

Council Minutes – January 27, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 27, 2009. 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 Woelfel gave the invocation.

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

A PRESENTATION was given on the City Manager's Performance Management Initiative by Dennis Taylor, Performance Management Coordinator.

Councilmember Alcala requested that a written report as presented by Mr. Taylor be distributed to the Council.

Norton N. Bonaparte, Jr., City Manager stated that the Council would receive a copy of the report in one to two weeks.

A PRESENTATION was given on the 2010 Census by Nancy Torkelson, Manager of the Topeka Early Local Census Office.

THE CONSENT AGENDA was presented as follows:

APPROVAL of a workers' compensation settlement for Claude Trusty in the amount of \$86,413.43 was presented.

MINUTES of the regular meeting of January 13, 2009 was presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for 2nd Quick Stop located at 1320 SW 6th Street, was presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Las Fuentes Mexican Restaurant located at 4111 SW Gage Center Drive; and That Place located at 3701 SW Plaza Drive, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Ortiz 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, January 27, 2009, at 6:00 P.M. to consider the establishment of a redevelopment district for the Southwest Topeka Boulevard Area. The public hearing was recessed from the meeting of November 18, 2008.

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. 12-1770, et seq., as amended placed on first reading November 11, 2008 was again presented. The ordinance was deferred from the meeting of November 18, 2008.

Norton N. Bonaparte, Jr., City Manager requested that the plan be discussed in a work session before the Council takes action on the item.

Councilmember Preisner moved to recess the public hearing and defer the ordinance until February 24, 2009. The motion seconded by Councilmember Swank carried. Councilmembers Kennedy and Blackburn voted “no.” (7-2-0)

RESOLUTION NO. 8140 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.

Larry Cobler questioned if the Statute of Limitations had run out. He also expressed concern with generating an excessive amount of litigation fees.

Norton N. Bonaparte, Jr., reported that the Statue of Limitations had not surpassed.

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

A PROJECT BUDGET in the amount of \$50,000 and A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Zoo Improvement Project No. T-301006.00 (HTE 302850), which provides for roof replacement of the Lion's Pride holding facility as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented.

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

Councilmember Alcalá expressed concern with the excess funds that are not used for the replacement of the roof and gutter not being allocated to another specific project. He requested that a more detailed summary of all projects outlined in the project budget be provided to the Council.

Councilmember Alcalá moved to direct City staff to place any excess funds that are not used for the repair of the roof and gutter of the facility into the General Fund. The motion was seconded by Councilmember Haynes.

Mike Coker, Zoo Director stated that all excess project funds would be utilized efficiently and in priority order.

Councilmember Harmon made a substitute motion to approve the project budget and resolution. The motion was seconded by Councilmember Swank.

Councilmember Swank expressed concern with requesting a lump sum of funds for several projects that have not been itemized.

Mike Coker stated that he could provide an itemized list of projects in priority order to the Council.

Councilmember Haynes stated that he wants to make certain that there are enough funds to cover the cost of all the projects that are considered priority.

Councilmember Harmon withdrew the substitute motion to approve the project budget and resolution. The second concurred.

Councilmember Alcala withdrew the motion to direct staff to place any excess funds not used for the repair of the roof and gutter of the facility into the General Fund. The second concurred.

Councilmember Blackburn moved to defer the project budget and resolution for one week. The motion seconded by Councilmember Alcala carried. Councilmember Woelfel voted “no.” (8-1-0)

APPROVAL of sale of Sumner School at 330 SW Western, as real property auctioned on January 22, 2009 and specifically authorizing the City Manager to execute contracts, deeds and any other instruments or documents necessary to convey the property to the highest bidder was presented.

Norton N. Bonaparte, Jr., City Manager reported that Mr. Zaire M. Thomas was the successful bidder of the Sumner School in the amount of \$90,780.

Cindi O’Neal expressed concern with the auction process and pre-bid conditions of the Sumner School. She distributed a series of questions related to the auction process and the purchase of the property.

Councilmember Blackburn requested that staff respond to the questions distributed by Ms. O’Neal.

Councilmember Haynes stated that he would not support approval of the real estate agreement because it did not include a provisionary clause outlining the cost of bringing the building into compliance.

Councilmember Blackburn asked why the pre-bid conditions were not included in the real estate agreement.

Jackie Williams, City Attorney stated that the real estate agreement was drafted by direction of the Council and inclusion of the pre-bid conditions were not a requirement.

Norton N. Bonaparte, Jr., stated that the Council has the option to reject the agreement and make amendments as deemed necessary.

Councilmember Swank stated that she was uncertain that the questions distributed by Ms. O'Neal could be answered by City staff because it appeared that the majority of the questions were rhetorical. She noted that it was not the intention of the Council to determine how the building would be used only that all legal requirements have been met.

Councilmember Haynes asked if all of the pre-bid conditions were met by all applicants.

Norton N. Bonaparte, Jr., confirmed that all pre-bid conditions were met.

Deborah Edwards expressed concern with the negative effect an absentee landlord would have on the maintenance of the property. She encouraged the Council to deny approval of the agreement.

Ronald Lassiter questioned if the buyer was held to the same standards as Community First, Inc. He also questioned if all bids were submitted by the deadline.

Councilmember Kennedy asked if the buyer met the deadline.

Jay Oyler, Contracts and Procurement Director stated that the buyer submitted all necessary paperwork by the deadline; however, staff did request additional background information from the buyer.

Councilmember Ortiz asked if the City has received the escrow check for the sale of the property.

Kevin Rooney, Housing and Neighborhood Department Deputy Director stated that according to State law the applicant has five days to deposit the escrow money following the

execution of the contract by the seller. He noted that it was his understanding that the escrow check was already deposited.

