

## City Council Minutes – October 25, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 25, 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 Ortiz gave the invocation.

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

Neil Dobler, City Manager stated that it has been determined that they will need to reset the public hearing for the redevelopment plan for Heartland Park. He asked that the Council suspend the rules and add the resolution to set the public hearing to the consent agenda; close the public hearing listed on the agenda and withdraw the ordinance on Item 6C.

Councilmember Ortiz moved to suspend the Council Rules. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

Councilmember Nave moved to add a resolution relating to notice of a public hearing concerning a redevelopment project plan for the Heartland Park Redevelopment District to the consent agenda. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Duffy requested to remove Item 5C, a final plat for Woodland Trail Subdivision for separate discussion.

Councilmember Alcala requested to remove Item 5D, a Workers Compensation Claim settlement for Gerald Kent Biggs for a separate vote.

A FINAL PLAT for Woodland Court Subdivision No. 2 located on the west side of SW Clare Avenue approximately 120 feet south of the southwest corner of SW 32<sup>nd</sup> Street in the City of Topeka, Kansas, was presented. (P05/2)

A FINAL PLAT for Rockfire at the Lake Subdivision No. 3 located west of SE Croco Road and north of SE 45<sup>th</sup> Street the centerline of which is approximately 2,300 feet north of the intersection of SE Croco Road and SE 45<sup>th</sup> Street within the City of Topeka, Kansas, was presented. (P05/4)

RESOLUTION NO. 7704 introduced by City Manager Neil Dobler setting the public hearing for Establishment of a Redevelopment District for the Washburn-Lane College Hill Area, was presented.

RESOLUTION NO. 7707 introduced by City Manager Neil Dobler relating to notice of a public hearing concerning a redevelopment project plan for the Heartland Park Redevelopment District pursuant to K.S.A. 12-1772 was presented.

MINUTES of the Regular Meeting of October 18, 2005 were presented.

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

A FINAL PLAT for Woodland Trail Subdivision on property located on the south side of I-470, approximately ¼ mile west of West Edge Road, in unincorporated Shawnee County, Kansas, was presented. (P05/22)

Councilmember Duffy asked if the lots were contiguous to city limits.

Bill Fiander, Planning Department stated that the lots are contiguous to city limits, and the proposal includes a consent to annexation agreement.

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

APPROVAL of Workers Compensation Claim settlement for Gerald Kent Biggs in the amount of \$16,196 was presented.

Councilmember Alcala moved to approve the Workers' Compensation Settlement Claim. The motion seconded by Councilmember Haynes carried. Councilmembers Alcala and Duffy voted "no". (7-2-0)

#### 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, October 25, 2005, at 7:00 P.M. to consider the advisability of Street Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6<sup>th</sup> Street to eastbound I-70 exit ramp.

A PROJECT BUDGET in the amount of \$5,504,900 and RESOLUTION NO. 7705 introduced by City Manager Neil Dobler authorizing Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6<sup>th</sup> Street to the eastbound I-70 exit ramp, was presented.

Neil Dobler, City Manager gave the staff report. He stated that the project is the final phase of improvements around the State Hospital grounds.

Councilmember Blackburn stated that he would oppose approval of the project until the outcome of the city-county consolidation vote has been determined.

Councilmember Preisner moved to close the public hearing and approve the project budget and resolution. The motion was seconded by Councilmember Alcala.

Councilmember Alcala suggested that staff accept bids with the stipulation that if the city-county consolidation passes, the project would be null and void.

Councilmember Alcala moved to amend that no contract shall be entered into until and unless the city-county consolidation fails. The motion seconded by Councilmember Blackburn carried unanimously. (9-0-0)

The motion to close the public hearing and approve the amended project budget and resolution 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, October 25, 2005, at 7:00 P.M. for citizen comment on the FY 2006-2010 City of Topeka Consolidated Action Plan.

TOPEKA CONSOLIDATED ACTION PLAN for FY2006-2010 was presented for approval.

Neil Dobler, City Manager gave the staff report and stated that Randy Speaker, Housing and Neighborhood Director was available to answer questions.

Joseph Ledbetter stated that he believes the Housing and Neighborhood Department staff should be reduced at all levels. He stated that customer service needs improvement. He also stated that he agrees with the targeting concept, and it should be included in the plan as long as the Citizens Advisory Council is involved.

Councilmember Preisner moved to close the public hearing and approve the Topeka Consolidated Action Plan for FY2006-2010. 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, October 25, 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. (Continued from the meeting of October 11, 2005.)

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

ORDINANCE NO. 18527 introduced by City Manager Neil Dobler authorizing the issuance of \$9,410,000 aggregate principal amount of General Obligation Bonds, Series 2005-B, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive K.S.A. 12-

110c, K.S.A. 12-685 *et. seq.*, K.S.A. 12-6a01 *et. seq.*, the Home Rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinances Nos. 68 and 89 of the City, all as amended placed on first reading October 18, 2005, was again presented.

