

## City Council Minutes – May 10, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 10, 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 Robert Sieh, City of Topeka Fire Department.

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

Councilmember Alcalá moved to remove item 3B, an ordinance amending current City Code to reflect the change in the form of government administrative duties, from the consent agenda. The motion seconded by Councilmember Harmon carried. Councilmember Preisner voted "no". (8-1-0)

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for California Estates Subdivision located south of SE 13<sup>th</sup> Street, the centerline of which is approximately 435 feet west of SE Long Street in the City of Topeka, Kansas was presented. (P05/8)

MINUTES of the Regular Meeting of May 3, 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>
Baloch	1320 SW 6 <sup>th</sup> Street
Devlin's One Stop	5943 SW 29 <sup>th</sup> Street
Hermans Beef and Sausage House	823 W. Gordon
Prize Package	1420 E. 6 <sup>th</sup> Street
Tiltons Westside	1100 W. 6 <sup>th</sup> Street
Tiltons Oakland Market	1905 Seward

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>
J's Bar & Grill	320 SE 29 <sup>th</sup> Street
Mr. D's	3339 Gage Boulevard
Scottie's	901 Fairlawn Avenue
Tewz Euff	1465 SE Washington
Tuckers Bar & Grill	805 S. Kansas Avenue

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

AN ORDINANCE introduced by Neil Dobler, City Manager, relating to the changes in the code pursuant to Charter Ordinance No. 94, amending 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 placed on first reading May 3, 2005 was again presented.

Frank Kirtdoll stated that he believes City Council Rules and Procedures prohibits an ordinance from being placed on the consent agenda. He also expressed concern with the verbiage of lines 592 through 933 of the ordinance regarding allocation of CDBG funds.

Fred Sanders requested a copy of the 1974 Community Development Act (*i.e.* Public Law 93-833) that was referred to in the ordinance.

Brenden Long, City Attorney explained that the ordinance does not change city policy it only corrects a drafting error made in January of 2005.

Councilmember Alcalá stated that he is concerned with the verbiage of several sections of the ordinance. He suggested that they send the ordinance to committee to research the concerns that have been raised.

Councilmember Alcalá moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

ORDINANCE NO. 18428 introduced by Councilmembers John Alcalá, 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 placed on first reading May 3, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Alcalá suggested that they consider items 4A, 4B and 5B at the same time. He explained that he supports all of the projects, however, he believes that they need to be prioritized due to future budget constraints. He asked that they research different funding avenues to decrease the City's overall indebtedness.

Councilmember Alcalá moved to approve the ordinance with the intention of prioritizing the projects in addition to seeking other funding sources. The motion was seconded by Councilmember Haynes.

Joseph Ledbetter spoke in opposition of the project. He stated that it is not fair to use taxpayers money as the funding source.

Bob Sherburne stated that he supports the project but not the funding source.

Susan Mahoney, Terri Humphrey and Tuck Duncan spoke in support of the Pedestrian Plaza. They stressed the importance of the project and the vital role it would play in downtown revitalization.

Marge Bradshaw spoke in opposition of the project and stressed the importance of preserving our history.

Discussion continued on the City's total bonded indebtedness, prioritizing the projects, the importance of revitalizing the existing downtown commercial buildings, and the possibility of forming a benefit district.

Councilmember Preisner made a substitute motion to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Duffy failed.

Councilmembers Kennedy, Alcalá, Ortiz, Haynes, Blackburn and Harmon voted "no". (3-6-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Haynes, Blackburn, Preisner and Harmon -7. Noes: Nave and Duffy -2.

ORDINANCE NO. 18429 introduced by Councilmembers John Alcalá, 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 placed on first reading May 3, 2005 was again presented.

Neil Dobler gave the staff report.

Councilmember Haynes asked how the State funded portion of the project would be affected.

Councilmember Harmon expressed concern with stalling the project.

Tim Green, Engineering Department stated that delaying the project could have a negative affect on State funding assistance.

Neil Dobler stated that a commitment needs to be made regarding the project to insure funding assistance from the State.

Joseph Ledbetter spoke in opposition of the funding of the project.

