

## City Council Minutes – July 26, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 26, 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, Blackburn, Duffy, 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.

Mayor Bunten noted that Jim Langford, Budget and Finance Director was sitting in as Acting City Manager this evening in place of Neil Dobler who is on vacation.

MINUTES of the Regular Meeting of July 19, 2005 were presented.

Councilmember Ortiz moved to correct page 286 of the minutes to reflect Kennedy, Alcalá, and Nave as voting “no” on the motion to approve Resolution No. 7663 as amended.

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

A FINAL PLAT for Ardmore Walk Subdivision No. 5 located 175 feet north of the intersection of SW 41<sup>st</sup> Street and SW Cambridge Avenue in the City of Topeka, Kansas, was presented. (P05/13)

Jim Langford, Acting City Manager gave the staff report.

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

ORDINANCE NO. 18480 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 placed on first reading July 19, 2005 was again presented.

Jim Langford, Acting City Manager gave the staff report.

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

ORDINANCE NO. 18481 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 placed on first reading July 19, 2005 was again presented.

Jim Langford, Acting City Manager gave the staff report

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

ORDINANCE NO. 18482 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 placed on first reading May 24, 2005 was again presented.

Councilmember Haynes gave the committee report. He stated that the Policy and Finance Committee recommended "Do Pass" by a vote of 2-0-0 on July 18, 2005.

Councilmember Haynes moved to approve the committee report. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

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

A COMMUNICATION appealing the decision of the Topeka Fire Chief regarding the denial of a dance hall license for El Paso Dance Club, 106 SE 8<sup>th</sup> Street, was presented.

Jim Langford, Acting City Manager gave the staff report.

F.G. Manzanares, business owner appeared to answer questions. He stated that in his opinion the current Fire Code does not apply to pre-existing conditions. He explained that the structure has been in existence for over thirty years, and he believes that it is unfair for the Fire Department to require installation of a fire sprinkler system prior to approval of the dance license. He asked the City Council to reconsider his request and approve the license without a fire sprinkler system requirement.

Howard Giles, Fire Chief stated that the Fire Department's main concern is the absence of a fire sprinkler system in conjunction with the storage of combustible materials located in the basement area. He explained that the basement area could occupy approximately 150 people at any given time with only one entry and exit available, causing a distinct hazard to life and property.

Councilmember Kennedy moved to approve the license subject to the following restrictions stated on the license:

- 1) The dance hall activity be limited entirely to the main floor
- 2) No occupied use of the basement or storage of flammable or combustible matters be permitted.

The motion seconded by Councilmember Alcalá carried. Councilmember Duffy voted “no”. (8-1-0)

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

A COMMUNICATION appealing the decision of the Topeka Chief of Police regarding the denial of a security guard license for Brandon J. Bower was presented.

Councilmember Preisner moved to deny the appeal. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

Councilmember Nave moved to move item 6C, a communication authorizing the Notice of Public Hearing on the 2006 proposed budget to the end of the New Business after item 6E. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

RESOLUTION NO. 7668 introduced by Deputy Mayor John Alcala establishing a special committee to study and make recommendations to the City Council on matters relating to the City's purchasing and accounts payable policies and procedures was presented.

Jim Langford, Acting City Manager gave the staff report.

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

Councilmember Preisner made a motion to amend the resolution to reflect "120 days" instead of "90 days". The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Councilmember Alcala moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmember Nave was out of the room. (8-1-0)

A JOINT CITY OF TOPEKA RESOLUTION NO. 7669 AND SHAWNEE COUNTY RESOLUTION concerning the consolidation of the City of Topeka Parks and Recreation Department and Shawnee County Parks and Recreation was presented.

Jim Langford, Acting City Manager gave the staff report.

Joseph Ledbetter and Christy Caldwell spoke in support of joint City/County consolidation of the Parks and Recreation Departments.

Councilmember Preisner asked if the \$20 million of City General Obligation bonded indebtedness is included in the mill levy proposal.

Jim Langford stated that it is included in the mill levy figures.

Councilmember Blackburn suggested that they amend the agreement to include the statement, "Operated solely by the Board of Shawnee County Commissioners."

Terry Bertels, Acting Parks and Recreation Director stated that the intent of the plan was to be neutral as far as governance of a consolidated department.

Councilmember Haynes asked if the City could lose park property if consolidation is implemented.

