to September 5, and adopt the ordinance as amended. The motion was seconded by Councilmember Kennedy.

Councilmember Swank questioned if federal funding is available to assist those who have difficulty in paying their bill.

Mike Teply stated that there is a federal program available and it is well received by the public.

Councilmember Alcala stated that there is federal assistance available; however, the funds are depleted within the first four to six months of each year.

The motion to amend lines 47 and 76 of the ordinance by changing the date to September 5 and adopting the ordinance as amended carried. Councilmembers Woelfel, Blackburn and Harmon voted “no.” (5-3-0)

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

ORDINANCE NO. 19125 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of June 16, 2008, through June 22, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

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

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70185, which provides for completion of the design and acquisition of right-of-way, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 2-116 and Section 90-28 concerning filing of oaths, and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 14126 which provides for intersection modifications and traffic signal as more specifically described herein, pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 18828 was presented for first reading.

AN ORDINANCE introduced by Councilmember John Alcala amending City of Topeka Code Section 146-17 concerning the utility franchise fee refund program and specifically repealing said original section 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.

Councilmember Alcala requested that the details of the franchise fee refund program be televised on City4. He also expressed concern with a recent house fire located on SE Lake Street. He stated that it was his understanding that the closing of Fire Engine No. 3 caused an additional 2-minute delay in response time, as well as, endangerment of a Firefighter on the scene. He also stated that the ordinance authorizing the Code of Ethics has been rescinded; therefore, he questions if the alleged Code of Ethics violations filed against Councilmember Ortiz and himself are valid. He requested that the Legal Department provide a legal opinion on the matter.

Councilmember Ortiz stated that she has received a number of complaints on the process of retrieving the electronic Council agenda and requested that the process be simplified. She also extended her condolences to the Grant Cushinberry family.

Councilmember Harmon moved to adjourn into executive session for a time period not to exceed five minutes to discuss a personnel matter. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

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

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:55 p.m.

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Brenda Younger  
City Clerk