

Council Minutes – November 25, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 25, 2008. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Mayor Bunten presided -1. Absent: Councilmembers Alcala and Blackburn -2.

AFTER THE MEETING was called to order, Dr. Aletha Cushinberry, Apostolic Church of Jesus Christ gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Anderson Acres Subdivision located at 7636 SW 37th Street within the City's Municipal Service Area and three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas was presented. (P08/17)

A FINAL PLAT for Central Crossings Commerce Park Subdivision located on property south of the Kansas Turnpike and SW 49th Street extending south to SW 57th Street between US 75 Highway and SW Topeka Boulevard in the City of Topeka was presented. (P08/25)

ORDINANCE NO. 19185 (*Contract No. 38977*) introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to Comtel Telcom Assets, L.P., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas placed on first reading November 18, 2008 was again presented.

MINUTES of the regular meeting of November 18, 2008 was presented.

2008 Cereal Malt Beverage and 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>
The Pub	826 N Kansas Avenue
Skinny's	4016 SW Huntoon
Stingers	2335 NW Clay
Chatterbox	2121 SE 6 th
Wild Horse Saloon	3249 SW Topeka Boulevard

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Swank carried unanimously. (7-0-0)

Councilmember Haynes moved to defer item 6A, a charter ordinance concerning the civil service hiring process for the Topeka Fire Department; and item 6B, an ordinance concerning police officers and firefighters selection process and classification and pay plan until December 16, 2008. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

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, November 25, 2008, at 6:00 P.M. relating to vacation request V08E/3 by Cantilever Topeka, L.L.C., to vacate a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 19186 introduced by City Manager Norton N. Bonaparte, Jr., relating to the vacation of a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas placed on first reading November 18, 2008 was again presented. (V08E/3)

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 Swank carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

APPROVAL of funding recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council for the 2009 grant awards from the Special Alcohol Program Fund was presented.

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

Nancy Johnson, Community Resources Council gave a brief overview of the requested recommendations.

Councilmember Preisner moved to approve the recommendations. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

JOINT CITY OF TOPEKA AND SHAWNEE COUNTY RESOLUTION NO. 8128 introduced by City of Topeka Deputy Mayor Jeff Preisner and Shawnee County Commission Chair Michele Buhler, endorsing transportation improvements for Shawnee County, Kansas and the City of Topeka, Kansas concerning the enactment by the Kansas Legislature of a new state-wide comprehensive transportation program was presented.

Councilmember Preisner gave the staff report and stated that all entities have approved the projects the committee deemed as necessary. He also stated that he is hopeful of support at the state level.

Councilmember Preisner moved to approve the joint city-county resolution. The motion seconded by Councilmember Harmon carried unanimously. (7-0-0)

AUTHORIZING a public hearing on December 9, 2008 for the purpose of hearing and answering objections of taxpayers to the proposed amendments to the 2008 Operating Budget was presented.

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

Councilmember Preisner moved to authorize the public hearing date. The motion seconded by Councilmember Swank carried unanimously. (7-0-0)

ORDINANCE NO. 19187 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 3, 2008, through November 9, 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 Ortiz carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19188 introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned "C-5" Commercial District and located at 123 SE 6th Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading November 18, 2008 was again presented. (HL08/03)

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

Councilmember Woelfel moved to adopt the ordinance. The motion seconded Councilmember Swank carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19189 introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Blue Cross and Blue Shield by removing 1034 SW Polk Street (Lots 350, 352, and 354 only), adding 600 SW 11th Street an adjacent vacated alley to PUD plan placed on first reading November 18, 2008 was again presented. (*PUD04/6A*)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19190 introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1034 SW Polk Street (Lots 350, 352, and 354 only), 1027 SW Tyler Street and the adjoining vacated alley from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District ALL TO “O&I-2” Office and Institutional District placed on first reading November 18, 2008 was again presented. (*Z08/16*)

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

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19191 introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the southwest corner of SE 13th Street and SE Long Street from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (“M-1” use group) placed on first reading November 18, 2008 was again presented. (*PUD08/3*)

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

Mayor Buntten asked if there were any exparte communications besides Councilmember Ortiz. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Swank carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19192 introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Courtyard Square, to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street on property located at 904 SW Lincoln Street in the City of Topeka, Kansas placed on first reading November 18, 2008 was again presented. (*Z76/33A*)

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

Mayor Buntten asked if there were any exparte communications. There were none declared.

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19193 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 825 SW Western Avenue from "R-2" Single-Family Dwelling District TO "M-1" Two-Family Dwelling District placed on first reading November 18, 2008 was again presented. (Z08/17)

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

Mayor Buntin asked if there were any exparte communications. There were none declared.

Councilmember Kennedy moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcala and Blackburn -2.

ORDINANCE NO. 19194 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1900 SW Westport Drive from "C-2" Commercial District TO "C-4" Commercial District placed on first reading November 18, 2008 was again presented. (Z08/18)

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

Mayor Bunten asked if there were any ex parte communications. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Woelfel carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Absent: Alcalá and Blackburn -2.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 2114 SW Seabrook Avenue from “R-1” Single Family Dwelling District TO “O&I-2” Office and Institutional District placed on first reading November 18, 2008 was again presented. (Z08/19)

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that it would require six affirmative votes to override the Planning Commission and Planning Department recommendation to disapprove.

Councilmember Swank asked why the Planning Department recommended disapproval.

David Thurbon, Planning Department Director stated that staff recommended disapproval because approval would further encroach into the neighborhood. He noted that the neighborhood south of the property is exclusively residential and the area north is exclusively commercial.

Councilmember Preisner stated that he would support the Planning Department’s recommendation.

Mayor Bunten asked if there were any ex parte communications besides Councilmembers Swank, Preisner and Harmon. There were none declared.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Harmon failed. Councilmembers Kennedy, Ortiz, Woelfel, Swank, Preisner and Harmon voted “no.” (1-6-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841004.00 (HTE 843540), which provides for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced that City offices would be closed November 27, 2008 and November 28, 2008 in observance of the Thanksgiving holiday. He announced that the intersections of SW 21st Street and Urish Road; and SE 29th Street and Croco Road are now open. He encouraged citizens to support local businesses in those areas. He also announced that City 4 would televise the Heartland Visioning Ceremony and the Shawnee County Commission meetings. He encouraged citizens to participate in the Fair Housing Workshop on December 3, 2008 at 1:00 p.m. at the Cyrus K. Holliday building.

Councilmember Ortiz asked why the free parking in the downtown area during the holiday season has been eliminated. She asked how much it would cost to build a new fire station; where the funding would come from; and where in the building process is the City. She also expressed concern with the repeated closing of Fire Engine No. 3. She invited all Councilmembers to join her in serving Thanksgiving dinner at the Kansas Expocentre on November 27, 2008.

Mike Teply, Public Works Director reported that the decision to eliminate free parking in the downtown area was based on the response received from downtown businesses and loss of revenue. He noted that the majority of the free parking was being utilized by downtown employees and not city patrons.

Councilmember Ortiz requested a financial breakdown of the cost of promoting free parking in the downtown area and the revenue lost.

Councilmember Swank invited the community to attend the annual Miracle On Kansas Avenue Christmas Parade on November 29, 2008 at 6:00 p.m.

Myron Holter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 6:53 p.m.

Brenda Younger
City Clerk