Braxton Copley, Assistant City Attorney stated that in his opinion a number of City park deeds, including Gage Park, contain general terminology that may cause a shift in ownership to the County. He also suggested that all changes to the final consolidation agreement made by the Council be approved by the City Manager to ensure that the City's best interest is retained.

Councilmember Duffy questioned a number of the County's intentions regarding City debt, property ownership and governance of the consolidated department.

Rich Eckert, Shawnee County Counselor explained that at the time the initial consolidation plan was constructed there was no specific direction given in regards to which entity would control the consolidated department.

Councilmember Duffy questioned why an interlocal agreement was necessary.

Braxton Copley stated that the following issues must to be clarified in the interlocal agreement to protect the City's best interest:

- Tax Implication
- Ownership of Land
- Operating Expenses
- Employee Compensation
- Address City/County Employee Benefits Differential

Rich Eckert stated that the initial agreement addresses the majority of the issues raised by the Council.

Braxton Copley, Assistant City Attorney suggested that the resolution be amended by inserting the statement, "operated solely by the Board of Shawnee County Commissioners" following the word "agency" on line 13, and following the word "plan" on line 23.

Councilmember Preisner move to amend the resolution as stated by the Assistant City Attorney. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

Councilmember Preisner moved to amend line 24 of the resolution by striking the statement, "execution of an agreement by the City and County" and replacing it with, "subject to the approval of an agreement by the City Council and the Board of the County Commissioners". The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

Councilmember Preisner moved to approve the resolution as amended. The motion was seconded by Councilmember Blackburn.

Councilmember Duffy stated that he would oppose the resolution. He stated that recreation activities are an urban service, and should be provided by the municipality. He also stated that allowing the County to absorb the Parks and Recreation Department directly contradicts what the community voted for because Shawnee County is not a professionally managed government, and that raises accountability issues.

Councilmember Haynes stated that he would abstain from voting on the issue because he believes the citizens of Topeka deserve the right to vote on the consolidation.

The motion to approve the resolution as amended carried. Councilmembers Duffy and Harmon voted "no". Councilmember Haynes abstained. (6-2-1)

A COMMUNICATION authorizing publication of the Notice of Public Hearing on the 2006 proposed budget for the City of Topeka was presented.

Jim Langford, Acting City Manager distributed an explanation of the following requested 2006 proposed budget changes by the City Manager:

- An increase of \$434,139 of property tax revenue for the Bond and Interest fund.
- To increase the Parks and Recreation Fund by \$4,725,676, from \$9,527, 930 to \$14,253,606.
- To increase the Golf fund by \$831,915 from \$822,802 to \$1,654,717.
- Any other possible items that Councilmembers may wish to add to the proposed budget prior to finalization.

Councilmember Alcala asked what kind of financial impact the changes would have on the mill levy.

Jim Langford stated that it would cause a .396 mill levy increase.

Following discussion, it was the consensus of the Council that the published budget not contain an increase in the mill levy above the City Manager's previously submitted proposed budget.

Councilmember Alcalá stated that he would oppose the amendment because of certain line items listed in the City Manager's proposed budget that he believes could be decreased.

Councilmember Preisner moved to approve the mill levy rate at 32.787. The motion was seconded by Councilmember Haynes.

Following further discussion, Councilmember Duffy made a substitute motion to approve the mill levy rate at 32.391 and reduce the contingency fund by \$343,139. The motion seconded by Councilmember Alcalá carried. Councilmember Haynes, Preisner and Harmon voted "no".  
(6-3-0)

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

A COMMUNICATION appealing the decision of the State Historic Preservation Officer regarding a demolition permit on property located at 120 SW 8<sup>th</sup> Avenue was presented.

David Thurbon, Planning Director gave the staff report.

Augie Bogina appeared for questions and stated that it is not financially feasible to restore the buildings.

Councilmember Preisner moved that based on a consideration of all relevant factors, there is no feasible and prudent alternative to demolition. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

AN ORDINANCE introduced by City Manager Neil Dobler authorizing Sunday sales of alcoholic liquor and cereal malt beverage in the original package within the City of Topeka was presented for first reading.

JoEllen Holthaus and Rose Marie Ramirez appeared to speak under public comment.



Councilmember Ortiz moved to adjourn into executive session for a period not to exceed five minutes to discuss personnel matters. The motion seconded by Councilmember Blackburn carried. Councilmember Preisner was out of the room. (8-1-0)

Following a five-minute time period the Council reconvened into open session and Mayor Bunten stated that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:47 p.m.

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Iris Walker  
City Clerk