

City Council Minutes – August 9, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 9, 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, Blackburn, Duffy, Preisner and Harmon -9. Mayor Bunten presided -1.

AFTER THE MEETING was called to order, Councilmember Kennedy gave the invocation.

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

MINUTES of the Regular Meeting of August 2, 2005 were presented.

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

Councilmember Duffy moved to remove item 4C, a final plat for Linwood Subdivision No. 6, from the consent agenda and place it under New Business as item 6B. The motion seconded by Councilmember Haynes carried. Councilmembers Kennedy and Blackburn voted "no". (7-2-0)

RESOLUTION NO. 7670 introduced by City Manager Neil Dobler and Councilmember Jeff Preisner, expressing support for the Pioneer Adams Towne Homes Development Project was presented.

A FINAL PLAT for Lauren's Bay Villas Subdivision located approximately 1,200 feet west of SW Wanamaker Road between SW 43rd Street and SW 46th Street, was presented. A portion of the subdivision is within the City of Topeka and a portion is within the (3) three-mile extra territorial jurisdiction and Municipal Service Area of the City of Topeka. (P05/11)

A FINAL PLAT for J.R.'s Place located at 1819 NW Lower Silver Lake Road in the City of Topeka, Kansas was presented. (P05/24)

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

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, August 9, 2005, at 7:00 P.M. for the purpose of hearing any 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 improvement, same being Lateral Sanitary Sewer District No. 40596-04H, authorized by Resolution No. 7404, adopted and approved October 28, 2003.

ORDINANCE NO. 18483 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 Lateral Sanitary Sewer District No. 40596-04 H, with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40596-04 H, as defined and described in Resolution No. 7404, adopted and approved October 28, 2003 placed on first reading August 2, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, 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, August 9, 2005, at 7:00 P.M. for the purpose of hearing any 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 improvement, same being Street Improvement Project No. 60389-03H, authorized by Resolution No. 7405, adopted and approved October 28, 2003 effective November 5, 2003, and Resolution No. 7643, replacing Resolution No. 7405 adopted on June 14, 2005 effective June 22, 2005.

ORDINANCE NO. 18484 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. 60389, Phase 3 with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60389, Phase 3 as defined and described in Resolution No. 7405, adopted and approved October 28, 2003, effective November 5, 2003, which was replaced by Resolution No. 7643, adopted and approved on June 14, 2005, effective June 22, 2005, placed on first reading August 2, 2005 was again presented.

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 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, August 9, 2005, at 7:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed 2006 budget.

Bill Newsome, Jerry Farley, Deborah Swank and John Floyd spoke in support of the College Hill Redevelopment Project.

Joseph Ledbetter, President of the Hi-Crest Neighborhood Improvement Association stated that he believes there are too many city employees, and local businesses need a tax cut.

JoAnn Peavler stated that the trees near the Deer Creek Interceptor are dying and the City should take better care of them.

Karen Hiller, Housing and Credit Counseling, Inc., encouraged the Council not to cut Social Service Agency funding.

Councilmember Blackburn moved to close the public hearing. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

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, August 9, 2005, at 7:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed 2006 Consolidated Action Plan.

Randy Speaker, Housing and Neighborhood Director presented highlights of the plan and explained the many opportunities that were available to the public for input.

Joseph Ledbetter stated that the Hi-Crest neighborhood fits the criteria of a high intensive-care area. He also requested that the City partner with a private developer to improve the Hi-Crest area.

JoAnn Peavler read comments from John Moyer who was unable to attend. She stated that he supports targeting a specific neighborhood for CDBG funds, but the plan cuts empowerment grants in the process. She explained that the empowerment grant funds are needed to help make small improvements to the neighborhoods.

Diane Alpert requested that funding for the Freemont Hill Project, as a line item in the Capital Improvement Budget be included to assist with project infrastructure costs.

Josh Sheldon appeared to answer questions regarding the Freemont Hill Project.

Councilmember Preisner moved to close the public hearing. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

ORDINANCE NO. 18485 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 placed on first reading July 26, 2005 was again presented.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Blackburn.

Mayor Bunten noted that eleven people were signed up to speak on the matter.

Councilmember Preisner called the question.

The motion on if the question shall be called carried. Councilmembers Haynes and Duffy voted "no". (7-2-0)

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

A FINAL PLAT for Linwood Subdivision No. 6 located at the southeast corner of NW Green Hills Road and NW 50th Street, within unincorporated Shawnee County, Kansas approximately 1.5 miles north of the Topeka City limits was presented. (P05/18)

Councilmember Duffy moved to adjourn into executive session for a period not to exceed ten minutes to discuss a pending legal matter. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

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

David Thurbon, Planning Director explained staff's recommendation for the final plat. He stated that in this particular case the preliminary plat has already been approved, and the proposed final plat would complete the street system in the development.

Councilmember Duffy stated that the final plat is inconsistent with the Municipal Service Area Policy. He suggested that they revisit the policy and make improvements where needed to avoid similar problems in the future.

Councilmember Haynes moved to approve the final plat. The motion was seconded by Councilmember Blackburn.

Councilmember Haynes asked if approval of the final plat would settle the lawsuit.

Ben Swinnen, attorney for the applicant stated that he has no authority to settle the suit at this time, however, in his opinion approval would significantly reduce the claim against the City.

Brenden Long, City Attorney suggested keeping the lawsuit separate from approval of the final plat.

Councilmember Haynes moved to table approval of the final plat until the lawsuit is settled. The motion was seconded by Councilmember Blackburn.

Several Councilmembers stated that they supported the project, but would like to have the lawsuit settled prior to approval of the plat.

Ben Swinnen stated that his client will consent to waiving all damages if the final plat is approved.

