

City Council Minutes – December 20, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 20, 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 Buntun 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:

MINUTES of the Regular Meeting of December 13, 2005 were presented.

A COMMUNICATION recommending the reappointment of Bill Beachy to the Human Relations Commission for a 2-year term that would expire on November 30, 2007 was presented.

RESOLUTION NO. 7727 introduced by City Manager Neil Dobler regarding rezoning a portion of an area generally referred to as the College Hill neighborhood pursuant to K.S.A. 12-757 *et. seq.*, and City of Topeka Code Section 48-33.00, *et. seq.*, was presented.

A COMMUNICATION recommending the appointment of Lazone Grays and Mary S. Bradshaw and the re-appointment of Ted Heim to the Community Corrections Advisory Board was presented.

A COMMUNICATION recommending the appointments of Jim Turner, Sandra Lassiter, Rowena Horr, Ramon Powers, Jeremy Barclay and Frank Saiya to the Topeka Landmarks Commission was presented.

A COMMUNICATION recommending the appointments of Kevin Robertson, Gordon Rostvold, Dave Rasmussen, Bill Griffin, Dennis Vasquez and Bob Carmichael to the Convention and Visitors Bureau Board of Directors was 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>
American Legion Post 400	3029 NW Highway 24
The Den	1116 NW Lower Silver Lake Road
Jeremiah Bullfrog's	4115 SW Huntoon

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>
Diamond Shamrock	512 SW Topeka Boulevard
Grover's Smoke House	1217 SW Gage Boulevard
Godfather's Pizza	1835 N Topeka #17016
	5300 W 17 th Street #17015
	1707 SE 29 th Street #700

An Open After Mid-Night License application bearing the approval of the Chief of Police and City inspectors for the Kickstart Saloon, 2521 N Kansas Avenue, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Nave 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 at 7:00 p.m. on December 20, 2005, to consider the advisability of the establishment of a redevelopment district for the Gaslight Entertainment District (Water Tower area) of downtown Topeka.

Neil Dobler, City Manager gave the staff report and stated that the proposal previously presented to them fell through, but they will go ahead with the public hearing at this time, and consider the ordinance at a later date. He stated that they would continued to negotiate with

other interested developers, and modify the district to remove a block from the area.

Councilmember Alcala expressed a concern about having a hearing without knowing exactly what the development will be.

Neil Dobler stated that the development would still be for a minor league stadium.

Councilmember Alcala moved to table the public hearing until interested parties come forward. The motion was seconded by Councilmember Ortiz.

Councilmember Duffy asked if they would be able to continue discussion with other developers if the hearing was tabled.

Brenden Long, City Attorney stated that the public hearing would need to be tabled to a date certain, or the project would need to be re-noticed and another public hearing held.

Neil Dobler stated they are trying to determine if a minor league team is viable in Topeka. He stated that once that issue is resolved, they believe there will be other developers interested in other parts of the project.

The motion to table the public hearing carried. Councilmembers Nave, Duffy, Blackburn and Harmon voted “no”. (5-4-0)

ORDINANCE NO. 18547 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 placed on first reading December 13, 2005 was again presented.

Neil Dobler, City Manager gave the staff report and stated that they needed time to negotiate the next multi-year agreement. He stated that the ordinance would extend the current agreement for one year to allow time to work on the franchise agreement.

Councilmember Preisner moved to 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, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18548 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 December 6, 2005.

Councilmember Haynes moved to adopt the committee recommendation to approve the ordinance. The motion was seconded by Councilmember Blackburn.

J.D. Yanek, Topeka Home Builders coalition appeared in support of the ordinance.

The motion to adopt the committee's recommendation carried. Councilmembers Nave, Duffy and Preisner voted "no". (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Ortiz, Haynes, Blackburn and Harmon -6. Noes: Nave, Duffy and Preisner -3.

A COMMUNICATION requesting approval of a 2006 pay increase for the WPC union employees, was presented. The communication was deferred from the December 13, 2005 meeting.

