

City Council Minutes – June 21, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 21, 2005. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -1.

AFTER THE MEETING was called to order, prayer was offered by Father Pete O'Sullivan, Christ of King Church.

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

Councilmember Alcala requested to pull item 3F, for separate discussion.

Councilmember Blackburn moved to suspend the Council Rules to add an ordinance to the agenda authorizing Improvement Project No. 13148, under First Readings. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Councilmember Alcala moved to reinstate the Council Rules. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

ORDINANCE NO. 18460 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 expenditures herein was presented for first and final reading. The ordinance was deferred from the meeting of June 7, 2005.

ORDINANCE NO. 18461 introduced by City Manager Neil Dobler, allowing and approving city expenditures for the period of May 16, 2005 through May 22, 2005, and enumerating said expenditures herein was presented for first and final reading. The ordinance was deferred from the meeting of June 7, 2005.

ORDINANCE NO. 18462 introduced by City Manager Neil Dobler, allowing and approving city expenditures for the period of May 23, 2005 through May 29, 2005, and enumerating said expenditures herein was presented for first and final reading. The ordinance was deferred from the meeting of June 7, 2005.

ORDINANCE NO. 18463 introduced by City Manager Neil Dobler, allowing and approving city expenditures for the period of June 6, 2005 through June 12, 2005, and enumerating said expenditures herein was presented for first and final reading.

ORDINANCE NO. 18464 introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during the Fiesta Mexicana, at specified locations and times placed on first reading June 14, 2005 was again presented.

A FINAL PLAT for Reser's Subdivision located at 3215 SE 6th Street in the City of Topeka, Kansas, was presented. (P05/7)

A COMMUNICATION accepting the Department of Justice Grant award and authorizing the City Manager to sign the contract between the City of Topeka and the Department of Justice, was presented.

MINUTES of the Regular Meeting of June 14, 2005 were presented.

Open After Mid-Night License Applications bearing the approval of the Chief of Police and City Inspectors were presented from the following:

<u>Business</u>	<u>Address</u>
McDonald's Restaurant #5468	5525 SW 21 st Street
McDonald's Restaurant #17628	2933 SW Wanamaker Road

Councilmember Preisner moved to approve the remainder of the Consent Agenda. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

ORDINANCE NO. 18465 introduced by John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during the Fiesta Mexicana parade and street dance, at specified locations and times placed on first reading June 14, 2005 was again presented.

Councilmember Alcala moved to amend line 14 of the ordinance to reflect 5:00 p.m. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

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

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

ORDINANCE NO. 18466 introduced by Councilmember John Alcala amending City of Topeka Code Section 142-355 to include a provision allowing for the waiver of the provisions of the code section relating to parking on unimproved surfaces, and specifically repealing said original section placed on first reading June 14, 2005 was again presented.

Councilmember Alcala explained that the ordinance allows for parking on specific property during special events for a period of time not to exceed two weeks.

Frank Kirtdoll stated that he believes the ordinance should be amended to allow people to park in their own yards.

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

ORDINANCE NO. 18467 introduced by Councilmember Brett Blackburn, relating to the use and sale of fireworks within the city limits, amending Topeka City Code Section 70-57 and specifically repealing said original section placed on first reading June 14, 2005 was again presented.

Councilmember Blackburn stated that the ordinance allows all firework stands located inside or outside the city limits to sell the same type of fireworks. He also stated that the ordinance includes a provision requiring the supervision of minors under the age of eighteen. He stated that the new ordinance should help reduce the number of nuisance calls made to the Police Department. He also stated that the ordinance would clarify the operating hours of firework stands.

Bob Kelly, area business owner stated that he has been in the firework business for forty years and supports the new ordinance. He also stated that he believes that age eighteen is too restrictive for the use of fireworks and suggested reducing the age limit to sixteen.

Councilmember Haynes moved to amend line 136 of the ordinance to change the age limit from eighteen to sixteen. The motion was seconded by Councilmember Nave.

Ed Klumpp, Police Chief stated that the ordinance is currently written to ease the prosecution process and help enforce the safety of minors. He explained that adult supervision is required for a person under the age of eighteen to discharge a firework, and in the event an adult is not present, the fireworks are confiscated. He also stated that if an adult is present and allows the illegal use of fireworks the adult could be prosecuted.

Councilmember Nave withdrew the second to the motion to amend.

Councilmember Haynes withdrew the motion to amend.

