

## **Council Minutes – February 24, 2009**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 24, 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 Buntten 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.

Councilmember Woelfel requested to pull item 4D, a resolution requesting the Joint Economic Development Organization to direct the Growth Organization of Topeka/Shawnee County to provide funding on behalf of the City of Topeka in support of the Heartland Visioning Project from the consent agenda for further discussion.

Councilmember Alcalá requested to pull item 4A, an ordinance granting BullsEye Telecom, Inc., a franchise agreement from the consent agenda for further discussion.

Upon hearing no objections, Mayor Buntten announced that items 4A and 4D would be pulled from the consent agenda and placed on the Council agenda under Unfinished Business as items 6G and 6H.

THE CONSENT AGENDA was presented as follows:

APPROVAL of a workers' compensation settlement for Anamarie Ward in the amount of \$18,500 was presented.

APPROVAL of a workers' compensation settlement for Jeffrey League in the amount of \$48,000 was presented.

MINUTES of the regular meeting of February 17, 2009 was presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for American Legion Capitol Post No. 1 located at 3800 NE Michigan, was presented.

Councilmember Kennedy moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Swank carried. Councilmember Alcalá voted “no.” (8-1-0)

#### 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, February 24, 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 January 27, 2009.

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 October 21, 2008 was again presented. The ordinance was deferred from the meeting of January 27, 2009.

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

Councilmember Preisner moved to recess the public hearing and defer the ordinance until April 28, 2009. The motion was seconded by Councilmember Swank.

Councilmember Blackburn made a substitute motion to recess the public hearing and defer the ordinance for two weeks. The motion seconded by Councilmember Kennedy failed.

Councilmembers Alcalá, Ortiz, Swank, Preisner and Harmon voted “no.” (4-5-0)

The motion to recess the public hearing and defer the ordinance until April 28, 2009 failed. Councilmembers Kennedy, Ortiz, Woelfel, Haynes and Blackburn voted “no.” (4-5-0)

Councilmember Ortiz stated that she voted “no” in error on the motion to recess the public hearing and defer the ordinance until April 28, 2009.

Councilmember Ortiz moved to reconsider the motion to recess the public hearing and defer the ordinance until April 28, 2009. The motion seconded by Councilmember Haynes carried.

Councilmembers Kennedy, Woelfel and Blackburn voted “no.” (6-3-0)

Councilmember Blackburn stated that he would oppose the motion to defer because area residents have expressed opposition to the proposed TIF District and the issue needs to be resolved not delayed.

Councilmember Preisner stated that the developer has requested that the project be delayed due to the state of the economy.

Councilmember Kennedy moved to table the public hearing and ordinance for six months. The motion died due to a lack of a second.

The motion to recess the public hearing and defer the ordinance until April 28, 2009 carried. Councilmembers Kennedy, Woelfel, Haynes and Blackburn voted “no.” (5-4-0)

ORDINANCE NO. 19225 introduced by City Manager Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, located on the south side of SE 45<sup>th</sup> Street between SE Maryland and SE Indiana Avenues, extended within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading February 17, 2009 was again presented. (A09/2)

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

Joseph Ledbetter spoke in support of the annexation request and encouraged the City not to extend services prior to the annexation of properties.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Ortiz.

Councilmember Woelfel questioned if the City should approve annexation requests at this time due to the state of the economy and City budget constraints.

The motion to adopt the ordinance carried. Councilmember Woelfel voted “no.” (8-1-0)

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

A PROJECT BUDGET in the amount of \$102,400 and ORDINANCE NO. 19226 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141000.01 (HTE 141281), which will procure approximately 30 new traffic signal controllers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 17, 2009 was again presented.

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

Joseph Ledbetter questioned if the City has the funds to pay for the proposed infrastructure improvements instead of bonding the project. He also expressed concern with the amount of time citizens have to wait at traffic signal lights.

Councilmember Blackburn asked if the new traffic signal controllers would have the capability to be programmed so citizens do not have to wait extended times at traffic signal lights.

Linda Voss, City Traffic Engineer stated that the new traffic signal controllers would be equipped with more technology and have the capability to be programmed with ease; however, the process to reprogram an existing traffic signal is a huge time constraint for staff. She explained that staff must monitor each traffic signal for approximately six hours to determine how the traffic signal should be programmed.

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

Mayor Bunten stated that so far, the City has been mindful of implementing cost-saving measures and if the project is bonded, instead of funded through cash reserves, the City would have to absorb unnecessary costs in interest. He noted that the project could be bonded at a later date if revenues begin to decline.

Norton N. Bonaparte, Jr., City Manager stated that he would discourage the use of cash reserves this early in the fiscal year.

Councilmember Blackburn noted that the \$360,000 that was allocated to the Topeka Performing Arts Center and the Rochester Cemetery could have been used to offset project costs.

