

City Council Minutes – November 22, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 22, 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, Preisner and Harmon -8. Absent: Councilmember Blackburn -1. Mayor Bunten presided -1.

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

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

THE CONSENT AGENDA was presented as follows:

APPROVAL of a workers' compensation claim in the amount of \$37,905.59 for Delbert Philbin, was presented.

MINUTES of the Regular Meeting of November 15, 2005 were presented.

A Dance Hall License application bearing the approval of the Chief of Police and City inspectors for Stingers, located at 2335 NW Clay, was presented.

Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City inspectors for Static Liquor, located at 4332 SE 23rd Terrace, was presented.

Councilmember Kennedy moved to approve the consent agenda. The motion seconded by Councilmember Nave carried. Councilmember Duffy voted "no". (7-1-0)

ORDINANCE NO. 18536 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.

Councilmember Kennedy commented on the committee report.

Councilmember Preisner gave the committee report and stated that the ordinance was removed from the Public, Health and Safety Committee “Without Recommendation” by a vote of 3-0-0 on October 24, 2005.

Brenden Long, City Attorney suggested that they amend the ordinance as follows.

- Delete Section 1(a) in its entirety
- Amend the requirements of the ordinance by including the word “microchipping” on line 31
- Amend line 39 by adding the statement, “No animal shall be released from confinement until a microchip has been implanted.”

Councilmember Preisner asked if the new language would guarantee that a microchip would be in place before a Pit Bull dog or vicious animal is released to the owner.

Brenden Long confirmed that the new language would make microchipping a requirement.

Councilmember Kennedy moved to amend the ordinance as stated by the City Attorney. The motion was seconded by Councilmember Preisner.

Councilmember Haynes asked how the new requirements would be enforced.

Brenden Long stated that the regulation would be enforced as soon as the animal is picked up.

Neil Dobler, City Manager stated that a microchip would connect a dog to the owner enabling the City to penalize the owner when necessary.

Councilmember Harmon asked if they should clarify the definition of “animal”.

Brenden Long stated that he believes that further definition is not necessary because the language as stated in the ordinance deals directly with vicious animals and Pit Bull dogs in relation to the word “animal”.

Councilmember Duffy stated that he is confident that the new language deals with the majority of the concerns raised at committee meetings. He also stated that because penalty guidelines have already been established the challenge will come with the enforcement, which cannot be avoided.

Councilmember Haynes asked for clarification regarding destruction of an animal.

Brenden Long stated that an animal can only be destroyed if it is proven to be “vicious”.

Councilmember Kennedy stated that Pit Bull dog liability insurance can no longer be obtained through insurance agencies, therefore, she believes that microchipping is a fair compromise for Pit Bull dog owners inside city limits.

The motion to amend the ordinance carried unanimously. (8-0-0)

Councilmember Kennedy moved to adopt the ordinance as amended. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

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 Haynes gave the committee report and stated that the Policy and Finance Committee recommended “Do Pass” by a vote of 2-0-0 on October 31, 2005.

Councilmember Preisner stated that he has received a number of questions from his constituents regarding the ordinance. He requested additional time to respond to the questions.

Councilmember Preisner moved to defer the ordinance for two weeks. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$182,970 and ORDINANCE NO. 18537 introduced by City Manager Neil Dobler authorizing Improvement Project No. 14118, which provides for traffic signal replacement and sidewalk and ramp construction, as needed, at the intersection of SW Washburn and SW 21st Streets, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading November 15, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Alcala asked what the projected installation date is for the new 4th and Branner intersection traffic signal. He stated that he believes it should be considered top priority because it was installed in the 1940's.

Neil Dobler stated that the 4th and Branner traffic signal is included in the 2006 project improvements. He explained that the project is scheduled to begin in May or June of 2006 and completed by August 2006.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Duffy was out of the room. (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Preisner and Harmon -7. Noes: Duffy -1. Absent: Blackburn -1.

RESOLUTION NO. 7721 introduced by Councilmember John Nave relating to the Special Council Committee to study and consider diversity issues related to City of Topeka

personnel and purchasing practices, and rescinding City of Topeka Resolution No. 7684 was presented.

Councilmember Nave stated that it was the consensus of the committee to change the completion date for their report to December 6, 2005, and asked if the committee could make their presentation to the Council prior to that date.

Neil Dobler, City Manager stated that the committee could make their presentation at the December 6, 2005 work session at 6:00 p.m.

