

City Council Minutes – April 26, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 26, 2005. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Buntten presided -1.

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 Harmon moved to suspend the Council Rules to add a communication from the Topeka Performing Arts Center to the consent agenda. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Alcalá expressed concern with placing items on the agenda at the meeting. He stated that placing items on the agenda at the last minute is not fair to the public.

Neil Dobler, City Manager stated that the communication that was added to the agenda was time sensitive, and in the future they will try to avoid adding items at the last minute.

Councilmember Alcalá moved to remove item 3B, a resolution relating to the Council Budget Committee; item 3C, a contract defining Neil Dobler's terms of employment as acting City Manager; and item 3E, a resolution amending City Council Rule 2.13 from the consent agenda for separate discussion. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Blackburn moved to remove item 3H, minutes of the regular meeting of April 19, 2005 for separate discussion. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7612 introduced by Councilmember Lana Kennedy granting Trinity Lutheran Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 7614 introduced by Councilmember Sylvia Ortiz, granting Washburn University's Alpha Delta Fraternity an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

A FINAL PLAT for Laurel Park Subdivision located at the southeast corner of SW 1st Street and SW Elmwood Avenue in the City of Topeka, Kansas was presented. (P05/2)

ORDINANCE NO. 18421 introduced by acting City Manager Neil Dobler relating to the designation of street names, more specifically changing the name of SE 44th Terrace to SE Blazing Star Drive placed on first reading April 19, 2005 was again presented. (SNC 05/1)

Cereal Malt Beverage 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>
Berkshire Country Club	3720 SW 45 th Street
California Amoco	2740 California
Casey's General Store	4441 SE California Avenue
Casey's General Store	600 SE Rice Road
Conoco (Corner Store of Topeka, Inc.)	3830 SW 29 th Street
Downtown Amoco	600 SE Quincy
Falley's	3110 SE 6 th Street
Falley's	1945 SW Gage Boulevard
Food 4 Less	3000 N. Topeka Boulevard
Food 4 Less	2021 SE 29 th Street
Food 4 Less	4015 SW 10 th Street
Food 4 Less	5311 SW 22 nd Place
Food 4 Less	2210 N. Tyler
Food 4 Less	3335 Gage Boulevard
Hummers Market	2836 Fairlawn
Hummers Market	600 SW Fairlawn
Hummers Market	3300 SW Gage

<u>Business (Continued)</u>	<u>Address</u>
KWIK Shop	746 NE Wabash
KWIK Shop	1414 SW 17 th Street
KWIK Shop	4500 SW Topeka Boulevard
KWIK Shop	2619 SW 21 st Street
KWIK Shop	2277 SW 10 th Street
KWIK Shop	1700 Topeka Boulevard
KWIK Shop	102 SW 37 th Street
KWIK Shop	1114 NW Topeka Boulevard
KWIK Shop	5633 SW 21 st Street
I-70 BP Amoco	1000 SW Wanamaker
Lakeview Amoco	3000 Croco
Larry's Shortstop	3834 S. Topeka
Oakmart Amoco	2518 NE Seward
Phillips 66	2525 SW 29 th Street
6 th Street Quick Stop & Smoke	1107 SW 6 th Avenue

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>
Bennigans #1732	3251 S. Topeka Boulevard
The Car Wash	1814 SW 10 th Street
The Car Wash	720 SW Gage Boulevard
Charlie Browns Club	840 N. Kansas
Easy Time Lounge	501 NW Lyman
Frances O'Dooley's Irish Pub & Grille	1930 Westport Drive
Goose One	3203 SW 10 th Street
Goose Too	5630 SW 29 th Street
Joletta's	600 NW Paramore
McB's Sports Grill	2920 SE Croco Road
Midwest Elks Lodge #1441	1316 SE Madison
Scoreboard	2107 SE California Avenue
Sharon's Second Chance	917 N. Kansas
Shooters Sports Bar & Billiards	4310 SW 21 st Street
Skinneys Sports Bar & Grill	4016 SW Huntoon
Southwest Bowl	5265 SW 28 th Court
Steak N Shake #455	1415 SW Wanamaker Road
Stringers	2335 NW Clay
Terry's Bar & Grill	522 SW 6 th Street
Topeka Performing Arts Center	214 SE 8 th Avenue
Varsity Blues Bar & Bar-B-Que	1616 SW 17 th Street
VIP Lounge	5235 SW 28 th Court
Walgreen Drug Stores	2915 SW Gage
Walgreen Drug Stores	1001 SW Topeka Boulevard

A COMMUNICATION requesting City Council authorization of the Mayor's signature on the Local Government Endorsement Application Form to be submitted to the Kansas Department of Commerce Community Service Program by the Topeka Performing Arts Center, was presented.

Councilmember Alcala moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

RESOLUTION NO. 7613 introduced by Councilmembers John Alcala, Lana Kennedy and Sylvia Ortiz, amending City Council Rule 7.1 to include the Mayor as a non-voting, advisory member of the Council Budget Committee was presented.

Councilmember Alcala explained that the resolution would allow them to utilize the Mayor's expertise when preparing the budget.

