

Council Minutes – October 7, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 7, 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, Reverend Edward E. Kirtdoll, Fellowship Christian Baptist Church gave the invocation.

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

A PRESENTATION was given on the Washburn University Student Government Association by Whitney Phillipe, President.

Norton N. Bonaparte, Jr., City Manager requested to pull item 7B, a resolution amending Topeka City Council Rules and Procedures concerning television coverage of the City Council meetings from the Council agenda.

Upon hearing no objections, Mayor Bunten announced that item 7B would be removed from the Council agenda.

Councilmember Alcala moved to suspend the Council Rules to add a resolution granting Lifting the Fallen, Inc., a noise exception to the consent agenda. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

Councilmember Alcala moved to reinstate the Council Rules. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Alcala requested to pull item 6H, a board appointment recommending Kimberly Scott to the Civil Service Commission from the Council agenda, per the applicant's request.

Upon hearing no objections, Mayor Bunten announced that item 6H would be removed from the Council agenda.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of September 30, 2008 was presented.

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for Eugene and Paramore, L.L.C., located at 435 S. Kansas Avenue, was presented.

RESOLUTION NO. 8118 introduced by Councilmember John Alcala, granting Lifting the Fallen, Incorporated an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

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

Norton N. Bonaparte, Jr., City Manager requested to pull item 5A, a public hearing and ordinance authorizing vacation request V08A/2 by Credit Union One of Kansas from the Council agenda, per staff's request.

Upon hearing no objections, Mayor Bunten announced that item 5A would be removed from the Council agenda.

ORDINANCE NO. 19169 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of \$24,570,000 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 placed on first reading September 30, 2008 was again presented.

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

Jim Langford, Budget and Finance Director reported that five bids were received by the City for the bond series, and the City accepted Morgan Keegan's bid at a 5.29% interest rate for a twenty-year term.

Councilmember Preisner moved to amend the ordinance by changing the authorized aggregate principal amount of General Obligation Improvement and Refunding Bonds, Series 2008-A from \$25,075,000 to \$24,570,000. The motion seconded by Councilmember Woelfel carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Woelfel 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.

RESOLUTION NO. 8115 introduced by City Manager Norton N. Bonaparte, Jr., prescribing the form and details of General Obligation Improvement and Refunding Bonds, Series 2008-A of the City of Topeka, Kansas, in the aggregate principal amount of \$24,570,000 the issuance of which were authorized by the City pursuant to its Ordinance adopted and approved October 7, 2008; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

Councilmember Woelfel moved to amend the resolution by changing the authorized aggregate principal amount of General Obligation Improvement and Refunding Bonds, Series

2008-A from \$25,075,000 to \$24,570,000. The motion seconded by Councilmember Haynes carried. Councilmember Swank was out of the room. (8-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Woelfel carried. Councilmember Swank was out of the room. (8-0-0)

RESOLUTION 8116 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of Temporary Notes, Series 2008-A of the City of Topeka, Kansas, in the aggregate principal amount of \$16,350,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2007-A Temporary Notes of said City, dated November 28, 2008, and for the purpose of providing funds to pay a portion of the cost of certain improvements in said City was presented.

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

Jim Langford, Budget and Finance Director reported that one bid was received and accepted by the City from Morgan Stanley offering a 4.50% interest rate for a one-year term.

Councilmember Preisner moved to amend the resolution by changing the authorized aggregate principal amount to pay the cost of renewing a portion of the principal amount of the Series 2007-A Temporary Notes from \$16,415,000 to \$16,350,000. The motion seconded by Councilmember Woelfel carried. Councilmember Swank was out of the room. (8-0-0)

Councilmember Woelfel moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmember Swank was out of the room. (8-0-0)

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. The real estate report was deferred from the meeting of September 30, 2008.

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

Frank Kirtdoll requested that the City cancel the public auction and sell the Sumner School building to Community First, Inc. He stated that he believes the organization has the funds to purchase the building and would follow through with the rehabilitation plans.

Sandra Lassiter, Community First, Inc., appeared to answer questions.

Councilmember Haynes distributed the following amendment to Requirement No. 7 of the Pre-Bid Requirements/Reserve Bid document:

7. Sale is subject to deed reversionary clause without notice in that the property reverts to the City of Topeka on December 31, 2012, in the event the ~~structure has not been fully rehabilitated and operational on or before the above date~~ City has not prior to that date issued a Certificate of Occupancy to allow the use of the structure.

Councilmember Haynes moved to amend Requirement No. 7 of the Pre-Bid Requirements/Reserve Bid document as distributed. The motion was seconded by Councilmember Kennedy.

Councilmember Blackburn questioned how a Certificate of Occupancy would insure the building would remain in compliance.

Mike Teply, Public Works Director stated that the Certificate of Occupancy would insure the structure remains compliant because there are certain requirements that have to be met to obtain a certificate.

Councilmember Haynes withdrew the motion to amend Requirement No. 7 of the Pre-Bid Requirements/Reserve Bid document. The second concurred.

Councilmember Preisner moved to approve the real estate report. The motion was seconded by Councilmember Alcalá.

Councilmember Alcalá made a substitute motion to sell the Sumner School building to Community First, Inc., for \$50,000 with the stipulation that the building remains on the tax rolls. The motion was seconded by Councilmember Blackburn.

Jackie Williams, City Attorney stated that before the City of Topeka could sell the Sumner School building to Community First, Inc., a private agreement between the two entities would have to be drafted outlining the stipulations.

Councilmember Alcalá withdrew the substitute motion. The second concurred.

