

City Council Minutes – December 13, 2005

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

AFTER THE MEETING was called to order, Lieutenant Colonel Dave Wilson Chaplain for the 190th Air Refueling Wing, gave the invocation.

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

A PRESENTATION and report by Sam Carkhuff, on the “Clean Up Topeka Task Force”, was presented.

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 18543 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extension along SW 17th Street and SW Urish Road, and that City of Topeka Ordinance No. 18522 is hereby specifically repealed placed on first reading December 6, 2005 was again presented.

A FINAL PLAT for Alliance Subdivision located at the northwest corner of the intersection of SW 6th Street and SW MacVicar Avenue within the City of Topeka, Kansas was presented. (P05/38)

MINUTES of the Regular Meeting of December 6, 2005 were presented.

Dance Hall License applications bearing the approval of the Chief of Police and City inspectors for the following were presented:

<u>Business</u>	<u>Location</u>
Our Lady of Guadalupe Church	134 NE Lake
Our Lady of Guadalupe Church	1008 NE Atchison
Electric Cowboy	3249 SW Topeka Boulevard

Cereal Malt Beverage License applications bearing the approval of the Chief of Police and City inspectors for the following were presented:

<u>Business</u>	<u>Location</u>
Lupita's	732 S. Kansas
The Chatterbox Tavern	2121 SE 6 th Street
Brass Rail Tavern	401 NE Emmett
Our Lady of Guadalupe Church	134 NE Lake
Our Lady of Guadalupe Church	1008 NE Atchison

Councilmember Alcala moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$308,000 and 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 placed on first reading December 6, 2005 was again presented.

Jim Langford, Budget and Finance Director gave the staff report.

Councilmember Blackburn asked how the project would be affected if delayed for one year.

Terry Bertels, Parks and Recreation Director stated that up to this point they have been able to repair the leaks in the roof without sustaining major damage to the center, however, he is unsure how much longer they will be able to maintain the roof.

Councilmember Haynes asked when the project would be completed, and if a 30-day delay would affect the completion of the project.

Terry Bertels stated that the project is scheduled for completion in the spring of 2006. He stated that he believes a 30-day delay would only affect the bidding process, not the overall completion of the project.

Councilmember Alcalá stated that the longer they wait to repair the building the higher risk they run regarding potential damage and repair costs.

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

Councilmember Haynes made a substitute motion to defer the project budget and ordinance for two weeks. The motion seconded by Councilmember Duffy carried.

Councilmembers Alcalá, Ortiz and Harmon voted "no". (5-3-0)

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 placed on first reading December 6, 2005 was again presented.

Councilmember Blackburn stated that he would like the opportunity to meet with the City Manager regarding a number of questions relating to the newly proposed administration fee policy.

Councilmember Blackburn moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Haynes carried. Councilmembers Alcala and Ortiz voted "no". (6-2-0)

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 placed on first reading December 6, 2005 was again presented.

Jim Langford, Budget and Finance Director gave the staff report. He stated that the ordinance would implement a new policy that would require developers to supply street lighting in new developments.

Councilmember Duffy stated that he has a number of questions regarding the policy and would suggest that the ordinance be referred to the Policy and Finance Committee for review.

Councilmember Ortiz moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

ORDINANCE NO. 18544 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 placed on first reading December 6, 2005 was again presented.

Jim Langford, Budget and Finance Director gave the staff report.

Councilmember Duffy stated that the proposed Washburn Lane College Hill area meets the state statutory guidelines for blighted areas. He gave a brief overview of the following facts listed in the Neighborhood Element portion of the Topeka/Shawnee County Comprehensive Metropolitan Plan for the area:

- Highest level of persons living in poverty at 76%
- Highest level of violent crimes committed in one area
- Lowest property value average ranging from \$9,000 to \$20,000
- Lowest percentage of owner occupied housing units
- Highest number of boarded up houses
- Neighborhood ranking borders between intensive care and at-risk

Councilmember Duffy moved to adopt the ordinance. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

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

Brenden Long, City Attorney clarified that the ordinance is the first step in the Tax Increment Financing (TIF) process. He stated that district boundaries must be established in order to finance the project through bonds.

Councilmember Alcala asked that the city attorney ensure that the City receives a guarantee from the developer regarding their financial responsibility for the project.

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, placed on first reading December 6, 2005 was again presented.

Jim Langford, Budget and Financial Director gave the staff report. He stated that the ordinance would extend the filing deadline until July 15, 2005.

Councilmember Alcala stated that he has a number of questions regarding the program.

