

Council Minutes – September 30, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 30, 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 Alcala gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of September 23, 2008 was presented.

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

ORDINANCE NO. 19167 introduced by Deputy Mayor Jeff Preisner amending City of Topeka Code Section 110-35 concerning a quorum of the Topeka Planning Commission and specifically repealing said original section placed on first reading September 23, 2008 was again presented.

Councilmember Preisner gave the staff report and stated that approval would change the quorum of the Topeka Planning Commission from seven to five members.

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

Jack Brier, Brier Development spoke in support of the change and encouraged the Council to adopt the ordinance.

Michelle Hoferer, Topeka Planning Commission Chair spoke in opposition to the change in quorum requirements. She stated that the majority of the Topeka Planning Commission does not believe a change is necessary because the current system is working.

Councilmember Alcalá stated that it is crucial to move forward at this time and prevent further delay of Topeka-Shawnee County area development. He reported that a number of businesses have suffered financially due to the lack of attendance by the current Topeka Planning Commission.

Councilmember Kennedy expressed concern with the lack of recent action taken by the Council in regards to appointing and approving nominations to the Topeka Planning Commission.

Gene Jani, Brainstorm Development Group, Inc., expressed concern with the delay of appointments to the Topeka Planning Commission. He stated that in his opinion, the Mayor has caused a delay in development throughout the Topeka-Shawnee County area.

Councilmember Blackburn stated that the issue needs to be further researched because the Topeka Planning Commission opposes the change.

Councilmember Blackburn made a substitute motion to refer the ordinance to the Economic and Community Development Committee. The motion was seconded by Councilmember Ortiz.

Councilmember Alcalá stated that he would not support the substitute motion because the longer projects are delayed, the more money it will cost area developers.

Councilmembers Swank and Blackburn encouraged the Economic and Community Development Committee to meet within the next two weeks to resolve the matter and allow Topeka-Shawnee County area development to move forward.

The substitute motion to refer the ordinance to the Economic and Community Development Committee failed. Councilmembers Alcala, Ortiz, Haynes, Preisner and Harmon voted “no.” (4-5-0)

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

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

A REVISED PROJECT BUDGET in the amount of \$317,406 and RESOLUTION NO. 8114 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and authorizing as amended Improvement Project No. 30273-00 which provides for the design and construction of a new zoo exhibit as more specifically described herein and rescinding City of Topeka Resolution No. 7924 was presented.

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

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

A REAL ESTATE REPORT requesting approval of a real estate disposal method of the Sumner School that has been declared surplus real property by all City departments was presented.

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

Janel Johnson encouraged the Council to allow Community First, Inc., to acquire the Sumner School facility for the betterment of the community.

Councilmember Ortiz explained that the purchasing price starts at \$50,000 to allow for the reimbursement of Community Development Block Grant funds. She stated that it is

important for the process to be fair and noted that the Kansas Black Expo attempted to purchase the building prior to Community First, Inc., and they did not receive an extension on their contract.

Councilmember Kennedy asked if Community First, Inc., would be willing to work with other community groups and leaders if they are unable to purchase the building on their own.

Sandra Lassiter, Community First, Inc., stated that they would be willing to work with other community groups to combine their efforts.

Councilmember Blackburn asked if the report could be deferred for one week to research other options of disposal.

Braxton Copley, Deputy City Attorney stated that he would recommend that the offer be extended to all organizations or community groups interested in obtaining the building.

Councilmember Alcalá stated that to insure fairness the City should auction the building with the same stipulations that were outlined in the contract between the City and Community First, Inc.

Councilmember Haynes asked if Community First, Inc., met the terms of the contract. He also questioned the auction pre-bid requirements, specifically the language of Provisionary Clause No. 7.

Sandra Lassiter stated that it was her understanding that all terms of the contract were met with the exception of funding.

Randy Speaker, Deputy City Manager stated that all terms of the contract were not met. He also stated that the terms and conditions of the auction would be altered to simplify the process of meeting federal funding requirements.

Councilmember Harmon requested that a minimum capitalization requirement be included as a condition of purchase. He also asked if the City has a judiciary obligation to auction the property if it has been declared surplus property.

Braxton Copley stated that a public auction should eliminate capitalization issues.

Councilmember Blackburn stated that if the initial terms of the contract would have been simplified to mirror the terms that are now in place, Community First, Inc., would have successfully purchased the Sumner School. He expressed concern with the auction pre-bid requirements, specifically the language of Provisionary Clause No. 7.

Hi Stockwell stated that the Sumner School building is listed on the Kansas Historical Site Registry. He expressed the importance of establishing an appropriate use of the building that is compatible with the community. He requested that the public auction be postponed or cancelled.

Councilmember Kennedy questioned if the matter could be deferred for thirty days; if there is an alternative disposal method; and how will the bidding process be advertised.

Braxton Copley stated that there are provisions in place that would allow the City to sell the building to other government entities without following the normal Request for Proposal (RFP) process.

Randy Speaker stated that it is feasible to defer action on the matter for thirty days; however, they should remain mindful that the building will deteriorate at a fast pace if it remains vacant during the winter months. He also stated that the RFP would be advertised in the normal manner as outlined in City policy.

Councilmember Swank moved to defer the real estate report for one week. The motion seconded by Councilmember Kennedy carried. Councilmembers Ortiz, Haynes and Preisner voted “no.” (6-3-0)

APPROVAL OF REAL ESTATE PURCHASE AGREEMENT between the City of Topeka and Luz M. Salas and Esteban Acosta for the sale of surplus property located at 607 SW 2nd Street in the amount of \$700 was presented.

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

Councilmember Kennedy moved to approve the real estate purchase agreement. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

ORDINANCE NO. 19168 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 8, 2008, through September 14, 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to a portion of a public alley located east of 610 SW Polk Street in the Original Town of the City of Topeka, Shawnee County, Kansas was presented for first reading. (V08A/2)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$25,075,000 aggregate principal amount of General Obligation Improvement and

Refunding Bonds, Series 2008-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 10-427 et seq., K.S.A. 12-6a01 et seq., the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the city, all as amended was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-291001.00 (HTE 291110) for replacement of Distributed Control System (DCS) at the North Topeka Wastewater Treatment Plant approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and storm-water utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or storm-water and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the Kansas Department of Health and Environment State Revolving Loan Fund to pay the cost thereof was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-291002.00 (HTE 291120) for replacement of Northland I Pump Station approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to

make such improvements which constitutes improvements to the municipally owned water, water pollution control, and storm-water utility system of the City of Topeka, Shawnee county, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or storm-water and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the Kansas Department of Health and Environment State Revolving Loan Fund to pay the cost thereof was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-281000.03 (HTE 286383) for rehabilitation of the Water Treatment Plant approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's waterworks system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the State of Kansas Loan Funds to pay the cost thereof was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported that he would contact Mr. Moses and Mr. Jani to schedule a meeting to discuss the issues relating to the SW Marlboro Road extension. He noted that staff has found a solution to the problem that he believes will satisfy both parties. He also announced upcoming community events.

Jim Langford, Budget and Finance Director reported that due to the financial state of the Country's economy, it is possible that the City may not receive bids on the general obligation bonds and temporary notes next week. He noted that the bonds and temporary notes may have to be financed through the private bidding sector and interest rates could rise above five percent.

Councilmember Preisner requested that a work session be scheduled next week to discuss the disposal method of Sumner School.

Councilmember Harmon announced Washburn University's Race Against Breast Cancer Run and Walk event on October 4, 2008. He noted that registration would begin at 7:30 a.m.

Nancy Johnson appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:54 p.m.

Brenda Younger
City Clerk