

City Council Minutes – January 24, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 24, 2006. 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, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Buntten presided -1.

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

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the Regular Meeting of January 17, 2006 were presented.

Dance Hall License applications bearing the approval of the Chief of Police and City inspectors for the following were presented:

<u>Business</u>	<u>Location</u>
Joletta's	600 NW Paramore
El Paseo Club	108 SE 8 th Street

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

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 24, 2006, at 7:00 P.M. to consider the advisability of Street Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6th Street to eastbound I-70 exit ramp.

A PROJECT BUDGET in the amount of \$5,504,900 and A RESOLUTION introduced by City Manager Neil Dobler authorizing Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6th Street to the eastbound I-70 exit ramp placed on first reading January 17, 2006 was again presented.

Neil Dobler, City Manager gave the staff report. He stated that a benefit district would be established for the project. He explained the following financial breakdown of each funding source of the project:

- City of Topeka = \$1.9 million
- Assessment district = \$1.9 million
- Federal Highway Act Service Transportation Funds = \$1.2 million
- State Economic Development Funds = \$300,000

Joe Zima, attorney representing USD No. 501, stated that they support the project. He noted that their property does not abut or adjoin to MacVicar. He explained that because they would have to pass the same assessment cost to the same taxpayers as the City they would like to make a formal request to be removed from the assessment district.

Councilmember Haynes stated that he would like to know what the traffic count is before making a decision on the project.

Neil Dobler stated that he does not have the traffic count report information at this time because the Traffic Division maintains the only record of the report. He stated that he would distribute a copy to the Council as soon as possible.

Councilmember Harmon asked who was included in the assessment district.

Neil Dobler Stated that there is a total of 271-acres that will be assessed between USD No. 501, the State of Kansas, Shawnee County and four privately owned businesses.

Councilmember Preisner asked if USD No. 501 was included in the assessment district when 6th Street was improved.

Neil Dobler stated that the project was not assessed. He explained that the project was financed through city at large funds and federal funds.

Councilmember Preisner moved to close the public hearing and approve the project budget and the resolution. The motion was seconded by Councilmember Nave.

Councilmember Blackburn asked what would happen if the project was delayed for several years.

Jeff Hunt, City Engineer stated that a delay could jeopardize State funding.

Neil Dobler stated that the State funding could be moved to another project or they could reapply for funding assistance at a later date.

Councilmember Haynes asked if it would be more economical to install a three-lane street.

Neil Dobler stated that it would be less costly to install a three-lane street.

Councilmember Haynes made a substitute motion to refer the project to the Economic and Community Development Committee. The motion seconded by Councilmember Blackburn carried. Councilmember Preisner voted "no". (8-1-0)

ORDINANCE NO. 18558 introduced by City Manager Neil Dobler amending City of Topeka Code Chapter 134, Article II, Division 1, and Code Sections 134-1, 134-42, 134-43, 134-44, 134-45, 134-46 and 134-47, establishing procedures for administrative plat approval, and specifically repealing said original sections placed on first reading January 17, 2006 was again presented. *(ASR05/1)*

Neil Dobler, City Manager gave the staff report. He stated that the amendment allows administrative approval of plats consisting of five lots or less.

David Thurbon, Planning Director stated that the amendment would allow either the City Manager or Planning Director to approve minor plats without going through the Planning Commission process.

Councilmember Alcalá asked if they would be able to approve plats that would increase city right-of-way.

David Thurbon stated that all final plats that would increase city right-of-way must be approved by the Council.

Frank Kirtdoll stated that he believes shifting power within administration causes problems. He stated that he also believes that it should be the responsibility of the Planning Commission to approve all final plats.

Councilmember Haynes asked if the Planning staff agrees with the procedure.

David Thurbon stated that they agree with the procedure because they believe it would speed up the minor plat approval process. He stated that in his opinion the new procedure would allow administration to monitor plats more closely because it requires the signature of the Public Works Director, Planning Director and City Manager. He stated that the applicant would still have the right to appeal to the Planning Commission if necessary.

Councilmember Duffy moved to amend page 4 of the ordinance to add the phrase, “of an area within the city” after the word “map” on line 76. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Duffy moved to amend page 6 of the ordinance to add the phrase, “and approved” after the word “completed” on line 126. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Councilmember Duffy moved to amend line 135 of the ordinance to add the 9th consideration listed in the Planning Departments recommendations, “that the plat is consistent with the Comprehensive Metropolitan Plan”. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Nave moved to adopt the ordinance as amended. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

The ordinance was adopted as amended on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18559 introduced by City Manager Neil Dobler concerning the Redevelopment District for the Washburn Lane College Hill area, and specifically repealing City of Topeka Ordinance No. 18544 placed on first reading January 17, 2006 was again presented.