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

Councilmember Preisner made a substitute motion to amend line 37 of the resolution by deleting the words, "until the first Tuesday in April 2009." The motion seconded by Councilmember Nave failed. Councilmembers Kennedy, Alcala, Ortiz, Nave, Haynes, Blackburn and Harmon voted "no". (2-7-0)

The motion to approve the resolution carried. Councilmember Preisner voted "no". (8-1-0)

CONTRACT NO. 35236 between the City of Topeka and Neil Dobler defining the terms of his employment as Acting City Manager was presented.

Brenden Long, City Attorney stated that the agreement was based on the parameters expressed by the City Council.

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

RESOLUTION NO. 7615 introduced by Councilmember John Alcala amending Rule 2.13 of the City Council Rules and Procedures concerning the order of City Councilmember seating during City Council meetings was presented.

Councilmember Alcala moved to amend the resolution by deleting lines 12 and 13. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

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

Minutes of the Regular Meeting of April 19, 2005 were presented.

Councilmember Blackburn made a correction to page 130 of the minutes.

Councilmember Blackburn moved to approve the minutes as amended. The motion seconded by Councilmember Haynes carried. Councilmember Preisner was out of the room. (8-1-0)

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, April 26, 2005, at 7:00 P.M. in conjunction with vacation request V04S/6 by The Congregational Home dba Brewster Place to vacate a 60-foot wide strip of SW 29th Street Terrace that adjoins their property.

ORDINANCE NO. 18422 introduced by acting City Manager Neil Dobler relating to the vacation of a portion of a public street right-of-way, SW 29th Street Terrace, located immediately east of SW Lincoln Street, City of Topeka, Shawnee County, Kansas placed on first reading April 19, 2005 was again presented. (V04S/6)

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

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

ORDINANCE NO. 18423 introduced by Mayor James A. McClinton relating to the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the Loan Agreement placed on first reading March 22, 2005 was again presented.

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

A ZONING PETITION and ORDINANCE NO. 18423 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 41st Street and SW 45th 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 placed on first reading April 19, 2005 was again presented.
(Z05/5)

Mayor Buntin asked if there was anyone present who would like to speak. No one appeared.

Mayor Buntin asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to approve the zoning petition and 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18425 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 41st 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 placed on first reading April 19, 2005 was again presented. (Z05/6)

Mayor Bunten asked if there was anyone present who would like to speak. No one appeared.

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

Councilmember Preisner moved to approve the zoning petition and 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, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and 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 and 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) placed on first reading April 19, 2005 was again presented. (*PUD05/3*)

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Alcalá stated that based on the information gathered at the committee meeting he would like to defer the ordinance for one week. He explained that the deferral would allow new Councilmembers more time to gather additional information and make an informed decision.

Councilmember Alcalá made a substitute motion to defer the ordinance one week. The motion was seconded by Councilmember Haynes.

David Thurbon, Planning Director gave the staff report. He stated that the applicant has agreed to the conditions set forth by the Planning Department.

Councilmember Duffy expressed concern with the inconsistency of the ordinance. He stated that the ordinance does not reflect the Planning Commission’s recommendations.

The substitute motion to defer for one week carried. Councilmembers Nave, Blackburn and Preisner voted "no". (6-3-0)

RESOLUTION NO. 7616 introduced by Councilmember Brett Blackburn creating a Parks and Open Space Task Force for the purpose of studying the park and recreational needs of the City of Topeka was presented.

Councilmember Blackburn explained the resolution.

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

RESOLUTION NO. 7617 introduced by Councilmember Brett Blackburn requesting an amendment to the Parks and Open Space Plan Element of the Topeka Comprehensive Metropolitan Plan was presented.

Phil Morse, Shawnee County Planning Commission stated that the plan is a guide for future resource allocation and does not commit the City to any financial obligations. He also stated that the plan would help locate mechanisms such as impact fees to fund parks and open space, in all areas of the city. He stated that the plan would be periodically reviewed and updated.

Bob Sherburne spoke in support of the plan.

Councilmember Blackburn moved to approve the resolution. The motion seconded by Councilmember Haynes carried. Councilmembers Nave, Duffy, Preisner and Harmon voted "no". (5-4-0)

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the Topeka Performing Arts Center to sell and dispense cereal malt beverages during the Taste of Topeka event, at specified locations and times was presented for first reading.

REPORT FROM THE CITY MANAGER, was presented.

Neil Dobler stated that a weekly communication regarding departmental information would be included in the Council Packets. He also stated that they are looking at May 11th, 12th and 13th to schedule video-conference interviews with city manager executive search firms. He explained that a standard list of questions would be developed for each applicant to ensure fairness. He also stated that the Topeka Shawnee County Consolidation Committee would meet on April 28, 2005 at 1:00 p.m. in the Executive Conference Room. He noted that per state statute the County and the City are required to split the cost of the study.

Councilmember Haynes moved that the City Manager begin compilation of information for the Topeka Shawnee County Consolidation Committee. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcalá inquired on the status of the annexation plan that they were scheduled to receive in December of 2004. He also asked for the financial implications of the plan to date.

Councilmember Haynes asked if they would continue to receive an update regarding the Management Partners recommendation report.

Ellen Ross and Orville Johnson appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:30 p.m.

Iris Walker
City Clerk