Bob Sherburne, Phil Morris, Joseph Bullock, and Doug Jones spoke in support of the project. The major points of concern included; the importance of revitalization in the Downtown area, city growth, and investing in the future.

Several Councilmembers discussed the significance of prioritizing all of the downtown improvement projects in conjunction with utilizing alternative funding sources. They also discussed the importance of securing a commitment with the State by communicating their intent of completing the project in phases.

Councilmember Preisner stated that he would not support the ordinance because he believes the project is a vital part of the Downtown Revitalization Plan.

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

Councilmember Alcala moved to consider item 5B, a resolution rescinding Improvement Project No. 86251-02 providing for the purchase and installation of wayfinding signs in the City. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

RESOLUTION NO. 7625 introduced by Councilmembers John Alcala, Bill Haynes and Brett Blackburn rescinding City of Topeka Resolution No. 7572 which authorized Improvement Project No. 86251-02 providing for the purchase and installation of wayfinding signs in the City of Topeka as more specifically described herein was presented.

Councilmember Alcalá stated that the project consists of two-hundred wayfinding signs. He explained that there is \$200,000 in the Bed Tax fund available to use for the project.

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

Councilmember Haynes stated that he needed clarification on the amount of signs that could be purchased with the \$200,000.

Dan Warner, Planning Department stated that \$200,000 would purchase approximately eighty-one signs.

Councilmember Haynes made a substitute motion clarifying that the \$200,000 would be used for the purchase and installation of eighty-one signs. The motion died due to a lack of a second.

Neil Dobler stated that additional funding would be necessary to complete the project. He explained that the signs would be purchased through the Request for Proposal (RFP) process, with the potential of purchasing more than eighty-one signs.

Councilmember Alcalá suggested that they rescind the current wayfinding project and bring back a new proposal as soon as possible. He stated that the amended document would state the exact amount needed to fund the entire two-hundred signs. He suggested that the money that has already been spent on the project be refunded back to the City from the Bed Tax fund.

Brenden Long, City Attorney confirmed that they would have to rescind the current resolution. He stated that they would have to create two new documents to reflect a change in the project and the funding source.

Councilmember Preisner expressed concern regarding other funding requests and how they would be affected.

Dennis Vasquez, David Leaman, Bob Keckeisen, Dick Trupp, Joseph Bullock and Marge Bradshaw spoke in support of the project. They expressed the importance of signage and how it relates to the growth of a city.

Joseph Ledbetter stated that he supports the project but not the funding source.

Richard Foster questioned how other entities would be affected in 2005.

Jim Langford, Budget Director stated that he believes other businesses would not be negatively affected.

Councilmember Preisner made a substitute motion to approve the resolution as originally funded. 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. Councilmembers Duffy and Preisner voted "no". (7-2-0)

Councilmember Preisner left the meeting.

ORDINANCE NO. 18430 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 placed on first reading May 3, 2005 was again presented. (HL05/1)

Neil Dobler gave the staff report.

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

A ZONING PETITION and ORDINANCE NO. 18431 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 placed on first reading May 3, 2005 was again presented. (Z80/17)

Neil Dobler gave the staff report.

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

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

Councilmember Blackburn moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18432 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 placed on first reading May 3, 2005 was again presented. (Z05/7)

Neil Dobler gave the staff report.

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



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

Councilmember Kennedy moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18433 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 placed on first reading May 3, 2005 was again presented. (Z05/8)

Neil Dobler gave the staff report.

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

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

Councilmember Nave moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18434 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 placed on first reading May 3, 2005 was again presented. (Z05/9)

Neil Dobler gave the staff report.

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

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

Councilmember Blackburn moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18435 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 placed on first reading May 3, 2005 was again presented.

(Z05/16)

Bill Fiander, Planning Department gave the staff report.

Dan Crow, representative for the applicant stated that the new building fits with the character of the neighborhood. He also stated that they have received approval by surrounding residents.

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

Councilmember Duffy moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18436 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 placed on first reading May 3, 2005 was again presented. (Z05/18)

Bill Fiander gave the staff report.

