

City Council Minutes – May 17, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 17, 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 Martin Schmidt, Prince of Peace Church.

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

Councilmember Haynes moved to remove item 3A from the consent agenda for separate discussion. The motion seconded by Councilmember Nave carried. Councilmember Preisner voted “no”. (8-1-0)

Councilmember Blackburn moved to remove item 3C from the consent agenda for separate discussion. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:

APPROVAL of Workers’ Compensation Settlement Claim for Henry Halseth in the amount of \$18,260, was presented.

MINUTES of the Regular Meeting of May 10, 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:

Business

The Dock
In A Pinch Convenience
Kelly Express
Quality Gas & Shop
Rex’s Cenex

Address

2838 SE 29th Street
706 SW Fairlawn Rd.
1001 SW Wanamaker
1900 N. Topeka Avenue
2855 SW Wanamaker

Business
U Market

Address
935 SE 21st Street

An Open After Mid-Night License renewal application for 2005-2006 bearing the approval of the Chief of Police and City Inspectors for Quality Gas & Shop, 1900 N. Topeka Avenue was presented.

Councilmember Preisner moved to approve the consent agenda as amended. The motion seconded by Councilmember Ortiz carried. Councilmember Duffy voted “no”. (8-1-0)

RESOLUTION NO. 7627 introduced by Councilmember Sylvia Ortiz granting Maria Silva an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

Councilmember Ortiz explained that the event is a high school graduation celebration at Mrs. Silva’s residence from 2:00 p.m. until 11:00 p.m.

Orville Johnson appeared in opposition to the request and stated that exceptions to the noise ordinance should not be granted in residential areas, except for block parties. He stated that it disrupts the peaceful enjoyment of an individual’s property, and approving the exception would set a bad precedent.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Ortiz carried. Councilmember Duffy voted “no”. (8-1-0)

Councilmember Haynes moved to advance item 7B on the agenda and consider it along with item 3C. The motion seconded by Councilmember Nave carried. Councilmembers Preisner and Harmon voted “no”. (7-2-0)

A COMMUNICATION recommending the appointment of Dave Heinemann to the Topeka Planning Commission for a term that would expire on October 31, 2005 was presented.

AN ORDINANCE introduced by Councilmember Brett Blackburn, relating to the establishment of a new City of Topeka planning commission, amending City of Topeka Ordinance No. 18382 Section 39 and City of Topeka Code Sections 110-26 and 110-28, and repealing said original sections was presented for first reading.

Councilmember Haynes moved to refer the ordinance to the Policy Committee and defer the communication until the council takes action on the ordinance. The motion was seconded by Councilmember Nave.

Councilmember Blackburn asked to divide the question.

Councilmember Haynes moved to refer the ordinance to the Policy Committee. The Chair ruled that the motion died for lack of a second.

Councilmember Haynes withdrew his motion to defer the communication.

Councilmember Blackburn moved to defer the communication for two weeks until the outcome of the ordinance. The motion was seconded by Councilmember Alcalá.

Councilmember Duffy expressed his concern that the communication should not be before them because Article 5, Section 24 of the charter ordinance, which requires the mayor to solicit nominations for appointments to boards and commissions, was not followed.

Mayor Bunten stated that he did ask for nominations and he is not sure why Councilmember Duffy was not informed.

The motion carried. Councilmembers Haynes and Duffy voted “no”. (7-2-0)

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, May 17, 2005, at 7:00 P.M. in conjunction with vacation request V05S/2 by the City of Topeka, Park Management, to vacate a 60-foot wide strip of SW 11th Street.

ORDINANCE NO. 18439 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 placed on first reading May 10, 2005, was again presented.

Neil Dobler, City Manager gave the staff report.

Mayor Bunten gave an opportunity for public comment. No one appeared to speak.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Harmon 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.

A PROJECT BUDGET in the amount of \$1,035,405 and 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 placed on first reading May 10, 2005, was again presented.

Neil Dobler, City Manager gave the staff report and stated that the Kansas Department of Transportation would finance approximately \$4.1 million of the project, and the City would fund \$1.3 million.

Tony Meier, area business owner appeared in support of the project. He stated that it would keep the traffic moving in that area.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Nave.

Discussion continued regarding the city's total bonded indebtedness and the impact this and other projects would have on it. It was also noted how the city was able to save some money in other areas by the use of bonds.

