

Council Minutes – December 9, 2008

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 9, 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, Blackburn and Harmon -6. Mayor Buntten presided -1. Absent: Councilmembers Kennedy, Swank and Preisner -3.

AFTER THE MEETING was called to order, Councilmember Woelfel 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 Josh Lyman to the City of Topeka ADA Advisory Council for a term that would end December 31, 2010 was presented.

BOARD APPOINTMENT recommending Robert Banks to the Topeka Landmarks Commission for a term that would end December 31, 2011 was presented.

BOARD APPOINTMENT recommending Sandra Lassiter to the Topeka Landmarks Commission for a term that would end December 31, 2011 was presented.

BOARD APPOINTMENT recommending Rowena Horr to the Topeka Landmarks Commission for a term that would end December 31, 2011 was presented.

MINUTES of the regular meeting of December 2, 2008 was presented.

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>
Azteca Club	1201 SE 6 th Street
The Tool Shed Tap	921 S Kansas Avenue

An Open After Midnight License application bearing the approval of the Chief of Police and City Inspectors for Capitol Bingo located at 2050 SE 30th Street was presented.

Councilmember Blackburn moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (6-0-0)

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, December 9, 2008, at 6:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of 2008 Operating Budget funds.

ORDINANCE NO. 19197 introduced by City Manager Norton N. Bonaparte, Jr., amending the adopted operating budget for the City of Topeka, for the year 2008, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that approval would increase the expenditure limit to the Parks and Recreation Fund to accommodate expenditures made for clean-up efforts for the ice storm last winter.

Jim Langford, Budget and Finance Director reported that the amendment would ensure that expenditures for the ice storm would not cause the Fund to exceed its expenditure limit. He noted that the total increase would be \$296,372 which is the amount of federal and state reimbursement funds.

Councilmember Blackburn moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Harmon carried unanimously. (6-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Woelfel, Haynes, Blackburn and Harmon -6. Absent: Kennedy, Swank and Preisner -3.

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 placed on first reading December 2, 2008 was again presented.

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

Councilmember Alcalá stated that he would oppose a change in the procedure because it was implemented so the Council could oversee the program and make sure the best interest of the participants were being considered.

Councilmember Alcalá moved to adopt the ordinance. The motion seconded by Councilmember Blackburn failed. Councilmembers Alcalá, Ortiz and Haynes voted “no.” (3-3-0)

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

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

Councilmember Harmon asked if certain criteria have to be met to utilize the funds; and if there is a follow-up process to ensure that the funds are used as intended.

Nancy Johnson, Community Resources Council stated that funds can only be used for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. She also stated that all written

proposals submitted were considered by the committee and a follow up review would not be conducted.

Councilmember Blackburn moved to approve the funding recommendations. The motion seconded by Councilmember Ortiz carried unanimously. (6-0-0)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing the City Attorney's office to take all appropriate legal action necessary to collect monies owed by Consolidated Rural Water District No. 1 to the City of Topeka was presented.

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

Councilmember Alcala questioned why the City is attempting to collect \$400,000 from the Water District, and if this type of situation has happened before.

Braxton Copley, Deputy City Attorney stated that the initial contract between the City of Topeka and the Water District outlined the correct pay rate; however, the City under charged the Water District from 2005 to 2008. He reported that a formal demand for payment was made to the Water District to pay the full amount, or arrange for a payment schedule. He noted that the settlement amount offered by the Water District was significantly lower than what is owed.

Mike Teply, Public Works Director stated that he was not aware of any other situations where the City has under charged a customer.

Councilmember Haynes stated that he understands the importance of settling the matter; however, he is concerned with the amount of legal fees it would entail.

Braxton Copley stated that the Legal Department is considering what would be the most cost effective in regards to outsourcing, or handling the matter in-house.

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

Councilmember Alcala asked when the City made an attempt to collect the funds and resolve the issue.

Braxton Copley stated that a formal letter was sent to the Water District in August of this year stipulating that they had thirty days to respond with payment; or present a payment schedule.

Mike Teply stated that they met with the Water District's Board of Directors approximately three weeks ago, and the Board informed the City that they believe the City should absorb the cost.

Councilmember Alcala requested that the City make another attempt to settle the issue before Tuesday, December 16, 2008.

Braxton Copley stated that the Council needs to agree on a settlement amount prior to beginning litigation.

Councilmember Haynes questioned if the Water District would consider mediation.

The motion to defer the resolution for one week carried unanimously. (6-0-0)

ORDINANCE NO. 19198 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 17, 2008, through November 23, 2008, and enumerating said expenditures therein was presented for first and final reading.

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

Councilmember Alcala moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (6-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Woelfel, Haynes, Blackburn and Harmon -6. Absent: Kennedy, Swank and Preisner -3.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker West Subdivisions No. 2 and No. 3, with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60626 as defined and described in Resolution No. 7943, adopted and approved May 1, 2007 was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 48-24.01 through 48-24.07 concerning planned unit development districts and specifically repealing said original sections was presented for first reading.

(ACZR08/1)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned “OS-1” Open Space District and located at 1638 NW Harrison Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

(HL08/04)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and make part of the Zoning Ordinances by Section 48-1.03 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 6209, 6211, 6213 SW 10th Avenue in the City of Topeka, Kansas from “r-1” Single-Family Dwelling District and “C-2” Commercial District ALL TO “PUD” Planned Unit Development District (“C-2” use group) was presented for first reading. *(PUD08/2)*

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 southeast corner of SE Adams and SE 21st Street from “R-1” Single-Family Dwelling District and “C-2” Commercial District ALL TO “PUD” Planned Unit Development District (“M-2” use group) was presented for first reading. (*PUD08/5*)

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

Norton N. Bonaparte, Jr., City Manager announced upcoming community events.

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 requested that a work session be scheduled to discuss the Cypress Ridge Golf Course contract.

Braxton Copley, Deputy City Attorney recommended that the Council refrain from engaging in dialog with citizens regarding zoning case PUD08/5 by Pioneer Adams II, L.C., during public comment. He stated that the public hearing has already been conducted on the zoning matter.

Peggy Lewis, Sandra Newman, Yvonne May, Curtis Moore and Mike Wilson appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:02 p.m.

Brenda Younger
City Clerk