

City Council Minutes – May 24, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 24, 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 L.D. Holmes, Wanamaker Woods Church of the Nazarene.

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

Councilmember Alcalá stated that he has some questions regarding item 3B, an ordinance relating to the expenditure list.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Kerry Storey to the Topeka/Shawnee County Public Library Board of Directors for a 4-year term that would expire on April 30, 2009, was presented.

MINUTES of the Regular Meeting of May 17, 2005 were presented.

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

AN EXPENDITURE ORDINANCE introduced by City Manager, Neil Dobler allowing and approving city expenditures for the period of May 9, 2005, through May 15, 2005, and enumerating said expenditure herein was presented for first and final reading.

Councilmember Alcalá moved to defer the ordinance until June 7, 2005. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$3,500,000 and ORDINANCE NO. 18441 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 placed on first reading May 17, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Joseph Ledbetter stated that he supports the portion of the project that is located within city limits. He stated that he believes that the total area needs to be annexed before approving the project.

JoAnn Peavler expressed concern with the current procedure regarding sewer line extension and encouraged the City to be more involved in the process to help avoid potential problems.

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

Councilmember Duffy stated that he submitted a formal request on May 24, 2005

requesting additional information on the project. He stated that he would like certain questions answered prior to voting on the project, and therefore he would abstain at this time. The questions are listed below:

1. Would this project increase the City's bonded indebtedness?
2. Is this project consistent with City of Topeka Resolution No. 7554 regarding the City of Topeka's debt policy management?
3. Is this project consistent with City of Topeka Resolution No. 7555 regarding the City of Topeka's Capital Improvement Program Policy?
4. What portion of this project, located outside the city limits, would be provided with City services?

Councilmember Blackburn stated that prior to the City implementing the current annexation service plan policy the developer agreed to pay for the cost of the project.

Councilmember Alcala asked what portion of the project was located within city limits.

Neil Dobler stated that the Rockfire by the Lake Development is located within city limits and the areas extending south are anticipated to become part of the city as it is developed.

Councilmember Duffy stated that he is only concerned with the financial impact on taxpayers regarding areas located outside city limits that receive city services.

The motion to approve the project budget and adopt the ordinance carried.

Councilmembers Haynes and Duffy abstained. (7-0-2)

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

ORDINANCE NO. 18442 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 placed on first reading May 17, 2005 was again presented.

Councilmember Blackburn explained the ordinance and stated that the document would create a capable, qualified Planning Commission, streamlining governmental processes.

Ivan Weichert, Tom Petersen, Phil Morse and Garriella Vega spoke in opposition of the ordinance. They encouraged the Council to refer the ordinance to a committee to discuss policy changes, qualifications, number of board members, and the importance of maintaining diversity.

Galen Hawk and Joseph Ledbetter spoke in support of the ordinance and stated that they support a change in policy.

In response to public comments, Councilmember Nave moved to defer the ordinance to the Policy and Finance Committee to resolve the issues raised by developers and citizens. The motion was seconded by Councilmember Haynes.

Councilmember Alcalá stated that he would oppose the motion to defer because the public has had the opportunity to express their concerns. He stated that he believes that in order to address concerns from developers and citizens the board must be restructured.

Councilmember Blackburn stated that he would oppose the motion to defer because he believes the ordinance was well thought out and incorporates all of the concerns expressed by staff and the public.

The motion to defer failed. Councilmembers Kennedy, Alcalá, Ortiz, Blackburn and Preisner voted "no". (4-5-0)

Councilmember Kennedy moved to adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Councilmember Duffy stated that he would not support the ordinance. He questioned the required qualifications, terms listed based on employment, and the filling of board vacancies.

Councilmember Blackburn stated that he believes the ordinance attempts to keep a fair balance and only limits the number of people with outside interests, focusing on quality of judgment.

Councilmember Nave made a substitute motion to change line 18 of the ordinance to reflect 11 members, and line 24 to reflect 9 members. The motion was seconded by Councilmember Haynes.

Councilmember Blackburn stated that he would not support the change because he believes it would set back the process.

Councilmember Nave withdrew the substitute motion.

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Blackburn and Preisner -5. Noes: Nave, Haynes, Duffy and Harmon -4.

RESOLUTION NO. 7629 introduced by City Manager, Neil Dobler, authorizing City administration to issue a request for proposal as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A COMMUNICATION setting a public hearing on June 7, 2005 for the purpose of hearing and answering objections of taxpayers relating to the proposed amendment to the 2005 adopted budget was presented.

Neil Dobler gave the staff report.

Councilmember Alcalá moved to approve the communication. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

RESOLUTION NO. 7630 introduced by City Manager, Neil Dobler, describing the areas to be considered priorities for 2006 Target Areas for the federal and city funding as allocated within the 2006 City budget was presented.