Neil Dobler, City Manager stated that the ordinance officially abolishes the original TIF District that was approved by the Council.

Frank Kirtdoll stated that he believes they must follow the Kansas State Statues relating to redevelopment districts.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

AN ORDINANCE introduced by Councilmember Clark Duffy authorizing the College Hill Redevelopment Plan public improvement project, providing for certain infrastructure improvements and the acquisition of real property for economic development purposes within the City of Topeka, Kansas placed on first reading January 17, 2006 was again presented.

Councilmember Duffy moved to defer the ordinance one week until the developer agreement is finalized. The motion was seconded by Councilmember Preisner.

Councilmember Alcala stated that he would like the following questions answered about the agreement before he makes a final decision on the project:

1. Would the TIF District be eliminated.
2. Would Shawnee County and USD No. 501 be eliminated from the process.
3. Would the proposal require a simple majority vote for approval.
4. Exactly what improvements will be made.
5. What would be the funding source.

Councilmember Haynes stated that he supports the project and hopes the developer can come to an agreement with the remaining two property owners. He also requested a financial report on the proposed funding source for eminent domain, if necessary.

Councilmember Duffy stated that he appreciates the input and believes that all of the suggestions are consistent with the intent of the agreement. He stated that it is vital that all of the issues are resolved before the document is adopted.

Neil Dobler stated that he would distribute the answers to Councilmember Alcala's questions within the next few days to the Council.

Councilmember Alcala expressed concern with possible liability issues that may be associated with the final agreement. He suggested that they hold an executive session to discuss liability issues prior to final negotiations.

Brenden Long, City Attorney stated that the Council has two options at this time, (1) consider the agreement in two weeks as outlined in the Council Rules or (2) suspend the Council Rules and add the developer agreement to next week's Council agenda for consideration.

Councilmember Haynes moved to suspend the Council Rules to add the developer agreement to the January 31, 2006 Council agenda. The motion seconded by Councilmember Nave carried. Councilmembers Alcala and Ortiz voted "no". (7-2-0)

Mayor Bunten stated that the conferees that speak tonight would not be eligible to speak next week.

Frank Kirtdoll, John Cooney and Bob Sherburne spoke in support of the project. The following points were discussed.

- The importance of following the established Council Rules when considering the proposal
- Specify the funding source of the project
- Include the bike shop and the bar in the new development
- The importance of utilizing commercial development based on supply and demand

Bob Tolbert stated that he does not support any project or proposal that requires eminent domain to acquire property. He stated that he believes that the new buildings can be integrated with the old buildings without use of eminent domain.

The motion to defer the ordinance for one week carried. Councilmember Ortiz voted "no". (8-1-0)

A PROJECT BUDGET in the amount of \$700,000 and RESOLUTION NO. 7745 introduced by City Manager Neil Dobler relating to and authorizing Project No. 29095 which provides for the correction of inflow and infiltration into the City's sanitary collection system, as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Nave moved to approve the project budget and the resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

RESOLUTION NO. 7746 introduced by City Manager Neil Dobler, declaring the eligibility of the City of Topeka to submit an application to the Kansas Department of Transportation for use of Transportation Enhancement Funds set forth by the Federal Transportation Equity Act for the 21st Century for the Shunga Trail Project from approximately

Fairlawn to 29th Street in the City of Topeka and authorizing the City Manager to sign the application was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

RESOLUTION NO. 7747 introduced by City Manager Neil Dobler describing and authorizing payment for the lease purchase agreement, which provides for acquisition of self contained breathing apparatus (SCBA) for the Topeka Fire Department as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Alcalá moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

RESOLUTION NO. 7748 introduced by Councilmember Jeff Preisner, scheduling a Council meeting on January 31, 2006, in accordance with City of Topeka Code Section 2-27 was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Haynes.

Councilmember Kennedy stated that she believes that they need more than one week's notice if a meeting is going to be postponed or rescheduled.

Frank Kirtdoll stated that he believes the resolution is not necessary because the charter ordinance outlines the necessary Council meeting requirements.

The motion to approve carried. Councilmembers Kennedy, Alcalá and Ortiz voted "no".

