

City Council Minutes – December 6, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 6, 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 Haynes gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Georgia Shannon and the re-appointment of Cindy White to the Human Relations Commission for a term that would expire on September 20, 2007, was presented.

RESOLUTION NO. 7724 introduced by City Manager Neil Dobler authorizing expenditures from the Crime Prevention Fund, was presented.

A FINAL PLAT for KD Acres Subdivision located at 1130 NW 39th Street between NW Green Hills Road and NW Rochester Road, was presented. (P05/42)

MINUTES of the Regular Meeting of November 22, 2005 were presented.

Dance Hall License applications bearing the approval of the Chief of Police and City inspectors for The Perfect Spot, 520 NW Elm Row Road, and The Tool Shed Tap, 921 S. Kansas Avenue were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City inspectors for El Coyote, 1405 SW 6th Street, was presented.

An Open After Midnight Permit application bearing the approval of the Chief of Police for The Perfect Spot, 520 NW Elm Row Road, was presented.

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

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, December 6, 2005, at 7:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

APPROPRIATION ORDINANCE NO. 18540 introduced by City Manager Neil Dobler, amending the adopted operating budget for the City of Topeka, for the year 2005, and appropriating the amounts for the purpose as set forth therein, was presented for first and final reading.

No one appeared to speak regarding the budget amendment.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion was seconded by Councilmember Kennedy.

Councilmember Alcalá spoke in opposition to the motion and stated that he does not understand why the budget is being amended at this time.

Jim Langford, Finance Director stated that these are technical corrections for transfers made throughout the year from one fund to another per instructions from the auditor.

The motion carried. Councilmember Alcalá voted "no". (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon –7. Noes: Alcalá –1. Absent: Blackburn –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, December 6, 2005, at 7:00 P.M. to consider the advisability of the establishment of a redevelopment district for the Washburn-Lane College Hill area.

Councilmember Duffy clarified that the purpose of the hearing is to make a finding as to whether the area meets the criteria of being blighted.

Brenden Long stated that was correct, and noted that the Blight Study was included in the information distributed to the Council.

Darren Downs, speaking on behalf of Jonna Williamson owner of Richie T's Embroidery appeared and expressed his concern that the Blight Study stated that no curb cuts existed in the area, but there are curb cuts in the area. He questioned if other parts of the study were accurate. He also urged the Council to let the businesses that have been there for many years remain.

John Cooney appeared and stated that the problem is not with the development, but with the taking of property by eminent domain.

David Monical, representing Washburn University appeared in support of the development district, and stated that the area has been a source of concern for the University and students for a number of years.

Deborah Swank, Chair of the Topeka Turn Around Team stated that they are in agreement with the Blight Study.

Grant Glenn, Attorney for the developer appeared and stated that the area qualifies under the Kansas Statute definition as a blighted area.

Bill Newsome, Southwind Capital, developer explained the timeline of the project and stated that it is planned as one mixed-use project.

Jeanne Swanson appeared and stated that she spent over \$50,000 nine years ago to remodel her business, and more recently put a new roof on the building. She stated that she takes care of her property, pays taxes and fees to the City and State, and does not believe her building should be considered blighted so that it could be condemned for development.

Don Taylor appeared and stated that taken in total, the area is blighted, but that does not mean that every building is blighted.

Amy Apitz appeared and expressed her concern about the safety of the neighborhood, and stated that unoccupied buildings cause problems in a neighborhood.

Richard Caplan, representing the firm that prepared the blight study for the district appeared and stated that all observations of property were made by being in the right-of-way. He discussed the conditions that met the criteria for a blighted area, and stated that the curb that is there does not meet ADA requirements.

Bob Sherburne appeared and stated that the College Hill area is an historic area, and was once a viable area.

David Morgan appeared and discussed some concerns he had with the blight study. He stated that there is a perception that the area is not safe, but a determination was not made. He stated that he does not believe all of the criteria was met to consider this a blighted area.

Jerry Morgan appeared and stated that he did not believe a majority of the nine elements were present to meet the designation of a blighted area.

Mark Galbraith, President of Elmhurst Association agrees that the area is blighted. He stated that he believed the condition of the area has an impact on behavior because it makes nearby property owners wonder if they should invest in their properties, and that impacts their economic decisions and decisions about their quality of life.

Ann Craig appeared and stated that she lived in the area for 29 years, and blighted is one of the most complimentary terms she has heard the neighborhood called.

Charles Baylor appeared and stated that it is uncertain that the project will produce anticipated increased revenues. He stated that the development was a waste of taxpayer money, and will cause destruction of businesses currently operating.

Henry McClure stated that he concurs with Caplan's Blight Study and he urged the Council to adopt the ordinance establishing the redevelopment district next week.

Councilmember Preisner moved to close the public hearing. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

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, December 6, 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.

ORDINANCE NO. 18541 introduced by City Manager Neil Dobler approving a redevelopment project plan for Heartland Park of Topeka, a major motorsports complex and redevelopment project area, within the Heartland Park Topeka Redevelopment District as more specifically described herein and authorizing the issuance of full faith and credit tax increment bonds payable from certain sales tax revenues collected by any taxpayer doing business at Heartland Park of Topeka, all pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto placed on first reading October 18, 2005, was again presented.

Neil Dobler, City Manager stated that the district was previously approved, and this action is for consideration of the project plan. He stated that they believe this is a good project for Heartland Park and the City. He noted that in the event that the revenue from the sales tax would not cover the bonds, the City would have to make up the difference.

