

## City Council Minutes – September 27, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 27, 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, Duffy, Blackburn, Preisner and Harmon -9. Mayor Bunten presided -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.

MINUTES of the Regular Meeting of September 20, 2005, was presented.

An Open After Mid-Night License Application bearing the approval of the Chief of Police and City Inspectors for Old Chicago, 1231 SW Wanamaker Road, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Ortiz 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, September 27, 2005, at 7:00 P.M. for the purpose of hearing any and 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. 60591-01, authorized by Resolution No. 7373, adopted and approved August 5, 2003.

ORDINANCE NO. 18513 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. 60591-01, with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60591-01, as defined and described in Resolution No. 7373, adopted and approved August 5, 2003 placed on first reading September 20, 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, September 27, 2005, at 7:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessment 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. 40907-01, authorized by Resolution No. 7353, adopted and approved June 17, 2003.

ORDINANCE NO. 18514 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. 40907-01 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40907-01, as defined and described in Resolution No. 7353, adopted and approved June 17, 2003 placed on first reading September 20, 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 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 27, 2005, at 7:00 P.M. to consider the adoption of the Redevelopment Project Plan for a major motorsports complex in the proposed Heartland Park Redevelopment District.

RESOLUTION NO. 7688 introduced by City Manager Neil Dobler amending and supplementing Resolution No. 7677 relating to notice of public hearing to consider approval of a Redevelopment Project Plan for the Heartland Park Redevelopment District pursuant to K.S.A. 12-1772 and amendments thereto was presented.

Neil Dobler, City Manager gave the staff report.

Ray Erwin, Heartland Park and Kevin Fowler, attorney were present to answer questions.

Councilmember Preisner moved to continue the public hearing for two weeks and approve the resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

ORDINANCE NO. 18515 introduced by City Manager Neil Dobler establishing a redevelopment district within the City of Topeka, Kansas consisting of all real property owned by the City at Heartland Park of Topeka as more specifically described herein, all pursuant to K.S.A. 12-1770 *et. seq.*, and amendments thereto placed on first reading September 20, 2005 was again presented.

Neil Dobler, 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.

A PROJECT BUDGET in the amount of \$1,574,277 and ORDINANCE NO. 18516 introduced by City Manager Neil Dobler authorizing Trafficway Improvement Project No. 70190-01, Part B, which provides for the reconstruction of E. 6<sup>th</sup> Street five lanes wide between Golden Avenue and Market Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading August 16, 2005 was again presented.

Councilmember Blackburn gave the committee report and stated that the Economic and Community Development Committee recommended “Do Pass” by a vote of 3-0-0 on September 19, 2005. He stated that because the project would be bonded, approval would be based on the condition that the project would not be bid until after the city-county consolidation vote. He also requested that they conduct an area traffic study to determine the number of traffic accidents.

Neil Dobler, City Manager suggested that they amend the ordinance to read as follows, “Approval is based on the condition that no bids are solicited or contract awarded for the construction phase of the project until after the vote on city-county consolidation on December 15, 2005.”

Councilmember Blackburn moved to amend the ordinance as stated by the City Manager. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Haynes asked how much money would be spent on the project prior to the consolidation vote and how would it be funded.

Neil Dobler, City Manager explained that approximately \$200,000 has been spent on the purchase of right-of-ways at this time. He stated that the project design cost would be purchased through general obligation bonds.

Councilmember Blackburn asked if the funds to pay for the project design cost could be allocated from the operating budget.

Neil Dobler stated that he could not commit to allocating funds from the operating budget at this time.

Councilmember Blackburn withdrew his motion.

Councilmember Haynes moved to amend the ordinance to include, “No purchase of contract or right-of-way would be allowed prior to the city-county consolidation vote on December 15, 2005.” The motion was seconded by Councilmember Blackburn.

Councilmember Ortiz encouraged the Council to support the project because it would enhance the area greatly.

Frank Kirtdoll stated that he supports the project but objects to using eminent domain to acquire the property.

John Moyer, East Topeka Neighborhood Improvement Association (NIA) stated that they support the project because it would be a major enhancement to the area.

