

City Council Minutes – September 13, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 13, 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, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Nave -1.

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

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

A FINAL PLAT for Country Heights Subdivision No. 5 located at the southeast corner of SW Gage Boulevard and SW 37th Street within the City of Topeka, Kansas was presented. (P05/15)

A FINAL PLAT for Vandiver Place Subdivision located at 4135 NW Rochester Road within unincorporated Shawnee County, Kansas was presented. (P05/20)

A FINAL PLAT for Shamrock Valley Subdivision located on the west side of NE Baldwin Road, extended, the centerline of which is approximately 770-feet south of NW 38th Street within unincorporated Shawnee County, Kansas was presented. (P05/21)

A FINAL PLAT for Horseshoe Bend Subdivision located approximately 780-feet north of the intersection of SE 45th Street and SE Quincy Street within the City of Topeka, Kansas was presented. (P05/25)

A FINAL PLAT for Bines Addition located at the northeast corner of SW Topeka Boulevard and SW 53rd Street within unincorporated Shawnee County, Kansas was presented. (P05/26)

ORDINANCE NO. 18496 introduced by Councilmember Lana Kennedy authorizing the purchase, possession and consumption of cereal malt beverages during the “Burnin Downtown” event, at specified locations and times placed on first reading September 6, 2005 was again presented.

ORDINANCE NO. 18497 introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during the “Mexican Independence Day” event placed on first reading September 6, 2005 was again presented.

A COMMUNICATION recommending the appointment of Theron Sims to the Topeka Planning Commission for a one-year term that would expire on September 30, 2006 was presented.

MINUTES of the Regular Meeting of August 23, 2005 and September 6, 2005, were presented.

A Cereal Malt Beverage License Application bearing the approval of the Chief of Police and City Inspectors for Donnie’s, 124 W. 8th Street was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Blackburn carried. Councilmember Harmon voted "no". (7-1-0)

Councilmember Nave entered the Council Chambers.

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, September 13, 2005, at 7:00 P.M. to consider the establishment by the City of a Redevelopment District for Heartland Park.

Jim Langford, Budget Director gave the staff report.

Kevin Fowler, attorney for JayHawk Racing Properties appeared to answer questions.

Councilmember Kennedy moved to close the public hearing. The motion seconded by Councilmember Ortiz carried. Councilmember Haynes abstained. (8-0-1)

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, September 13, 2005, at 7:00 P.M. in conjunction with vacation request V05A/1 by C & K Properties, owners, to vacate a portion of a 20-foot wide public alley located between SE 5th Street and SE 6th Avenue and between SE Adams Street and SE Jefferson Street which adjoins the property.

ORDINANCE NO. 18498 introduced by City Manager Neil Dobler relating to the vacation of a portion of a public alley located between SE 5th Street and SE 6th Avenue and between SE Adams Street and SE Jefferson Street, City of Topeka, Shawnee County, Kansas placed on first reading September 6, 2005 was again presented. (V05A/1)

Jim Langford, Budget Director gave the staff report.

Chuck Karlan, C&K Properties appeared to answer questions.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Alcala 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, September 13, 2005, at 7:00 P.M. in conjunction with vacation request V05A/2 by Robert Hicks to vacate a 10-foot wide public alley located on the east side of SW Fillmore Street, the centerline of which is approximately 110-feet south of Munson Avenue.

ORDINANCE NO. 18499 introduced by City Manager Neil Dobler relating to the vacation of a ten-foot wide public alley located on the east side of SW Fillmore Street, the centerline of which is approximately 110-feet south of SW Munson Avenue, City of Topeka,

Shawnee County, Kansas placed on first reading September 6, 2005 was again presented.

(V05A/2)

Robert Hicks, applicant stated that his bedroom window is approximately two feet from the alley and in his opinion the alley is not drivable. He also stated that they have been parking their cars and maintaining the property for seventeen years until the police told them they could no longer park there. He requested approval of the application.

Councilmember Alcala moved to close the public hearing and adopt the ordinance with the stipulation that the City has full access to the alley if necessary. The motion was seconded by Councilmember Kennedy.

David Thurbon, Planning Director stated that if they close the alley, property ownership would revert to the adjacent property owner.

Tim Green, City of Topeka Engineer stated that they recommended disapproval because if the alley is vacated, the City would have to pay for the cost of moving SBC's or Westar Energy's utility lines in the event that the City would have to relocate their sewer line.

