

City Council Minutes – July 5, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 5, 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, Councilmember Harmon asked for a moment of silent meditation.

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

Councilmember Alcalá requested to pull item 3A from the consent agenda, for separate vote.

MINUTES of the Regular Meeting of June 28, 2005 were presented.

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

ORDINANCE NO. 18475 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of June 20, 2005, through June 27, 2005, and enumerating said expenditures herein was presented for first and final reading.

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

A PROJECT BUDGET in the amount of \$132,000 and ORDINANCE NO. 18476 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 placed on first reading June 28, 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 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, establishing city council meeting times and places, amending City of Topeka Code Section 2-27, as amended by City of Topeka Ordinance No. 18416 placed on first reading June 28, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Frank Kirtdoll spoke in opposition of the ordinance. He stated that he believes the proposed ordinance violates Charter Ordinance No. 94 regarding Council meeting dates and times.

Brenden Long, City Attorney explained that Charter Ordinance 94 does state that meeting dates and times must be set every two years. However, in the past, it has been the common practice of the Council to consider Council meeting dates and times more than once every two years.

Neil Dobler announced that if the proposed ordinance is adopted the first change in meeting times would occur on Tuesday, July 19, 2005 at 6:00 p.m.

Several Councilmembers questioned the legality of the proposed ordinance in relation to Charter Ordinance No. 94.

Joseph Ledbetter spoke in opposition of the proposed ordinance. He stated that it is important for the Council to set a good example by following the rules they constructed and adopted.

Fred Sanders spoke in opposition of the proposed ordinance. He stated that it is important for public officials to follow the rules that have been implemented.

The ordinance was not adopted on roll call vote as follows: Ayes: Haynes, Blackburn and Preisner -3. Noes: Kennedy, Alcalá, Ortiz, Nave, Duffy and Harmon -6.

A PROJECT BUDGET in the amount of \$1,533,655 and 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 placed on first reading June 28, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Frank Kirtdoll stated that he opposed the ordinance because in his opinion the project should not be reconsidered until six-months has elapsed, per Council Rules.

Susan Mahoney, Downtown Topeka, Incorporated (DTI) appeared for questions. She stated that the project is very important to the success of downtown.

Councilmember Alcalá questioned why 8th Street was chosen as the gateway to the City instead of 10th Street.

Neil Dobler stated that the main entrance to the Capital is located on 8th Street and that is why 8th Street was chosen.

Fred Sanders stated that the Council should consider 10th Street as the gateway to the city because the 8th Street project is too expensive.

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

Councilmember Blackburn stated that he believes the project is too expensive. He also stated that he would like a financial breakdown of what it would cost to repair only the street and sewers.

Councilmember Blackburn made a substitute motion to refer the project to the Economic and Community Development Committee. The motion was seconded by Councilmember Nave.

Councilmember Duffy stated that the original cost of the project has doubled, totaling over \$700,000 per block. He suggested that they consider funding all six blocks through general obligation bonds.

The motion to refer to the Economic and Community Development Committee carried. Councilmember Haynes voted "no". (8-1-0)

RESOLUTION NO. 7657 introduced by Councilmember Jeff Preisner selecting an executive search firm to assist the City of Topeka in the employment of the city manager was presented.

Councilmember Preisner gave the committee report and stated that the Public, Health and Safety Committee recommended "Do Pass" by a vote of 3-0-0 on June 27, 2005.

Councilmember Preisner moved to adopt the committee report. The motion was seconded by Councilmember Nave.

Councilmember Kennedy stated that she would not support the resolution because she believes they should employ a local firm or one located within the state.

Councilmember Blackburn stated that he would support the resolution because it is important to move forward with the search for a City Manager, regardless of the outcome of City/County Consolidation.

The motion to approve the resolution carried. Councilmembers Kennedy and Ortiz voted "no". (7-2-0)

A PUBLIC IMPROVEMENT PETITION, A 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. The project was deferred from the meeting of June 28, 2005.

Councilmember Haynes gave the staff report and stated that the project was removed from the Economic and Community Development Committee "Without Recommendation" by a vote of 2-1-0 on July 1, 2005.

Ken Wagner, Heritage Tractor stated that they plan to build a John Deere Tractor factory, creating twenty-five new jobs for the area. He stated that he understands the concerns that have been raised, however, the Council needs to consider what is best for the overall area and approve the project.

Robert Meier, area resident stated that he supports the sewer project but is concerned with how the project is being assessed.

Vernon Jarboe, representing three area residents suggested the following alternatives to the proposal: (1) assess only the petitioner (2) assess only the non-residential or non-agricultural users or (3) base the cost of assessment on property value.

Henry McClure, Real Estate Agent stated that initially he requested a waiver to install a septic tank and was denied. He emphasized the importance of helping businesses locate in Topeka.

Councilmember Preisner moved to approve the public improvement petition, project budget and resolution. The motion was seconded by Councilmember Nave.

