

Council Minutes – January 13, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 13, 2009. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -1.

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

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

David Banks, Topeka Fire Department Public Education Officer and Fire Chief Howard Giles recognized three area youth for their quick actions during two recent but separate emergency situations in the community. Mr. Banks reported that Raul and Mayra Arrendondo alerted emergency responders of a structure fire on November 30, 2008; and Jason Akins-Bomhoff dialed 911 and alerted emergency responders that his older brother had fallen through the ice on December 28, 2008.

Councilmember Woelfel moved to amend the last sentence of page 3 of the Minutes from the regular meeting of January 6, 2009 by deleting the statement “Councilmember Woelfel expressed concern with bonding \$22,728 and creating an additional tax burden for the applicant,” and inserting the statement “Councilmember Woelfel expressed concern with bonding such a small amount and the affect it would have on the City’s overall bonded indebtedness.” The motion seconded by Councilmember Haynes carried. Councilmember Alcalá voted “no.” (8-1-0)

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 6, 2009 was presented.

Councilmember Woelfel moved to approve the consent agenda as amended. The motion seconded by Councilmember Preisner carried. Councilmember Alcala voted “no.” (8-1-0)

Mayor Bunten requested that item 5D, a resolution concerning a Special Ballot Question for a retailers’ sales tax be withdrawn from the Council agenda.

Councilmember Haynes requested that item 5F, a resolution concerning the proposition of levying additional special purpose retailers’ sales tax be withdrawn from the Council agenda.

Councilmember Kennedy requested that item 5E, a resolution concerning the proposition of levying additional special purpose retailers’ sales tax be withdrawn from the Council agenda.

Upon hearing no objections, Mayor Bunten announced that items 5D, 5E and 5F would be withdrawn from the Council agenda.

ORDINANCE NO. 19207 introduced by City Manager Norton N. Bonaparte, Jr., relating to the Capital City Downtown Business Improvement District, establishing a service fee levy for 2009, amending City of Topeka Code Section 42-38 and specifically repealing said original section placed on first reading January 6, 2009 was again presented.

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, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 19208 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 50-64 concerning persons under arrest and specifically repealing said original section placed under first reading January 6, 2009 was again presented.

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

Councilmember Preisner 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.

ORDINANCE NO. 19209 introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 146-18 concerning a water and wastewater utility rate refund program for the City of Topeka placed under first reading January 6, 2009 was again presented.

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

Councilmember Swank 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, Alcala, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

APPROVAL of a Labor Agreement between the City of Topeka and the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO Council 72, Local 1294, representing the 15 bargaining unit members in the Development Services Division and Planning Department, for wages and other terms and conditions of employment for a three-year period beginning January 2008 was presented. (*Contract No. 39127*)

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

Councilmember Preisner moved to approve the labor agreement. The motion seconded by Councilmember Kennedy carried. Councilmember Woelfel voted “no.” (8-1-0)

APPROVAL of the real estate reports and method of disposal for 13 buildable Housing and Neighborhood Development parcels for use in providing newly constructed affordable housing was presented.

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

Councilmember Kennedy moved to approve the real estate reports and method of disposal. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

ORDINANCE NO. 19210 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 15, 2008, through December 21, 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 Woelfel 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.

ORDINANCE NO. 19211 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 22, 2008, through December 28, 2008, and enumerating said expenditures therein was presented for first and final reading.

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.

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 913 NW Lower Silver Lake Road from “R-1” Single Family Dwelling District TO “PUD” Planning Unit Development District (“I-1 and R-1” use groups) placed on first reading January 6, 2009 was again presented. (PUD08/4)

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

Councilmember Alcalá stated that area residents have expressed concern with the zoning change proposal. He requested that the ordinance be deferred for one week to allow time for him to meet with the area Neighborhood Improvement Association President and discuss the issues.

Braxton Copley, Deputy City Attorney noted that a protest petition has been filed against the proposal.

Councilmember Alcalá moved to defer the ordinance for one week. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

ORDINANCE NO. 19212 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 3500 SW 6th Avenue and SW Saline Street from “C-2” Commercial District and “R-1” Single Family Dwelling District ALL TO “O&I-2” Office and Institutional District placed on first reading January 6, 2009 was again presented. (Z08/20)

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

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

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, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner and Harmon -9.

