

Council Minutes – October 28, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 28, 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 Ortiz gave the invocation.

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

A PRESENTATION was given by Ron Raines, Fleet Services Division Director. He announced that the City of Topeka Fleet Services Division was awarded the Blue Seal of Excellence Distinction from the National Institute for Automotive Service Excellence.

Councilmember Woelfel requested that a resolution granting Hope Lutheran Church a noise exception be added to the consent agenda.

Upon hearing no objections, Mayor Bunten announced that the resolution would be added to the consent agenda as item 4C.

Councilmember Preisner requested that a document approving settlement of the Target Corporation Lawsuit and the amendment to the agreement and specifically authorizing the City Manager to sign said amendment, be added to the Council agenda. He reported that the Target Corporation has sued Shawnee County, the City of Topeka and GO Topeka in federal court alleging violation of City of Topeka Contract No. 32315. He stated that once the amendment to the contract is signed, the lawsuit would be dismissed against the City.

Councilmember Harmon requested to add a resolution amending the 2008-2009 Capital Improvement Budget; and a resolution amending the 2008-2012 Capital Improvement Program to the Council agenda. He stated that the amendment would approve an increase in the project budget for the Southwest Sewer Interceptor Project No. T-401009.00.

Councilmember Alcala asked how much the project budget would be increased.

Mike Teply, Public Works Director stated that the project budget would be increased by \$460,000.

Council Harmon moved to suspend the Council Rules and add a resolution amending the 2008-2009 Capital Improvement Budget; a resolution amending the 2008-2012 Capital Improvement Program; and the document relating to the settlement of the Target Corporation Lawsuit to the Council agenda. The motion seconded by Councilmember Preisner carried. Councilmember Alcala voted “no.” (8-1-0)

Mayor Bunten announced that the resolutions would be added to the Council agenda under Unfinished Business as items 6B and 6C, and the remainder of the section would be renumbered accordingly; and add the lawsuit settlement to the Council agenda under New Business as item 7E.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of October 21, 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>
Arturo’s Mexican	105 SE 10 th Avenue
The Brass Rail	401 NE Emmett
New China Restaurant	201 SW 29 th Street
2 nd Quick Stop	1320 SW 6 th Avenue

RESOLUTION NO. 8121 introduced by Councilmember Jack Woelfel, granting Hope Lutheran Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

Councilmember Woelfel moved to approve the consent agenda. The motion seconded by Councilmember Swank 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, October 28, 2008, at 6:00 P.M. to consider the establishment of a redevelopment district for the Southwest Topeka Boulevard Area.

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 placed on first reading October 21, 2008 was again presented.

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

Tom Moses spoke in support of the redevelopment district and stated that it would enhance the area and link the east, west and downtown areas of Topeka. He also stated that the development could be considered the south gateway to the city.

Gene Jani expressed concern with the concept of the TIF district. He stated that he believes developers would only take an interest in the project if the blighted areas are removed. He encouraged the Council to review the plan thoroughly and promote and extend beautification from the redevelopment district to the Heartland Park Race Track.

Henry McClure spoke in support of the project. He asked the City to carefully review each phase of the project and allow developers to benefit from the project by utilizing the infrastructure that is already in place.

Councilmember Kennedy asked if the plan is approved would it include the entire area or only certain phases or properties. She also asked how the project was initiated and noted that there are other areas of the city that need revitalized.

Randy Speaker, Housing and Neighborhood Director stated that the redevelopment district was purely developer driven. He explained that the area is considered an excellent

candidate for a TIF district because there are still prime businesses to build and expand around. He noted that community developers provided input to the plan.

Councilmember Blackburn questioned the need for the TIF district because infrastructure is already in place.

Randy Speaker stated that funding could also be utilized for site acquisition; preparation of the site; utility and/or street realignment; and any public infrastructure extensions as outlined in State Statute. He explained that the feasibility study would determine which businesses or projects would work to make certain resources are not wasted.

Councilmember Swank spoke in support of the redevelopment district. She noted that many other cities have utilized tax increment financing to promote development.

Councilmember Woelfel questioned the eligibility criteria listed for a TIF district. He also expressed concern with the crime statistics and the areas considered to be blighted.

Randy Speaker stated that the plan covers the general condition of the entire area; not a specific property or building.

Councilmember Haynes stated that he supports the overall project; however, he will have a difficult time determining which areas should be considered blighted because it may be used as a basis to reduce property taxes.

Braxton Copley, Deputy City Attorney stated that the tax base is established at the time the district is approved.

Kent Lindemuth spoke in support of overall city development. He questioned the areas included in the blight study and the boundaries of the proposed redevelopment district, specifically the White Lakes Plaza area.

Randy Speaker stated that the Plaza falls within an enterprise zone which is automatically eligible for TIF district benefits and it does not require blight.

Councilmember Preisner moved to recess the public hearing and defer the ordinance until November 18, 2008. The motion seconded by Councilmember Haynes carried.

Councilmembers Kennedy, Alcalá, Ortiz and Woelfel voted “no.” (5-4-0)

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, October 28, 2008, at 6:00 P.M. relating to vacation request V08S/5 by James Speier to vacate 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 6th Avenue, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19177 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 6th Avenue, City of Topeka, Shawnee County, Kansas placed on first reading October 21, 2008 was again presented. (V08S/5)

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

Councilmember Preisner moved close the public hearing and 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.

ORDINANCE NO. 19178 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 45th 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 placed on first reading October 21, 2008 was again presented. (A08/3)

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

Councilmember Preisner 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.

RESOLUTION NO. 8122 introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas and rescinding Resolution No. 8086 was presented.