John Curran, owner of Jake's Fireworks stated that he supports the ordinance. He

expressed concern with the short notice of change in regulations, inconsistent building inspections, zoning and permit fees. He also suggested that they review the entire ordinance to ease the process for small independent vendors.

Brenden Long, City Attorney stated that he received a telephone call from the State Fire Marshall requesting that the word “discharged” be included in the ordinance to make it consistent with state and federal law.

Councilmember Blackburn moved to amend line 144 of the ordinance to reflect “and/or discharge.” The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner asked if it was possible for any additional applications to be made by a person to own or operate a firework stand within city limits this year.

Howard Giles, Fire Chief stated that the guidelines for submitting a firework stand diagram to the Fire Department for consideration was June 17th.

The motion to amend line 144 of the ordinance carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Blackburn carried. Councilmembers Alcala, Ortiz, Duffy and Harmon voted "no". (5-4-0)

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

RESOLUTION NO. 7646 introduced by City Manager Neil Dobler adopting City Council Rules and Procedures was presented. The resolution was deferred from the meeting of June 7, 2005.

Neil Dobler, City Manager gave the staff report. He explained that the Council Rules would generally remain the same. He stated that the significant change relates to Council

meeting times. He explained that that the first and third Tuesday of each month would consist of a non-action meeting beginning at 6:00 p.m. followed by a work session, and the second and fourth Tuesday of each month would consist of an action meeting beginning at 7:00 p.m.

Joseph Ledbetter expressed concern with the changes in the Council Rules. He stated that he opposes a number of the changes because it delegates the majority of the duties from the City Council to the City Manager. He stated that he would like to see a more accountable government.

Frank Kirtdoll stated that they he opposes the proposed Council Rules and requested that they send the document to a committee for further review and study.

Fred Sanders stated that he opposes the resolution because it restricts the Council too much. He requested that they send the proposed Council Rules to the Community Advisory Council for review and suggested recommendations.

Councilmember Preisner moved to approve the resolution. The motion was seconded by Councilmember Nave.

Councilmember Preisner stated that he supports the resolution because the Council has spent a great deal of time on the proposed Council Rules. He also stated that he believes the proposed rules would allow the Council to be more efficient.

Councilmember Haynes stated that he supports the proposed Council Rules and each Councilmember has had numerous opportunities to make changes. He also asked if Council Rules 2.7 and 2.8 directly relate to Charter Ordinance No. 94.

In response, Brenden Long stated that Council Rule 2.7 directly corresponds with the Charter Ordinance, and Council Rule 2.8 is consistent with the rules followed in the past relating to “seeking legal opinions”.

The motion to approve the resolution carried. Kennedy, Alcalá and Ortiz voted "no".

(6-3-0)

A COMMUNICATION appointing Mark Boyd, John McGivern, Kimberly Scott, Ralph Skoog, Dave Heinemann, Joselito Enriquez, Fred Sanders, Joe Swalwell and Michelle Hoferer to the Topeka Planning Commission was presented. The communication was deferred from the meeting of June 7, 2005.

Mayor Bunten explained the process for the appointments.

Councilmember Preisner moved to divide the question. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

Councilmember Blackburn moved to appoint Mark Boyd to the Topeka Planning Commission. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner moved to appoint John McGivern to the Topeka Planning Commission. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Blackburn moved to appoint Kimberly Scott to the Topeka Planning Commission. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Harmon moved to appoint Ralph Skoog to the Topeka Planning Commission. The motion seconded by Councilmember Haynes carried. Councilmember Preisner voted "no". Councilmember Blackburn abstained. (7-1-1)

Councilmember Haynes moved to appoint Dave Heinemann to the Topeka Planning Commission. The motion seconded by Councilmember Duffy failed. Councilmembers Kennedy, Alcalá, Ortiz and Nave voted "no". Councilmember Blackburn abstained. (4-4-1)

Councilmember Preisner moved to appoint Joselito Enriquez to the Topeka Planning Commission. The motion seconded by Councilmember Ortiz carried. Councilmember Duffy

voted "no". Councilmember Blackburn abstained. (7-1-1)

Councilmember Ortiz moved to appoint Fred Sanders to the Topeka Planning Commission. The motion seconded by Councilmember Kennedy carried. Councilmember Preisner voted "no". Councilmember Blackburn abstained. (7-1-1)