The motion to amend carried unanimously. (9-0-0)

Councilmember Alcala moved to approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Haynes 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.

A PROJECT BUDGET in the amount of \$70,000 and AN ORDINANCE introduced by City Manager Neil Dobler, authorizing Improvement Project No. 30252-00, which provides for improvements to the Discovering Apes building as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Mike Coker, Zoo Director gave a brief description of the project. He explained that the project is very important because they are approaching winter months and are unable to heat the

holding area of the building. He also stated that part of the roof is leaking and causing a large amount of water to lay dormant in some areas creating potential health hazards for the animals.

Vicki Estes, President of the Friends of Topeka Zoo Organization (FOTZ) stated that they run the risk of losing their tax exemption status, and could be subject to legal ramifications and costs if they deviate from using funds for non-educational purposes. She stated that they have an obligation to meet their donors' expectations on how the money is used.

Several Concilmembers expressed a number of concerns with the conditions of the contract between the City of Topeka and FOTZ. The following points were discussed:

- The City's legal obligation to FOTZ
- The City's financial contributions to FOTZ.
- Membership Dues
- The FOTZ Mission Statement.
- Past projects funded by FOTZ.

Councilmember Alcalá stated that he would like to review the terms of the contract before making a decision on the project.

Vicki Estes stated that they receive \$128,000 annually in membership fees. She explained that the allocation of money is based on requests made by the Zoo Director.

Councilmember Blackburn asked if FOTZ has ever spent money on anything outside of educational purposes.

Vicki Estes stated that it would be difficult to give an accurate answer without research because the organization was established in 1964.

Mike Coker stated that he believes that all aspects of the zoo should be considered educational.

Councilmember Blackburn stated that in his opinion the Discovering Apes exhibit is educational.

Councilmember Preisner moved to defer the project budget and ordinance for two weeks. The motion was seconded by Councilmember Alcalá.

Joseph Ledbetter spoke in support of the project. He stated that he believes that FOTZ has an obligation to pay for the project.

Brenden Long, City Attorney read the FOTZ mission statement for clarification.

The motion to defer for two weeks carried unanimously. (9-0-0)

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 8<sup>th</sup> Street, was presented. The resolution was deferred from the meeting of July 19, 2005.

Councilmember Blackburn gave the committee report. He stated that the Economic and Community Development Committee recommended “Do Not Pass” by a vote of 3-0-0 on September 19, 2005. He stated that all committee members toured the building and there is a considerable amount of work being done. He stated that it was the consensus of the committee to allow Reverend Lee Sweet to keep the building.

Barbara Gavin commended Reverend Sweet for helping her family. She spoke in opposition to the condemnation proceedings and encouraged Council to allow Reverend Sweet to continue with his program.

John Moyer, East Topeka NIA stated that they support the project, not the use of eminent domain.

Councilmember Duffy asked for suggestions from the NIA on how to acquire the property. He also asked if they support \$4.3 million in private investment for the neighborhood.

John Moyer stated that they support private invest in the neighborhood. He explained that personally he would prefer that the City negotiate a fair price with the owner instead of taking the property.

Councilmember Alcala asked if the direction of the East Topeka NIA has changed because in the past they have supported eminent domain for redevelopment and infill housing. He encouraged the NIA to amend the plan to reflect any desired changes because the plan guides the Council in making decisions.

Councilmember Ortiz stated that she believes there are other areas in the neighborhood that could be used for the project. She also expressed concern with the low number of new construction residential homes being built in the area.

Kevin Rooney, Assistant Housing and Neighborhood Director explained that the area is currently facing problems with blight and crime making it difficult to sell homes. He stated that private investment is badly needed to help clean up the area.

Frank Kirtdoll stated that he believes that the City is not following the correct eminent domain procedure.

Lena Russell stated that she does not believe eminent domain is necessary for any reason. She stated that in her opinion there has been a lack of communication between the City and the neighborhood regarding the project. She also stated that she believes there has been false information given regarding crime in their neighborhood. She stated that most of the elderly people have lived in the neighborhood forty or more years and feel safe.

Councilmember Ortiz distributed pictures of the neighborhood and stated that there are issues that need to be addressed such as graffiti and blight.



