

## **Council Minutes – October 21, 2008**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 21, 2008. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Kennedy -1.

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

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

A PRESENTATION of the 2008 Fire Chief of the Year Award was presented to Chief Howard Giles, Topeka Fire Department by Chief Jeff Hudson, Shawnee Mission Fire Department and President of the Kansas State Association of Fire Chiefs.

Councilmember Preisner requested to add an ordinance establishing a Redevelopment District for the Southwest Topeka Boulevard District to the Council agenda.

Upon hearing no objections, Mayor Bunten announced that the ordinance would be added to the Council agenda under First Readings as item 7D.

Norton N. Bonaparte, Jr., City Manager requested to pull item 4A, a presentation of a civil claim appeal for Pravin Sampat from the consent agenda per the claimant's request.

Upon hearing no objections, Mayor Bunten announced that the item would be withdrawn from the Council agenda.

THE CONSENT AGENDA was presented as follows:

A WORKERS' COMPENSATION SETTLEMENT for Duane L. Hazlett, Jr., in the amount of \$14,790 was presented.

A WORKERS' COMPENSATION SETTLEMENT for William White in the amount of \$29,670.75 was presented.

MINUTES of the regular meeting of October 14, 2008 was presented.

2008 Cereal Malt Beverage License applications bearing the approval of the Chief of

Police and City Inspectors were presented for the following:

<u>Name</u>	<u>Address</u>
Applewood BBQ & Bistro	3310 SE 29 <sup>th</sup> Street, #500
Cypress Ridge Golf Course	2533 SW Urish Road
Grover's Smokehouse	1217 SW Gage Boulevard
North Topeka Golf Course	350 NE Hwy 24
Pizza Parlor	1919 NE Seward Avenue
Proubsky's	508 Sardou
Sasnak Bar	1834 N. Topeka Boulevard
The Spot Tavern	2202 Buchanan
Taco Tico	2101 N. Topeka Boulevard

2008 Dance Hall License applications bearing the approval of the Chief of Police and

City Inspectors were presented for the following:

<u>Name</u>	<u>Address</u>
Jeremiah Bullfrog's	4115 SW Huntoon
Sasnak North Inc.	1834 NW Topeka Boulevard

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Swank carried. Councilmember Alcalá voted "no." (7-1-0)

ORDINANCE NO. 19175 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 50-26 and 50-82 concerning court costs and fees and witness expenses and specifically repealing said original sections placed on first reading October 14, 2008 was again presented.

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

Councilmember Ortiz asked for an explanation of incarceration fees.

Steve Ebberts, Municipal Court Judge stated that the cost would be imposed upon those that are convicted guilty of a crime punishable by jail time. He also stated that the average daily cost for incarceration would be \$75.

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

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

A DEMOLITION PERMIT REQUEST submitted by Steve Stutzman for property located at 324 SW Taylor Street, and located within 500 feet of the historical environs of Sumner Elementary School was presented.

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

Councilmember Blackburn moved to approve the demolition permit request based on the fact there is no feasible or prudent alternative to the proposed demolition. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

A PETITION, A PROJECT BUDGET in the amount of \$144,500 and RESOLUTION NO. 8120 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Drainage Improvement Project No. T-151001.00 (HTE 150790) which provides for the preparation and implementation of an application for permit from the Army Corps of Engineers including mitigation for two retention facilities located in Lauren’s Bay Estates, as more specifically described herein was presented.

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

Councilmember Preisner moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Blackburn carried unanimously. (8-0-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting for the City of Topeka, Kansas, the 2009-2013 Capital Improvement Program and the 2009-2010 Capital Improvement Budget was presented.

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

Councilmember Preisner moved to defer the resolution until April 14, 2009. The motion was seconded by Councilmember Blackburn.

Councilmember Haynes questioned the motion to defer and stated that approving the resolution does not authorize or approve individual projects or funds at this time.