Councilmember Alcalá made a substitute motion to refer the project budget and ordinance to the Economic Development Committee for review. The motion seconded by Councilmember Haynes carried. Councilmembers Duffy and Preisner voted "no". (7-2-0)

A PROJECT BUDGET in the amount of \$200,000 and 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 29th Street and SE 33rd Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 10, 2005, was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Nave stated that the project has been on the back burner for a long time and he would like to keep the process moving forward.

Councilmember Haynes moved to refer the project budget and ordinance to the Economic Development Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Preisner made a substitute motion to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Duffy.

Councilmember Duffy noted that these projects would not exceed the debt management policy.

Councilmember Alcalá withdrew his second to the motion to refer the documents to committee.

Councilmember Preisner withdrew his substitute motion to approve the documents.

Councilmember Alcalá moved to refer the project budget and ordinance to the Economic Development Committee. The motion seconded by Councilmember Haynes carried.

Councilmember Preisner voted “no”. (8-1-0)

ORDINANCE NO. 18440 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 placed on first reading May 10, 2005, was again presented.

Councilmember Preisner explained that he was asked by the Taxi Cab Company to sponsor the ordinance. He stated that they were requesting approval of the increase partly because of the increase in the cost of gas, and also because they have not had an increase in fares since 1993.

Larry Cobler appeared in support of the ordinance and stated that the majority of cab drivers are independent contractors, and they provide an important and much needed service to the community. He asked for clarification on line 34 of the ordinance on who would establish the average price of gasoline in Topeka.

Clark Trammell, General Manager of Yellow Cab Company appeared in support of the ordinance. He stated that it takes quality people to operate the taxi industry and they need to have the ability to make an income they can live on. He stated that he had a letter of concurrence for support of the ordinance from Capital City Cab Company as well.

Barbara Evans, independent contractor appeared in support of the ordinance.

Councilmember Preisner stated that AAA of Kansas determines the average price of gasoline in the City, and he believes that is done on a daily basis.

Councilmember Preisner moved to amend line 34 of the ordinance by inserting “as established by AAA of Kansas”. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. 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.

RESOLUTION NO. 7628 introduced by City Manager, Neil Dobler setting the public hearing for Lateral Sanitary Sewer Project No. 40933-01, was presented.

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

A FINAL PLAT for Brian’s Addition Subdivision No. 3 located at the corner of SW 42nd Lane and SW Shenandoah Road and the corner of SW 43rd Terrace and SW Shenandoah Road the majority of which is located within unincorporated Shawnee County, Kansas was presented.

Rick Schmidt, Schmidt Engineering appeared for questions.

Councilmember Preisner moved to approve the final plat. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager, Neil Dobler authorizing Improvement Project No. 29103-01 which provides for the expansion of sanitary sewer service to serve the Deer Creek South watershed area around the Lake Shawnee area which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the

publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 10-101 and 10-1201, *et. seq.*, and all amendments thereto, was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS were presented. Councilmember Blackburn announced that there would be an Economic and Community Development Committee meeting held on May 18, 2005 at 5:30 p.m. in the City Council Office. He also stated that several ordinances were approved by the Economic and Community Development Committee relating to codes in the 3-mile area, extension of water and sewer service, and establishment of a municipal service area, and would be placed on the June 7, 2005 City Council Agenda:

REPORT FROM THE CITY MANAGER, was presented. Neil Dobler announced that the Topeka-Shawnee County Consolidation Committee meeting would be held on May 18, 2005 at the Kansas Health Institute, 212 SW 8th Street at 1:00 p.m. He stated that the Housing and Neighborhood Department would sponsor a tour of target areas for federal and city funding for Councilmembers on May 20, 2005 at 3:00 p.m. The tour will begin in front of City Hall. He stated that staff has begun working on a new project budget for the 8th Street and Wayfinding Signs Projects, and they are tentatively scheduled to be placed on the June 7, 2005 Council agenda. He stated that a resolution regarding new Council Rules and Procedures, and a resolution to select a City Manager Executive Search Firm would be placed on the June 7, 2005 Council Agenda as well. He also suggested that staff make a presentation on the Capital Improvement Program process for the Economic Development Committee.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Kennedy extended an invitation to the public and Councilmembers to attend the public dedication of the Erin Douglas Art Mural located at 12th and Lane on May 23, 2005 at 7:00 p.m.

Councilmember Duffy acknowledged “Public Service Recognition Week”, and read a communication from President Bush recognizing those in public service.

Larry Cobler appeared to speak under public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:00 p.m.

Iris Walker
City Clerk