Exparte communications through email, telephone calls and written correspondence were declared by all Councilmembers except Kennedy and Harmon.

Henry McClure, representative for the applicant appeared for questions.

Councilmember Nave moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18437 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 placed on first reading May 3, 2005 was again presented. (Z05/19)

Neil Dobler gave the staff report.

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

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

Councilmember Harmon moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18438 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 placed on first reading May 3, 2005 was again presented. (Z05/20)

Neil Dobler gave the staff report.

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

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

Councilmember Kennedy moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

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

RESOLUTION NO. 7624 introduced by City Manager, Neil Dobler in accordance with Section 48-10.02(c)(7) of the Code of the City of Topeka, approving Conditional Use Permit to establish a vehicle surface parking lot and associated public use facility on property currently zoned "M-3" Multiple Family Dwelling District and located at 414, 418, 422, 426 and 428 SW Tyler in the City of Topeka, Kansas was presented. (CU05/2)

Bill Fiander gave the staff report and stated that the Planning Commission recommended approval by a vote of 7-3-0 on April 18, 2005.

Darren Root, Kansas Department of Labor (KDL) commended the Planning Department and KDL staff for all of their hard work in reaching an agreement. He also stated that the drainage issues have been resolved.

Councilmember Kennedy stated that she supports the resolution because it improves the area.

Councilmember Kennedy moved to approve the resolution. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

RESOLUTION NO. 7626 introduced by Councilmembers John Alcala, Lana Kennedy, and Sylvia Ortiz amending Topeka City Council Rules and Procedures, specifically Rule 2.12, and rescinding said original section was presented.

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

Joseph Ledbetter, Betty Phillips and Fred Sanders spoke in support of the resolution. They stated that televising Council meetings in its entirety encourages community involvement.

Councilmembers Ortiz and Kennedy stated that while campaigning the majority of the citizens stated that they would like the entire Council meeting to be televised.

Councilmember Nave made a substitute motion to refer the resolution to the Policy and Finance Committee. The motion seconded by Councilmember Haynes failed. Councilmembers Kennedy, Alcala, Ortiz, Duffy, Blackburn and Harmon voted "no". (2-6-0)

The motion to approve the resolution carried unanimously. (8-0-0)

AN ORDINANCE introduced by City Manager, Neil Dobler, relating to the vacation of a portion of a public street right-of-way located south of Washburn Park located between SW Billard Avenue and SW Collins Avenue, City of Topeka, Shawnee County, Kansas was presented for first reading. (V05S/2)

AN ORDINANCE introduced by Councilmembers Brett Blackburn, John Alcala, Lana Kennedy and Sylvia Ortiz, repealing City of Topeka Ordinance No. 17951 relating to the extension of the City of Topeka building codes and permit process to the three (3) mile area adjacent to the City of Topeka boundaries was presented for first reading.

Councilmember Blackburn moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

AN ORDINANCE introduced by acting City Manager Neil Dobler, authorizing the first phase of Grade Separation Project No. 12064, which provides for the design, right-of-way appraisal and utility relocation for construction of a grade separation structure on NW Lower Silver Lake Road 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 acting City Manager Neil Dobler, authorizing Trafficway Improvement Project No. 70142-03, which provides for the design of improvements on SE California Avenue between SE 29<sup>th</sup> Street and SE 33<sup>rd</sup> Street 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 Councilmember Jeff Preisner, relating to the rates of fare offered by taxicabs in the City of Topeka, amending Topeka City Code Section 154-121 and specifically repealing said original section was presented for first reading.

REPORT FROM THE CITY MANAGER, was presented.

Neil Dobler announced the schedule for the Topeka-Shawnee County Consolidation Committee meetings. He stated that the Topeka Police and Fire Departments would meet with the committee on May 12, 2005, City Administration on May 16, 2005, and Wyandotte County on May 18, 2005. He stated that he would provide the Council with a copy of City Administration's presentation outline for the Consolidation Committee, for their review.

Frank Kirtdoll appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:40 p.m.

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Iris Walker  
City Clerk