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

A COMMUNICATION requesting acceptance of the Real Estate Report and approval to dispose of property located at 1215 and 1217 SW Buchanan, was presented.

CONTRACT NO. 35540 and CONTRACT NO. 35541, Real Estate Agreements between the City of Topeka and Shiloh Baptist Church for the trade of land located at 1208 and 1212 SW Buchanan, and 1215 and 1217 SW Buchanan, were presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the communication and real estate agreements. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A COMMUNICATION requesting City Council approval to schedule regular monthly meetings to review the monthly financial report and discuss other financial and budgetary issues as needed was presented.

Neil Dobler, City Manager gave the staff report.

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

A COMMUNICATION requesting consideration and approval of an agreement between the City of Topeka and Shawnee County concerning the consolidation of Parks and Recreation, the Zoo, and Cypress Ridge Golf Course into one County-operated and managed Parks and Recreation Department was presented.

Neil Dobler, City Manager highlighted the major elements of the Parks and Recreation Interlocal Agreement as follows:

- The Park and Recreation Department, Zoo, and Cypress Ridge Golf Course would transfer to Shawnee County, while the Forestry Division would remain with the City.
- Major City Park and Recreation property would transfer by deed where possible to Shawnee County.
- All City employees would become County employees on January 1, 2006.
 1. Employees would not face a reduction in salary for at least six months
 2. Employees who lose their job in the first three years due to the consolidation would be entitled to severance pay by the County per City policies
 3. Employees would retain vacation and sick leave accruals.

- The City would transfer to the County the vacation liability.
- The City would transfer to the County one years worth of average sick leave and 35% of sick leave accumulated by employees eligible to retire before 2010.
- All City equipment would transfer to the County.
- Create an advisory board that would consist of three City and two County appointments.
- All debt currently bonded and not yet financed would be the responsibility of Shawnee County.
- The City would pay Shawnee County \$115,000 from bed tax for two years.
- Liquor tax money would transfer to the County.

Councilmember Haynes moved to defer the communication until after the vote on the City-County Consolidation Plan by the Consolidation Commission. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá made a substitute motion to approve the communication. The motion seconded by Councilmember Blackburn failed. Councilmembers Nave, Haynes, Duffy, Preisner and Harmon voted "no". (4-5-0)

Joseph Ledbetter appeared in support of the agreement and the consolidation of the Parks and Recreation Departments.

Councilmember Blackburn stated that he supports the agreement because it would eliminate dual services and provide the citizens of Topeka a tax cut.

Councilmember Haynes stated that he believes the citizens should be allowed to vote on the issue after being provided with the proper information.

The motion to defer the communication carried. Councilmembers Kennedy, Alcalá, Ortiz and Blackburn voted "no". (5-4-0)

A ZONING PETITION and ORDINANCE NO. 18486 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 about 5800 SW 6th Avenue in the City of Topeka, Kansas from "RR-1" Residential Reserve District with a special use permit for "Institutional Uses" TO "PUD" Planned Unit Development District (Mixed Use Groups "OS-1", "M-1a", "M-3", "M-4", "O&I-2", "O&I-3", and "C-2") placed on first reading August 2, 2005 was again presented.

(PUD05/2)

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked if there were any additional exparte communications besides Councilmember Harmon. There were none declared.

Councilmember Harmon moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18487 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 west side of SE Croco Road, the centerline of which is approximately

2,000 feet north of the intersection of SE 45th Street and SE Croco Road, in the City of Topeka, Kansas from “RR-1” Residential Reserve District, “M-1” Two Family Dwelling District and “M-2” Multiple Family Dwelling District ALL TO “PUD” Planned Unit Development District (M-2, O&I-1 and C-2 use groups) placed on first reading August 2, 2005 was again presented.

(PUD05/2)

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked if there were any exparte communications. There were none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Kennedy 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. 18488 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 the southeast corner of SW 37th Street and SW Gage Boulevard in the City of Topeka, Kansas from “C-1” Commercial District TO “C-2” Commercial District placed on first reading August 2, 2005 was again presented. *(Z05/26)*

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked if there were any additional exparte communications besides Councilmember Blackburn. There were none declared.

Councilmember Haynes moved to approve the zoning petition 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A ZONING PETITION and ORDINANCE NO. 18489 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 4210 SW Gage Boulevard in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "M-1" Two Family Dwelling District placed on first reading August 2, 2005 was again presented. (Z05/27)

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked if there were any additional exparte communications besides Councilmember Ortiz. There were none declared.

Councilmember Preisner moved to approve the zoning petition 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

RESOLUTION NO. 7671 introduced by City Manager Neil Dobler in accordance with Section 48-4.02(c)(3) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a vehicle surface parking lot in association with a principle use on property currently zoned "R-1" Single Family Dwelling District and located on the north side of NE Grant Street, the centerline of which is approximately 237 feet west of NW Topeka Boulevard in the City of Topeka, Kansas was presented. (CU05/5)

Neil Dobler, City Manager gave the staff report.

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

Mayor Bunten expressed concern with the number of car lots that already exist in the City of Topeka.

David Thurbon, Planning Director stated that the car lot is already established and the improvement is for an employee parking lot.

The motion to approve the resolution carried unanimously. (9-0-0)

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

Councilmember Nave thanked the Neighborhood Improvement Associations for sponsoring a National Night Out on Crime Event and stated that it was a great experience.

Councilmember Blackburn asked councilmembers to consider the purpose and proper role of City government during budget deliberations.

Councilmember Kennedy reminded viewers that the City Council work session regarding the budget scheduled for 10:00 a.m., Saturday, August 13, 2005 would be televised.

David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:15 p.m.

Iris Walker
City Clerk