(6-3-0)

A ZONING PETITION and ORDINANCE NO. 18560 introduced by City Manager Neil Dobler 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 1901 SW Fairlawn Road in the City of Topeka, Kansas from "M-1" Two Family Dwelling District TO "C-1" Commercial District placed on first reading January 17, 2006 was again presented. (Z05/41)

Neil Dobler, City Manager gave the staff report. He stated that the Planning Commission recommended approval by a vote of 7-1-0 on December 28, 2006.

Mayor Bunten asked if there were any additional exparte communications besides Councilmembers Alcalá, Nave, Haynes, Duffy, Blackburn and Preisner. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Alcalá carried. Councilmember Ortiz voted "no".

(8-1-0)

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

A ZONING PETITION and ORDINANCE NO. 18561 introduced by City Manager Neil Dobler 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 SE 29th Street in the City of Topeka, Kansas from "O&I-2" Office and

Institutional District TO "C-2" Commercial District placed on first reading January 17, 2006 was again presented. (Z05/43)

Neil Dobler, City Manager gave the staff report. He stated that the Planning Commission recommended approval by a vote of 7-1-0 on December 28, 2006.

Councilmember Duffy expressed concern with mixing residential and commercial zoning areas with no transitional buffer in place.

Mayor Bunten asked if there were any additional ex parte communications besides Councilmember Duffy. There were none declared.

Councilmember Haynes moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Duffy voted "no". (8-1-0)

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

THE FACT FINDER'S REPORT for AFSCME Water Department Local Union No. 1294, was presented.

Neil Dobler, City Manager gave the staff report. He explained that there have been a number of productive discussions between the Union and City Management, but an agreement has not been reached by either party. He stated that the report was placed on the agenda for discussion only and no action will be taken. He noted that management recommends approval.

Jerry Powell, union representative for the Water Department employees stated that they withdraw their opposition on all of the issues except for the wage issue because they believe that the fact-finder ignored the facts. He asked the Council to overturn the fact-finder's

recommendation and pay the 2004 step increase and also, award the step increase in 2005. He stated that the Union accepts the 2006 report.

Pete VoBach, Union President for the AFSCME Water Department Local Union No. 1294, stated that he appreciates the attempt made by Neil Dobler to bring both sides together.

Neil Dobler stated that the report would be placed on the February 7, 2006 Council Agenda for consideration.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE CITY COUNCIL, were presented.

Councilmember Ortiz stated that she spent the majority of the afternoon dealing with gang graffiti on East 6th Street between Lime and Leland. She stated that Code Compliance and the Police Department's Gang Unit have been notified. She explained that she was told the graffiti would not be cleaned up until Friday or Monday because there is only one person in the Code Compliance Department available to do the job. She encouraged an increase in the cross training of employees within departments to avoid similar problems in the future.

Mayor Bunten expressed his concern with the increased graffiti problems and stated that the Police Department is working on it.

Councilmember Kennedy expressed concern with the cost that is incurred to individuals that are forced to deal with graffiti on a repeated basis. She also asked the Fire Chief to make an announcement concerning Engine Company No. 3.

Howard Giles, Fire Chief announced that Engine Company No. 3 would be back in operation on Saturday, January 28, 2006.

Councilmember Nave encouraged neighborhood citizens to take a stand on reducing graffiti crimes and improving community pride.

Councilmember Alcala stated that the houses along the 4th Street corridor were recently covered with graffiti. He asked if the problem could be taken care of in a timely manner to avoid compounding an even bigger problem.

Neil Dobler, City Manager stated that Code Compliance has one painting apparatus that can only be used in City right-of-ways and not on private property without the owner's permission. He stated that he would contact the Shawnee County Inmates Labor Program to see if they have any individuals that could help with the graffiti clean up efforts.

Councilmember Alcala stated that the Fire Department is currently conducting interviews for the vacate position of Chief of Training. He asked if they are allowed to fill the vacancy from an outside source, or do they have to follow the guidelines outlined in Charter Ordinance No. 10, by filling the position from within the department.

Neil Dobler stated that because the position is nonunion he believes that it can be filled from outside the department. He also stated that he would research what has happened historically and what is outlined in the charter ordinance, and report back to the Council.

Councilmember Alcala asked if the Topeka Fire Department's HazMat Unit was asked to participate in the preparation of President Bush's arrival in Manhattan, Kansas.

Councilmember Ortiz asked for clarification on if the Police Department's Gang Unit is teaming up with teen juveniles to help reduce gang activity.

Marie and Gary Barraclough appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:28 p.m.

Iris Walker
City Clerk