John Frieden, Attorney for Heartland Park appeared to answer questions.

Raymond Irwin, Heartland Park appeared to answer questions, and distributed a summary of the progress of the project.

Brenden Long, City Attorney stated that the ordinance should include on line 125, “(a)(1)(C)”, and suggested that it be amended.

Councilmember Preisner moved to amend the ordinance as stated by the City Attorney. The motion seconded by Councilmember Duffy carried. Councilmember Haynes abstained.
(7-0-1)

Councilmember Nave moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Haynes abstained.
(7-0-1)

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

ORDINANCE NO. 18542 introduced by City Manager Neil Dobler authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 70142-01 for trafficway improvements on SE California Avenue from I-70 to SE 21st Street placed on first reading November 22, 2005, was again presented.

Neil Dobler stated that staff will continue to negotiate as long as possible. He also reported that they met with the owners of Rosa’s Mexican Restaurant and addressed their concerns about parking during construction of the project.

Councilmember Duffy asked for additional information on how they were accommodated.

Mike Teply, Acting Public Works Director stated that the temporary parking was provided on property owned by Rosa's.

Councilmember Duffy stated that they are making accommodations for this owner they have not made in the past, and asked if they plan to do this in the future.

Neil Dobler stated that they look at each case and try to address individual concerns.

Several Councilmembers explained why they felt Rosa's should be accommodated.

Neil Dobler stated that they could not do these projects and make it completely painless for the property owners. He stated that they have to balance the cost to accommodate businesses and the cost to taxpayers.

Councilmember Alcala moved to adopt the ordinance. The motion seconded by Councilmember Nave 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.

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. The ordinance was deferred from the meeting of November 22, 2005.

Councilmember Kennedy requested that the ordinance be deferred for two weeks because Councilmember Blackburn was absent.

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

CONTRACT NO. 35885 providing for 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, 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.

Councilmember Preisner moved to approve the real estate agreement. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

A REVISED PROJECT BUDGET in the amount of \$2,358,800 and RESOLUTION NO. 7725 introduced by City Manager Neil Dobler, amending the Project Budget for Improvement Project No. 28509-00, which provides for the installation of new water mains on the streets approaching the Topeka Boulevard Bridge due to the bridge replacement as more specifically described herein and authorizing the same, and rescinding City of Topeka Resolution No. 7570 was presented.

Neil Dobler, City Manager gave the staff report. He stated that they exceeded the original project budget due to material and fuel increases.

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

A REVISED PROJECT BUDGET in the amount of \$19,015,597 and A RESOLUTION NO. 7726 introduced by City Manager Neil Dobler amending the Project Budget for Improvement Project No. 29091-4-1B which provides for the rehabilitation of the Oakland Treatment Plant and authorizing the same, and rescinding City of Topeka Resolution No. 7247 was presented.

Neil Dobler, City Manager gave the staff report. He stated that they exceeded the original project budget due to material and fuel increases.

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

A COMMUNICATION requesting the approval of the recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Preisner moved to approve the communication. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)\

AN ORDINANCE introduced by City Manager Neil Dobler, authorizing Improvement Project No. 30256-00, which provides for the removal and replacement of the existing roof covering systems, insulation cover board, metal roof curbs and edge deck flashings on the entire facility at Oakland Community Center, 801 Poplar, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler concerning administrative fees, amending City of Topeka Code Section 2-290, and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler, relating to streetlights, amending Topeka City Code Chapter 130, and Code Sections 134-77, 134-167 and 134-175 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler establishing a Redevelopment District for the Washburn Lane College Hill area pursuant to K.S.A. 12-1773 et seq. as amended was presented for first reading.

AN ORDINANCE 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 between SE Maryland Avenue and SE Virginia Avenue south of SE 21st Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District, “M-1” Two Family Dwelling District, “C-2” Commercial District all with a Resolution of Intent for “C-4” Commercial District TO “R-1” Single Family Dwelling District, “M-1” Two Family Dwelling District and “C-2” Commercial District was presented for first reading. (Z05/39)

AN ORDINANCE introduced by City Manager Neil Dobler amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located on the southwest corner of SW 21st Street and SW Crest Drive in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “O&I-1’ Office and Institutional District was presented for first reading. (Z05/38)

AN ORDINANCE 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 approximately 600 feet east of SE California Avenue on SE 13th Street in the City of Topeka, Kansas from “E” Multiple Family Dwelling District and “PUD” Planned Unit Development District (Office and Multiple Family uses) ALL TO “R-1” Single Family Dwelling District was presented for first reading. (Z05/37)

AN ORDINANCE 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. 28527-00, for a water main extension along SW 17th Street and SW

Urish Road, and that City of Topeka Ordinance No. 18522 is hereby specifically repealed was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler establishing a franchise fee refund program for the City of Topeka, amending City of Topeka Ordinance No. 18337, and repealing said original Ordinance was presented for first reading.

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

Neil Dobler, City Manager stated that he would distribute an update on the status of the Management Partners study in this week's council information packet. He also stated that he would not be present at next week's Council meeting, but Jim Langford and David Thurbon would be on hand to give staff presentations.

Councilmember Kennedy announced that there would be a Special Council Committee to study Development Services issues meeting held on December 12, 2005 at 4:00 p.m. in the Sunflower Room, 2nd floor of the Holliday Building.

Bernadine Okonek appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:03 p.m.

Iris Walker
City Clerk