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

Councilmember Blackburn moved to approve the resolution. The motion seconded by Councilmember Swank carried. Councilmembers Kennedy and Alcalá voted “no.” (7-2-0)

RESOLUTION NO. 8123 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas and rescinding Resolution No. 8087 was presented.

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

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Kennedy carried. Councilmembers Kennedy, Alcalá and Ortiz voted “no.” (6-3-0)

A PROJECT BUDGET in the amount of \$1,960,000 and ORDINANCE NO. 19179 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 placed on first reading October 21, 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-401009.00 (HTE 409650) which provides for the construction of the Southwest Interceptor 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 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 Blackburn asked who would pay for the impact and connection fees.

Mike Teply, Public Works Director reported that those individuals utilizing the system would pay the fees.

Bill Sneed, Unified School District No. 437 stated that the District has been instructed by the Kansas Department of Health and Environment to construct a new sanitary sewer interceptor line. He encouraged the Council to approve the project because it is the most feasible and cost effective solution to the problem.

Angela Sharp, Bartlett & West Engineers gave a brief overview of the project and explained the route of the new sanitary sewer interceptor.

Steve LaCasse, Bartlett & West Engineers stated that Chuck Dultmeier, Dultmeier Homes Company pursued additional options for the development; however, this proposal is the most cost effective and the best solution for all parties involved.

Councilmember Preisner moved to approve the project budget, adopt the ordinance and notice of intention. 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.

A DEVELOPER AGREEMENT (*Contract No. 38849*) between the City of Topeka and Chuck Dultmeier/Dultmeier Homes authorizing the Developer to participate in Sewer Interceptor Project No. T-401009.00 was presented.

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

Councilmember Blackburn moved to approve the developer agreement. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” (8-1-0)

AN INTERLOCAL AGREEMENT (*Contract No. 38850*) between the City of Topeka and Unified School District No. 437 authorizing a joint cooperation to construct a sanitary sewer interceptor, lines and pump stations to connect certain facilities owned by USD No. 437 to the City’s sanitary sewer system was presented.

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

Councilmember Preisner moved to approve the interlocal agreement. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

RESOLUTION NO. 8124 introduced by Deputy Mayor Jeff Preisner, adopting the City of Topeka's legislative agenda for the 2009 legislative session was presented.

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

Councilmember Harmon distributed an amendment to the resolution. He stated that the Topeka Metropolitan Transit Authority is currently facing funding challenges and is not being offered the same federal and state funding as other transit authorities. The amendment was read as follows, "To increase federal and state funding for local mass transit."

Councilmember Haynes questioned if the language of the amendment was too broad.

Councilmember Harmon stated that he spoke with the director of the Topeka Metropolitan Transit Authority and she approved the language and believes that it would be more effective than being specific to a certain entity.

Councilmember Harmon made a substitute motion to amend the resolution as distributed. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá expressed concern with the Topeka Metropolitan Transit Authority utilizing their own lobbyist because they are a separate taxing entity from the City.

The motion to amend the resolution as distributed carried. Councilmember Alcalá voted "no." (8-1-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Alcalá carried. Councilmember Alcalá voted "no." (8-1-0)

RESOLUTION NO. 8125 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the transfer and expenditure of general improvement fund monies for the replacement of vehicles for the Topeka Police and Fire Departments was presented.

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

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

APPROVING SETTLEMENT (*Contract No. 38851*) of the Target Corporation Lawsuit; the amendment to the agreement; and specifically authorizing the City Manager to sign said amendment, was presented.

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

Councilmember Preisner moved to approve the settlement of the Target Corporation Lawsuit and the amendment to the agreement, and authorize the City Manager to sign said amendment. The motion seconded by Councilmember Woelfel carried. Councilmember Blackburn abstained. (8-0-1)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of platted alley right-of-way, located east of property at 610 SW 10th Avenue, City of Topeka, Shawnee County, Kansas 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 also announced that there would be no Council meeting on November 4, 2008 and November 11, 2008.

Councilmember Alcalá introduced Fire Department Shift Commander George Rocha.

Commander Rocha recognized Fire Lieutenant Jim Seichepine for receiving the Thomas McGaughey Fire Service Award from the Kansas State Fire Marshal, an award that was presented for the heroic deed of rescuing a small child from a house fire. He also announced that Lt. Seichepine was awarded the Medal of Honor at the department's annual awards ceremony.

Fire Lieutenant Jim Seichepine commented on the event and thanked fellow firefighters for their support and assistance. He also expressed concern with the Fire Department's administration.

Councilmember Alcalá referenced recent complaints filed on City employees and administration and the investigations associated with them. He asked how much it would cost to continue the investigations, as well as, clarification on the procedure or policy to follow when filing a complaint on a City administrator or employee.

Norton N. Bonaparte, Jr., stated that when a complaint is received, he reviews the complaint to determine if the matter can be resolved immediately, or if it needs to be forwarded to the appropriate department for investigation. He also stated that he is unsure of the costs associated with the investigations being conducted at this time.

Councilmember Ortiz stated that she believes the investigation being conducted on the firefighters is not necessary. She commended firefighters for their assistance with the structure fire located at 2300 SE Virginia and the work they perform on a daily basis.

Councilmember Blackburn requested that a work session be scheduled to discuss the Matthews Park Proposal for the development of the area located near SE 37th Street and SE California Avenue. He also requested that a copy of the proposal be distributed to each Councilmember.

Mayor Bunten stated that he has constructed a number of proposed amendments to City of Topeka Charter Ordinance No. 94. He noted that he would be contacting each Councilmember to schedule a meeting to discuss the proposed amendments. He also listed all board and commission vacancies and requested that the Council submit nominations to fill the vacancies.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:38 p.m.

Brenda Younger
City Clerk