Councilmember Harmon moved to appoint Joe Swalwell to the Topeka Planning Commission. The motion seconded by Councilmember Haynes failed. Councilmembers Kennedy, Alcala, Ortiz, Blackburn and Preisner voted "no". (4-5-0)

Councilmember Harmon moved to appoint Michelle Hoferer to the Topeka Planning Commission. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$19,956 and RESOLUTION NO. 7647 introduced by City Manager Neil Dobler authorizing Street Improvement Project No. 60364-02 as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$553,000 and RESOLUTION NO. 7648 introduced by City Manager Neil Dobler amending the project budget for Improvement Project No. 60605-00H as more specifically described herein, and specifically rescinding City of Topeka Resolution No. 7484 was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

RESOLUTION NO. 7649 introduced by City Manager, Neil Dobler, describing Improvement Project No. 28593-00, Part A which provides for the design and right-of-way acquisition and authorizing the same was presented.

Neil Dobler, City Manager gave the staff report and stated that the total cost of the project would \$1.2 million.

Councilmember Blackburn moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Nave carried. Councilmember Preisner was out of the room. (8-1-0)

RESOLUTION NO. 7650 introduced by City Manager Neil Dobler, adopting the 2005-2006 Capital Improvement Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7510 was presented.

Neil Dobler, City Manager gave the staff report and stated that the resolution adds a water main project located near SE 45th Street and SE Croco Road to the current Capital Improvement Program.

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

RESOLUTION NO. 7651 introduced by City Manager Neil Dobler, authorizing the filing of an application with the Kansas Department of Health and Environment for a loan under the Kansas Water Pollution Control Revolving Fund Act was presented.

Neil Dobler, City Manager gave the staff report.

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

A PROJECT BUDGET in the amount of \$200,000 and RESOLUTION NO. 7652 introduced by City Manager Neil Dobler to use Transient Guest Tax funds for the purchase and installation of wayfinding signs in the City of Topeka and authorizing the same was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the project budget and resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

APPROVAL of a revision to the Communication regarding the sale of the Zoo Conservation Propagation Farm, 10434 SW 61st Street approved by City Council on May 3, 2005 was presented.

Neil Dobler, City Manager gave the staff report.

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

AN ORDINANCE introduced by City Manager, Neil Dobler authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Improvement Project No. 13137-00, in the 700 block of Kansas Avenue was presented for first reading.

AN ORDINANCE introduced by City Manager, Neil Dobler, relating to the vacation of a portion of a six-foot wide north/south utility easement located at 3305 SW Huntoon Street, City of Topeka, Kansas was presented for first reading. (V05E/6)

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 1272 SW Tyler Street in the City of Topeka, Kansas, from “M-2” Multiple Family Dwelling TO “M-3” Multiple Family Dwelling District was presented for first reading. (Z72/71)

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 northwest corner of SW 13th Street and SW Van Buren Street in the City of Topeka, Kansas, from “M-2” Multiple Family Dwelling District TO “M-3” Multiple Family Dwelling District was presented for first reading. (Z73/10)

AN ORDINANCE introduced by City Manager, Neil Dobler authorizing Improvement Project No. 13147, which provides for the removal and replacement of the existing roofing system located on City Hall as more specifically described herein, all pursuant to Section A12-1 of the Cod of the City of Topeka 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 June 27, 2005 at 4:30 p.m. in the City Council Office.

Councilmember Blackburn announced that there would be an Economic and Community Development Committee meeting held on June 29, 2005 at 5:30 p.m. in the City Council Office.

REPORT FROM THE CITY MANAGER, was presented.

Neil Dobler announced that the Kansas League of Municipalities has requested to make a presentation at the Council meeting next week regarding the City/County Consolidation Preliminary Plan. He stated that he is going to schedule a work session in two weeks to present the City/County Parks and Recreation Consolidation Draft Plan. He also stated that he would

include the proposed City/County Parks and Recreation Consolidation Organizational Chart in next week's council packet information. He distributed a General Obligation Bond pay-off schedule to the Council. He also announced that the City of Topeka would conduct a public hearing relating to the City's budget for social service agencies on Saturday, July 16, 2005 from 9:00 a.m. to 12:00 noon in the City Council Chambers. He stated that he has asked the Fire Chief and Police Chief to meet and develop guidelines regarding the new fireworks ordinance as soon as possible.

Bob Sherburne appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:45 p.m.

Iris Walker
City Clerk