Councilmember Nave moved to amend the resolution by changing the completion date from January 13, 2006 to December 12, 2005. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$4,882 and RESOLUTION NO. 7722 introduced by City Manager Neil Dobler authorizing Project No. 14120-00 which provides for the installation of “talking” pedestrian traffic signals and additional signs at the intersection of SW Washburn and SW 10th Streets as more specifically described herein was presented.

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

Councilmember Alcala thanked staff for addressing the problem in a timely manner.

Councilmember Ortiz noted that the eastbound traffic has limited vision during certain times of the day.

Councilmember Harmon asked if the actual problem has been pin pointed in terms of careless pedestrians, careless drivers or a combination of both.

Neil Dobler explained that the main cause of the safety issue is the right hand turning movements at the intersection. He stated that the City’s primary concern is the safety of the

pedestrians. He also stated that the intersection is a huge liability issue for the City and he encouraged everyone to pay special attention regarding the safety of others.

Mike Teply, Acting Public Works Director stated that they would install a new traffic signal, and continue to monitor the intersection to see what other safety devices may be needed.

Councilmember Alcala suggested installing a count down timer that would inform pedestrians the amount of time they have to cross the intersection.

Neil Dobler stated that many cities use the count down timers, however, the timers are not ADA approved and are more costly.

The motion to approve the project budget and resolution carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$132,745 and RESOLUTION NO. 7723 introduced by City Manager Neil Dobler authorizing Improvement Project No. 28565-00 which provides for the construction of a new twelve inch water main across Highway 24 near old Meriden Road as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Duffy asked how the new water main would affect the area.

Mike Teply, Acting City Manager stated that the main reason for the improvement is to connect several dead end mains to prevent red water problems.

Councilmember Alcala moved to approve the project budget and resolution. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

A COMMUNICATION setting a public hearing on December 6, 2005 to consider an amendment to the 2005 adopted budget was presented.

Jim Langford, Budget and Finance Director gave the staff report. He explained the suggested “clean up” amendments made by the auditors.

Councilmember Preisner moved to approve the communication. The motion was seconded by Councilmember Alcalá.

Councilmember Alcalá asked for clarification of the “clean up” amendments.

Jim Langford stated that the amendments were technical and a direct result of a change in policy by the auditors. He stated that the 2005 budget needs to be amended to conform to state law regarding transfers between funds; to accurately reflect the amount transferred from the Transient Guest Tax fund to the Historic Preservation fund; and to authorize expenditures from the Kansas Police and Fire (KP&F) Rate Equalization fund.

The motion to approve the communication carried unanimously. (8-0-0)

A REAL ESTATE AGREEMENT between the City of Topeka and Innovative Consulting, Inc. and a request to authorize the City Manager to execute the contract for sale, deeds and any other instrument necessary to convey City property located at 10434 SW 61st Street to Innovative Consulting, Inc., was presented.

Neil Dobler, City Manager gave the staff report. He stated that the contract would complete the transaction and allow the City to receive approximately \$600,000 for the property.

Councilmember Alcalá asked how much money has been invested in the property.

Mike Coker, Zoo Director stated that the property was initially purchased in the mid 1980's and he would have to review all documentation to determine the exact amount. He stated that he could provide Councilmember Alcalá with an approximate amount within a couple of weeks.

Councilmember Alcalá moved to defer the real estate agreement until December 6, 2005. The motion seconded by Councilmember Ortiz carried. Councilmember Preisner voted "no". (7-1-0)

A ZONING PETITION and ORDINANCE NO. 18538 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 in the 200 block of S.W. Van Buren (east side) in the City of Topeka, Kansas from "O&I-2" Office and Institutional District with Resolution of Intent for "I-1" Light Industrial District TO "I-1" Light Industrial District placed on first reading November 15, 2005 was again presented. (Z86/25)

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

Councilmember Preisner moved to approve the zoning petition and adopt 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, Nave, Haynes, Duffy, Preisner and Harmon -8. Absent: Blackburn -1.

ORDINANCE NO. 18539 introduced by City Manager Neil Dobler relating to the designation of street names, more specifically changing the name of SW Meadow Court to SW Monarch Court placed on first reading November 15, 2005 was again presented. (SNC05/2)

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

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

Neil Dobler, City Manager announced that the interviews for the City Manager's position would be held on January 7, 2006 from 9:00 a.m. to 3:00 p.m. He also stated that there would no City Council Meeting on November 29, 2005 because it was a fifth Tuesday.

Councilmember Kennedy invited the public to attend the 10th Annual Miracle on Kansas Avenue Parade on November 26, 2005 at 6:00 p.m.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:03 p.m.

Iris Walker
City Clerk