

City Council Minutes – July 19, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 19, 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, Preisner and Harmon -8. Councilmembers absent: Blackburn -1. Mayor Buntten 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.

MINUTES of the Regular Meeting of July 12, 2005 were presented.

Councilmember Haynes moved to approve the minutes. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

A Cereal Malt Beverage License Application bearing the approval of the Chief of Police and City Inspectors for Star Convenience Store, 2201 SW 6th Avenue, was presented.

Councilmember Preisner moved to approve the application. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

AN ORDINANCE introduced by Councilmember Lana Kennedy amending City of Topeka Code Section 18-157 to require owners, keepers and harborers of Pit Bull dogs to obtain and maintain certain specific types and amounts of insurance and specifically repealing said original section placed on first reading July 12, 2005 was again presented.

Judy Matthews spoke in opposition of the ordinance. She stated that an insurance requirement would encourage people to conceal the fact that they own a pit bull dog because of the financial burden it would create.

Brenden Long, City Attorney explained that currently pit bull dog owners are required to use the microchip identification system and conform to enclosure regulations. He stated that the ordinance would require that all pit bull dog owners, keepers and harborers obtain a public liability insurance policy in the amount of \$50,000.

Pat DeLapp spoke in support of the ordinance. He suggested that they review the language of the ordinance to ensure all breeds of pit bull dogs are listed.

Brenden Long, City Attorney stated that City of Topeka Code Section 18-141 lists all of the breeds that are considered a pit bull dog.

Peter Muraski spoke in support of the ordinance. He questioned the language of the ordinance and stated that the regulations must be specific to ensure proper enforcement.

Councilmember Kennedy moved to refer the ordinance to the Public, Health and Safety Committee to review the language and penalties. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

ORDINANCE NO. 18478 introduced by City Manager, Neil Dobler amending City of Topeka Code Section 30-302 relating to organizations and their members activities that shall be exempt from licensing and registration and specifically repealing said original section placed on first reading June 7, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Kennedy gave the committee report. She stated that the Economic and Community Development Committee recommended "Do Pass" by a vote of 3-0-0 on July 6, 2005.

Councilmember Duffy asked how the amendments would impact the current ordinance.

Brenden Long, City Attorney stated that the amendment only relates to the door-to-door residential sales and the agricultural product sales exemptions to the peddler, solicitor, and itinerant merchant license.

Councilmember Ortiz moved to adopt the committee report. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -8. Absent: Blackburn -1.

ORDINANCE NO. 18479 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.

Councilmember Kennedy gave the committee report and stated that the Economic and Community Development Committee recommended "Do Pass" by a vote of 2-1-0 on July 5, 2005.

Frank Kirtdoll spoke in opposition of the ordinance. He also distributed a handout explaining the Delphi Technique.

Brian Hersh, property owner spoke in opposition of the ordinance. He stated that he believes that the City's offer of \$37,000 is unfair, however, he is willing to negotiate a fair price for the property.

Councilmember Kennedy moved to adopt the ordinance with the condition that the court petition would not be filed for thirty days. The motion was seconded by Councilmember Ortiz.

Councilmember Alcala stated that he would not support the motion because he believes the applicant would lose their bargaining power with the City.

Councilmember Preisner stated that a delay in filing the court petition would still allow the project to move forward.

Councilmember Ortiz stated that she would not support the proposal because she believes it would hinder negotiations.

Councilmember Kennedy stated that she believes if they delay the project it would have a negative affect on the private investors.

Councilmember Alcala made a substitute motion to table the ordinance for sixty days. The motion seconded by Councilmember Haynes failed. Councilmembers Kennedy, Nave, Duffy, Preisner and Harmon voted "no". (3-5-0)

Councilmember Duffy expressed concern with how the delay would impact the project.

Brenden Long, City Attorney stated that they could proceed with the project; however, they must negotiate a final agreement within sixty days.

Councilmember Preisner moved to adopt the committee report. The motion seconded by Councilmember Nave carried. Councilmembers Alcala and Ortiz voted "no". (6-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Haynes, Nave, Duffy, Preisner and Harmon -6. Noes: Alcala and Ortiz -2. Absent: Blackburn -1.

RESOLUTION NO. 7663 introduced by City Manager Neil Dobler amending City Council Rule of Procedure 5.2 concerning the order of business for city council meetings placed on first reading July 12, 2005 was again presented.

Brenden Long, City Attorney explained the resolution. He stated that the resolution amends the council rules to allow for the two meetings on the first and third Tuesdays of each month to begin at 7:00 p.m., consisting of consent, and first reading agenda items only.

Councilmember Ortiz moved to add "Presentations by the City Manager, Mayor and Members of the Council," to the agenda format. The motion seconded by Councilmember Alcala carried. Councilmembers Nave and Duffy voted "no". (6-2-0)

Frank Kirtdoll spoke in opposition of the resolution. He expressed concern with how the work sessions are conducted and stated that the public has the right to know City business.

Councilmember Kennedy stated that the work sessions are open to the public. She explained that the work sessions have been very beneficial to new Councilmembers regarding the agenda process.

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Ortiz carried. Councilmembers Kennedy, Alcala and Nave voted "no". (5-3-0)

AN EXPENDITURE ORDINANCE introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of June 27, 2005, through July 3, 2005, and enumerating said expenditures herein placed on first reading July 12, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Brenden Long, City Attorney stated that a number of Cities use the same process as the City of Topeka to pay expenditures. He explained that approving the ordinance does not signify that the Council agrees with the expenditures, exclude disciplinary action, or the collection of funds. He suggested that they pull the items they do not agree with and approve the remainder of the expenditures.