Janet Robinson, Human Resources Director explained that the council voted to adopt the fact-finder's recommendation that contained provisions to adopt both the management recommended competency based pay plan, and the Union's longevity plan. She stated that given the language of the fact finder's report, a decision for 2006 salaries was not made.

Councilmember Duffy stated that he would attempt to clarify the Council's intentions because the motion he made two weeks ago at the Council meeting was not clear. He explained that the council discussed four outstanding issues from the fact finder's report regarding the 2006

provisions for salaries. He stated that the first option the Council has is to adjust the 2005 wage schedule by 2.1% to reflect the cost of living adjustments, use the 1.5% authorized longevity step to award skill level increases to eligible employees, and adjust the overall step amount by 0.56% to eligible employees. In conclusion, he stated that the longevity plan that was referenced by the fact finder gave as much as 16.8% in pay increases based on longevity, not competencies achieved.

Councilmember Haynes asked if a second option would be to send the pay plan back to the fact-finder for clarification.

Councilmember Duffy stated that the third option the Council has is to adopt the fact-finder's recommendation.

Councilmember Blackburn stated that it was his understanding that the Council had made a decision on what should be done. He also stated that he was hoping the Council would come to an agreement without having to send the pay plan back to the fact finder, delaying the issue even longer.

Jerry Powell, WPC Union representative explained the items that the union and management agreed upon. He stated that they would like to have the pay plan implemented whenever possible, but also give a step increase. He also stated that they believe the pay plan was not implemented correctly in 2001, and that is why some employees would receive such a large pay increase.

Marvin Haid, WPC Union President stated that he believes if there are further questions, it should go back to the fact finder for clarification.

Councilmember Duffy stated that he believes the Council would concur with his belief in the importance of a competency based pay plan. He also stated that in his opinion he believes the City has compensated WPC employees in the past three years regarding the pay step plan.

Councilmember Duffy moved to approve the communication. The motion was seconded by Councilmember Blackburn.

Councilmember Haynes asked if the union and management were in agreement to send the pay plan back to the fact-finder for clarification.

Janet Robinson recommended that the Council make a decision and not send it back to the fact-finder.

Councilmember Haynes stated that he believes to make the process fair for both parties they would should send the plan back to the fact-finder for clarification.

Councilmember Alcala made a substitute motion to send the pay plan back to the fact-finder for clarification. The motion seconded by Councilmember Haynes carried.

Councilmembers Duffy, Blackburn and Preisner voted "no". (6-3-0)

REAL ESTATE AGREEMENT NO. 35930 between the City of Topeka and Topeka Ice, Inc., and a request to authorize the City Manager to execute the contract for sale, deeds and any other necessary property transfer documents for the sale of property located at 400 SE 8th Avenue to Topeka Ice, Inc., was presented.

Neil Dobler, City Manager gave the staff report and stated that they have a mortgage with Topeka Ice for \$385,000. He stated that if the development fell through the property would revert back to the City. He explained that the contract stated that if they did not close in one year they would have to go back and renegotiate the contract. He stated that the agreement would give them an eleven month extension.

Councilmember Preisner moved to approve the real estate agreement. The motion was seconded by Councilmember Haynes.

Councilmember Alcalá asked if the developer was still interested in the property.

Michael Eichton stated that Topeka Ice is still interested in the property and committed to raising funds to complete the project.

The motion to approve carried. Councilmembers Kennedy and Blackburn voted “no”.
(7-2-0)

RESOLUTION NO. 7728 introduced by Jeff Preisner canceling the Council meetings of December 27, 2005, and January 3, 2006 was presented.

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

Frank Kirtdoll appeared and stated that the Charter Ordinance requires that the council have four meetings per month.

Brenden Long, City Attorney explained the meeting requirements and clarified that the ordinance stated that the Council should meet at least two times per month.

Councilmember Kennedy stated that she would not support the resolution because she took the job intending to be present at a meeting four times each month.

