

City Council Minutes – January 10, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 10, 2006. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Buntin presided -1.

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

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

Neil Dobler, City Manager stated that item 7E, an ordinance relating to the College Hill Redevelopment District is withdrawn from the agenda.

Councilmember Duffy moved to suspend the Council Rules to add two resolutions to the agenda. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Alcalá moved to add two resolutions to the agenda under New Business; item 6D, a resolution authorizing negotiations for an employment contract for a City Manager, and item 6E, a resolution setting a public hearing date for the Washburn-Lane College Hill Redevelopment Project. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

Councilmember Duffy moved to reinstate the Council Rules. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for North Independence Square Subdivision No. 3 on property located on the west side of NW Topeka Boulevard the centerline of which being approximately 365 feet north of the intersection of NW Independence Avenue and NW Topeka Boulevard in the City of Topeka, Kansas was presented. (P05/45)

RESOLUTION NO. 7735 introduced by City Manager Neil Dobler and Councilmember John Alcalá, expressing support for Continental Real Estate, Inc.'s Northpark Village Development Project was presented.

RESOLUTION NO. 7736 introduced by City Manager Neil Dobler and Councilmember Jeff Preisner, expressing support for Continental Real Estate, Inc.'s Arbor Valley Two Development Project was presented.

MINUTES of the Regular Meeting of December 20, 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>
Azteca Night Club	1201 SE 6 th Avenue
Down Under Lounge	3810 S. Topeka Boulevard, Suite B

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>
The Celtic Fox Irish Pub	118 SW 8 th Street
Hunam Chinese Restaurant	5005 W. 29 th Street
Food 4 Less	2021 SE 29 th Street
Food 4 Less	1945 SW Gage Boulevard
Food 4 Less	3000 N. Topeka Boulevard

Councilmember Ortiz moved to amend line 12, page 525 of the minutes to reflect that Councilmember Ortiz moved to refer the ordinance to committee instead of Councilmember Blackburn. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0).

Councilmember Alcalá moved to approve the consent agenda as amended. The motion seconded by Councilmember Ortiz 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 January 10, 2006, regarding proposed loans in an amount not to exceed \$7,523,866 to be taken by the City from the Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment pursuant to K.S.A. 65-163c et. seq.

RESOLUTION NO. 7737 introduced by City Manager Neil Dobler authorizing filing of necessary documents with the Kansas Department of Health and Environment (KDHE), for loans under the Kansas Public Water Supply Loan Fund (K.S.A. 65-3321 through 65-3329) was presented.

Neil Dobler, City Manager gave the staff report.

Joseph Ledbetter noted that some of the projects are located outside of city limits.

Councilmember Duffy stated that he would like to know the ramifications of passing this would have on the taxpayers inside city limits.

Councilmember Preisner moved to close the public hearing and approve the resolution. The motion seconded by Councilmember Alcalá 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 January 10, 2006, regarding a proposed loan in an amount not to exceed five million dollars \$5,000,000 to be taken by the City from the Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment pursuant to K.S.A. 65-163c et seq.

RESOLUTION NO. 7738 introduced by City Manager Neil Dobler authorizing filing of necessary documents with the Kansas Department of Health and Environment (KDHE), for loans under the Kansas Public Water Supply Loan Fund (K.S.A. 65-3321 through 65-3329) was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Duffy moved to close the public hearing and approve the resolution.

The motion seconded by Councilmember Preisner 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 January 10, 2006, in conjunction with vacation request V05A/3 by Stormont-Vail Healthcare, Inc., to vacate a 20-foot wide public utility easement and a 20-foot wide alley on property located between SW Washburn Avenue and SW Lane Street and between SW 7th Street and SW 8th Street.

ORDINANCE NO. 18551 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 placed on first reading December 20, 2005 was again presented.

Neil Dobler, City Manager gave the staff report.

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

A RESOLUTION introduced by City Manager Neil Dobler amending the City of Topeka Personnel Code was presented. The resolution was deferred from the meeting of December 20, 2005.

Neil Dobler, City Manager gave the staff report. He explained that the resolution updates sections of the personnel code to reflect “City Manager” instead of “Chief Administrative Officer”, as well as other terminology changes.

Councilmember Haynes asked if there were any changes made to the accumulation of sick leave.

Neil Dobler stated that no changes were made.

Councilmember Haynes stated that he had additional questions and moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Kennedy carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$308,000 and ORDINANCE NO. 18552 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. The project budget and ordinance was deferred from the meeting of December 13, 2005.