Randy Speaker, Housing and Neighborhood Director gave the staff report. He stated that that the resolution would allow HND to begin working on the 2006 Consolidated Action Plan. He explained that all of the Neighborhood Improvement Association Plans were considered before the priorities were set. He also stated that only 60% of the federal and city funding is allowed to be used for target areas. He explained that if any of the priorities that have been set are not met, than the Council would be notified prior to approving the budget. Finally, he stated that the Community Advisory Council has approved the target areas list.

Mayor Bunten noted that the resolution only shows the rankings of the NIA's that have requested funding, and no money would be allocated at this time.

The following individuals appeared in support of the resolution: Betty Phillips, Sandy Swartz, Maggi Pinick, John Moyer, Joseph Ledbetter, Clara Simmons, JoAnn Peavler, Betty Dunn and Fred Sanders. Citizens commended staff on:

- Addressing the intensive-care areas
- Encouraging private investors by implementing new development
- Encouraging Economic and Community Development
- Utilizing existing areas by incorporating low to moderate income housing

Diane Alpert, Botwin and Company distributed a handout regarding the Hi-Crest Area Freemont Hill Development.

Josh Sheldon, Freemont Hill Development Project Engineer appeared for questions.

Several Councilmembers commended staff, citizens and the Neighborhood Improvement Associations for their hard work in cleaning up the neighborhoods.

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

A COMMUNICATION requesting acceptance of the Real Estate Report and approval to dispose of property adjoining 2710 N.E. Doran Avenue was presented.

CONTRACT NO. 35309 between the City of Topeka and Sharon L. Smith for the sale and transfer of title of a parcel of real estate adjoining 2710 N.E. Doran Avenue was presented.

Neil Dobler gave the staff report.

Councilmember Alcalá moved to amend the agreement to reflect a selling price of \$166. The motion seconded by Councilmember Ortiz carried. Councilmembers Duffy, Preisner and Harmon voted "no". (6-3-0)

Councilmember Preisner moved to approve the real estate report and agreement. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

A COMMUNICATION requesting acceptance of the Real Estate Report and approval to dispose of property located at 914 N.W. Topeka Boulevard, was presented.

CONTRACT NO. 35310 between Second Baptist Church and the City of Topeka for the exchange of City owned property located at 914 N.W. Topeka Boulevard and property located along the north side of 903 N.W. Harrison, owned by the Second Baptist Church, was presented.

Neil Dobler gave the staff report.

Councilmember Alcalá moved to approve the real estate report and agreement. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager, Neil Dobler apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District 40915-00H, with piping,

manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40915-00H, as defined and described in Resolution No. 7418, adopted and approved November 25, 2003 was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60206-02H with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60206-02H as defined and described in Resolution No. 7372, adopted and approved August 5, 2003 was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60578-H with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60578-H as defined and described in Resolution No. 7278, adopted and approved October 15, 2002 was presented for first reading.

AN ORDINANCE introduced by Councilmember Brett Blackburn, relating to water service to owners of real property outside city limits, amending Topeka City Code Section 146-37 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by Councilmember Brett Blackburn relating to annexation and funding of sewer service and extensions, amending City of Topeka Ordinance No. 18272, Section 4, and repealing said original section was presented for first reading.

AN ORDINANCE introduced by Councilmember Brett Blackburn, amending City of Topeka Ordinance No. 17951 and City of Topeka Code Sections 26-58, 26-139.1.5, and 26-298

to limit the extension of the City of Topeka building code and permit process outside the City's boundaries to the City's Municipal Service Area was presented for first reading.

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 134-1 to establish a city municipal service area within the City's three (3) mile extraterritorial jurisdiction, and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler, instituting a real estate lien upon certain lots and pieces of ground in Shawnee County, Kansas to pay the cost for sewage collection and treatment where such payments to the City have not been made due to neglect, failure or refusal to pay, pursuant to K.S.A. 12-631k was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler, regarding definitions, failure to pay; delinquent service fee, restoration of water service after payment of delinquency, amending Topeka City Code Sections 146-136, 146-148, and 146-150 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler, regarding definitions, failure to pay; delinquent service fee, restoration of water service after payment of delinquency, amending Topeka City Code Sections 146-136, 146-148, and 146-150 and specifically repealing said original section was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Preisner announced that there would be a Public, Health and Safety Committee meeting held on May 26, 2005 at 4:30 p.m. in the City Council Office.

Councilmember Blackburn announced that there would be a staff presentation on the Capital Improvement Program process next week.

REPORT FROM THE CITY MANAGER, was presented.

Neil Dobler stated that a copy of the annexation plan has been distributed to the Council for review. He also stated that he would like to schedule a work session as soon as possible to discuss the 2006 council priorities regarding the budget.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Haynes inquired on the status of the Extra Territorial Jurisdiction (ETJ) litigation case.

Braxton Copley, Assistant City Attorney stated that it could possibly take another three to four months before a ruling is made.

David Owen appeared to speak under public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:52 p.m.

Iris Walker
City Clerk