Councilmember Alcala moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

A RESOLUTION introduced by City Manager Neil Dobler establishing a Relocation Assistance Policy for certain projects undertaken by the City of Topeka and specifically rescinding City of Topeka Resolution No. 6222 was presented.

Brenden Long, City Attorney explained the resolution. He stated that the proposed policy is required by state law, consistent with federal regulations and required when establishing a TIF district. He stated that in addition to what is required, the City would pay fair market value price for the homes plus additional money for moving expenses and other related costs.

Councilmember Haynes suggested that the resolution be referred to the Policy and Finance Committee to review the language in regards the responsibility of relocation costs by the developer and the City.

Councilmember Haynes moved to refer the resolution to the Policy and Finance Committee. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 10 located approximately 130-feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas was presented.

David Thurbon, Planning Director gave the staff report. He stated that the Planning Commission recommended approval by a vote of 9-0-0 on September 19, 2005. He also stated that the applicant has granted their consent to annexation with the recording of the plat.

Councilmember Duffy stated that he believes the project does not qualify as an in-fill housing project and city taxpayers should not have to pay for development outside city limits. He asked who is responsible for snow removal services, and if the developer has presented a

street lighting plan. He also asked who would be financially responsible for the streetlights, the City or County.

David Thurbon stated that the applicant would have to comply with current regulations and would not have to install streetlights. He also stated that he is not sure who would be responsible for snow removal services at this time.

Councilmember Alcalá moved to approve the final plat. The motion seconded by Councilmember Ortiz failed. Councilmembers Nave, Haynes, Duffy and Harmon voted "no".
(4-4-0)

A COMMUNICATION requesting approval of a 2006 pay increase for the WPC union employees was presented.

Jim Langford, Budget and Financial Director suggested that the communication be deferred for one week because the WPC Union President was sick and not able to attend the meeting.

Councilmember Alcalá moved to defer the communication for one week. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

LABOR AGREEMENT NO. 35913 between the City of Topeka and the Fraternal Order of Police, Lodge No. 3, was presented.

Janet Robinson, Human Resources Director gave the staff report.

Ed Klumpp, Chief of Police appeared to answer questions and stated that Administration is satisfied with the terms of the agreement.

Bill White, President of the Fraternal Order of Police, Lodge No. 3 stated that the union is also satisfied with the terms of the agreement.

Councilmember Blackburn moved to approve the labor agreement. The motion seconded by Councilmember Nave carried. Councilmember Haynes abstained. (7-0-1)

A RESOLUTION introduced by City Manager Neil Dobler in accordance with Section 48-20.02(c)(5) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a public use facility for outdoor storage of state and federal surplus items on property currently zoned "PUD" Planned Unit Development District (mixed use) and located at 2830 SW Kanza Drive in the City of Topeka, Kansas was presented. (CU05/8)

David Thurbon, Planning Director gave the staff report. He stated that the Planning Commission recommended the proposal be conditionally approved by a vote of 9-0-0 on September 19, 2005. He explained that the proposal was approved on the condition that after a one-year period the request would be considered for possible extension.

Councilmember Alcalá stated that initially he was concerned that the area would be unsightly, however, upon driving by the area it is not visible from 6th Street. He also stated that he agrees with the one-year stipulation because if the area becomes unsightly they have the authority to deny extension of the permit.

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

Councilmember Nave stated that the property is visible from the interstate and does not exemplify what the City intended for the area. He also stated that he is concerned that the area may become an eyesore.

Councilmember Blackburn asked if a landscape plan is in place to hide equipment and fencing.

David Thurbon stated that the current landscape plan includes native grass and bushes to screen the fencing and equipment.

Councilmember Blackburn suggested that the landscape plan be modified because native grass lays dormant in the winter months and would not screen the fencing or equipment.

Councilmember Blackburn made a substitute motion to refer the resolution to the Economic and Community Development Committee. The motion was seconded by Councilmember Nave.

Councilmember Duffy stated that he appreciates the Planning Department's efforts in attempting to address the Council's concerns. He explained that U.S.D. 501 and the City have both done their part financially by investing in the area. He stated that he believes a surplus storage site only degrades the area.

Councilmember Haynes stated that because the area consists of mainly office and commercial buildings he is not sure why the Planning Commission would recommend approval.

The substitute motion to refer the resolution to the Economic and Community Development Committee carried. Councilmembers Alcala and Ortiz voted "no". (6-2-0)

A RESOLUTION introduced by City Manager Neil Dobler in accordance with Section 48-8.02(c)(14) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a Group Residence, Limited on property currently zoned "M-1" "Two-Family Dwelling District and located at 921 SW College Avenue in the City of Topeka, Kansas was presented.