Neil Dobler, City Manager gave the staff report. He stated that the project was included in the 2005 Capital Improvement Program.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Ortiz 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. 18553 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 placed on first reading December 20, 2005 was again presented.

Councilmember Blackburn gave the committee report. He stated the ordinance was removed from the Economic and Community Development Committee “Without Recommendation” by a vote of 3-0-0 on January 6, 2006. He stated that they resolved a majority of the concerns expressed by area residents, however, there are still some unresolved issues.

Barbara Barron, House of the Lord Church member gave a brief history of property ownership of the Church. She also explained that the property is used for religious purposes only.

Marva Williams, House of the Lord Church member explained the financial loss the Church would face if the trees were removed from the property. She also stated that they presented alternate routes that were deemed not workable by the City.

Gary Livingston, House of Lord Church member stated that they are striving to preserve their vision for a retreat camp. He explained that Route B cuts directly through the center of the retreat camp causing an estimated financial loss ranging between \$28,000 and \$100,000. He also stated that he believes that the other alternatives were not seriously considered.

Michael Barron, House of the Lord Church member stated that he believes the City is not bargaining in good faith because they have already destroyed four to six trees on their property

without permission. He also stated that the action of the City demonstrates a complete disregard of property ownership rights.

Pastor Borjon, House of the Lord Church asked if this is the normal way the City does business. He stated that he was told Route A was never a consideration. He stated that they did not receive requested documents in a timely manner. He pointed out the advantages of Route A and Route B. He also asked the City to demonstrate why Route A, the City's first choice was no longer a feasible alternative.

Mike Teply, Public Works Director explained that Route A had a higher estimated cost of \$428,743 than Route B, which was estimated at \$328,981.

Councilmember Blackburn stated that he agrees that the situation should have been handled better.

Councilmember Duffy asked if the Church requested a statement of value from the Kansas Forest Service. He also asked if they have obtained a sealed bid regarding the actual value of the property.

Pastor Borjon stated that they have not contacted the Kansas Forest Service.

Tommy Green, House of Lord Church member stated that he lives near the Deer Creek area that was devastated. He expressed concern with the same thing happening to the Church's property.

JoAnn Peavler spoke in support of the House of Lord Church because of her previous experience with a similar situation. She encouraged the Council to send the proposal back to the Economic and Community Development Committee to get all the questions answered.

Joseph Ledbetter spoke in support of the Church's concern about the loss of their land use and the amount of their proposed compensation.

Vernon Jarboe, attorney for the applicant appeared to answer questions. He stated that every day the project is delayed, it costs the developer.

Councilmember Blackburn stated that he believes that the Church is willing to work out an alternate route if the City would show that they did the work and agree that Route A is not the best choice.

Mike Teply explained the costs and issues related to both Route A and Route B. He stated that Route B was their recommendation not only because of lower costs, but because there were also other issues associated with Route A.

Councilmember Ortiz asked what other issues were associated with Route A.

Mike Teply stated that the issues were listed in the Deer Creek South Wastewater Management Evaluation report that was distributed.

Councilmember Ortiz stated that Council needs to consider the Church's vision as well as the City's when making a decision on the proposal.

Councilmember Preisner moved to adopt the ordinance. The motion was seconded by Councilmember Haynes.

Neil Dobler referenced alternate Route 1 highlighted in orange on the map. He stated that that they would negotiate using Route 1 and avoid damage to as many trees as possible.

Councilmember Preisner withdrew the motion to adopt.

Councilmember Blackburn moved to adopt the ordinance with the stipulation that the City includes Route 1 and instructs staff to work with Pastor Borjon to minimize the damage to his site. The motion seconded by Councilmember Haynes 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.

RESOLUTION NO. 7739 introduced by City Manager Neil Dobler authorizing the transfer and expenditure of general fund monies for the replacement of vehicles for the Topeka Police Department was presented.

Neil Dobler, City Manager gave the staff report.

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

Joseph Ledbetter asked if proper procedure would be followed regarding the purchase of the vehicles.

Neil Dobler confirmed that proper procedure would be followed.

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

A REAL ESTATE REPORT requiring approval by Council for the disposal of the Park 'N Shop Parking Garage, located at 615 SE Quincy Street, was presented.

Neil Dobler, City Manager stated that approval would allow the Public Works Department to begin the process of selling the garage.

