

City Council Minutes – June 28, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 28, 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 Councilmember Preisner.

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

Sandy Jacquot and Don Mohler, League Of Kansas Municipalities gave a presentation on the proposed Topeka Shawnee County Consolidation Plan.

Tom Wright, member of the Topeka Shawnee County Kansas Consolidation Committee gave a presentation on the Committee's role in constructing the consolidation plan.

Councilmember Alcalá requested to pull item 4A from the consent agenda, for separate discussion.

RESOLUTION NO. 7653 introduced by Councilmember Lana Kennedy granting House of Barbecue an exception to the provisions of the City of Topeka Code Section 54-148 concerning noise was presented.

RESOLUTION NO. 7654 introduced by Councilmember John Alcalá granting a waiver to the provisions of City of Topeka Code Section 142-355, as amended, relating to parking on unimproved surfaces was presented.

MINUTES of the Regular Meeting of June 21, 2005 were presented.

A Dance Hall License Application bearing the approval of the Chief of Police and City Inspectors for J's Bar & Grill, 320 SE 29th Street, was presented.

An Open After Mid-Night License Application bearing the approval of the Chief of Police and City Inspectors for Celebrities Night Club, 5243 SW 28th Court, was presented.

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

ORDINANCE NO. 18468 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of June 13, 2005, through June 19, 2005, and enumerating said expenditures herein was presented for first and final reading.

Several Councilmembers questioned a number of expenditures that were listed. They also questioned the policies associated with the procurement card (P-Card) in regards to food and travel.

Councilmember Preisner asked the City Manager to give a detailed explanation of the expenditures in question.

In response, Neil Dobler, City Manager stated that it would require further review of the expenditures in question before he could give a detailed explanation. He stated that he would supply an explanation of the expenditures in the weekly council packet information. He also stated that he would meet with Jim Langford, Finance and Budget Director within the next two weeks to begin discussing possible P-Card policy changes.

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

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, June 28, 2005, at 7:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of the improvement, same being Street Improvement Project No 60572 authorized by Resolution No. 7166, adopted and approved July 10, 2001.

ORDINANCE NO. 18469 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. 60572, with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60572 as defined and described in Resolution No. 7166, adopted and approved July 10, 2001 placed on first reading June 14, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Gregory Stitt spoke in opposition to the special assessment. He stated that when he purchased his property he was not notified that there would be additional costs levied on the property.

Councilmember Haynes expressed concern with the current assessment policy. He asked if a notice could be filed with the Shawnee County Register of Deeds.

Councilmember Blackburn also suggested that a new policy be established to help ensure that property owners are notified of special assessments when purchasing property.

Brenden Long, City Attorney explained that it is the seller's obligation to notify the buyer of any additional costs that may be assessed to a property. He stated that he would review what is required by law, and adjust the current policy as needed.

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

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, June 28, 2005, at 7:00 P.M. in conjunction with vacation request V05E/6 by Gerrad and Jamie Simecka, owners, to vacate a six-foot wide north/south utility easement located at 3305 SW Huntoon Street.

ORDINANCE NO. 18470 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, Shawnee County, Kansas placed on first reading June 21, 2005 was again presented. (V05E/6)

Neil Dobler, City Manager gave the staff report.

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

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 placed on first reading June 21, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Brian Hersh, property owner stated that the offer made by the City was declined because it was below the fair market value price. He also questioned the necessity of an additional parking garage in the downtown area.

Neil Dobler, City Manager stated that currently all of the parking garages, except one, are at full capacity 100% of the time.

Councilmember Alcala stated that he has several financial questions that have not been answered.

Councilmember Alcala moved to refer the ordinance to the Economic and Community Development Committee. The motion was seconded by Councilmember Blackburn.

Councilmember Duffy expressed concern with sending the project to committee and the affect it would have on the private funding portion of the project.

The motion to refer ordinance to the Economic and Community Development Committee carried. Councilmembers Haynes and Preisner voted "no". (7-2-0)

A ZONING PETITION and ORDINANCE NO. 18471 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 placed on first reading June 21, 2005 was again presented. (Z72/71)

Neil Dobler, City Manager 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.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave 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 ZONING PETITION and ORDINANCE NO. 18472 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 placed on first reading June 21, 2005 was again presented. (Z73/10)

Neil Dobler, City Manager 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 exparte communications besides Councilmember Blackburn. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave 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 \$100,045 and ORDINANCE NO. 18473 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 Code of the City of Topeka placed on first reading June 21, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the project budget 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 \$347,260 and ORDINANCE NO. 18474 introduced by City Manager Neil Dobler, authorizing Improvement Project No. 13148, which provides for improvements to the Law Enforcement Center, City Hall, the Fire Academy and Fire Station #3 as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading June 21, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the project budget 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 PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$152,571 and A RESOLUTION introduced by City Manager Neil Dobler authorizing Project No. 40933-01 as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Michael Hagen read a letter distributed by Becky Cavalari, 2336 NW Furman Road, area resident. Mrs. Cavalari's letter stated that the real estate agent made no contact with them. She explained that only the side-yard of the property is located on Furman Road. She suggested that they exclude residential properties from the assessment and spread the total assessment cost to the remaining seven properties.