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

Norton N. Bonaparte, Jr., City Manager reported that pre-registration is being accepted for the Firefighter entry-level written exam on February 7, 2009. He stated that more details regarding pre-registration and the test are available at www.topeka.org or call 785-368-3867. He also announced upcoming community events.

Councilmembers Kennedy, Alcalá and Ortiz commended the Street Maintenance Crews, Topeka Firefighters and Topeka Police Officers for their hard work and dedication in serving the community during extreme weather conditions.

Councilmember Alcalá moved to add a presentation to the January 20, 2009 City Council agenda by Dennis Taylor to provide an update on the Performance Management Initiative. The motion seconded by Councilmember Ortiz carried. Councilmember Blackburn abstained. (8-0-1)

Councilmember Ortiz asked how much money was cut from the Parks and Recreation Community Centers budget last year. She expressed concern with the reduction in the hours of operation having a negative affect on the community's youth. She directed the City Manager to

research all funding possibilities to allow the community centers to return to normal hours of operation or consider closing the centers on Sunday and Monday, instead of Saturday each week.

Jim Langford, Budget and Finance Director reported that \$110,000 was cut from the Parks and Recreation Community Centers budget last year.

Norton N. Bonaparte, Jr., stated that all financial avenues would be considered regarding restoration of funding to the community centers to assist with operation costs.

Councilmember Haynes thanked staff for providing him with the Cypress Ridge Golf Course agreement information that he requested. He noted that he has scheduled a meeting with staff to discuss the details of the agreement.

Mayor Buntten stated that there were only two items listed on the January 20, 2009 City Council agenda. He asked the Council to consider cancelling the January 20, 2009 City Council meeting and placing the items on the January 27, 2009 City Council agenda.

Councilmember Kennedy moved to suspend the Council Rules to consider cancelling the January 20, 2009 City Council meeting. The motion seconded by Councilmember Haynes carried. Councilmembers Alcalá and Ortiz voted “no.” (7-2-0)

Councilmember Kennedy moved to cancel the January 20, 2009 City Council meeting and place the January 20, 2009 City Council agenda items on the January 27, 2009 City Council agenda. The motion was seconded by Councilmember Preisner.

Councilmember Haynes asked if the Legal Department has completed an opinion on the language, as well as, the duties of the Civil Service Commission as outlined in City of Topeka Charter Ordinance No. 94.

Braxton Copley, Deputy City Attorney stated that the legal opinion is not yet complete.

Councilmember Haynes made a substitute motion to conduct a meeting with the Legal Department on January 20, 2009 to discuss the language of City of Topeka Charter Ordinance No. 94. The motion was seconded by Councilmember Alcalá.

Mayor Bunten stated that he would present his proposed amendments to City of Topeka Charter Ordinance No. 94 at the meeting. He also requested that the Legal Department review his proposed amendments.

Councilmember Kennedy stated that she would not support the substitute motion because she believes one week does not allow the Legal Department enough time to review the document. She requested that they extend the deadline an additional week.

Councilmember Woelfel requested that they set a date certain.

Jackie Williams, City Attorney agreed that a legal opinion would be distributed to the Council in two weeks and a meeting to discuss the opinion would be scheduled one week later.

Councilmember Haynes withdrew the substitute motion. The second concurred.

Councilmember Haynes made a substitute motion to schedule a meeting to discuss the language of City of Topeka Charter Ordinance No. 94 in three weeks. The motion was seconded by Councilmember Alcalá.

Following discussion by several Councilmembers it was determined that a date certain could not be determined.

Councilmember Haynes withdrew the substitute motion to schedule a meeting. The second concurred.

The motion to cancel the January 20, 2009 City Council meeting and place the January 20, 2009 City Council agenda items on the January 27, 2009 City Council agenda carried. Councilmembers Alcalá, Ortiz and Blackburn voted “no.” (6-3-0)

Councilmember Haynes directed the City Manager to provide a legal opinion to the Council on the language, as well as, the Mayor's proposed amendments to City of Topeka Charter Ordinance No. 94 by January 27, 2009. He requested that a meeting to discuss the legal opinion be scheduled as soon as possible.

JoAnn Peavler, Sylvester Rice and Sandra Lassiter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:32 p.m.

Brenda Younger
City Clerk