Councilmember Nave expressed concern with the amount of time it has taken to complete Reverend Sweet's project and questioned if the area could financially support it. He stated that area residents have indicated that they want to see new economic development for the area.

Fred Sanders stated that he believes the City should not interfere with Reverend Sweet's dream of a Christian School. He asked the Council to review their eminent domain process and consider other areas of the neighborhood that could be used for the elderly housing project.

Joseph Ledbetter spoke in opposition of the elderly housing project. He stated that the East Topeka Jr. High is a historical building that cannot be replaced. He asked the Council to consider other areas to accommodate the project.

Reverend Lee Sweet stated that they do not want to sell the building. He explained that they have received a final bid on completion and have the funds to finish the necessary repairs. He gave a brief overview of the steps that have been taken in the past eighteen years to continue the project and ministry. He stated that the building was appraised at \$780,000 prior to the improvements, and he anticipates that the finished project will appraise at over \$2.5 million.

Councilmember Ortiz and Councilmember Kennedy encouraged Reverend Sweet to pursue the project in a timely manner.

Ross Freeman, Pioneer Homes stated that he believes that there are several issues that need to be addressed concerning property ownership, building repair costs, property maintenance, and lead and asbestos removal. He stated that they have researched other sites and it would not be financially feasible because they would not receive a break in federal tax credits.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Duffy.

Councilmember Blackburn suggested that they condemn the buildings downtown to accommodate the project. He stated that a timeframe, or a policy created for rehab of property be established.

The motion to approve the resolution failed. Councilmembers Kennedy, Ortiz, Haynes, Blackburn and Harmon voted "no". (4-5-0)

Councilmember Alcalá moved to extend the meeting through the end of the agenda. The motion seconded by Councilmember Ortiz carried. Councilmember Preisner voted "no". (8-1-0)

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. The ordinance was deferred from the meeting of July 19, 2005

Councilmember Duffy gave the committee report. He stated that the ordinance was removed from the Public, Health and Safety Committee "Without Recommendation" by a vote of 2-0-0 on September 12, 2005. He stated that they need additional time to discuss the issue further and would recommend that it be remanded back to committee.

Councilmember Duffy moved to remand the ordinance back to the Public, Health and Safety Committee. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$327,640 and ORDINANCE NO. 18517 introduced by City Manager Neil Dobler authorizing Improvement Project No. 30232-00, which provides for the location of the construction of a 38 stall parking lot as more specifically

described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes asked if the City has attempted to negotiate a price for the property instead of acquiring the property through eminent domain. He suggested that the City offer BNSF \$1 for the property.

Tim Green, Engineering Department stated that they would need to include the cost of the purchase of the right-of-way in the amount of \$2,500.

Brenden Long, City Attorney stated that BNSF Railroad have been contacted on several occasions regarding sale of the property. He stated that it was determined in order to expedite sale of the property in the timeliest manner they would attempt eminent domain. He clarified that the City is bound to the approved project budget and any changes must be approved through Council.

Councilmember Haynes moved to reduce the project budget to \$2,600 to be funded from the Public Works operating budget. The motion was seconded by Councilmember Duffy.

Councilmember Harmon asked if a delay would stop the project.

Neil Dobler stated that a delay should not affect the project.

The motion to amend the project budget carried. Councilmember Duffy was out of the room. (8-1-0)

Frank Kirtdoll stated that in his opinion they should review City policy closer if a project budget can be reduced by \$51,900.

Joseph Ledbetter spoke in support of the reduction in the project budget. He also asked if an appraisal has been conducted on the property.

Fred Sanders stated that he supports the reduced project budget. He explained that the right contacts have to be made to expedite the purchase of land. He suggested that the City contact attorneys' Ralph Gatewood or Bob Storey because they have experience working with BNSF Railroad.

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

The ordinance was adopted as amended 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 \$1,258,000, ORDINANCE NO. 18518 and A NOTICE OF INTENTION introduced by City Manager Neil Dobler authorizing Improvement Project No. 28530-00 which provides for modifications and improvements at the SW 37<sup>th</sup> and Fairlawn Booster Station including installation of new Motor Control Center (MCC), pumping unit, new valving and valve replacement, and stand-by power generation 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 amendments thereto placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes asked how the project would affect area water pressure and the Heartland Park Redevelopment Project.