Henry McClure, seller of the property stated that he made three attempts to contact the Cavalari's with no success. He stated that he followed the guidelines that have been set and has received approval signatures from 64% of the area property owners.

Councilmember Alcala stated that he believed the issue could be resolved in committee.

Councilmember Alcala moved to refer the public improvement petition, project budget and resolution to the Policy and Finance Committee. The motion was seconded by Councilmember Ortiz.

Councilmember Blackburn asked if the item could be placed on the agenda as soon as it is released from committee.

Neil Dobler stated that it would be placed on the agenda date following the committee meeting.

Councilmember Alcala requested that the Policy and Finance Committee meet on Friday, July 1, 2005 to discuss the issue.

Councilmember Harmon and Councilmember Haynes, Policy and Finance Committee members agreed to meet on July 1, 2005.

Councilmember Duffy asked if standard procedure was followed.

In response, Bill McCarter, project engineer stated that standard procedure was followed.

The motion to refer the proposal to the Policy and Finance Committee carried.

Councilmembers Nave, Duffy and Preisner voted "no". (6-3-0)

RESOLUTION NO. 7655 introduced by City Manager Neil Dobler, establishing the City of Topeka municipal service area and rescinding City of Topeka Resolution No. 7637 was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Duffy stated that the new municipal service boundaries (MSB) did not include the entire area that the City of Topeka currently provides services to. He asked if they should amend the resolution to reflect the existing municipal service area boundaries in rural Shawnee County, where the City provides services.

In response, Neil Dobler stated that the new MSB was based on the areas that would be easiest to annex in regards to how quickly the City could provide utility and fire protection service.

Councilmember Duffy stated that he would oppose the resolution because the City of Topeka continues to provide services outside the MSB, therefore, the need for service boundaries is not necessary.

Councilmember Blackburn stated that if the proposal fails, the previous 3-mile extra territorial jurisdiction (ETJ) building code enforcement would resume.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcalá carried. Councilmembers Haynes, Duffy and Preisner voted "no".
(6-3-0)

RESOLUTION NO. 7656 introduced by City Manager Neil Dobler, adopting the 2005-2006 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7650 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 COMMUNICATION appealing the decision of the State Historic Preservation Officer regarding the denial of a demolition permit on property located at 510 SW Washburn Avenue, was presented.

Neil Dobler, City Manager gave the staff report.

Jacqueline Patterson, property owner stated that the property burned on April 1, 2005, causing extensive smoke and heat damage to the inside of the property. She explained that the

property was appraised at \$47,000 and sustained over \$100,000 in estimated damages. She stated that the house was only insured for \$42,000 and they could not justify spending an additional \$52,400 to repair the home.

Councilmember Kennedy stated that she spoke with area neighbors and they agreed that the property should be demolished.

Councilmember Kennedy moved to find that there is no feasible and prudent alternative to demolition of the home. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

AN ORDINANCE introduced by acting City Manager Neil Dobler, authorizing Improvement Project No. 70198-01 which provides for the traffic study to determine proper traffic control and geometric and preparation of plans 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, establishing city council meeting times and places, amending City of Topeka Code Section 2-27, as amended by City of Topeka Ordinance No. 18416 was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler, authorizing Improvement Project No. 60596-01, which provides 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.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

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.

Councilmember Alcala announced that there would be a Policy and Finance Committee meeting held on July 1, 2005 in the City Council Office regarding Sanitary Sewer Project No. 40933-01, US Highway 24 and Furman Road. He stated that the meeting time would be determined at a later date.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Ortiz presented pictures of the restrooms located at the Dornwood Baseball Park. She stated that the restrooms were in extremely poor condition and need to be replaced as soon as possible.

Councilmember Nave stated that he has received a number of complaints regarding the outdated restroom facilities. He suggested that they recruit private investors to help pay for the cost of new restroom facilities.

Lawrence Wheeler appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:05 p.m.

Iris Walker
City Clerk