Several Councilmembers raised concerns with the City incurring additional future utility relocation costs if the vacation is approved.

Brenden Long, City Attorney explained that the ordinance would allow the City to retain the public utility easement so that the utility companies would have access to the property to work on their lines.

The motion to close the public hearing and adopt the ordinance 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, September 13, 2005, at 7:00 P.M. in conjunction with vacation request V05E/9 by Kurt M. and M. Dianne Chrysler to vacate a 20-foot wide drainage easement on property located on the east side of SW Lincolnshire Road, the centerline which is approximately 530-feet south of SW 44th Street.

ORDINANCE NO. 18500 introduced by City Manager Neil Dobler, relating to the vacation of a 20-foot wide drainage easement on property located on the east side of SW Lincolnshire Road, the centerline of which is approximately 530-feet south of SW 44th Street, City of Topeka, Shawnee County, Kansas placed on first reading September 6, 2005 was again presented. (V05E/9)

Jim Langford, Budget Director 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.

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, September 13, 2005, at 7:00 P.M. in conjunction with a request to annex Sherwood Park Development Co., L.L.C., a 63-acre subdivision generally located on the north side of SW 29th Street approximately 2,000 feet east of SW Auburn Road and adjacent to the City of Topeka corporate limits.

ORDINANCE NO. 18501 introduced by City Manager Neil Dobler annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property located on the north side of SW 29th Street approximately 2,000-feet east of SW Auburn Road and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading September 6, 2005 was again presented. (A05/3)

Jim Langford, Budget Director gave the staff report.

Councilmember Preisner moved to close the public hearing 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.

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, September 13, 2005, at 7:00 P.M. in conjunction with a request by Falley Farms II, L.P., to annex a 103.6 acre tract of land contiguous with the City of Topeka corporate limits located at the northeast corner of SW Topeka Boulevard and SW 53rd Street.

ORDINANCE NO. 18502 introduced by City Manager Neil Dobler annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property located on the northeast corner of SW Topeka Boulevard and SW 53rd Street adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading September 6, 2005 was again presented. (A05/4)

Jim Langford, Budget Director 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.

A PROJECT BUDGET in the amount of \$102,324 and ORDINANCE NO. 18503 introduced by City Manager Neil Dobler, authorizing Improvement Project No. 14116-00, which provides for the purchase of twenty-nine (29) new traffic signal controllers as more specifically

described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading September 6, 2005 was again presented.

Jim Langford, Budget Director gave the staff report.

Councilmember Blackburn asked how public safety would be affected if the project is not approved.

Jim Langford stated that when traffic signals become dysfunctional it becomes a public safety issue.

Several Councilmembers expressed concern with issuing general obligation bonds to fund the project prior to knowing the outcome of city-county consolidation.

Councilmember Preisner moved to amend the ordinance by inserting the following language, "No bids for the public improvement shall be solicited or accepted unless and until the city-county consolidation plan is rejected by Shawnee County voters as provided by House Bill 2083." The motion seconded by Councilmember Blackburn carried. Councilmembers Kennedy, Alcala and Ortiz voted "no". (6-3-0)

Councilmember Preisner moved to approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

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

AN ORDINANCE introduced by Councilmember Brett Blackburn relating to annexation and funding of sewer service and extensions, amending City of Topeka Code Section 146-256, and specifically repealing said original section placed on first reading September 6, 2005 was again presented.

Councilmember Blackburn explained the ordinance.

Joseph Ledbetter spoke in opposition of the ordinance. He stated that it takes away from the developers inside city limits. He suggested that they send the ordinance back to the Topeka Planning Commission to allow them to consider policy on the issue. He also suggested that they amend the ordinance so sewer extensions have to be approved by the City Manager and the Council.

J.D. Yanek, Topeka Realtor Coalition stated that the Topeka Homebuilders Association supports the ordinance, however, he has not heard back from all realtors.

Councilmember Alcalá stated that he has a number of questions that he would like answered regarding the funding source to be used to pay for the sewer extensions, before making a final decision on the issue.

