

Council Minutes – September 9, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 9, 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 Bunten presided -1.

AFTER THE MEETING was called to order, Councilmember Alcala gave the invocation.

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

A PRESENTATION on the Police Department Quarterly Activity Report was given by Police Chief Ron Miller.

Norton N. Bonaparte, Jr., City Manager requested that item 4A, a resolution transferring ownership of the USS Topeka Bell be withdrawn from the consent agenda and placed on the September 23, 2008 Council agenda.

Upon hearing no objections, Mayor Bunten announced that item 4A would be withdrawn from the agenda and placed on the September 23, 2008 Council agenda.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8099 introduced by Councilmember Sylvia Ortiz granting Santeda Redmond an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

BOARD APPOINTMENT recommending the appointment of Richard Beardmore to the Topeka Planning Commission for a term that would end September 30, 2011, was presented.

BOARD APPOINTMENT recommending the re-appointment of Basil Krug to the Board of Mechanical Examiners for a term that would end September 30, 2010 was presented.

APPROVAL OF CLAIM authorizing the Workers' Compensation Settlement for David Hertlein in the amount of \$50,000 was presented.

MINUTES of the regular meeting of August 19, 2008 and August 26, 2008 was presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Glory Days Pizza located at 3310 SE 29th Street, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Alcalá 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, September 9, 2008 at 6:00 P.M. relating to vacation request V08RA/2 by Team, L.L.C., requesting a 40-foot wide portion of a platted access control easement located along the south line of Lots 2 and 3, Block "C", Aquarian Center Subdivision fronting on SE 29th Street, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19154 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 40-foot wide portion of a platted access control easement located along the south line of Lots 2 and 3, Block "C", Aquarian Center Subdivision fronting on SE 29th Street, City of Topeka, Shawnee County, Kansas placed on first reading August 26, 2008 was again presented.

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 Kennedy carried. Councilmembers Alcalá, Haynes and Harmon voted "no." (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Swank, Blackburn and Preisner -6. Noes: Alcalá, Haynes and Harmon -3.

ORDINANCE NO. 19155 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 26-138 concerning the Board of Building and Fire Appeals and specifically repealing said original section placed on first reading August 26, 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 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.

ORDINANCE NO. 19156 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 26-116 and 26-283, concerning building codes, and specifically repealing said original sections and Section 70-196 placed on first reading August 26, 2008 was again presented.

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

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

A PROJECT BUDGET in the amount of \$318,240 and ORDINANCE NO. 19157 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-131007.00 (HTE 131700), which provides for upgrades to Fire Station Nos. 1, 6 and 7, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading August 26, 2008 was again presented.

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

Councilmember Alcala moved to approve the project budget and adopt the ordinance.

The motion was seconded by Councilmember Preisner.

Councilmember Ortiz spoke in support of the project and asked where the firefighters would stay during the renovations.

Howard Giles, Fire Chief stated that the firefighters at Fire Station Nos. 1, 6 and 7 would continue to occupy the buildings unless the upgrades require that the water or plumbing be shut off for a period of time.

Mayor Bunten encouraged the Council to consider financing the project through general funds to avoid paying unnecessary interest on general obligation bonds.

The motion to approve the project budget and adopt the ordinance 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 REVISED PROJECT BUDGET in the amount of \$267,857.68 and ORDINANCE NO. 19158 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Street Improvement Project No. 18025-00 which provides for the removal of the free flow right turn lane on 21st Street to Arrowhead 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. 18388 placed on first reading August 26, 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 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.

Norton N. Bonaparte, Jr., City Manager requested to defer item 6E, an ordinance authorizing condemnation proceedings for Sanitary Sewer Improvement Project No. 29093-02 for one week. He stated that the City is still in negotiations with the remaining property owner.

Councilmember Haynes moved to defer the ordinance for one week. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner stated that item 4C, the board appointment of Richard Beardmore to the Topeka Planning Commission should be amended to reflect an August 31, 2011 term ending date to allow him to participate in the September Topeka Planning Commission meeting.

Braxton Copley, Deputy City Attorney noted that Topeka Planning Commission appointments are required to serve a three-year term.

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

Councilmember Preisner requested to pull item 4C, the board appointment of Richard Beardmore to the Topeka Planning Commission from the consent agenda for separate discussion.

