

Council Minutes – December 2, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 2, 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 Haynes gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

BOARD APPOINTMENT recommending the appointment of Lee Williams to the Topeka Planning Commission for a term that would end December 31, 2011 was presented.

BOARD APPOINTMENT recommending the appointment of Lacey Bisnett to the Topeka Sustainability Advisory Board for a term that would end December 31, 2009 was presented.

BOARD APPOINTMENT recommending the appointment of Matthew Gassen to the Topeka Sustainability Advisory Board for a term that would end December 31, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Dr. Kellis Bayless to the Topeka Sustainability Advisory Board for a term that would end December 31, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Travis Gooden to the Topeka Sustainability Advisory Board for a term that would end December 31, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of David Peterman to the Topeka Sustainability Advisory Board for a term that would end December 31, 2010 was presented.

BOARD APPOINTMENT recommending the appointment of Larry Graber to the Topeka Sustainability Advisory Board for a term that would end December 31, 2009 was presented.

MINUTES of the regular meeting of November 25, 2008 was presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Glory Days Pizza located at 3310 SE 29th Street was presented.

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

A PROJECT BUDGET in the amount of \$500,000 and ORDINANCE NO. 19195 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 placed on first reading November 25, 2008 was again presented.

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

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Swank.

Councilmember Woelfel stated that he would not support the project at this time due to the City's budgetary constraints.

Councilmember Harmon asked if the project is necessary for the City to be ADA compliant.

Mike Teply, Public Works Director stated that the project would help sustain the current level of federal funding the City receives.

Councilmember Harmon asked if the City would be liable if not compliant with ADA requirements.

Mike Teply stated that there is potential liability if projects are not accomplished; however, the City has always been aggressive in complying with ADA program standards.

Jackie Williams, City Attorney noted that the City has a history of being consistent in moving forward with projects that are compliant with ADA standards.

Councilmember Woelfel questioned if the City is required to approve the project at this time.

Jackie Williams stated that the federal government monitors ADA requirements closely, and the City must be mindful of the possibility of receiving fines if there is no attempt to remain ADA compliant.

Councilmember Alcalá requested that the City assess the areas that are in need of ADA upgrades and allocate the money accordingly.

The motion to approve the project budget and adopt the ordinance carried.

Councilmember Woelfel voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Haynes, Swank, Blackburn, Preisner and Harmon -8. Noes: Woelfel -1.

RESOLUTION NO. 8129 introduced by Deputy Mayor Jeff Preisner canceling the Council meetings for March 3, 2009; April 7, 2009; May 26, 2009; September 8, 2009 and

December 22, 2009; and establishing a meeting on March 31, 2009 and September 29, 2009 was presented.

Councilmember Preisner gave the staff report.

Councilmember Kennedy moved to approve the resolution. The motion seconded by Councilmember Swank carried. Councilmember Alcala voted “no.” (8-1-0)

RESOLUTION NO. 8130 introduced by City Manager Norton N. Bonaparte, Jr., authorizing the approval of Amendment No. 5 to Contract No. 36091 with Washburn-Lane Parkway Renovations regarding the College Hill Redevelopment Project was presented.

(Contract No. 39013)

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

Jackie Williams, City Attorney reported that there was a typographical error on Line 26 of the resolution. He stated that the year should reflect “2010” instead of “2011.”

Councilmember Woelfel moved to amend the resolution as stated by the City Attorney. The motion seconded by Councilmember Preisner carried. Councilmember Blackburn was out of the room. (8-0-0)

Councilmember Ortiz moved to amend the resolution by including the cost of all sewer hook-ups and city services that were lost due to the development for Jerry’s Bike Shop. The motion was seconded by Councilmember Alcala.

Jackie Williams stated that in his opinion, the motion to amend is not acceptable due to pending litigation. He reported that when the development project was negotiated the owner of Jerry’s Bike Shop elected not to be a part of the project and was not included in the initial contract.

Mayor Bunten ruled that the motion to amend the resolution was out of order.

Councilmember Alcala moved to defer the resolution for one week. The motion was seconded by Councilmember Ortiz.

Councilmember Kennedy asked for clarification of the utility connection issues.

Mike Teply stated that staff has been in contact with the owner of Jerry's Bike Shop regarding the connection of services. He reported that there are water lines that run through the property which are ready to be connected to the City's water system; however, it is the property owner's financial responsibility to connect to City services.

Councilmember Preisner made a substitute motion to approve the resolution as amended. The motion was seconded by Councilmember Woelfel.

Councilmember Alcala stated that he would not support approval of the contract amendment. He expressed concern with the amount of money that the City has lost in sales and property tax revenue and believes it is unfair for the taxpayers' to absorb additional costs associated with the project. He questioned why the two-year extension was proposed.

Norton N. Bonaparte, Jr., stated that due to the economy and the poor housing market, a two-year extension is a reasonable time frame to complete the project.

Councilmember Woelfel asked if the City would be held accountable for the costs if the extension is not granted.

Jim Langford, Budget and Finance Director stated that the City is accountable for the debt service regardless of the agreement status; however, approval of the contract would allow for the reimbursement of the City for waived utility connection fees.

Councilmember Haynes noted that the City has limited options in regards to resolving the issues related to the development. He questioned the outcome if Building J is not completed within two years.

Jackie Williams stated that the Council would be notified if the building is not completed on schedule, or if there were any changes made to the agreement.

Grant Glenn, attorney for the developer stated that the developer has been proactive and believes that two years is a sufficient amount of time to complete the project. He encouraged the Council to approve the resolution.

The substitute motion to approve the resolution as amended carried. Councilmembers Alcala, Ortiz and Haynes voted “no.” Councilmember Blackburn was out of the room. (5-3-0)

RESOLUTION NO. 8131 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the crime prevention fund and the general fund to support the Third Judicial District Drug Court program was presented.

Councilmember Blackburn entered the room.

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

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

APPROVAL of the Real Estate Report and Real Property Purchase Agreement in the amount of \$130,762 between the Union Pacific Railroad Company and the City of Topeka for the sale of a portion of property located along Norris Street from Harrison Street to Monroe Street was presented. (*Contract No. 39014*)

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

Councilmember Preisner moved to approve the real estate report and real property purchase agreement. The motion seconded by Councilmember Swank carried unanimously. (9-0-0)

ORDINANCE NO. 19196 introduced by City manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 10, 2008, through November 16, 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 Swank 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.

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner concerning the Softball/Sports Facilities Reserve Fund amending the procedures established by Ordinance No. 16269 and repealing said ordinance was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced that the SW 21st Street and Urish Road roundabout is open in all directions. He also announced upcoming community events; and that a new program of "Topeka Presents," as well as, the Shawnee County Commission meetings would be televised on City 4.

Councilmember Alcala asked for a status report on the Lower Silver Lake Road improvement project.

Councilmember Woelfel invited the community to attend the free Christmas light show at Topeka Bible Church beginning December 12, 2008 through December 14, 2008 at 6:00 p.m.

Councilmember Haynes asked if a contract has been negotiated with Cypress Ridge Golf Course.

Norton N. Bonaparte, Jr., reported that a contract has been executed with Cypress Ridge Golf Course and contract information will be distributed to the Council.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:05 p.m.

Brenda Younger
City Clerk