Councilmember Alcalá moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Haynes carried. Councilmember Blackburn voted "no". (8-1-0)

ORDINANCE NO. 18504 introduced by Councilmembers Jeff Preisner, John Nave and Clark Duffy, amending Topeka City Code Section 30-77 and 154-103 concerning the licensing of taxicab drivers, including the establishment of a drug and alcohol testing requirement and criminal record standards for taxicab driver licensure, and specifically repealing said original sections presented for first reading on September 6, 2005 was again presented.

Councilmember Preisner explained the ordinance. He stated that the change in policy would help provide for safer transportation for citizens of the community.

Clark Trammell, General Manager for Yellow Cab Company spoke in support of the ordinance. He stated that the new policy should make the public feel more secure by improving overall standard operating procedures.

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

Councilmember Kennedy asked who would enforce the policy.

Brenden Long, City Attorney stated that the City Clerk would be responsible for making sure the applicant met all of the qualifications before sending the application to the Police Department.

Ed Klumpp, Chief of Police stated that the Police Department would enforce the policy.

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

ORDINANCE NO. 18505 introduced by City Manager Neil Dobler relating to fire protection lines, amending City of Topeka Section 146-83 and repealing said original code section placed on first reading September 6, 2005 was again presented.

Jim Langford, Budget Director gave the staff report.

Councilmember Haynes moved to defer consideration of the ordinance until after the next work session for further explanation. The motion seconded by Councilmember Ortiz failed. Kennedy, Alcala, Nave, Duffy, Blackburn and Preisner. (3-6-0)

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Alcala carried. Councilmember Haynes voted "no". (8-1-0)

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

AN ORDINANCE introduced by Mayor James A. McClinton relating to sign regulations, repealing City of Topeka Code Sections 118-277 and 118-280, and amending City of Topeka Code Section 48-31.01, 48-31.02, 48-31.03, 118-1, 118-2, 118-58, 118-59, 118-179, and 118-

276, and repealing the original sections placed on first reading August 24, 2004 was again presented. (ACZR04/4)

Councilmember Preisner moved to refer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Nave.

Councilmember Alcalá made a substitute motion to disapprove the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Nave asked if they have hired a consultant to address the sign regulation issues.

David Thurbon, Planning Director stated that funding would be available in 2006 to hire a consulting firm to rewrite all zoning codes and regulations. He stated that they recommend disapproval of the ordinance to allow the consultant to study and revise the sign regulations at the same time they rewrite the zoning codes and regulations.

Frank Kirtdoll stated that he believes they should vote the ordinance down because the people that introduced the new sign regulations are no longer serving on the Council.

Councilmember Preisner called the question.

Councilmember Alcalá challenged the call to the question.

The motion on if the question shall be called failed. Councilmembers Alcalá, Kennedy, Ortiz, Nave, Duffy, Blackburn and Harmon voted "no". (2-7-0)

Joseph Ledbetter, Jerry Boyles, Christy Caldwell, Todd Valley, Bonnie Gish and Fred

Sanders spoke in opposition to the ordinance. The following points were addressed:

- The efficiency of temporary signs for small business advertisement.
- How the current sign ordinance works efficiently and affectively.
- The importance of portable signs in regards to mobile businesses.
- The importance of allowing the business industry to participate in rewriting new sign regulations.
- The importance of considering all types of signs when establishing new sign regulations.

The substitute motion to disapprove the ordinance carried unanimously. (9-0-0)

The ordinance was not adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

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 September 6, 2005 was again presented.

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

Councilmember Kennedy inquired on the funding status of negotiations between State officials and the City regarding future projects in the “Capital Parkway” area.

Mayor Bunten stated that an agreement has not been reached at this time.

Councilmember Blackburn called the question.

The motion to refer the ordinance to the Economic and Community Development Committee carried unanimously. (9-0-0)

Neil Dobler, City Manager entered the Council Chambers.

ORDINANCE NO. 18506 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. 606130, public park purposes for the Washburn Lane Parkway placed on first reading September 6, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Deborah Swank, Topeka Turn Around Team spoke in support of the project.

Don Taylor, Elmhurst Neighborhood Association spoke in support of the project.

Fred Sanders spoke in opposition of using eminent domain proceedings for the park project.

Joseph Ledbetter spoke in opposition of the ordinance and questioned the end use of the proposed green space or park.

Kevin Rooney, Assistant Housing and Neighborhood Director stated that the area is considered an open park trail way, not a typical park. He stated that there are no plans to place park equipment in the park.

