

## City Council Minutes – April 19, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 19, 2005. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Ortiz, Nave, Duffy, Haynes, Blackburn, and Harmon -7. Mayor Bunten presided -1. Absent: Councilmembers Alcala and Preisner -2.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Clark Duffy.

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

Councilmember Haynes moved to place item 4C, an ordinance establishing a policy for the City of Topeka to participate in the Shawnee County Emergency Operations Plan and item 4D, an ordinance relating to consumer protection and Weights and Measures on the consent agenda. The motion was seconded by Councilmember Blackburn.

Mayor Bunten noted that the ordinances were moved to the consent agenda because they are technical in nature and do not require discussion or influence administrative policy.

The motion to move the ordinances to the consent agenda carried unanimously. (7-0-0)

THE CONSENT AGENDA was presented as follows:

CONTRACT NO. 35209 a rental agreement between the City of Topeka and the Metropolitan Topeka Airport Authority to house the Topeka Police Department Helicopter Unit at Phillip Billard Airport was presented.

ORDINANCE NO. 18417 introduced by Councilmember John Alcala, authorizing the sale and consumption of cereal malt beverages during the celebration of Cinco de Mayo on May 5, 2005, in downtown Topeka placed on first reading April 12, 2005 was again presented.

RESOLUTION NO. 7609 introduced by Councilmembers Sylvia Ortiz and John Nave granting Quality Services Maldonado DBA Maldonado Motors an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$153,690 and RESOLUTION NO. 7610 introduced by acting City Manager Neil Dobler authorizing Main Sanitary Sewer District No. 40932-00 as more specifically described herein was presented.

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$260,575 and RESOLUTION NO. 7611 introduced by acting City Manager Neil Dobler authorizing Street Improvement Project No. 60611-02 as more specifically described herein was presented.

ORDINANCE NO. 18418 introduced by Mayor James A. McClinton establishing a policy of the City of Topeka to participate in the Shawnee County Emergency Operations Plan as prepared and maintained by the Shawnee County Department of Emergency Management as authorized by K.S.A. 48-929, amending Topeka City Code Chapter 38 and specifically § 38-111, and repealing said original sections, also repealing Topeka City Code §§ 38-26, 38-27, 38-28, 38-29, 38-51, 38-52, 38-53, 38-54, 38-55, 38-56, 38-57, 38-58, 38-59, 38-81, 38-82, 38-83, 38-84, 38-85, 38-86, 38-87, 38-88, 38-89, and 38-90 in their entirety placed on first reading March 22, 2005 was again presented.

ORDINANCE NO. 18419 introduced by Mayor James A. McClinton repealing City of Topeka Code Sections which relate to consumer protection and Weights and Measures and amending City of Topeka Code § 158-1 and specifically repealing said original section, also repealing City of Topeka Code §§ 46-1, 46-2, 46-3, 46-4, 46-5, 46-6, 46-7, 46-8, 46-9, 46-10,

46-31, 46-32, 46-33, 46-34, 46-35, 46-36, 46-37, 46-38, 46-39, 158-2, 158-3, 158-4, 158-5, 158-6, 158-36, 158-37, 158-38, 158-39, 158-40, 158-71, 158-91, 158-92, 158-93, 158-94, 158-96, 158-97, 158-99 and 158-103 in their entirety placed on first reading March 22, 2005 was again presented.

Minutes of the Regular Meeting of April 12, 2005 were presented.

Open After Mid-Night License renewal applications for 2005-2006 bearing the approval of the Chief of Police and City Inspectors were presented as follows:

<u>Business</u>	<u>Address</u>
Bob's Carwash	2733 SE 6 <sup>th</sup> Street
Bob's Carwash	3162 SE 6 <sup>th</sup> Street
Boss Hawgs BBQ	2833 SW 29 <sup>th</sup> Street
Chasers Billiards	5217 SW 28 <sup>th</sup> Court
Club Cosmos	1421 SW Lane Street
Double Deuce Bar	3701 SW Plaza Drive
Jul's Cocktail Club	4117 SW Huntoon
Los Taquitos	1017 NE Seward
McB's Sports Grill	2920 SE Croco
Oscar's	1416 SW 15 <sup>th</sup> Street
Wendy's	1251 SW Gage
Wendy's	1820 SW Wanamaker Road
Wendy's	728 SW Topeka Boulevard
Wendy's	2025 N. Topeka Boulevard
Wendy's	3250 S. Topeka Boulevard
Wendy's	2027 Fairlawn

Councilmember Ortiz stated that the minutes should reflect that Councilmember Kennedy seconded the motion regarding the election of Councilmember Alcalá as Deputy Mayor.