Councilmember Alcalá stated that he agrees with Councilmember Kennedy and he would not support the resolution.

Councilmember Alcalá made a substitute motion to amend line 10 “to deduct \$75 per meeting from each councilmember’s paycheck. The motion was seconded by Councilmember Ortiz.

Mayor Bunten stated that he would hope that the motion to deduct salary would not be supported. He encouraged the Council to vote the resolution up or down.

Brenden Long stated that charter ordinance would only allow salaries to be increased or decreased every four years.

Councilmember Alcalá withdrew his motion. The second concurred.

Councilmember Preisner called the question.

The motion to approve the resolution carried. Councilmembers Kennedy, Alcalá, Ortiz and Harmon voted “no”. (5-4-0)

A FINAL PLAT for S.A.P. Subdivision No. 2 located on the north side of SW 49th Street the centerline of which is approximately 950’ west of SW Topeka Boulevard within the City of Topeka, Kansas was presented. (P05/46)

Neil Dobler, City Manager gave the staff report and stated that the developer has agreed to participate in a benefit district to improve 49th street.

Mike Engler, Bartlett & West appeared to answer questions.

Councilmember Duffy stated that he supports the project but suggested that the benefit district go all the way to 75 Highway.

Councilmember Duffy moved to approve the final plat. The motion seconded by Councilmember Kennedy carried. Councilmember Haynes voted “no”. (8-1-0)

CONSIDERATION of the fact-finder’s report in its entirety and the tentatively agreed to articles of the labor contract for AFSCME Water Department Local Union No. 1294 was presented.

Neil Dobler, City Manager stated that they conducted a hearing several weeks ago on the fact finder's report. He explained that there are eleven issues that could be approved in whole or separately.

Janet Robinson, Human Resources Director stated that they would recommend accepting the fact finder's report in full.

Jerry Powell, AFSCME Union representative appeared and clarified issues that were eliminated because they had either been removed or agreed upon.

Councilmember Alcala expressed a concern about changing job titles, and asked if duties were also being changed.

Janet Robinson stated that the job titles were changed but not the duties.

Councilmember Alcala moved to remove issue No. 1, "Job Titles". The motion was seconded by Councilmember Ortiz.

Don Rankin, Water Superintendent stated that combining positions allows better opportunity and more ability for employees to change career paths.

Councilmember Preisner stated that he would not support the amendment.

Councilmember Preisner called the question.

Councilmember Alcala challenged the call.

Mayor Bunten asked for a vote on if the question should be called.

The vote on if the question shall be called failed. Councilmembers Kennedy, Alcala, Ortiz, Haynes, and Blackburn voted "no". (4-5-0)

Pete Vobach, Union President appeared and stated that management already has the ability to cross train, so the amendment is not necessary.

Councilmember Alcala withdrew his motion. The second concurred.

Pete Vobach stated that they would prefer the issues be voted on separately.

Jerry Powell stated that they are concerned with having clear-cut provisions for moving employees from one unit to another, and not having established dialogue on how it works. He also suggested that they vote on each issue separately.

Councilmember Haynes moved to refer to the fact-finder's report to the Committee of the Whole for a 6:00 p.m. meeting. The motion seconded by Councilmember Alcalá carried.

Councilmembers Nave, Duffy, Blackburn and Preisner voted "no". (5-4-0)

RESOLUTION NO. 7729 introduced by City Manager Neil Dobler consenting to the establishment of Shawnee County Main Sewer District No. 74, Lateral No. 8, as part of Shawnee County, Kansas, Sherwood Regional Wastewater Treatment District, all pursuant to K.S.A. 19-27a01 *et. seq.*, was presented.

Neil Dobler, City Manager stated that the resolution would allow the County Water District to serve Sherwood.

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

RESOLUTION NO. 7730 introduced by City Manager Neil Dobler, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 7562 was presented.

Neil Dobler, City Manager stated that the resolution meets the requirement of the state.