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

Councilmember Nave stated that these are the types of changes that improve the aesthetics of a neighborhood, and are needed the most in the City of Topeka.

Councilmember Haynes asked what the cost of the project would be, and if it would be funded by general obligation bonds.

Kevin Rooney stated that the project budget is \$156,000 and would be funded by general obligation bonds.

Councilmember Haynes made a substitute motion to defer the ordinance until after the vote on city-county consolidation. The motion was seconded by Councilmember Blackburn.

Councilmember Blackburn stated that he would not support the project because he believes there is not a pressing need for improvements in that particular area.

Councilmember Kennedy stated that she would not support the motion to defer because she believes that it could take up to two years following the implementation of consolidation to proceed with the project.

Councilmember Alcala stated that he supports the ordinance because dilapidated homes only contribute to run down neighborhoods. He explained that it would cost the City more money in the long run to maintain the properties than to acquire the properties by eminent domain.

The substitute motion to defer failed. Kennedy, Alcala, Ortiz, Nave, Duffy, Preisner and Harmon voted "no". (2-7-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Duffy, Preisner and Harmon -7. Noes: Haynes and Blackburn -2.

A PROJECT BUDGET in the amount of \$5,500,000 and ORDINANCE NO. 18507 introduced by City Manager Neil Dobler, amending Ordinance 18319, authorizing Project No. 60580, Phase 3, which provides for completion of the renovation of the paddock and pit area and construction of buildings located at Heartland Park of Topeka as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka and repealing City of Topeka Ordinance No. 18319 placed on first reading September 6, 2005 was again presented.

Neil Dobler, City Manager gave the staff report and stated that of the \$5.5 million in General Obligation Bonds the City would receive a \$3 million payback.

Kevin Fowler, Attorney for Jayhawk Racing Properties stated that the ordinance would allow Heartland Park to fulfill their obligation to the Sports Car Club of America (SCCA) and the contractors who are currently working on the job.

Raymond Irwin, representative for Heartland Park stated that they have run into a time crunch to get the work done before the SCCA races. He explained that the interim financing would allow them to get through the time crunch.

Bonnie Gish asked how the taxpayers would be affected if the STAR Bonds were not approved.

Neil Dobler, City Manager stated that the proceeds from the sales tax fund would be used to pay back the bonds.

Councilmember Haynes stated that he would abstain from voting due to a conflict of interest.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Alcala carried. Councilmember Haynes abstained.

(8-0-1)

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

Mayor Bunten stated that he would advance item 6H as the next item on the agenda because Councilmember Nave was not feeling well and needed to leave the meeting.

RESOLUTION NO. 7684 introduced by Councilmember John Nave, John Alcala, Jeff Preisner, Brett Blackburn, Lana Kennedy, Sylvia Ortiz, and Clark Duffy establishing a Special Committee to study and consider diversity issues related to City of Topeka personnel and purchasing practices was presented.

Councilmember Nave distributed a new document that listed additional Councilmembers as cosponsors on the resolution.

Councilmember Haynes asked if the City of Topeka had an affirmative action plan in place.

Janet Robinson, Human Resources Director stated that they track data that is voluntarily provided by applicants. She also stated that the City has policies in place that provides for equal treatment of employees and applicants, and the policy does not allow discrimination to employees and applicants.

Councilmember Haynes asked what the resolution accomplishes.

Brenden Long, City Attorney stated that the committee would help the City to decide if they are doing the best that they can in handling diversity issues.

Councilmember Nave stated that establishing a committee allows everyone the opportunity to come to the table to discuss and address diversity issues.

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

Councilmember Nave left the meeting.

ORDINANCE NO. 18508 authorizing the execution of a loan agreement between the City of Topeka, Kansas and the State of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement placed on first reading September 6, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Duffy asked why the quarter-cent sales tax money was not being used to fund the project.

Councilmember Blackburn stated that he would like JEDO to consider paying for a portion of the project.

Neil Dobler stated that this a water project that would be paid for by the people who pay for water.

Bob Sherburne appeared and expressed his opinion about the Topeka Boulevard Bridge Project.