RESOLUTION NO. 7700 introduced by City Manager Neil Dobler prescribing the form and details of the General Obligation Bonds, Series 2005-B of the City of Topeka, Kansas, in the aggregate principal amount of \$9,410,000 the issuance of which were authorized by the City pursuant to its ordinance adopted and approved October 25, 2005; and authorizing certain other documents and actions in connection with the issuance of the bonds, was presented.

RESOLUTION NO. 7701 introduced by City Manager Neil Dobler authorizing and directing the issuance of Temporary Notes, Series 2005-A of the City of Topeka, Kansas, in the aggregate principal amount of \$22,425,000 for the purpose of providing funds to pay the cost of renewing a portion of the principal amount of the Series 2004-A Temporary Notes of said city, dated November 23, 2004, and for the purpose of providing funds to pay a portion of the cost of certain improvements in said city, was presented.

Neil Dobler, City Manager gave the staff report.

Following a brief discussion regarding some of the projects listed for Temporary Notes, and the amount of the City's total bonded indebtedness, Councilmember Preisner moved to adopt the ordinance and approve both resolutions. The motion seconded by Councilmember Alcalá 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.

ORDINANCE NO. 18528 introduced by City Manager Neil Dobler authorizing the issuance of \$5,070,000 aggregate principal amount of taxable General Obligation Bonds, Series 2005-C (Heartland Park), of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, the Home Rule authority granted to the Cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution and Charter Ordinance No. 89 of the City, all as amended, placed on first reading October 18, 2005 was again presented.

RESOLUTION NO. 7702 introduced by City Manager Neil Dobler prescribing the form and details of the taxable General Obligation Bonds, Series 2005-C (Heartland Park) of the City of Topeka, Kansas, in the aggregate principal amount of \$5,070,000 the issuance of which were authorized by the City pursuant to its ordinance adopted and approved October 25, 2005; and authorizing certain other documents and actions in connection with the issuance of the bonds, was presented.

RESOLUTION NO. 7703 introduced by City Manager Neil Dobler authorizing and directing the issuance of Taxable Temporary Notes, Series 2005-B (Heartland Park) of the City of Topeka, Kansas, in the aggregate principal amount of \$3,000,000 for the purpose of providing funds to pay a portion of the cost of certain improvements at Heartland Park of Topeka in said city, was presented.

Councilmember Preisner moved to adopt the ordinance and approve both resolutions. The motion seconded by Councilmember Nave carried. Councilmember Haynes abstained.  
(8-0-1)

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

A PROJECT BUDGET in the amount of \$312,257 and ORDINANCE NO. 18529 introduced by City Manager Neil Dobler, authorizing Improvement Project No. 15020-04 which provides for the installation of riffle structures in the Wanamaker Tributary to redirect water from the north and east sides of the stream toward its center, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading October 18, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Harmon moved to approve the project budget 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, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18530 introduced by Councilmember John Alcala concerning the Department of Housing and Neighborhood Development, Citizen Advisory Council and Neighborhood Improvement Associations, amending City of Topeka Code Sections 42-1, 42-2, 42-3, 42-4, 42-5, 42-7, 42-9, 42-10, 42-11, 42-12 and 42-13 and specifically repealing said original sections and City of Topeka Code Section 42-6, placed on first reading August 16, 2005 was again presented.

Neil Dobler, City Manager gave the staff report. He stated that he met with Randy Speaker and a number of NIA representatives to discuss revisions to the ordinance.

Councilmember Alcala moved to adopt the ordinance as amended by the neighborhood groups. The motion was seconded by Councilmember Ortiz.

Betty Phillips distributed comments and stated that she supports the changes to the ordinance that resulted from the meetings.

Joseph Ledbetter, president of the Hi-Crest NIA and CAC member stated that he supports the ordinance as revised. He stated that he opposes any amendments that would eliminate the CAC or the NIAs'.

Desiree Lyons, president of the Tennessee Town NIA stated that she was not invited to participate in the meetings and she believes that all NIAs' should have been involved in the revision process.

Don Perkins, president of the Central Park NIA stated that they should give the current system a chance to work. He noted that the group that wants to make the changes to the current ordinance represents less than one-fourth of the NIAs'.

Betty Dunn stated that the revised ordinance would help eliminate slum and blight. She also stated that she believes that the Advisory Council is required by HUD regulations.

Michael Bradley, Old Town Neighborhood resident and CAC member stated that he invited himself to the meeting. He also stated that he supports the revisions made to the ordinance.

Fred Sanders, president of the Monroe NIA stated that he supports the revised ordinance.