Councilmember Alcalá stated that he would continue to oppose the ordinances because he does not agree with some of the expenditures.

The ordinance was not adopted on roll call vote as follows: Ayes: Haynes, Preisner and Harmon -3. Noes: Kennedy, Alcalá, Ortiz, Nave and Duffy -5. Absent: Blackburn -1.

AN EXPENDITURE ORDINANCE introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of July 4, 2005, through July 10, 2005, and enumerating said expenditures herein was presented for first and final reading.

Neil Dobler, City Manager suggested that the ordinance be withdrawn from the agenda to address policy issues.

Councilmember Haynes asked if there would be any legal ramifications if the ordinance were not approved.

Brenden Long, City Attorney stated that there would be no legal consequences.

Councilmember Harmon moved to withdraw the ordinance from the agenda. The motion was seconded by Councilmember Alcalá.

Neil Dobler stated that they would implement a new policy as soon as possible, following a meeting with union representatives.

Councilmember Duffy stated that employee accountability is the key to a successful policy. He suggested that if an item is questionable then they should pull that item and approve the remainder of the expenditures.

The motion to withdraw the ordinance carried. Councilmember Preisner voted "no".

(7-1-0)

RESOLUTION NO. 7664 introduced by City Manager Neil Dobler authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 28509-00, for a water main relocation for property located at 610 NW Tyler was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

RESOLUTION NO. 7665 introduced by City Manager Neil Dobler authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 606130, for the second phase of the Washburn-Lane Parkway project was presented.

Neil Dobler, City Manager gave the staff report.

Kevin Rooney, City of Topeka Real Estate Agent appeared for questions.

Marc Galbraith, President of the Elmhurst Neighborhood Improvement Association stated that they strongly support the proposal because it would help eliminate blight, lower the crime rate, and reduce traffic flow in the area.

Deborah Swank spoke in support of the proposal. She stated that it would enhance area green space while moving forward with the Washburn-Lane Parkway Plan.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

A RESOLUTION introduced by City Manager Neil Dobler authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 606130, which will help implement the Comprehensive Metropolitan Plan 2025 by purchasing property at 1210 SE 8th Street, was presented.

Neil Dobler, City Manager gave the staff report.

Kevin Rooney, City of Topeka Real Estate Agent appeared for questions.

Councilmember Ortiz stated that they need additional time to meet with the property owner to evaluate the situation.

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

Frank Kirtdoll expressed concern with the City's condemnation process and City of Topeka Code Section 26-201.

Councilmember Alcala stated that he initially opposed demolition of the building. He explained that he has attempted to meet with the property owner on several occasions to inspect the building. He also stated that he was told by the property owner that he did not want any financial assistance from the City and would repair the building through private investors.

Reverend Lee Sweet, property owner stated that his organization has maintained the building by making yearly improvements and plan to eventually open a Christian School. He also stated that in his opinion the public has been misinformed regarding the financing of the project and the improvements that have been made to the building. He stated that they have received three appraisals on the property ranging from \$150,000 to \$250,000.

Councilmember Preisner made a substitute motion to approve the resolution. The motion seconded by Councilmember Duffy failed. Councilmembers Kennedy, Alcala, Ortiz, Nave, Haynes and Harmon voted "no". (2-6-0)

The motion to refer the resolution to the Economic and Community Development Committee carried unanimously. (8-0-0)

RESOLUTION NO. 7666 introduced by Councilmembers Bill Haynes, Brett Blackburn, Jeff Preisner, John Nave, Richard Harmon, and Clark Duffy seeking the legal opinion of the

Kansas Attorney General on certain matters pertaining to HB 2023 concerning the consolidation of Topeka and Shawnee County was presented.

Councilmember Haynes explained the resolution. He stated that they are seeking legal advice on whether or not townships will continue to exist after consolidation, and whether the exercise of city authority and power may lawfully be limited to the current geographic boundaries of the City of Topeka.

Councilmember Haynes moved to approve the resolution. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

RESOLUTION NO. 7667 introduced by City Manager Neil Dobler authorizing the application to the National Parks Service for assignment and receipt of surplus property for use as public park and recreation purposes was presented.

Neil Dobler, City Manager gave the staff report. He stated that the building would be large enough to accommodate the entire City/County Parks and Recreation Departments if consolidated.

Councilmember Alcala asked what it would cost to maintain the building.

Terry Bertels, Parks and Recreation Department stated that the utilities would cost approximately \$14,000 a month and the building was donated.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

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. 28509-00, for a water main relocation for property located at 610 NW Tyler 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.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL, were presented.

Neil Dobler stated that they have begun the process of hiring a permanent City Manager. He stated that the first meeting with Slavin Management is scheduled for August 2, 2005. He stated that Slavin Management has requested to meet with each Councilmember individually and certain community groups. He stated that the KAPE Union Contract is ready to be submitted to the Policy and Finance Committee for review.

Councilmember Alcalá moved to refer the KAPE Union Contract to the Policy and Finance Committee for review. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

Councilmember Alcalá suggested that Slavin Management meet with the public to collect their input.

Councilmember Nave stated that in his opinion the termination of Judge Deborah Purce should have been handled differently. He explained that her reputation would suffer because the public was not provided with a detailed explanation of why she was terminated.

Howard Blackmon, Sandra Lassiter, Ron Lassiter, Sonja Rush, Mona Brown, Shirley Wishom, Frank Kirtdoll, David Owen and Ken Hill appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:00 p.m.

Iris Walker
City Clerk