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

ORDINANCE NO. 18509 introduced by City Manager Neil Dobler authorizing Improvement Project No. 29091-05, which provides for the replacement of the aeration basins and secondary clarifiers at the Oakland Wastewater Treatment Plant (WWTP) along with other necessary improvements as more specifically described herein which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof pursuant to City of Topeka Code Section A12-1 and pursuant to K.S.A. 10-101 and 10-1201, *et seq.*, and all amendments thereto and repealing City of Topeka Ordinance No. 17984 placed on first reading September 6, 2005 was again presented.

NOTICE OF INTENTION to make improvements under Improvement Project No. 29091-05 which provides for the replacement of the aeration basins and secondary clarifiers at the Oakland Wastewater Treatment Plant (WWTP) as more specifically described herein which constitute improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 10-101 and 10-1201, *et. seq.*, and all amendments thereto was presented.

Neil Dobler, City Manager Neil Dobler gave the staff report.

Councilmember Blackburn moved to approve the ordinance and Notice of Intention. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

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

ORDINANCE NO. 18510 introduced by Councilmember Brett Blackburn, to readopt City of Topeka Ordinance No. 18449 Section 1 to limit the extension of the City of Topeka building code and permit process outside the City's boundaries to the City's Municipal Service Area placed on first reading September 6, 2005 was again presented.

Neil Dobler, City Manager stated that it is the same ordinance that was adopted previously. He explained that it is being readopted because the property addresses were not given to the County within the required time frame.

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

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

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$542,968 and RESOLUTION NO. 7680 introduced by City Manager Neil Dobler authorizing Street Improvement Project No. 60610-02 as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$295,025 and RESOLUTION NO. 7681 introduced by City Manager Neil Dobler authorizing Lateral Sanitary Sewer District No. 40874-03 as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Blackburn moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

RESOLUTION NO. 7682 introduced by Neil Dobler relating to a lease purchase agreement for self contained breathing apparatus (SCBA) for City Firefighters was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcala 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. 29103-01, and Improvement Project No. 28593-00, for a sanitary sewer and water service extension for property located along East Edge Road, and on SE 45th Street from West Edge Road to Croco Road and North along Croco Road approximately one half mile and north along West Edge Road and extending north to the Kansas Turnpike placed on first reading September 6, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Frank Kirtdoll appeared and cautioned the Council on the procedure of eminent domain.

Fred Sanders stated that the proposed sewer line runs directly through his buffalo farm. He stated that he is not allowed to hook up to the sewer line, therefore, he would not benefit from the project. He stated that no one has contacted him in person to discuss the use of his land and he will not give up the land without a fight.

Tim Green, City Engineer stated that the proposed route for the sewer line is the most economical. He also stated that they have contacted Mr. Sanders on three different occasions.

Several Councilmembers expressed concern with the eminent domain procedure and if it was followed correctly.

Brenden Long, City Attorney stated that the proper procedure set by State Statue was followed.

Councilmember Blackburn stated that he would like the City to explore other usable property options.

Councilmember Blackburn moved to defer the resolution for two weeks. The motion was seconded by Councilmember Haynes.

Councilmember Alcalá made a substitute motion to approve the resolution. The motion seconded by Councilmember Ortiz failed. Councilmembers Kennedy, Alcalá, Ortiz, Blackburn and Harmon voted "no". Councilmember Haynes abstained. (2-5-1)

A RESOLUTION introduced by Councilmember Brett Blackburn concerning bonded indebtedness and the consolidation of the City of Topeka and Shawnee County, Kansas was presented.

Councilmember Blackburn stated that he believes they have an obligation to the City of Topeka taxpayers regarding bonded indebtedness in relation to city-county consolidation.

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

Mayor Bunten stated that he would like to clarify that if the resolution is approved it would end the use of bonded indebtedness to fund any projects until the city-county consolidation issue has been voted on.

Councilmember Alcalá asked what kind of impact the resolution would have on the city and future proposed projects.

Tim Green, City Engineer stated that the main project that would be affected would be the Lower Silver Lake Road Project and possibly the federal bridge and safety money.

Councilmember Alcalá stated that he would not support the resolution and would continue to vote on projects individually as they come up.

Councilmember Preisner concurred with Councilmember Alcalá.

Councilmember Kennedy moved to amend the resolution to include the statement, "This resolution would not go into effect until after the vote on city-county consolidation occurs." The motion was seconded by Councilmember Blackburn.

Mayor Bunten expressed concern about what would happen to the projects the City is currently working on to clean up the city.