Councilmember Haynes moved to approve the consent agenda. The motion seconded by Councilmember Nave carried unanimously. (7-0-0)

SELECTION of executive search firm to retain professional assistance in the search for a city manager was presented.

Councilmember Harmon moved that Council interview all seven firms that submitted a

proposal. The motion was seconded by Councilmember Ortiz.

Councilmember Haynes moved to amend the motion to include that each interview is conducted by video conference, with each firm paying the cost. The motion seconded by Councilmember Duffy carried unanimously. (7-0-0)

The motion to interview all seven firms by video conference provided each firm paid the cost carried. Councilmember Duffy voted "no". (6-1-0)

A PROJECT BUDGET in the amount of \$166,520 and AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 30252-00, which provides for improvements to the Discovering Apes building and the Tropical Rain Forest as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 8, 2005 was again presented.

Mike Coker, Zoo Director gave the staff report.

Councilmember Duffy asked if the project qualifies for the acquired energy savings program.

Jim Langford, Budget Director explained that the letter sent by Tim Mense, Senior Project Manager for ChevronTexaco, stated that the areas that are now cooled only by evaporative "swamp" coolers would most likely negate much of the energy savings provided by the program.

Councilmember Duffy gave a brief financial breakdown of the savings that could be utilized through the acquired energy savings program. He stated that he does not agree with Mr. Mense's conclusion, and the project has all of the initial factors needed to qualify for the program.

Councilmember Blackburn asked if they would consider adding an additional swap

cooler to help stabilize the temperature.

Councilmember Haynes moved to disapprove the project budget and ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (7-0-0)

A PROJECT BUDGET in the amount of \$115,000 and AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 86257-00, which provides for the installation of a chain link fence surrounding the Topeka Public Golf Course as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 7, 2004 was again presented.

Warren Howard stated that he opposes the funds be used for a fence because there are other issues that need to be addressed.

Tom Morris stated that he opposes the project because the fence would obstruct their view of the golf course. He also stated that a fence would not stop the vandalism and it would decrease property value.

John Dorsey stated that they chose to build a new home at this location because of the view of the golf course. He asked the Council to consider conducting a feasibility study on the maintenance costs of the fence, or construct a fence that would add value to the surrounding properties.

Councilmember Nave moved to disapprove the project budget and ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (7-0-0)

ORDINANCE NO. 18420 introduced by Councilmember Clark Duffy relating to historical preservation, specifically creating a City of Topeka Code Chapter 80 and Sections 80-1, 80-2, 80-3, 80-4, 80-5, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-12, 80-13, 80-14, 80-15, 80-16, and 80-17 and repealing the original sections placed on first reading February 8, 2005 was

again presented.

Councilmember Duffy moved to refer the ordinance to the Economic and Community Development Committee. The motion died due to lack of a second.

Christy Caldwell, Topeka Chamber of Commerce distributed a letter expressing the two concerns they had with the ordinance. The concerns include, the makeup of historical districts and the process of listing historic resources.

Councilmember Haynes distributed suggested amendments to the ordinance:

- Amend lines 66 through 68 to read: “Historic district is a group of residential historic resources, consisting of three (3) or more principal use residential structures or a residentially zoned tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the”
- To delete the follow language from line 230: “located on residentially zoned property and must be”
- Amend lines 348 through 358 to read: “Twenty days prior to a historic resource listing determination by the Topeka Landmarks Commission, the following procedures shall be initiated and administered by the preservation staff:
  - a. Property owners of those sites and structure which are being considered for nomination as historic resources shall be notified of a pending decision to list their property as a historic resource.
  - b. Property owners of nominated historic resources shall be provided the opportunity to “agree”, or “not agree” with the inclusion of their property in the listing.
  - c. If the owner agrees to the historic resource listing, notice of the “historic resource” listing of the property shall be filed with the register of deeds and recorded as an official notice subject to subsequent property owners. If the owner does not agree to the “historic resource” listing, the property shall not be listed as a historic resource.”