(CU05/9)

David Thurbon, Planning Director gave the staff report. He stated that the applicant is currently operating as an oxford house and is requesting to add a sixth member. He explained

that the Planning Commission recommended disapproval by a vote of 8-1-0 on November 21, 2005 because there is already another oxford house operating within in a two-block radius.

Councilmember Kennedy asked the Council to approve the Planning Commission's recommendation to deny the request because area residents do not support the request.

Councilmember Blackburn moved to adopt the Planning Commission's recommendation to deny the request. The motion seconded by Councilmember Alcala carried unanimously.

(8-0-0)

Councilmember Alcala stated that he appreciates the recommendation made by the Planning Commission because in the past other group homes have added people without permission creating additional problems for the neighbors.

Councilmember Haynes asked why there are two group homes located so close together.

David Thurbon stated that these two particular oxford homes were grandfathered in because they were operating with five or less people prior to the adoption of the new policy.

A ZONING PETITION and ORDINANCE NO. 18545 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 placed on first reading December 6, 2005 was again presented. (Z05/39)

David Thurbon, Planning Director gave the staff report.

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

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

A ZONING PETITION and 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 placed on first reading December 6, 2005 was again presented. (Z05/38)

David Thurbon, Planning Director gave the staff report.

Councilmember Blackburn moved to approve the zoning petition and adopt the ordinance. The motion was seconded by Councilmember Haynes.

Councilmember Ortiz stated that eight constituents contacted her with concerns regarding the public hearing process for zoning cases. She also stated that she believes the area has a traffic safety issue.

Councilmember Ortiz made a substitute motion to refer the ordinance to the Economic and Community Development Committee. The motion was seconded by Councilmember Alcala.

Councilmember Alcala stated that he received emails for several area residents concerning traffic issues. He asked why SW Crest Drive was chosen as the traffic entrance. He

also asked if they are planning to preserve the green space and trees located on the corner of SW 21st Street.

David Thurbon stated that city traffic engineer chose the entrance off of SW Crest Drive because the use should not generate a heavy flow of traffic. He explained that the City has no authority to regulate the green space or preservation of the trees in this case, however, they would encourage improved landscaping and preservation of area trees.

Councilmember Blackburn asked if the proposal complies with the landscape ordinance and if it meets the golden criteria standard. He also asked if any comments were made by the Planning Commission in regards to the proposal.

David Thurbon stated that the applicant would have to comply with the landscape ordinance. He explained that the plan meets the “golden criteria standard”, however, there may be a better plan that could be constructed regarding the blending of residential zoning with commercial. He stated that the Planning Commission had little or no comment on the proposal.

Councilmember Nave stated that he agrees that the proposal should be sent to committee to allow area residents to voice their concerns.

Councilmember Duffy suggested that the proposal be remanded back to the Planning Commission to help ensure the best possible zoning transition plan is implemented.

Councilmember Ortiz withdrew the substitute motion. The second concurred.

Councilmember Alcalá made a substitute motion to remand the zoning petition and ordinance back to the Planning Commission for review. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

A ZONING PETITION and ORDINANCE NO. 18546 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 placed on first reading December 6, 2005 was again presented. (Z05/37)

David Thurbon, Planning Director gave the staff report. He stated that the Planning Commission recommended approval by a vote of 7-2-0 on November 21, 2005 for Single Family Dwelling in order to be more consistent with surrounding land uses.

Mayor Bunten asked if there were any additional exparte communications besides Councilmembers Ortiz and Haynes. There were none declared.

Councilmember Ortiz moved to approve the zoning petition and 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, Blackburn and Harmon -8. Absent: Preisner -1.

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 at 5936 SW 10th Terrace in the City of Topeka, Kansas from “C-2” Commercial District with Resolution of Intent for “D&O” Multiple Family and Office District TO “M-2” Multiple Family Dwelling District was presented for first reading. (Z77/48)

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 at 1823 SW 37th Street

in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with Resolution of Intent for “D&O” Multiple Family and Office District TO “O&I-1” Office and Institutional District was presented for first reading. (Z78/04)

AN ORDINANCE introduced by City Manager Neil Dobler adopting a one-year extension of the franchise for Southwestern Bell Telephone L.P. f/k/a Southwestern Bell Telephone Company was presented for first reading.

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

Mayor Bunten asked when the Economic and Community Development Committee would review the Clean Up Topeka Task Force report.

Councilmember Blackburn stated that they would review the report and make recommendations in January 2006.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:16 p.m.

Iris Walker
City Clerk