Councilmember Woelfel moved to adjourn into executive session to discuss a legal matter relating to the real estate agreement. The motion was seconded by Councilmember Haynes.

Councilmembers Kennedy and Blackburn questioned if the real estate agreement was a topic that could be discussed in an executive session in accordance to the provisions of the Kansas Open Meetings Act.

Jackie Williams questioned what legal issues need to be clarified. He stated that in his opinion all legal questions could be answered in an open meeting forum. He requested that the agreement be deferred for one week to allow time for staff to answer any questions the Council may have.

Mayor Bunten ruled that the motion to adjourn into executive session was in order.

Councilmember Preisner made a substitute motion to defer the real estate agreement for one week to allow time for staff to answer any legal questions the Council may have; and provide the Council with all available options to dispose of the property. The motion was seconded by Councilmember Kennedy.

Shawn Leisinger, Ward-Meade Neighborhood Improvement Association President stated that the pre-bid conditions were established by the NIA to ensure the building would not continue to deteriorate and be utilized in a way the community would enjoy. He invited all individuals interested in purchasing the building to attend the next NIA meeting so they understand what area residents want and expect.

Sandra Lassiter stated that she believes Community First, Inc., was treated differently throughout the bidding process. She stated that she was uncertain if the buyer was qualified to purchase the building. She also encouraged all individuals interested in purchasing the Sumner

School to attend the next NIA meeting so they understand what would be involved in the rehab of the building.

Pam Simecka confirmed that both parties presented a development plan and the required cash flow information by the deadline. She noted that staff focused on the short-term goal of the City to purchase, clean-up and maintain the property, not total rehabilitation of the building.

Councilmember Kennedy asked if approval is delayed would the City incur any legal liability or loss of the earnest money.

Jay Oyler stated that there would be no legal ramifications or loss of earnest money if approval of the agreement is delayed.

The substitute motion to defer the real estate agreement for one week to allow time for staff to answer any legal questions the Council may have and provide the Council with all available options to dispose of the property carried. Councilmembers Woelfel and Haynes voted “no.” (7-2-0)

Norton N. Bonaparte, Jr., City Manager requested that the Council submit all questions to staff by Friday, January 30, 2009.

APPROVAL of the sale of 2101 SE California, as real property auctioned on January 22, 2009 and specifically authorizing the City Manager to execute contracts, deeds and any other instruments or documents necessary to convey the property to the highest bidder was presented.

Norton N. Bonaparte, Jr., City Manager reported that the property did not sell; however, a bid of \$10,000 was offered which is significantly less than the appraised property value. He stated that the Council has the option to accept the offer; make a counter offer; or reject the offer.

Councilmember Preisner asked how much property tax revenue would be generated if the offer was accepted.

Kevin Rooney, Housing and Neighborhood Development Deputy Director stated that the amount of property tax revenue would be significantly lower if the bid is accepted. He noted that the property value is estimated at \$54,000. He suggested that the Council make a counter offer or sell the property at a later date.

Councilmember Haynes moved to approve the sale of property located at 2101 SE California. The motion seconded by Councilmember Preisner failed. Councilmembers Kennedy, Alcala, Ortiz and Preisner voted “no.” Councilmember Blackburn abstained. (4-4-1)

APPROVAL of the sale of 631 SE Chandler, as real property auctioned on January 22, 2009 and specifically authorizing the City Manager to execute contracts, deeds and any other instruments or documents necessary to convey the property to the highest bidder was presented.

Norton N. Bonaparte, Jr., City Manager reported that no bids were received for the property; therefore, no action is required at this time.

ORDINANCE NO. 19213 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of December 29, 2008, through January 4, 2009, 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 Alcala 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. 19214 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 5, 2009, through January 11, 2009, 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 Alcalá 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.

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

Councilmember Alcalá moved to approve the Planning Commission’s recommendation to disapprove the zoning proposal. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Harmon moved to defer item 7A, a project budget and resolution authorizing Zoo Improvement Project No. T-301006.00 (HTE 302850) for two weeks. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Section 26-501.1 through 26-501.5 and 26-502 concerning the amendments to the 1997 Uniform Mechanical Code was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section 26-486, adopting the 2006 Uniform Mechanical Code setting forth

amendments thereto and specifically repealing said original Section 26-486 was presented for first reading.

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

Norton N. Bonaparte, Jr., City Manager announced that pre-registration for the entry-level Firefighter exam would be conducted on February 7, 2009.

Councilmember Alcalá stated that he has received complaints from constituents relating to increased graffiti and vandalism throughout the Oakland community. He expressed concern with the deployment of police patrol and questioned if there was enough coverage in the area between the hours of midnight and 6:00 a.m. He suggested that the City Manager meet with the Police Chief to discuss how to eliminate the problem.

Councilmember Ortiz stated that Council District No. 3 is also experiencing increased graffiti and vandalism problems. She also asked if there were funds available to allocate to the community centers to expand hours of operation.

Norton N. Bonaparte, Jr., stated that he has scheduled a meeting with Terry Bertels, Park and Recreation Director regarding the restoration of funding to the community centers.

Councilmember Haynes requested that a meeting be scheduled to discuss the sales tax proposals.

Teresa Miller and Larry Cobler appeared to speak under public comment.

Following public comment, Councilmember Alcalá raised a point of order relating to the violation of the Kansas Open Meetings Act and the Topeka City Council Rules. He stated that a hard copy of the complaint filed against a member of the governing body by Mr. Larry Cobler should have been distributed to the entire Council not just a select few.

Councilmember Blackburn questioned if the Kansas Open Meetings Act had been violated.

Jackie Williams, City Attorney requested that Mr. Cobler follow the proper procedure and submit a hard copy of the complaint to the City Manager, the Human Resources Department and the Legal Department.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:26 p.m.

Brenda Younger
City Clerk