

Council Minutes – February 3, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 3, 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 Blackburn gave the invocation.

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

INTRODUCTION of Olivia Simmons, President of Visit Topeka, Inc., was given by Norton N. Bonaparte, Jr., City Manager.

Councilmember Woelfel read the correction to the Minutes of the regular meeting of January 27, 2009 as distributed by the City Clerk. He stated that the correction would amend page 23 of the Minutes.

Councilmember Woelfel moved to approve the Minutes of the regular meeting of January 27, 2009 as amended. The motion seconded by Councilmember Kennedy carried.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of January 27, 2009 was presented.

Councilmember Swank moved to approve the consent agenda as amended. The motion seconded by Councilmember Kennedy carried. Councilmember Ortiz 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. (*Contract No. 39183*)

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

Mayor Bunten referred to Topeka City Council Rules and Procedures 8.2 and encouraged conferees to refrain from personal or slanderous remarks during public comment.

Bishop Ronald Lassiter stated that when Community First, Inc., initially applied for the purchase of the Sumner School property in October 2008 it was done so under protest. He questioned the fairness of the current auction process.

Sandra Lassiter expressed concern with how her personal reputation has been portrayed to the public and believes Community First, Inc., has been treated in a disparaging manner. She also stated that Community First, Inc., is only interested in what is best for the community.

John Lauer expressed concern with the sale of the Sumner School and how it could affect the neighborhood. He stated that he would prefer the Sumner School site to become a neighborhood focal point and serve the community while keeping the historical significance.

Councilmember Kennedy asked Mr. Lauer if he had a specific use in mind and if he approves of the building being open 24 hours a day.

Mr. Lauer stated that the building should be available to the community for use. He expressed concern with the building not being in compliance and routinely maintained.

Aaron Edwards expressed concern with the personal background and reputation of Mr. Zaire M. Thomas. He questioned the intended use of the building.

Councilmember Blackburn raised a point of order. He stated that personal and slanderous remarks are not allowed during public comment pursuant to Topeka City Council Rules and Procedures 8.2.

Mayor Bunten overruled the point of order and allowed Mr. Edwards to continue to speak.

Councilmember Preisner stated that City staff performed due diligence within the auction process as directed by the Council.

Councilmembers Kennedy and Alcala commended staff for their work during the auction process.

Tammi Hysten stated that she believes the questions that have been raised should have been thoroughly reviewed prior to the sale of the property.

Shawn Leisinger expressed concern with the financial responsibility of the property and how it would be maintained over the next few years. He noted that at this time both parties could not generate the finances necessary to bring the building in compliance. He reported that the Ward-Meade Neighborhood Improvement Association requested that both parties work together, and both parties declined the request. He also stated that both parties are not-for-profit agencies making it difficult for the City to recover the property if the buyer were to default on the agreement.

MaryBeth Thomas stated that she looks forward to working with the Topeka community to make it a better place. She also stated that all pre-bid requirements were met and asked the community to allow them an opportunity to prove themselves.

Zaire Thomas stated that their goal is to help the community. He also stated that the property would not have an absentee landlord.

Councilmember Preisner asked Mr. Thomas if he could assure neighborhood residents that they would not be disappointed with the end result of their plans for the site.

Zaire Thomas stated that he has the resources to renovate and maintain the building and he will not disappoint neighborhood residents.

Councilmember Preisner moved to approve the sale of the Sumner School at 330 SW Western. The motion was seconded by Councilmember Kennedy.

Councilmember Harmon questioned if any legal consequences would transpire if the contract is approved or denied.

Jackie Williams, City Attorney stated that City staff followed the direction of the Council to provide appropriate procedures for the auction process and he is confident, that all procedures were legally followed by staff.

Councilmember Harmon asked what the status of the property would be and if there would be any financial ramifications that may result from disapproval of the contract.

Jackie Williams stated that the disposal of the property process would start over in accordance with City of Topeka Code Section 2-457.