Upon hearing no objections, Mayor Bunten announced that item 4C would be pulled from the consent agenda and placed on the agenda under New Business as item 7C.

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

BOARD APPOINTMENT recommending the appointment of Carol Torrence to the Topeka Planning Commission for a term that would end August 31, 2011 was presented.

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

Councilmember Haynes moved to approve the board appointment. The motion was seconded by Councilmember Alcala.

Micheal McDonald spoke in opposition to the board appointment. He stated that he personally witnessed the nominee being disrespectful to others at a Topeka Planning Commission meeting. He asked the Council to disapprove the board appointment.

Councilmember Kennedy stated that she would oppose the board appointment. She expressed concern with the nominee's qualifications and involvement with past zoning issues. She also stated that she received an email from a constituent in opposition to the board appointment and questioned why the Mayor was opposed to considering other nominees.

Councilmember Haynes stated that being involved in zoning issues does not disqualify an individual from serving on a board or commission.

Mayor Buntten stated that in his opinion, Ms. Torrence is more than qualified for the position. He noted that the only requirement that must be met is the individual must reside within the three-mile extraterritorial jurisdiction.

Councilmember Alcala stated that he submitted the request to appoint Ms. Torrence to the Topeka Planning Commission after she contacted him via electronic mail. He asked Ms. Torrence why she wants to serve on the Topeka Planning Commission.

Carol Torrence stated that she does not oppose commercial development or any other type of development that would benefit the community. She noted that she, as well as, other area

neighborhood residents signed a legal protest petition opposing the proposed SW 53rd Street and Wannamaker Road development.

Councilmember Preisner questioned the nominee's qualifications and professional conduct.

Councilmember Harmon referenced House Bill 2217. He asked if a person casts a "no" vote, would they be required to state why they chose not to support the appointment.

Braxton Copley, Deputy City Attorney stated that the Council must bring forth a resolution stating the reason why an individual is not qualified or unfit to serve on a board or commission. He noted that the individual would automatically be appointed to the board or commission if a resolution is not passed within 45 days of the action taken by the Council.

Councilmember Blackburn stated that he would not support the board appointment due to statements made by the nominee regarding past zoning issues. He also questioned the nominee's qualifications.

The motion to approve the board appointment failed. Councilmembers Kennedy, Woelfel, Swank, Blackburn and Preisner voted "no." (4-5-0)

BOARD APPOINTMENT recommending the appointment of John Federico to the Topeka Planning Commission for a term that would end August 31, 2011 was presented.

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

Councilmember Alcalá moved to approve the board appointment. The motion seconded by Councilmember Ortiz carried. Councilmembers Woelfel and Blackburn abstained. (7-0-2)

ORDINANCE NO. 19159 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 11, 2008, through August 17, 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 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.

ORDINANCE NO. 19160 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 18, 2008, through August 24, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

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

BOARD APPOINTMENT recommending the appointment of Richard Beardmore to the Topeka Planning Commission for a term that would end September 30, 2011, was presented.

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

Councilmember Preisner moved to amend the board appointment to reflect an August 31, 2011 term ending date. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

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

AN ORDINANCE introduced by Councilmember Deborah Swank, creating Chapter 66, Article 2, in the Code of the City of Topeka establishing the Sustainability Advisory Board and

amending Section 1 of Ordinance No. 19095 relating to non-statutory boards and commissions and repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the execution of a loan agreement amendment between the City of Topeka, Kansas, and the State of Kansas, for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project, KPWSLF Project No. 2419; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the original ordinance 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, and specifically repealing City of Topeka Ordinance No. 19104 was presented for first reading.

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the sale, consumption, and possession of alcoholic liquor as part of the Sacred Heart-St. Joseph Parish Autumnfest 2008 at specified locations and times was presented for first reading.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Norton N. Bonaparte, Jr., City Manager announced upcoming community events. He stated that the Topeka 101: Citizen's Academy would begin on September 17, 2008 at 6:00 p.m.;

and the Topeka Police Department Citizen's Academy would begin on September 11, 2008 at 6:00 p.m.

Nancy Johnson, Lisa Ochs, David Fish and Tony Garcia appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:34 p.m.

Brenda Younger
City Clerk