Councilmember Kennedy distributed the following amendment (Requirement No. 14) to the Pre-Bid Requirements/Reserve Bid document:

14. Each potential purchaser must provide two weeks prior to the auction, to Financial Services, a Financial Plan with evidence of the capacity and capability to implement such financial plan. Such evidence as current financial statements, resumes, documented costs, funding sources utilized, completed project or other evidence of capacity to complete a financial undertaking. Documentation must describe the plan for completion of the rehabilitation of the entire structure and funding plan for the operations of a planned use within the Sumner School.

Councilmember Kennedy made a substitute motion to add Requirement No. 14 to the Pre-Bid Requirements/Reserve Bid document as distributed. The motion was seconded by Councilmember Swank.

Councilmember Blackburn stated that he would oppose adding Requirement No. 14 because the language is too broad. He also stated that the majority of real estate auctions only require that a letter of credit is provided prior to a purchase.

Jackie Williams stated that the language of the amendment is broad; however, it is clear.

Jay Oyler, Contracts and Procurement Director stated that if the language of the pre-bid requirements is amended, the interest of some potential bidders may be lost.

Randy Speaker, Housing and Neighborhood Development Director stated that the process allows sufficient time for interested parties to ask questions or clarify procedures.

Councilmember Kennedy stated that it is important to secure financial backing as a requirement of purchase to avoid the same problems the City has experienced in the past with the Sumner School building.

Councilmember Harmon stated that the City must insure that the owner can completely rehabilitate the building so the building does not revert back to the City in worse shape than it is currently. He asked if a reversionary clause is typical in the sale of real estate.

Randy Speaker stated that a reversionary clause is common in real estate transactions and was included due to concern raised by the neighborhood in regards to the building deteriorating if the buyer could not fund the rehabilitation of the structure.

Councilmember Swank questioned the need for both Requirements No. 7 and 14.

Councilmember Kennedy withdrew the substitute motion to add Requirement No. 14 to the Pre-Bid Requirements/Reserve Bid document. The second concurred.

Councilmember Swank made a substitute motion to delete Requirement No. 7 in its entirety and add Requirement No. 14 as distributed to the Pre-Bid Requirements/Reserve Bid document. The motion seconded by Councilmember Kennedy carried. Councilmember Blackburn voted “no.” (8-1-0)

Councilmember Preisner moved to approve the real estate report as amended. The motion seconded by Councilmember Kennedy carried. Councilmember Blackburn voted “no.” (8-1-0)

A PROJECT BUDGET in the amount of \$1,000,000 and ORDINANCE NO. 19170 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 improvement to the City's sanitary and/or stormwater and sewage disposal waterworks 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 State of Kansas Loan Funds to pay the cost thereof placed on first reading September 30, 2008 was again presented.

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas to make improvements under Improvement Project No. T-281000.03 (HTE 286383) which provides for rehabilitation of the Water Treatment Plant and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the Kansas Department of Health and Environment State of Kansas Loan Funds, or any combination thereof, to pay the cost of the project was presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance and notice of intention. The motion seconded by Councilmember Kennedy 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 PROJECT BUDGET in the amount of \$1,000,000 and ORDINANCE NO. 19171 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 Waste 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 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 sanitary and/or stormwater 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 placed on first reading September 30, 2008 was again presented.

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-291001.00 (HTE 291110) which provides for the replacement of Distributed Control System (DCS) at the North Topeka Waste Water Treatment Plant and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and

10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the Kansas Department of Health and Environment, or any combination thereof, to pay the cost of the project was presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance and notice of intention. The motion seconded by Councilmember Alcala carried.

Councilmember Haynes abstained. Councilmember Blackburn was out of the room. (7-0-1)

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

A PROJECT BUDGET in the amount of \$780,000 and ORDINANCE NO. 19172 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 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 sanitary and/or stormwater 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 placed on first reading September 30, 2008 was again presented.

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-291002.00 (HTE 291120) which provides for the replacement of Northland I Pump Station and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code Section A12-1, and to borrow funds from the Kansas Department of Health and Environment, or any combination thereof, to pay the cost of the project was presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance and notice of intention. The motion seconded by Councilmember Alcala carried.

Councilmember Haynes abstained. Councilmember Blackburn was out of the room. (7-0-1)

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

A REVISED PROJECT BUDGET in the amount of \$376,185 and RESOLUTION NO. 8118 introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget for Improvement Project No. 30278-00 which provides for the African Canid (Hyena) Exhibit as more specifically described herein, authorizing the same and rescinding Resolution No. 7967 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. Councilmember Blackburn was out of the room. (8-0-0)

ORDINANCE NO. 19173 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 15, 2008, through September 21, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Alcalá moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” Councilmember Blackburn was out of the room. (7-1-0)

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

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

Norton N. Bonaparte, Jr., City Manager announced upcoming events. He also announced that the October Issue of the Extra-Ordinarily Topeka Newsletter is available for review on the City's website.

Councilmember Ortiz announced that the Breast Cancer fire truck would be on display at the Downtown Ramada Inn on October 9, 2008 from 3:00 p.m. to 7:00 p.m., in honor of Breast Cancer Awareness Month. She noted that the event would be hosted by local firefighters.

Councilmember Preisner stated that he proposed a resolution to discontinue televising the City Council meetings in an attempt to save taxpayers' money. He noted that the City of Topeka is the only government entity in Shawnee County that televises their business meetings, as well as, the only government entity that did not support wage increases or COLAs for employees. He referenced a letter he submitted to the Mayor nominating Fred Sanders to the Topeka

Planning Commission. He requested that the appointment be placed on the October 21, 2008 Council agenda.

Councilmember Harmon commended Washburn University on their Race Against Breast Cancer Run/Walk event. He stated that the event was very successful and fun for the community.

Nancy Johnson and Reverend Edward E. Kirtdoll appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:28 p.m.

Brenda Younger
City Clerk