Jay Oyler, Contracts and Procurement Director reported that in the event the sale is not approved the City would be liable for any advertising fees and pay a withdrawal fee in the amount of \$100 to the auctioneer. He noted that it would be the responsibility of the buyer to pay any commission costs associated with the transaction.

Councilmember Blackburn stated that he has disagreed with the pre-bid conditions from the beginning of the process; therefore, he would not support the sale of the property.

Councilmember Haynes stated that he is unclear of the information Community First, Inc., is seeking.

Jackie Williams stated that the Legal Department has provided answers to the pre-bid qualification questions raised by Community First, Inc.

Councilmember Kennedy commended staff for working on the contract. She reported that Pastor Zaire Thomas' application was received on January 7, 2009 at 1:49 p.m.; and Community

First, Inc.'s application was received on January 8, 2009 at 11:49 a.m. She questioned why local community banks would not finance the purchase of the Sumner School property. She also asked if the escrow check has been deposited and processed by the bank.

Pam Simecka, City Controller stated that the check has been deposited and the bank has confirmed approval of the escrow funds.

The motion to approve the sale of the Sumner School at 330 SW Western carried. Councilmember Harmon voted "no." Councilmembers Haynes and Blackburn abstained. (6-1-2)

ORDINANCE NO. 19215 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 placed on first reading January 27, 2009 was again presented.

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

Rich Beardmore, Topeka Mechanical Examiners Board Chairman appeared to answer questions.

Councilmember Preisner asked if the proposed adoption of the 2006 Uniform Mechanical Code received unanimous consent from the Board.

Rich Beardmore reported that the Board reviewed the codebook in its entirety and voted unanimously on approval.

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.

ORDINANCE NO. 19216 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 placed on first reading January 27, 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.

RESOLUTION NO. 8141 introduced by City Manager Norton N. Bonaparte, Jr., authorizing and directing the issuance of Temporary Notes, Series 2009-A of the City of Topeka, Kansas, in the aggregate principal amount of \$820,000 for the purpose of providing funds to pay a portion of the cost of certain improvements in said city was presented.

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

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

ORDINANCE NO. 19217 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of January 12, 2009, through January 18, 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 Ortiz 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.

ORDINANCE NO. 19218 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 placed on first reading December 9, 2008 was again presented. (ACZR08/1)

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

Councilmember Woelfel reported that the Economic and Community Development Committee approved amendments to the ordinance on January 14, 2009 by a vote of 3-0-0.

Councilmember Harmon moved to adopt the ordinance as amended. 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.

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 graffiti and vandalism continue to be a problem in the east Topeka community. He expressed concern with Police Chief Miller's recommendations and believes the issues are not being resolved. He requested additional police presence in east Topeka.

Councilmember Ortiz requested additional patrol officers in the areas of the city that continue to experience increased vandalism and graffiti. She expressed concern with consistently closing Fire Engine Company No. 3. She also stated that she received a copy of the red water

report and is not satisfied with the recommendations. She requested a timeline when improvements would begin to correct the red water problem.

Norton N. Bonaparte, Jr., stated that he would provide the Council an operation status report on Fire Engine Company No. 3.

Councilmember Blackburn stated that he believes the \$250,000 that was allocated to the Topeka Performing Arts Center could have been better utilized if allocated to the Topeka Police Department to cover the cost of overtime for additional patrol officers.

Councilmember Preisner apologized for any slanderous remarks that were made towards City staff at the January 27, 2009 City Council meeting relating to the sale of the Sumner School property. He noted that staff was only following the direction of the Council.

Mayor Bunten announced that a special meeting of the governing body would be held on February 7, 2009 at 8:30 a.m. at the Law Enforcement Center to discuss City of Topeka Charter Ordinance No. 94.

Councilmember Preisner requested that the special meeting of the governing body be recorded. He noted that he would not be unable to attend.

Dennis Bosley appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:48 p.m.

Brenda Younger
City Clerk