Don Rankin, Water Superintendent stated that it would not improve area water pressure, but is essential for the west, south and southeast water zones to work properly due to area growth. He stated that the project would also help the City plan for the Heartland Park project.

Councilmember Preisner moved to approve the project budget, ordinance and notice of intention. The motion seconded by Councilmember Blackburn 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 \$1,028,200, ORDINANCE NO. 18519 and A NOTICE OF INTENTION introduced by City Manager Neil Dobler authorizing Phase 2 of Improvement Project No. 28578-01 which provides for the construction of a new 16”/18” transmission main along SE 37<sup>th</sup> Street from California Avenue to Adams Street and south on Adams Street to SE 40<sup>th</sup> Street and Quincy Street 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 placed, on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the project budget, ordinance and notice of intention. 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.

A PROJECT BUDGET in the amount of \$800,000, ORDINANCE NO. 18520 and A NOTICE OF INTENTION introduced by City Manager Neil Dobler authorizing Phase 2 of Improvement Project No. 28569-01 which provides for the construction of a new 12” water main along Huntoon Street from Urish Road to Executive Drive and Urish Road from SW 17<sup>th</sup> Street to Red Oaks Place 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 placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Nave moved to approve the project budget, ordinance and notice of intention. 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.

A PROJECT BUDGET in the amount of \$1,589,600, AN ORDINANCE and A NOTICE OF INTENTION introduced by City Manager Neil Dobler authorizing Phase 2 of Improvement Project No. 28509-02 which provides for the construction and installation of two, twenty (20) inch water lines on the new Topeka Boulevard Bridge over the Kansas River at the time of bridge construction 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, placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Joseph Ledbetter stated that he believes the project should be funded from economic development sales tax funds.

Bob Sherburne stated that he believes they should research a different concept to cross the river.

Councilmember Preisner moved to approve the project budget, ordinance and notice of intention. The motion was seconded by Councilmember Alcalá.

Councilmember Haynes made a substitute motion to defer for two weeks to consult with the City's bond counsel. The motion seconded by Councilmember Duffy carried.

Councilmembers Kennedy, Alcalá and Ortiz voted "no". (6-3-0)

AN ORDINANCE introduced by City Manager Neil Dobler relating to annexation and funding of sewer service and extensions, amending City of Topeka Code Section 146-256, and repealing said original section, placed on first reading September 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Marty Stessman, Shawnee Heights spoke in support of the project. He stated that KDHE has ordered them to connect to the City of Topeka sewer system.

Joseph Ledbetter stated that he supports the project because it is a school. He cautioned the Council in setting a future precedence of providing services outside the city's tax base.

Councilmember Duffy questioned the City's legal obligation to the project and KDHE requirements to provide the service.

Neil Dobler, City Manager stated that the City is not obligated to the project, however, the sewer line is owned by the City.

Mike Teply, Acting Public Works Director stated that the ordinance is only asking for a consent to annex, not service.

Brenden Long, City Attorney distributed the following suggested amendments to the ordinance:

- Add "except as provided in Subsection (C)(6) below" after the word "annexation" on lines 68 and 76
- Add "or the annexation" after the word "annexation" on line 82

Councilmember Duffy moved to amend the ordinance as distributed by the City Attorney. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Alcalá made a motion to amend line 83 of the ordinance, by identifying USD 450 and Shawnee Heights Elementary South as the only exception. The motion was seconded by Councilmember Nave.

Councilmember Preisner made a substitute motion to adopt the ordinance as amended. The motion seconded by Councilmember Nave failed. (0-9-0)

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. The communication was deferred from the meeting of September 13, 2005.



Neil Dobler, City Manager gave the staff report.

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

A FINAL PLAT for Summer's View Subdivision located on property east of SE Downing Drive between SE 32<sup>nd</sup> Street and SE 33<sup>rd</sup> Terrace within unincorporated Shawnee County, Kansas, was presented. The final plat was deferred from the meeting of September 20, 2005. (P05/16)

David Thurbon, Planning Director gave the staff report.