Councilmember Alcalá encouraged his colleagues to support the amendments.

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

Councilmember Alcalá moved to adopt the ordinance as amended. The motion was seconded by Councilmember Ortiz.

Councilmember Preisner distributed the following amendment to Section 10(b) relating to Conflicts of Interest: Delete lines 435 through 446 and add the following section.



- (b) As provided by U.S. Department of Housing and Urban Development regulations, no employee, officer, or agent of a recipient organization or agency, or anyone who is in a position to participate in a decision-making process or gain inside information with regard to the awarding of federal funds administered by the department of housing and neighborhood development, may obtain a direct personal financial interest or benefit in any contract, subcontract or agreement with respect thereto, either for themselves or those with whom they have immediate family or business ties, during their tenure in said position or for one year thereafter. Exceptions to this rule may be considered as provided by U.S. Department of Housing and Urban Development regulations. For the purposes of this section, “immediate family” means: one’s spouse, child, son-in-law, daughter-in-law, step-child, parent, step-parent, spouse’s parent, sibling, grandparent, or a family member of the immediate household permanently residing under the same roof.”

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

Councilmember Haynes distributed the following amendment relating to the Community Advisory Council and the Neighborhood Improvement Associations: delete lines 23 through 27 of Section 1, delete lines 147 through 203 of Section 4, delete Sections 5 and 6 in their entirety, and add the following new Section “Area Support”.

- (a) The Housing and Neighborhood Development Department (HND) will provide technical assistance and funds on an annual and proportional basis to areas meeting U.S. Department of Housing and Urban Development (HUD) requirements, subject to annual appropriations by HUD, and approval of the City Council. To be eligible, an area must be predominately low and moderate income, as defined by City of Topeka Code Section 42-1. Certification of eligibility will be determined by the City Manager upon the recommendation of the HND director, and in accordance with HUD regulations. HND will establish and maintain an application process that takes into consideration the number of low and moderate-income households located within each eligible block group, and the area health as identified in the most current neighborhood health map that is prepared by the City of Topeka Planning Department. Subject to the annual appropriations of HUD and approval of the Consolidated Action Plan by the City Council, areas may receive funds for communications, operations and/or neighborhood clean-up expenses. These funds will be made available on a prorated basis based on the proportionate share of low and moderate-income households in the respective areas.

- (b) Persons interested in representing an area shall submit a petition signed by at least 25 residents, property owners, businesses and other persons having an interest in the area of the City Manager, who shall acknowledge receipt and, if appropriate, approval of petition.
- (c) All persons or organizations who are interested in receiving direct written notice of public hearings on the Consolidated Action Plan, will receive said notice upon written request to the director of Housing and Neighborhood Development.

Councilmember Alcala raised a point of order. He stated that the amendment distributed by Councilmember Haynes is a substantial change and should be presented in a separate document.

Brenden Long, City Attorney explained the procedure for making a substantive change to the ordinance. He stated that following approval of the amendment, if it is determined to be a substantial change, the ordinance would need to be on file in the City Clerk's Office for one week prior to the final vote.

Councilmember Alcala called the question.

Councilmember Alcala withdrew the call for the question.

Councilmember Nave asked if the amendment violates HUD rules and regulations.

Randy Speaker, Housing and Neighborhood Director stated that HUD does not get involved in local policy as long as hearings are held, and a citizen input process is defined.

Councilmember Blackburn stated that he supports the amendment presented by Councilmember Haynes.

Councilmember Alcala called the question.

The motion to amend the ordinance as distributed by Councilmember Haynes carried.

Councilmembers Kennedy, Alcala, Ortiz and Harmon voted "no". (5-4-0)

Councilmember Duffy moved to adopt the ordinance as amended. The motion was seconded by Councilmember Haynes.

Councilmember Alcala renewed his point of order that the amendment is a substantial change.

Mayor Bunten ruled that it is the opinion of the chair that the amendment is a substantial change to the ordinance.

Councilmember Duffy challenged the ruling of the chair. He stated that the amendment speaks to how the City would receive advice on the allocation of HUD funds, and he believes it is relevant and consistent with the subject of the ordinance.

Councilmember Haynes stated that a substantial change would change the subject matter, and he believes his amendment does not.

Mayor Bunten asked for a vote on if the ruling of the chair shall be upheld.

The motion of if the ruling of the chair shall be upheld failed. Councilmember Nave, Haynes, Duffy, Preisner and Blackburn voted "no". (4-5-0)

Councilmember Duffy moved to adopt the ordinance as amended. The motion was seconded by Councilmember Preisner.

Councilmember Alcala made a substitute motion to refer the ordinance to the Policy and Finance Committee. The motion was seconded by Councilmember Ortiz.

The substitute motion failed. Councilmember Nave, Haynes, Duffy, Preisner and Blackburn voted "no". (4-5-0)

Councilmember Preisner called the question.