Councilmember Woelfel expressed concern with bonding the project and the effect it would have on the City's overall bonded indebtedness.

Councilmember Haynes asked if there was a possibility that staff could locate another funding source that could be used instead of bonding the project or using contingency reserves.

Norton N. Bonaparte, Jr., stated that he does not believe it is possible to fund the project without using cash reserves.

Councilmember Haynes made a substitute motion to defer the project budget and ordinance for two weeks; and direct staff to review the budget and determine if another cash funding source could be used to fund the project instead of bonding or using contingency reserves. The motion seconded by Councilmember Woelfel failed. Councilmembers Kennedy, Alcala, Ortiz, Woelfel, Swank, Preisner and Harmon voted "no." (2-7-0)

The motion to approve the project budget and adopt the ordinance carried.  
Councilmembers Kennedy, Woelfel and Haynes voted "no." (6-3-0)

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

A PROJECT BUDGET in the amount of \$190,000 and ORDINANCE NO. 19227 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-14003.00 (HTE 141310), which provides for traffic signal replacement and minor sidewalk and ramp repair at SW 29<sup>th</sup> and Oakley, as more specifically described herein, all pursuant to Section

A12-1 of the Code of the City of Topeka placed on first reading February 17, 2009 was again presented.

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

Councilmember Preisner asked if a three-way stop would be installed if the project is not approved.

Linda Voss, City Traffic Engineer stated that only in the event the traffic signal fails would a three-way stop be installed for a short time until the traffic signal could be replaced.

Norton N. Bonaparte, Jr., reported that the traffic signal light has failed on four separate occasions in the past year.

Mayor Bunten questioned what part of the traffic signal malfunctioned.

Linda Voss stated that the internal wiring of the signal failed.

Councilmember Blackburn spoke in support of the project and stated that it would ease traffic congestion on SW 29<sup>th</sup> Street.

Joseph Ledbetter spoke in support of replacing the traffic signal. He questioned if JEDO funds could be used to fund the project instead of bonding the project.

Councilmember Blackburn expressed concern with not being able to utilize JEDO funds for infrastructure improvements.

Councilmember Woelfel expressed concern with bonding the project and the effect it would have on the City's overall bonded indebtedness.

Councilmember Swank moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Blackburn carried. Councilmembers Kennedy and Woelfel voted "no." (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Woelfel, Haynes, Swank, Preisner and Harmon -7. Noes: Kennedy and Woelfel -2.

A PROJECT BUDGET in the amount of \$1,700,000 and ORDINANCE NO. 19228 introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70204-01, Part B which provides for the Final Design, Right-of-Way Acquisition and Waterline Relocation located at SW 29<sup>th</sup> from Wanamaker Road to Urish Road as more specifically described herein placed on first reading February 17, 2009 was again presented.

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

Councilmember Blackburn questioned if the design costs could be reduced if the City would consider using different engineering services. He also questioned if a roundabout could be installed instead of signalization.

Shawn Bruns, City Engineer stated that they are actively pursuing different design options for a roundabout.

Councilmember Woelfel asked how the project would be funded if there was not enough sales tax revenue generated.

Jim Langford, Budget and Finance Director stated that in the event there is a reduction in sales tax revenue then the project would have to be paid for in phases.

Councilmember Blackburn spoke in support of the project and stated that it would help stagger the traffic flow on SW 29<sup>th</sup> Street, easing congestion.

Joseph Ledbetter spoke in support of the project and questioned if JEDO funds could be used to fund the project instead of existing sales tax revenue that could be used for other projects.

Mayor Buntin reported that the majority of JEDO funds are already committed to be used as incentives for companies to locate in the Topeka/Shawnee County area.

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

CHARTER ORDINANCE NO. 98 introduced by Mayor William W. Bunten and Councilmember Deborah Swank, amending City of Topeka Code Section A2-1 to Charter out of K.S.A. 12-3003, City of Topeka Code Section A2-24 to give the Mayor the right to vote on certain legislation and repealing said original sections; also creating new section A2-25.5 concerning the City Council's ability to override a mayoral veto placed on first reading February 17, 2009 was again presented.

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

Councilmember Kennedy moved to adopt the charter ordinance. The motion was seconded by Councilmember Swank.

Councilmember Blackburn spoke in support of the charter ordinance and stated that this is the first step in correcting the language flaws in Charter Ordinance No. 94.

Joseph Ledbetter expressed concern with the drafting of Charter Ordinance No. 94 and stated that he was informed by a past Councilmember that citizens' opinions would not be taken into consideration.

Jackie Williams, City Attorney stated that the Mayor is required to vote on charter ordinances.

Mayor Bunten announced that he would cast a "yes" vote.

