

## City Council Minutes – May 3, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 3, 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 Bunten presided -1.

AFTER THE MEETING was called to order, prayer was offered by Pastor Greg Barney, Light of the World Christian Center.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7623 introduced by Councilmember John Alcalá relating to the appointment of the Mayor of the City of Topeka as Chair of the Joint Economic Development Organization (JEDO), was presented.

RESOLUTION NO. 7618 introduced by Councilmember John Nave granting Full Gospel Light House Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

A COMMUNICATION requesting approval of the Real Estate Report and disposal of City of Topeka surplus property located at 10434 SW 61<sup>st</sup> Street was presented.

RESOLUTION NO. 7619 introduced by Councilmember Clark Duffy granting Washburn University's Washburn Memorial Union an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

ORDINANCE NO. 18426 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 placed on first reading April 26, 2005 was again presented.

MINUTES of the Regular Meeting of April 26, 2005 were presented.

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>
Charles Wood Oil Company	101 NE Hwy 24
Dillon Stores #28	300 W. 29 <sup>th</sup> Street
Dillon Stores #47	2816 W. 29 <sup>th</sup> Street
Dillon Stores #54	800 NW 25 <sup>th</sup> Street
Dillon Stores #58	1400 Huntoon
Dillon Stores #64	5720 SW 21 <sup>st</sup> Street
Dillon Stores #67	2010 SE 29 <sup>th</sup> Street
Eakes & Steinbock Thriftway	1401 Seward
Mike's IGA	2620 NW Sardou Avenue
Oscos Drug #5189	2835 SW Wanamaker
Wal-Mart Supercenter	1301 SW 37 <sup>th</sup> Street
Wal-Mart Supercenter	1501 SW Wanamaker Road

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>
McDonald's	1640 SW Wanamaker
McDonald's	1201 SW Gage Boulevard
Atrium Café & Bar Ramada Inn Downtown	420 SE 6 <sup>th</sup> Street

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

A ZONING PETITION and ORDINANCE NO. 18427 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*)

David Thrubon, Planning Director gave the staff report. He stated that the new ordinance reflects the correction to the changes in the site plan.

Councilmember Preisner moved to amend the “C-1” Commercial District portion of the “PUD” Planned Unit Development District by allowing commercial usage with the exception of liquor stores, adult movie stores and drive-thru restaurants. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

Mayor Bunten gave an opportunity for anyone present to speak. No one appeared.

Mayor Bunten asked if there were any additional *exparte* communications besides Councilmembers Alcala, Duffy, Blackburn and Harmon. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance as amended. The motion seconded by Councilmember Blackburn carried. Councilmember Harmon voted "no". (8-1-0)

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

A JOINT CITY OF TOPEKA RESOLUTION NO. 7620 AND SHAWNEE COUNTY RESOLUTION introduced by Councilmembers John Alcala, Brett Blackburn, Lana Kennedy and Sylvia Ortiz, expressing the Topeka City Council and Shawnee County Board of Commissioners’ intention to consolidate the City of Topeka Parks and Recreation Department into a single County Agency was presented.

Councilmember Alcala stated that consolidation of the Parks and Recreation Department would eliminate duplication of services, and provide some tax equity for the citizens of Topeka.

Vic Miller, Shawnee County Commissioner stated that he supports the consolidation. He explained that several efficiencies would be possible if they were to consolidate into a single agency. He stated that the Consolidation Committee reached a consensus, that a study to consolidate the Parks and Recreation Departments would not run contrary to the efforts of the Consolidation Committee.

Discussion continued by several Councilmembers regarding the following issues:

- The importance of open communication between all agencies involved in the consolidation
- The possibility of assessing a Parks and Recreation tax on Shawnee County citizens only in order to help balance the tax equity
- If current Parks and Recreation programs would remain in place
- How youth jobs would be affected
- If an agreement could be reached by August 1, 2005

In response, Vic Miller stated that the communication lines between all agencies involved in the consolidation are good. He stated that he does not support levying a tax on Shawnee County citizens that would be controlled by the City. He also stated that he would do everything possible to keep the current Parks and Recreation programs in place. He stated that at this time he is not sure how the youth job programs would be affected, however, it is an issue that could be addressed during negotiations. He also stated that he is confident that an agreement could be reached by August 1, 2005, prior to finalizing the budgets.

Joseph Ledbetter spoke in support of the consolidation.

Chad Manspeaker, Teamsters Local 696 appeared in support of the resolution. He stated that the wage discrepancies between City and County employees must be addressed to ensure a smooth consolidation.

Dave Graversen spoke in support of the consolidation, however he stated that he believes it is premature. He stated that City and County residents should be given the opportunity to vote on a complete consolidation plan that is put together by the Consolidation Commission.

Councilmember Haynes moved to amend line 16 of the resolution to delete the word "County". The motion seconded by Councilmember Duffy carried. Councilmembers Kennedy, Alcala and Blackburn voted "no". (6-3-0)

Dennis Hodgins spoke in support of total government consolidation. He stated that a commission has been appointed to study the possibility of consolidation and they should be given the opportunity to do so.