Councilmember Kennedy moved to approve the report. The motion was seconded by Councilmember Preisner.

Joseph Ledbetter noted that the City did not use the same procedure that was used to sell the Uptowner Garage.

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

RESOLUTION NO. 7740 introduced by Mayor William W. Bunten concerning support staff for the Mayor's office was presented.

Mayor Bunten stated that the Mayor's office has one employee and shares a receptionist with the City Manager. He explained that his office receives a large number of calls, and

commitments to the office are great. He stated that it is important to keep up with the legislative agenda, Neighborhood Improvement Associations, and the neighborhood clean up effort. He also stated that the request is not an effort to expand the obligations of the office, and it falls within his budget.

Joseph Ledbetter stated that it was his understanding that the Housing and Neighborhood Department was in charge of the neighborhood clean up effort. He stated that he believes the City Manager should determine if additional staff is necessary.

Councilmember Blackburn stated that he would prefer that they delay the request for an additional position until a City Manager is hired.

Councilmember Haynes asked if there is money in the Mayor's budget to fund the position.

Neil Dobler, City Manager stated that it would take an additional \$20,000 out of the contingency fund to finance the position.

Mayor Bunten stated that the request is not a financial question because the funds could be taken out of travel funds or somewhere else. He also stated that he believes a Mayor of a City of this size needs to be fully engaged with community issues and not just a public relations person.

Councilmember Kennedy stated that she had received a number of calls from constituents supporting the request.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Kennedy carried. Councilmembers Alcalá, Duffy and Blackburn voted "no".

(6-3-0)

RESOLUTION NO. 7741 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.

Neil Dobler, City Manager gave the staff report. He stated that the resolution would start the process over.

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

Grant Glenn appeared to answer questions.

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

RESOLUTION NO. 7742 introduced by City Manager Neil Dobler concerning the negotiation of an employment contract with the City Manager was presented.

Councilmember Alcala moved to approve the resolution. The motion was seconded by Councilmember Kennedy.

Bob Sherburne asked if the hiring procedure that was outlined in the newspaper has changed.

Neil Dobler, City Manager stated that the initial plan was for the Council to interview five candidates for the position and select the top two candidates for a second interview. He explained that following the five interviews the Council requested additional information on their top two choices. He stated that the requested information was distributed at tonight's work session during executive session. He announced that no action was taken during the executive session, however, it was the Council's desire to begin negotiations for employment.

Councilmember Alcala stated that he is confident that both candidates are qualified for the position. He also commended the Council for their hard work in selecting a City Manager.

He clarified that the Council adjourned into executive session to discuss salary ranges. He also stated that the resolution was added to the agenda so Mr. Dobler could begin the negotiation process of hiring Mr. Bonaparte as quickly, and professionally, as possible.

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

AN ORDINANCE introduced by City Manager Neil Dobler, amending the Project Budget for Improvement Project No. 28509-01 which provides for the installation of two (2), twenty (20) inch waterlines on the new Topeka Boulevard Bridge over the Kansas River and authorizing the same, and rescinding City of Topeka Resolution No. 7591 was presented for first reading.

AN ORDINANCE introduced by Councilmember Lana Kennedy concerning prohibitions on certain activities and the residency of registered sex offenders was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler for Improvement Project No. 70204-01 which provides for the preliminary design phase, as described herein, to improve SW 29th Street from Wanamaker Road to Urish Road, and authorizing the same was presented for first reading.

AN ORDINANCE introduced by Councilmember Richard Harmon amending City of Topeka Code Section 2-27 concerning the time of council meetings, and specifically repealing said original section was presented for first reading.

A RESOLUTION introduced by Councilmember Richard Harmon, amending City Council Rule and Procedure 5.2 concerning the times of Council meetings, and repealing the original of said rule and procedure 5.2 was presented for first reading.

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

Councilmember Blackburn announced that there would be an Economic and Community Development Committee meeting held on January 11, 2006 at 3:00 p.m. in the City Council Office.

Councilmember Haynes announced that there would be a Policy and Finance Committee meeting held on January 12, 2006 at 4:15 p.m. in the City Council Office.

Mayor Bunten stated that he is currently working on an ordinance that would allow the throwing of snowballs. He also stated that in the future he would send a letter to the Mayor of each City where he is aware that the Westboro Baptist Church members plan to picket, and inform them that the picketers do not represent the City of Topeka.

Joseph Ledbetter and David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:40 p.m.

Iris Walker
City Clerk