Councilmember Alcala made a conceptual amendment to line 66, subsection (d) of the resolution, to reflect that the assessment is based on the proportional property valuation of each lot included in the described benefit district.

Mayor Bunten asked when the property value would be determined.

Brenden Long, City Attorney stated that the property value would be determined at the time the assessment ordinance is adopted by Council.

Councilmember Haynes made a substitute motion to defer the project for two weeks to establish an assessment cost method. The motion was seconded by Councilmember Alcala.

Councilmember Blackburn expressed concern with delaying the project an additional two weeks and the effect it would have on the development.

Henry McClure stated that a two-week delay would set the project behind several weeks. He also stated that it is unfair to the developer to try and change the assessment policy midstream in attempt to please a small percentage of area residents.

Ken Wagner, Heritage Tractor stated that further delay of the project would create a severe hardship because they would miss the January 1, 2006 deadline. He explained that if the deadline were not met it would cause them to lose a great deal of money by missing the spring selling and maintenance season.

Councilmember Duffy stated that he would oppose the motion to defer two weeks because the applicant has followed City policy, and 70% of the property owners support the project.

Councilmember Alcala made a friendly amendment to defer the project for one week instead of two.

Councilmember Blackburn stated that he would not support the motion to defer because he believes the project should move forward.

Mayor Bunten stated that in his opinion the applicant should be allowed to move forward at this time because the project has already been delayed several weeks. He also stated that it is vital for the growth of the City to be business friendly.

Councilmember Alcala stated that this project is unique and the issue is not related to policy process. He explained that his concern is based on the affect an unfair assessment would have on area residents.

The motion to defer the resolution one week carried. Councilmembers Nave, Duffy, Blackburn and Preisner voted "no". (5-4-0)

RESOLUTION NO. 7658 introduced by Councilmember John Alcala relating to a Balanced Budget and Surplus Policy for the City of Topeka and specifically repealing City of Topeka Resolution No. 7490 was presented.

Councilmember Alcala explained the resolution.

Councilmember Duffy stated that in his opinion the resolution has been crafted to negatively affect the Parks and Recreation Department. He suggested that they amend the resolution to include capital improvement program expenditures.

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

Councilmember Duffy moved to amend the resolution by inserting the statement, "to include capital improvement program expenditures" after the word "projects" on line 15. The motion was seconded by Councilmember Alcala.

Councilmember Alcala withdrew the motion to approve the resolution.

The motion to amend the resolution carried. Councilmember Haynes voted "no". (8-1-0)

Councilmember Alcalá moved to approve the resolution as amended. The motion seconded by Councilmember Nave carried. Councilmember Haynes voted "no". (8-1-0)

RESOLUTION NO. 7659 introduced by Councilmember John Alcalá relating to the Topeka Zoological Park and rescinding City of Topeka Resolution No. 7634 was presented.

Councilmember Alcalá stated that he received a request from the committee to extend the completion deadline an additional thirty days because the interviewing process and paperwork has not yet been completed. He also stated that City Manager, Neil Dobler has agreed to provide clerical support to the committee to assist in bringing the matter to a close.

Councilmember Haynes moved to extend the deadline thirty days. The motion was seconded by Councilmember Preisner.

Councilmember Preisner stated that this is the third request for an extension made by the committee since March 22, 2005. He explained that the committee has met six times and he believes that they have had a sufficient amount of time to make an informed recommendation.

Councilmember Preisner made a substitute motion to amend the resolution beginning on line 17, to strike the words "make recommendations" and insert the words "submit a final report", and strike the words "August 19, 2005" and insert the words "July 19, 2005". The motion seconded by Councilmember Nave carried. Councilmembers Kennedy, Alcalá, Ortiz and Haynes voted "no". (5-4-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Nave carried. Councilmember Haynes voted "no". (8-1-0)

A COMMUNICATION requesting acceptance of the Real Estate Report and approval to dispose of property located at 1908 NW Grove Avenue, was presented.

CONTRACT NO. 35415 a Real Estate Agreement between the City of Topeka and Faith M. Palubinski for the transfer of title of a portion of real estate located at 1908 NW Grove Avenue, was presented.

Neil Dobler, City Manager gave the staff report.

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

REPORTS FROM THE CITY MANAGER, were presented.

Neil Dobler stated that he would give a brief presentation on the proposed 2006 Operating Budget at the July 12, 2005 work session. He also stated that departmental budgets and the legislative agenda would be discussed at the July 19, 2005 work session.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Blackburn read a letter he received thanking the Police Department for their services during the holiday weekend, and expressing appreciation for the way the fireworks were handled in the city.

Councilmember Alcalá read from a list of people that expressed their unhappiness with the new fireworks ordinance.

Councilmember Ortiz stated that she received five telephone calls from people who opposed the new fireworks ordinance.

Councilmember Kennedy stated that she also received a telephone call from a constituent opposing the new fireworks ordinance. She also asked the public to help keep the City clean by picking up all firework debris.

Frank Kirtdoll, Larry Cobler and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:55 p.m.

Iris Walker
City Clerk