The motion to adopt the ordinance as amended carried. Councilmembers Kennedy, Alcala, Ortiz and Harmon voted "no". (5-4-0)

The ordinance was adopted on roll call vote as follows: Ayes: Nave, Haynes, Duffy, Blackburn and Preisner -5. Noes: Kennedy, Alcala, Ortiz and Harmon -4.

A COMMUNICATION for the Public Employer-Employee Relations (PEERA) hearing on the Water Pollution Control (WPC) fact finder's report, was presented.

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

Neil Dobler, City Manager explained the following outstanding issues heard at the public hearing:

1. Determination of wage schedule for 2005-2006.
2. Placement of employees in the pay plan.
3. Probationary period reduced to 1040 hours.
4. Payment of sick leave upon death on an employee.

Councilmember Duffy moved to adopt the recommendation of the WPC fact finder's report on No. 1. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Duffy moved to adopt the recommendation of the WPC fact finder's report on No. 2. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Duffy moved to adopt the recommendation of the WPC fact finder's report on No. 3. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Duffy moved to adopt the recommendation of the WPC fact finder's report on No. 4. The motion seconded by Councilmember Haynes carried. Councilmembers Blackburn and Preisner voted "no". (7-2-0)

A RESOLUTION introduced by Sylvia Ortiz, Lana Kennedy, Brett Blackburn and John Alcala, amending City Council Rule and Procedure 5.2 concerning the order of business of Council meetings, and repealing the original of said rule and procedure 5.2 was presented for first reading.

RESOLUTION NO. 7706 introduced by Lana Kennedy and Brett Blackburn establishing a Special Council Committee to study and consider issues related to the Development Services Division of the City of Topeka's Public Works Department, was presented.

Councilmember Blackburn stated that the committee would serve as a citizens advisory council.

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

CONTRACT NO. 35752 between the City of Topeka and the City of Topeka Street Section Teamsters Local Union No. 696, was presented.

Neil Dobler, City Manager gave the staff report and stated that the contract is for FY2004, 2005 and 2006.

Janet Robinson, Human Resources Director appeared to answer questions.

Councilmember Duffy suggested reviewing the WPC pay plan policy regarding incentives for pay increases.

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

A RESOLUTION introduced by City Manager Neil Dobler, declaring the eligibility of the City of Topeka, Kansas, to submit an application to the Kansas Department of Transportation for use of transportation enhancement funds set forth by the Federal Transportation Equity Act for the 21<sup>st</sup> Century for the Washburn-Lane Parkway Project in the City of Topeka, Kansas, and authorizing the City Manager to sign the application, was presented.

Neil Dobler, City Manager gave the staff report. He stated that the resolution would allow the city to submit an application to KDOT for 2007 and 2008 funds.

John Taylor, Turn Around Team spoke in support of applying for the funds and stated that it would complete a long-range plan.

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

Mayor Bunten stated that he believes the project should be considered low priority and in his opinion there are better ways to spend the money.

Councilmember Blackburn stated that he agrees with the Mayor.

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

A PROJECT BUDGET in the amount of \$560,900 and RESOLUTION NO. 7708 introduced by City Manager Neil Dobler describing and authorizing Improvement Project No. 50220-00 which provides for acquisition of necessary easements and other real property interests, preparation of design and feasibility studies and construction of an initial wetland/drainage facility on approximately 1/8 mile southeast of Furman and Frontage Roads, south of Highway 24 as more specifically described herein, was presented.

Neil Dobler, City Manager gave the staff report. He stated that the City wanted to acquire the two houses and start on the project to improve Furman Road.

Tony Meier expressed his concern about the cost of the project. He stated that the area has held water for over fifty years, and the residents knew there could be a possibility of flooding when they purchased the property.

Councilmember Alcalá stated that the two properties flood every time there is a large rain. He also stated that the proposal would allow residents to receive fair market value for their properties and relocation costs.

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

Bob Sherburne suggested that the City ask the Army Corps of Engineers to build a reservoir to eliminate flooding.

Joseph Ledbetter expressed concern regarding the cost of the project.

Councilmember Duffy noted the savings realized by utilizing a wetland run off system. He stated that the project is less expensive than building a water treatment plant.

Councilmember Alcala commended Mark Green and City staff for their work on the project.

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

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

Councilmember Duffy submitted a pending request for the annexation of Woodland Trails Subdivision.

Councilmember Blackburn stated that he would forward the names of the Development Services Committee members to the Deputy Mayor in one week.

Councilmember Alcala asked for an update on the Downtown Business Free Parking Initiative meeting.

Stuart Yoho, David Owen and Joseph Ledbetter appeared to speak under public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:55 p.m.

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Iris Walker  
City Clerk