Councilmember Preisner stated that he would prefer to wait until the economy improves and the projects could be reevaluated.

Norton N. Bonaparte, Jr., City Manager stated that he does not oppose deferring the resolution; however, the 2008-2009 Capital Improvement Budget (CIB) has been approved and the projects are in the process of being presented to the Council for approval.

Councilmember Blackburn spoke in support of deferring the resolution due to the condition of the economy.

Councilmember Haynes encouraged the Council to move forward with Capital Improvement Program (CIP) projects due to increasing interest rates.

Councilmember Harmon made a substitute motion to defer the resolution for one week. The motion seconded by Councilmember Ortiz failed. Councilmembers Alcalá, Woelfel, Haynes, Blackburn and Preisner voted “no.” (3-5-0)

Councilmember Haynes made a substitute motion to approve the resolution. The motion seconded by Councilmember Alcalá failed. Councilmembers Woelfel, Swank, Blackburn and Preisner voted “no.” (4-4-0)

Councilmember Blackburn raised a point of order. He questioned if the motion to defer the resolution until April 14, 2009 was null and void due to the previous action taken by the Council.

Braxton Copley, Deputy City Attorney clarified that the matter previously acted upon by the Council disapproved the resolution; therefore, the matter may not be reconsidered again by

the Council for six months, unless a motion to reconsider is made by any member who voted on the prevailing side.

The Chair ruled that the original motion made by Councilmember Preisner to defer the resolution until April 14, 2009 was in order.

Councilmember Preisner withdrew the motion to defer the resolution until April 14, 2009. The second concurred.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Blackburn failed. Councilmembers Alcalá, Ortiz, Woelfel, Swank, Blackburn and Preisner voted “no.” (2-6-0)

ORDINANCE NO. 19176 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 29, 2008, through October 5, 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 Swank carried. Councilmembers Alcalá and Ortiz voted “no.” (6-2-0)

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

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a portion of a platted 25-foot wide street right-of-way in Schmitt’s Addition located about 136-feet west of SE Hancock Street and 125-feet south of SE 6<sup>th</sup> Avenue, City of Topeka, Shawnee County, Kansas was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, located on the north side of SW 45<sup>th</sup> Street and SW Misty Harbor Drive within unincorporated Shawnee

County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-401009.00 (HTE 409650) for the construction of the Southwest Interceptor 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 sewage disposal 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.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., establishing a Redevelopment District for the Southwest Topeka Boulevard District in Topeka, Kansas, pursuant to K.S.A. 12-1773, et seq., as amended was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager reported that there was a discrepancy in the Faith Temple Church of God in Christ contract, and the Parks and Recreation Department would supply the plants needed to bring the Church into compliance with the original site plan at no charge to the Church. He also announced upcoming community events.

Councilmember Alcala distributed a memorandum to the Council relating to the Topeka Police Department's Administrative Leave Policy. He expressed concern with the City's personnel policies and procedures in general and how they are dealt with by staff and the City Manager.

Councilmember Ortiz reported that the East Topeka Neighborhood Improvement Association Clean Up event was a success and thanked the volunteers for their time and donations. She also expressed concern with the increase in illegal dumping of trash and debris in Council District No. 3.

Councilmember Swank commended those who volunteered at the Central Park Community Center Chili and Cornbread Cook-off. She also thanked the City of Topeka Parks and Recreation Department, Westar Energy's Green Team and Keep America Beautiful for their assistance with the Elmhurst Green Park improvements.

Councilmember Preisner announced that a worksession is scheduled on October 27, 2008 at the Cypress Ridge Golf Course at 5:30 p.m. to discuss the future operation of the golf course.

Mayor Bunten thanked the Abbott Community Center staff members for their hospitality during the Lights On After School Program.

Robert Byrd, Pam Wilson, Mike Ellis, Nelson Schniewind and Daniel Morris appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:19 p.m.

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Brenda Younger  
City Clerk