Councilmember Haynes moved to amend line 18 of the resolution to include the statement, "Consolidation should be subject to both governing bodies consideration of a consolidation plan. In the event there is no vote by the voters to adopt a plan recommended by the Consolidation Commission then the City/County Plan recommendation by both governing bodies shall be recommended for approval. The motion seconded by Councilmember Alcala failed. Councilmembers Nave, Duffy, Blackburn, Preisner and Harmon voted "no". (4-5-0)

Councilmember Haynes moved to amend the resolution to include the statement, "Be it further resolved that this resolution shall be null and void if the Topeka Shawnee County Consolidation Commission recommends, as part of its preliminary plan due on or about June 15, 2005, that the services and functions of the City of Topeka and Shawnee County Parks and Recreation Departments should be consolidated. The motion seconded by Councilmember Alcala carried. Councilmembers Nave, Preisner and Harmon voted "no". (6-3-0)

Councilmember Alcala encouraged his colleagues to support the consolidation plan to help support a reduction in mill levy for the citizens of Topeka. He also stated that they could negotiate debt in this process, but they may not have that option with total consolidation.

Councilmember Alcala moved to approve the resolution as amended. The motion was seconded by Councilmember Blackburn.

Councilmember Preisner stated that he opposes the resolution because he supports total consolidation of government, not of just operations.

Councilmember Blackburn stated that he supports the resolution because it addresses the issue of tax equity and helps eliminate duplication of services.

Councilmember Kennedy stated that her constituents believe that they should wait for the report from the Consolidation Commission before making a decision. She explained that she is in support of the resolution because it is in the best interest of the City as a whole.

Councilmember Harmon stated that he agrees there are benefits to the consolidation. He also stated that they should respect the voters and allow the Consolidation Commission to handle all issues on the table and consider a complete government consolidation.

The motion to approve as amended carried. Councilmembers Nave, Duffy, Preisner and Harmon voted "no". (5-4-0)

RESOLUTION NO. 7621 introduced by Councilmember John Alcala granting an exemption from the annexation requirements of City of Topeka Code Section 146-37, as amended, for the provision of water to certain specified property located in Shawnee County, Kansas was presented.

Councilmember Alcala explained that the applicant is requesting water service under the hardship provision due to healthcare issues.

Shirley Woodbury, applicant's daughter appeared and stated that they are building a home adjacent to her parent's house to assist with their health care. She explained that they were not aware of the restriction until they applied for water service.

Neil Dobler, City Manager explained the proximity of the home. He suggested that they only approve connection for the one residence, not the entire 16-acre tract of land.

Councilmember Acala moved to amend the resolution to allow only one structure owned by Shirley Woodbury at 3540 NE Meriden Road to receive water service. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

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

A COMMUNICATION submitting a request by Tommy L. North requesting approval to operate a salvage yard at 1801 NE Grantville Road was presented.

David Thurbon, Planning Department gave the staff report.

Councilmember Alcala stated that for the benefit of the neighborhood he would like to contact local business owners, developers, and the Neighborhood Improvement Association prior to approval.

Councilmember Alcala moved to refer the communication to the Economic and Community Development Committee for review. The motion was seconded by Councilmember Nave.

Councilmember Preisner made a substitute motion to approve the communication. The motion was seconded by Councilmember Duffy.

Steven Wisham, representative for the applicant stated that they believe it is an ideal location for a salvage yard due to the condition of the area.

The motion to approve the communication carried. Councilmembers Kennedy, Alcalá, Haynes and Harmon voted "no". (5-4-0)

RESOLUTION NO. 7622 introduced by City Manager Neil Dobler, setting forth the City of Topeka's intention to acquire one (1) pumper fire truck, pursuant to K.S.A. 12-110c was presented.

Howard Giles, Fire Chief gave the staff report and stated that the proposal is part of an ongoing replacement program that began in the mid 1990's.

Several Councilmembers stated that they would prefer to use all available funds to purchase the pumper fire truck with cash, instead of issuing general obligation bonds.

Neil Dobler stated that there are several financial issues that need to be resolved before determining if there would be any additional money to purchase the pumper fire truck. He explained the following issues and stated that he would send the Council all necessary financial information as soon as possible.

1. The KTA refund regarding the Oakland Expressway Project
2. The money owed by the City to KDOT and Shawnee County regarding the Oakland Expressway Project
3. A Topeka Police Department arbitration case

Brenden Long, City Attorney suggested that they amend line 19 of the resolution to include the statement, "Be it further resolved that the City Manager is directed to make every effort to utilize other lawfully available funds in lieu of issuing general obligation bonds."

Councilmember Blackburn moved to amend line 19 of the resolution to include the amendment as stated by the City Attorney. The motion seconded by Councilmember Alcalá.

Councilmember Duffy asked for clarification on intent. He asked if the approved expenditures would be reduced, or would the remaining cash balances be used to purchase the pumper fire truck.