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

RESOLUTION NO. 7731 introduced by Councilmembers Lana Kennedy and Brett Blackburn extending the time period of the Special Council Committee to study and consider

issues related to the Development Services Division of the City of Topeka's Public Works Department and rescinding the conflicting time period in Resolution No. 7706 was presented.

Neil Dobler, City Manager explained that the resolution would extend the life of the committee.

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

RESOLUTION NO. 7732 introduced by City Manager Neil Dobler setting the public hearing for Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6th Street to the eastbound I-70 exit ramp, and rescinding Resolution No. 7705 was presented.

Neil Dobler, City Manger gave staff report.

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

RESOLUTION NO. 7733 introduced by City Manager Neil Dobler setting the public hearing for consideration of the adoption of a Redevelopment Project Plan for the College Hill Redevelopment District was presented.

Neil Dobler, City Manager gave staff report.

Brenden Long, City Attorney distributed several documents relating to the proposed redevelopment district including a feasibility study and a revised resolution.

Councilmember Preisner moved to approve the resolution as distributed by the City Attorney. The motion was seconded by Councilmember Blackburn.

Bill Newsome appeared to answer questions.

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

RESOLUTION NO. 7734 introduced by City Manager Neil Dobler authorizing the transfer of Zoo Improvement Reserve Funds for the purpose of paying for Project No. 302410-00 for the Hoofed Animal Barn and Renovation, pursuant to City of Topeka Code Section 2-328 was presented.

Neil Dobler, City Manager gave the staff report.

Mike Coker, Zoo Director was present to answer questions.

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

A RESOLUTION introduced by City Manager Neil Dobler amending the City of Topeka Personnel Code was presented.

Neil Dobler, City Manager gave the staff report. He explained that the resolution implements technical clean up to reflect changes with the form of government.

Councilmember Preisner moved to approve the resolution.

Councilmember Haynes made a substitute motion to defer the resolution for two weeks. The motion was seconded by Alcala. Councilmembers Nave, Blackburn, Preisner and Harmon voted "no". (5-4-0)

A ZONING PETITION and ORDINANCE NO. 18549 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 placed on first reading December 13, 2005 was again presented. (Z77/48)

Neil Dobler, City Manager gave the staff report.

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

Councilmember Harmon moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmembers Kennedy and Duffy were out of room. (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon -7. Noes: Kennedy and Duffy -2.

A ZONING PETITION and ORDINANCE NO. 18550 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 placed on first reading December 13, 2005 was again presented. (Z78/04)

Neil Dobler, City Manager gave the staff report.

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

Councilmember Preisner moved to approve the zoning petition 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.

AN ORDINANCE introduced by City Manager Neil Dobler relating to the vacation of a 20-foot public utility easement in Horne's 2nd Addition to the City of Topeka, Shawnee County, Kansas and the vacation of a public alley in Horne's 2nd Addition to the City of Topeka, Kansas was presented for first reading. (V05A/3)

AN ORDINANCE 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. 29103-01, and Improvement Project No. 28593-00, for a sanitary sewer and water service extension for property located along East Edge Road, and on SE 45th Street from West Edge Road to Croco Road and North along Croco Road approximately one half mile and north along West Edge Road and extending north to the Kansas Turnpike was presented for first reading.

Councilmember Blackburn moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

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 have been scheduled for January 7, 2006. He explained that they would need to select a representative to negotiate a contract on behalf of the City. He suggested a number of options that include, Mr. Slavin and the Mayor; Mr. Slavin and two Councilmembers; or Mr. Slavin, the City Manager and the City Attorney.

Councilmember Preisner and Councilmember Harmon volunteered to assist with contract negotiations.

Councilmember Nave stated that he would support the third option.

Councilmember Alcalá moved that Councilmember Harmon, Councilmember Haynes, the Mayor, and Mr. Slavin negotiate the contract. The motion seconded by Councilmember Ortiz carried unanimously. (9-0-0)

Frank Kirtdoll appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:22 p.m.

Iris Walker
City Clerk