Councilmember Haynes moved to amend lines 66 through 68 of the ordinance as distributed. The motion seconded by Councilmember Blackburn carried. Councilmember Duffy voted "no". (6-1-0)

Councilmember Haynes moved to amend line 230 of the ordinance as distributed. The motion seconded by Councilmember Blackburn carried. Councilmember Duffy voted "no".

(6-1-0)

Councilmember Haynes moved to amend lines 348 through 358 of the ordinance as distributed. The motion seconded by Councilmember Blackburn carried. Councilmember Duffy voted "no". (6-1-0)

Councilmember Blackburn clarified that the ordinance does not include interior performance standards.

Councilmember Blackburn moved to approve the ordinance as amended. The motion was seconded by Councilmember Haynes.

Councilmember Harmon noted that there were citizens signed up to speak on the item.

Councilmember Blackburn withdrew the motion to approve. The second concurred.

Doug Jones stated that he supported the ordinance before the amendments. He also stated that he believes they should send the ordinance back to committee, allowing new Councilmembers an opportunity to review the ordinance.

Dan Warner, Planning Department stated the commercial properties would not be allowed to become a historic district.

Mayor Bunten suggested that amendments be made available in writing to all Councilmembers and the public prior to the Council meetings in the future.

Michael Turner, Topeka Landmark Commission appeared for questions.

The motion to adopt the ordinance as amended carried. Councilmember Kennedy voted "no". (6-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Ortiz, Nave, Haynes, Duffy, Blackburn and Harmon -6. Noes: Kennedy -1. Absent: Alcala and Preisner -2.

A RESOLUTION introduced by Councilmember Lover Chancler relating to the installation of a traffic signal at the intersection of SE 6<sup>th</sup> Street and SE Deer Creek Trafficway was presented.

John Moyer, East Topeka North Neighborhood Improvement Association spoke in support of the ordinance.

Councilmember Haynes inquired on the cost of the project and how it would be funded.

Brenden Long, City Attorney stated that the cost of the project has not yet been developed. He explained that the resolution would instruct staff to begin the cost development process.

Councilmember Haynes moved to instruct administration to prepare a budget for consideration by the Council. The motion was seconded by Councilmember Nave.

JoAnn Peavler gave a brief overview of the minutes of previous committee meetings and suggested that they refer the ordinance back to the Economic and Community Development Committee.

Councilmember Nave made a substitute motion to refer the ordinance back to the Economic and Community Development Committee. The motion seconded by Councilmember Ortiz carried unanimously. (7-0-0)

Joseph Ledbetter stated that he supports the project because of the economic development impact it would have on the community.

AN ORDINANCE introduced by acting 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 commonly known as Misty Harbor Estates Subdivision No. 1 and No. 2, located between SW 41<sup>st</sup> Street and SW 45<sup>th</sup> Street, approximately 2,800 feet east of SW Gage Boulevard in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District was presented for first reading. (Z05/6)

AN ORDINANCE introduced by acting 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 commonly known as Monarch Meadows Subdivision, located on the south side of SW 41<sup>st</sup> Street, approximately 985 feet west of SW Wanamaker Road in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District was presented for first reading. (Z05/6)

AN ORDINANCE introduced by acting 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 at 2201 2211 SW Gage Boulevard in the City of Topeka, Kansas from “R-1” Single Family Dwelling District and “O&I-1” Office and Institutional District ALL TO “PUD” Planned Unit Development District (O&I-1, C-1 and M-2 use groups) was presented for first reading. (PUD05/3)

AN ORDINANCE introduced by acting City Manager Neil Dobler relating to the vacation of a portion of a public street right-of-way, SW 29<sup>th</sup> Street Terrace, located immediately east of SW Lincoln Street, City of Topeka, Shawnee County, Kansas was presented for first reading. (V04S/6)

AN ORDINANCE introduced by acting City Manager Neil Dobler relating to the

designation of street names, more specifically changing the name of SE 44<sup>th</sup> Terrace to SE Blazing Star Drive was presented for first reading. (*SNC 05/1*)

Joseph Ledbetter and David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:59 p.m.

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Iris Walker  
City Clerk