The motion to adopt the charter ordinance carried unanimously. (10-0-0)

The charter ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Woelfel, Haynes, Swank, Blackburn, Preisner, Harmon and Mayor Bunten -10.

ORDINANCE NO. 19229 introduced by Mayor William W. Bunten and Councilmember Deborah Swank, calling an election to be held on the 7<sup>th</sup> day of April, 2009, for the purpose of



voting on Charter Ordinance No. 98 placed on first reading February 17, 2009 was again presented.

Councilmember Swank reported that approval would allow citizens to vote on the proposed language amendments to Charter Ordinance No. 94.

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. 19230 introduced by City Manager Norton N. Bonaparte, Jr., regarding a Contract Franchise Ordinance granted to BullsEye Telecom, Inc., a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas placed on first reading February 17, 2009 was again presented. (*Contract No. 39312*)

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. 8146 introduced by City Manager Norton N. Bonaparte, Jr., requesting the Joint Economic Development Organization to direct the Growth Organization of Topeka/Shawnee County to provide funding on behalf of the City of Topeka in support of the Heartland Visioning Project was presented.

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

Councilmember Woelfel questioned why the Heartland Visioning Project representatives did not submit the request for funding. He also questioned if the Heartland Visioning Project

would be considered economic development at this stage of the process because it is only in the planning stages.

Councilmember Blackburn questioned if the request for funds fits the criteria required to receive JEDO funding. He also questioned how the taxpayers would benefit from contributing funds to the Heartland Visioning Project at this stage of the process; and what exactly would the funds be used for. He suggested that private sector dollars be donated for this part of the process.

Councilmember Preisner stated that it is important for the Council to support the Heartland Visioning Project if it is to succeed. He also stated that this is an opportunity for the Council to help implement the plan.

Councilmember Swank stated that the majority of funding for the Heartland Visioning Project has come from the private sector. She also stated that approval would allow the Council an opportunity to show their support of the plan. She noted that the goal of the Heartland Visioning Project is to improve the quality of life, attracting economic development.

Mayor Bunten stated that he would provide a detailed financial report of the Heartland Visioning Project budget to the Council.

Councilmember Haynes questioned the language of the resolution and requested that the word “requests” on Line 10 be replaced with the word “supports” to clarify the intent of the resolution.

Councilmember Haynes moved to amend Line 10 of the resolution by deleting the word “requests” and inserting the word “supports”. The motion was seconded by Councilmember Woelfel.

Councilmember Alcala questioned if the amended language would still allow Heartland Visioning to make the request according to the provisions of the interlocal agreement.

Jackie Williams stated that in his opinion the language amendment is acceptable.

Councilmember Haynes stated that he was not aware of any language provisions in the interlocal agreement.

The motion to amend Line 10 of the resolution by deleting the word “requests” and inserting the word “supports” carried. Councilmembers Alcala, Ortiz, Woelfel and Preisner voted “no.” (5-4-0)

Councilmember Swank moved to approve the resolution as amended. The motion seconded by Councilmember Alcala carried. Councilmembers Kennedy, Woelfel and Blackburn voted “no.” (6-3-0)

ORDINANCE NO. 19231 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of February 2, 2009, through February 8, 2009, 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.

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

Norton N. Bonaparte, Jr., City Manager reported that there would be no City Council meeting held on March 3, 2009. He also announced upcoming community events. He encouraged citizens to attend the ADA Advisory Council Long-Range Planning meeting from 9:00 a.m. to 3:00 p.m. on February 28, 2009 at the Topeka-Shawnee County Public Library, Room 202.

Councilmember Alcala read a memorandum from Vic Miller, Shawnee County Commission Chair regarding the \$1.6 million refund the City would receive from the Special

Highway Appropriation Fund. He stated that the deadline for the Council to receive a report on the City's financial condition and administrative activities for the prior fiscal year is due February 28, 2009.

Councilmember Ortiz asked when the pedestrian light located at the intersection of SE 4<sup>th</sup> and Branner Streets would be replaced.

Norton N. Bonaparte, Jr., stated that he would provide a time line to the Council informing them of when the pedestrian light would be replaced.

Councilmember Alcala noted that he has received telephone calls from Council District Candidates inquiring on the status of the pedestrian light and when it would be replaced.

Councilmember Blackburn wished the Candidates of Council District No. 7 luck and commended them for taking an interest in local government.

Councilmember Preisner requested that the Council receive frequent updates on the status of the allocation of stimulus funds.

Norton N. Bonaparte, Jr., stated that staff would keep the Council informed.

Councilmember Blackburn directed the City Manager to speak with Senator Brownback regarding why the City of Topeka received such a small portion of the stimulus funds compared to other Kansas cities for infrastructure improvements.

Ellen Ross and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:06 p.m.

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Brenda Younger  
City Clerk