Councilmember Kennedy moved to extend the meeting through the end of the agenda. The motion was seconded by Councilmember Haynes.

Councilmember Alcala raised a point of order that they are past 11:00 p.m. and the meeting is adjourned.

Mayor Bunten ruled that the motion was made before 11:00 p.m.

Councilmember Preisner made a substitute motion to continue until the end of New Business. The motion was seconded by Councilmember Haynes.

Councilmember Blackburn called the question.

The substitute motion failed. Councilmembers Kennedy, Alcala, Ortiz, Duffy and Harmon voted "no". (3-5-0)

The motion to extend the meeting through the end of the agenda carried. Councilmembers Duffy and Preisner voted "no". (6-2-0)

Councilmember Kennedy's motion to amend the resolution carried. Councilmembers Alcala, Ortiz and Preisner voted "no". (5-3-0)

The motion to approve the resolution as amended failed. Councilmembers Alcala, Ortiz, Preisner and Harmon voted "no". (4-4-0)

RESOLUTION NO. 7683 introduced by City Manager Neil Dobler setting the public hearing for Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6th Street to the eastbound I-70 exit ramp was presented.

Jim Langford, Budget Director gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Ortiz carried. Councilmember Haynes voted "no". (7-1-0)

A COMMUNICATION notifying City Council of the intent to expend \$289,963 from the General Fund contingency to finance the purchase of one pumper fire truck instead of using general obligation bonds was presented.

Jim Langford, Budget Director gave the staff report.

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

Councilmember Haynes made a substitute motion to approve the communication subject to receiving the anticipated tax distribution funds from the County, and if not, the purchase of the truck would be through bonds. The motion was seconded by Councilmember Harmon.

Councilmember Blackburn stated that he believes the truck should be purchased with cash only.

Councilmember Haynes withdrew his motion.

Councilmember Harmon made a substitute motion to defer the communication for two weeks. The motion seconded by Councilmember Haynes carried. Councilmembers Kennedy, Alcala and Ortiz voted "no". (5-3-0)

A COMMUNICATION requesting the City Council to assign a committee of the Council to hold the Public Employer-Employee Relations (PEERA) prescribed hearing on the Water Pollution Control (WPC) fact finder's report was presented.

Councilmember Haynes moved to refer the communication to the Committee of the Whole for a meeting within two weeks. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

A ZONING PETITION and ORDINANCE NO. 18411 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 3635 SW Chelsea Drive in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "PUD" Planned Unit Development (M-2 use group) TO "R-1" Single Family Dwelling District placed on first reading September 6, 2005 was again presented. (Z05/30)

Councilmember Preisner left the meeting.

Jim Langford, Budget Director gave the staff report.

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

Councilmember Ortiz moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Haynes, Duffy, Blackburn and Harmon -7. Absent: Nave and Preisner -2.

A ZONING PETITION and ORDINANCE NO. 18412 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 1800 SW Stone Avenue in the City of Topeka, Kansas from “M-2” Multiple Family Dwelling District with Resolution of Intent for “M-3” Multiple Family Dwelling District TO “M-2” Multiple Family Dwelling District placed on first reading September 6, 2005 was again presented. (Z05/31)

Jim Langford, Budget Director gave the staff report.

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

Councilmember Harmon moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Haynes, Duffy, Blackburn and Harmon -7. Absent: Nave and Preisner -2.

RESOLUTION NO. 7685 introduced by City Manager Neil Dobler in accordance with Section 48-2.02(c)(8) 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-2” Single Family Dwelling District and located at 615 and 623 SE Lime Street in the City of Topeka, Kansas was presented. (CU05/07)

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Kennedy carried unanimously. (7-0-0)

Councilmember Haynes moved to reconsider item 6I, a communication regarding the Employer-Employee Relations (PEERA) prescribed hearing on the Water Pollution Control (WPC) fact finder’s report. The motion seconded by Councilmember Blackburn carried. Councilmember Ortiz was out of the room. (6-1-0)

Councilmember Haynes moved to extend the public hearing date to October 11, 2005. The motion seconded by Councilmember Blackburn carried. Councilmember Ortiz was out of the room. (6-1-0)

Dr. Isabelle Masters, Frank Kirtdoll and David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 11:50 p.m.

Iris Walker
City Clerk