Councilmember Duffy questioned why the consent to annex was not included with the final plat.

Councilmember Haynes moved to defer for two weeks. The motion was seconded by Councilmember Nave.

Mayor Bunten noted that Mike Engler signed up to speak on the item. He stated that because he had not yet announced the vote he would allow Mr. Engler to speak, and the Council to recast their vote.

Mike Engler, Bartlett & West Engineers stated that the property is already being served by the sewer district. He stated that the applicant has paid over \$80,000 in special assessments. He explained that the applicant is seeking approval of the final plat not sewer service.

Councilmember Alcala challenged the ruling of the chair.

The ruling of the chair was not upheld. Alcala, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon voted "no". (2-7-0)

Councilmember Alcala moved to reconsider the vote on the final plat. The motion seconded by Councilmember Preisner carried. Nave, Haynes and Duffy voted "no". (6-3-0)

Brenden Long, City Attorney suggested that they defer the final plat for two weeks for further review.

Councilmember Blackburn moved to defer the final plat for two weeks. The motion seconded by Councilmember Haynes carried. Councilmember Preisner voted "no". (8-1-0)

A RESOLUTION introduced by City Manager Neil Dobler amending the Project Budget of Improvement Project No. 28509-01 providing for the installation of two, twenty (20) inch water lines on the new Topeka Boulevard Bridge over the Kansas River as more specifically described herein and rescinding Resolution No. 7591 was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes moved to defer for two weeks. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 7689 introduced by City Manager Neil Dobler authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 30127-09, along the Shunga Trail between 17<sup>th</sup> Street and 21<sup>st</sup> Street, across the Burlington Northern and Santa Fe Railroad was presented.

Neil Dobler, City Manager gave the staff report.

Bill Riphahn, Parks and Recreation Department gave a brief presentation on the project.

Councilmember Blackburn stated that he would not support the project because of the funding source.

Councilmember Duffy questioned the possibility of using an alternate route for the trail.

Councilmember Haynes moved to amend the resolution to include the condition that no additional funding would be required to complete the project. The motion was seconded by Councilmember Preisner.

Frank Kirtdoll spoke in opposition to the use of eminent domain to acquire the property. He stated that he does not believe it is necessary to acquire the property to complete the project.

Fred Sanders stated that he supports the project but opposes the use of eminent domain to acquire the property.

Councilmember Preisner withdrew the second to the motion.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Alcala carried. Councilmembers Haynes and Blackburn voted "no". (7-2-0)

RESOLUTION NO. 7690 introduced by City Manager Neil Dobler authorizing initiation of condemnation proceedings to acquire property for Improvement Project No. 28527-00, for a water main extension along SW 17<sup>th</sup> Street and SW Urish Road was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Alcala moved to approve the resolution. The motion seconded by Councilmember Preisner carried. Councilmembers Haynes and Blackburn voted "no". (7-2-0)

RESOLUTION NO. 7691 introduced by City Manager Neil Dobler, adopting the 2005-2006 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7673 was presented.

Neil Dobler, City Manager explained that the resolution adds the 37<sup>th</sup> and Fairlawn Booster Station project and the Heartland Park Redevelopment Plan project to the 2005-0006 Capital Budget.

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

A PROJECT BUDGET in the amount of \$182,161 and RESOLUTION NO. 7692 introduced by City Manager Neil Dobler amending Street Repair Project No. 84326 which

provides for the restoration of the brick driving surface along SW College Avenue between SW 15<sup>th</sup> Street and SW 17<sup>th</sup> Street as more specifically described herein, and rescinding Resolution No. 7508 was presented.

Neil Dobler, City Manager gave the staff report.

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

Councilmember Blackburn asked what the cost differential is between a street and brick overlay.

Neil Dobler stated that he is unsure of the cost difference between the two options. He explained that the brick overlay is consistent with the character of the neighborhood and past projects.

The motion to approve carried. Councilmembers Kennedy, Alcala, Ortiz and Blackburn voted "no". (5-4-0)

David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 1:20 a.m.

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Iris Walker  
City Clerk