Councilmember Haynes stated that the intent is not to use funds set aside for ending balance but to use other funds if available rather than general obligation bonds.

Councilmember Haynes made a substitute motion to change the language to state, “that other available funds would be used if possible.” The motion was seconded by Councilmember Blackburn.

Neil Dobler stated that they would review the various issues brought forward and make a recommendation within a few days.

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

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

Councilmember Ortiz moved to reconsider item 5C, a communication submitting a request by Tommy L. North requesting approval to operate a salvage yard at 1801 NE Grantville Road. The motion seconded by Councilmember Alcala carried. Councilmember Nave, Duffy and Preisner voted "no". (6-3-0)

The substitute motion to approve the communication carried. Councilmembers Kennedy, Alcala, Ortiz and Harmon voted "no". (5-4-0)

AN ORDINANCE introduced by Councilmembers John Alcala, Brett Blackburn, Lana Kennedy and Bill Haynes, repealing City of Topeka Ordinance No. 18350 which authorized Improvement Project No. 60596-00, which provided for the construction of a public plaza at the intersection of SW 7<sup>th</sup> Street and VanBuren as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by Councilmembers John Alcala, Brett Blackburn, Lana Kennedy and Bill Haynes, repealing City of Topeka Ordinance No. 18351 which authorized

Improvement Project No. 60596-01, which provided for the aesthetic improvements along the “Capital Parkway” as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler, designating real property more specifically described herein as a historic landmark and presently zoned “M-2” Multiple Family Dwelling District and located at 228 SW Harrison in the City of Topeka, Kansas pursuant to City of Topeka Code Section 80-4 was presented for first reading. *(HL05/1)*

AN ORDINANCE 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 2123 SW Belle Avenue in the City of Topeka, Kansas from “R-1” Single Family Dwelling District and “R-1” Single Family Dwelling District with Resolution of Intent for “E” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District was presented for first reading. *(Z80/17)*

AN ORDINANCE 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 commonly known as Shawnee Gardens Subdivision, and generally located south of the Kansas Turnpike and west of SW Croco 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. *(Z05/7)*

AN ORDINANCE 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 commonly known as West Indian Hills Subdivision No. 8 and No. 9 and located at the southeast corner of SW 23<sup>rd</sup>

Terrace and SW Indian Hills 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.

*(Z05/8)*

AN ORDINANCE 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 commonly known as Woodglen Subdivision and generally located on the east side of SE Croco Road, 150 feet north of SE 23<sup>rd</sup> Street Terrace in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District was presented for first reading. *(Z05/9)*

AN ORDINANCE 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 2113 and 2115 SW Jewell Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District and “M-2” Multiple Family Dwelling District ALL TO “O&I-1” Office and Institutional District was presented for first reading. *(Z05/16)*

AN ORDINANCE 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 south of US Highway 24 Frontage Road approximately 2,100 feet west of NW Vail Avenue in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “C-4” Commercial District was presented for first reading. *(Z05/18)*

AN ORDINANCE 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 approximately 195 feet north and 130 feet west of the intersection of SE 44<sup>th</sup> Street and SE Blackjack Way in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “M-1” Two Family Dwelling District was presented for first reading. (Z05/19)

AN ORDINANCE 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 on the north side of 22<sup>nd</sup> Park between SW Chelsea Drive and SW Belle Avenue in the City of Topeka, Kansas from “M-2” Multiple Family Dwelling District with Resolution of Intent for “C-4” Commercial District and “PUD” Planned Unit Development District (“M-2” use group) ALL TO “O&I-2” Office and Institutional District was presented for first reading. (Z05/20)

AN ORDINANCE introduced by Neil Dobler, City Manager, relating to the changes in the code pursuant to Charter Ordinance No. 94, amending Topeka City of Topeka Code Sections 18-32, 26-57, 26-139, 34-38, 34-39, 34-92, 34-94, 42-1, 42-2, 42-3, 42-9, 42-10, 50-43, 50-46, 86-118, 86-133, 86-136, 90-28, 110-42, 130-207, 138-96, 142-270, 142-808, 146-28, 146-38, 146-341, 146-379, and sections 1, 2, 3, and 6 of City of Topeka Ordinance No. 18365, and section 28 of City of Topeka Ordinance No. 18382 and specifically repealing said original sections was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be a Public, Health and Safety Committee organizational meeting on May 16, 2005 at 4:30 p.m. in the City Council Office.

Councilmember Alcala stated that the details regarding the Policy and Finance Committee meeting scheduled for next week would be available in the City Clerk's Office for review later this week.

REPORT FROM THE CITY MANAGER, was presented.

Neil Dobler stated that staff would finalize an overview of the City's policies and procedures for Consolidation Commission review. He also stated that they would need a representative from the City to visit with the commission. He stated that next week they would begin to include a preliminary Council agenda for the following week in the weekly informational packets.

Councilmember Nave moved that the City Manager act as the Consolidation Commission representative for the City of Topeka. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

David Owens, Bill Gomez and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:37 p.m.

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Iris Walker  
City Clerk