

**City Council Minutes – January 17, 2006**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 17, 2006. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Councilmembers Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Kennedy -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.

THE CONSENT AGENDA was presented as follows:

MINUTES of the Regular Meeting of January 10, 2006 were presented.

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>
Food 4 Less	2210 N. Tyler
Food 4 Less	4015 SW 10 <sup>th</sup> Street
Food 4 Less	3110 SE 6 <sup>th</sup> Avenue
Food 4 Less	5311 SW 22 <sup>nd</sup> Place

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

Councilmember Kennedy entered the room.

ORDINANCE NO. 18554 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 placed on first reading January 10, 2006 was again presented.

RESOLUTION NO. 7743 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 placed on first reading January 10, 2006 was again presented.

Councilmember Harmon stated that the ordinance and resolution would change Council meetings times. He explained that the Council would meet the first four Tuesdays of each month at 6:00 p.m. instead of 7:00 p.m., and each meeting would adjourn at 10:00 p.m. instead of 11:00 p.m.

Councilmember Haynes asked when they would hold the work sessions.

Neil Dobler, City Manager stated that there are a couple of options the Council could consider. He suggested that the work sessions begin at 4:00 p.m., 4:30 p.m. or 5:00 p.m. He also suggested that they could hold work sessions following short meeting nights.

Councilmember Ortiz stated that she would not support the amendment because a number of her constituents believe they would not have enough time to get off of work at 5:00 p.m. and be at the Council meetings by 6:00 p.m.

Councilmember Preisner stated that he supports the amendment and starting the work sessions at 4:30 p.m. or 5:00 p.m.

Councilmember Preisner moved to adopt the ordinance and resolution. The motion seconded by Councilmember Harmon carried. Councilmembers Ortiz and Duffy voted "no".

(7-2-0)

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

A PROJECT BUDGET in the amount of \$1,628,600 and ORDINANCE NO. 18555 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 placed on first reading January 10, 2006 was again presented.

Neil Dobler, City Manager gave the staff report. He stated that the revised project budget reflects the \$330,000 of one-half cent sales tax revenue approved funding by the Joint Economic Development Organization (JEDO).

Councilmember Preisner moved to approve the revised project budget and adopt the ordinance. The motion was seconded by Councilmember Nave.

Joseph Ledbetter commended the Council for allowing public comment because the idea to seek funding from the one-half cent sales tax revenue came from a citizen.

The motion to approve the project budget and adopt the ordinance 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.

AN ORDINANCE introduced by Councilmember Lana Kennedy concerning prohibitions on certain activities and the residency of registered sex offenders placed on first reading January 10, 2006 was again presented.

Councilmember Kennedy asked the Council to support the ordinance so a clear message is sent to sex offenders that they are not welcome in the City of Topeka. She also stated that the ordinance would serve as a sounding voice for victims.

Councilmember Nave stated that he would like to place the ordinance in the Public, Health and Safety Committee to allow various agencies the opportunity to come together and discuss the issues.

Councilmember Nave moved to refer the ordinance to the Public, Health and Safety Committee. The motion was seconded by Councilmember Preisner.

Robin Block, a member of the National Legislative Committee to Protect Children stated that a clear message must be sent to the State Legislators. She stated that if sexual predators are released into our communities, then lawmakers must be prepared to monitor them very closely. She stated that she appreciates the intention of the ordinance, however, it does not protect all children only those in certain buffer areas. She distributed a list of ten conditions that the committee believes each sex offender should be required to meet as a condition of parole. She asked the Council to consider adopting a resolution that would include the list of conditions and submit it to State Legislators.

Councilmember Kennedy stated that she introduced the ordinance in hopes that it would have a snowball effect on other communities in the State of Kansas besides the City of Topeka.

Councilmember Harmon asked Ms. Block if the committee is currently endorsing any house bills.

Robin Block stated that the committee is considering two house bills at this time.

Councilmember Duffy stated that he would support the motion to send the ordinance to committee because he believes the issue is more complex than originally anticipated. He suggested that they consider incorporating Ms. Block's resolution as part of the ordinance. He stated that he believes strict conditions must be set at a state level, and then supplemented on a

city level. He also stated that they received a memorandum from the State of Kansas expressing their concern with the proposed ordinance.

Councilmember Ortiz asked if the facilities that currently house sexual offenders would be grandfathered in.

Brenden Long, City Attorney stated that any facility operating when the ordinance is enacted would be grandfathered in.

Councilmember Nave stated that he believes that it is vital for the City of Topeka to remain proactive regarding sexual offender laws.

Councilmember Kennedy noted that Attorney General Phil Kline has stated that he would support the ordinance.

Councilmember Preisner stated the he would support sending the ordinance to committee because he believes there are several issues to resolve.

Brenden Long stated that the 8<sup>th</sup> Circuit Court of Appeals looked at a Iowa statute that is the same as this ordinance and it ruled that it was constitutional.

Councilmember Blackburn asked if the ordinance would still be considered constitutional if they amended the ordinance to include the entire area of the city instead of a buffer area.

Brenden Long stated that the 2,000-foot limitation seemed to be okay, but if sexual offenders were banned citywide it may create a problem.

The motion to refer the ordinance to the Public, Health and Safety Committee carried. Councilmembers Kennedy, Alcalá and Ortiz voted "no". (6-3-0)

Councilmember Preisner announced that the Public, Health and Safety Committee would review the ordinance on February 6, 2006 at 4:30 p.m. in the City Council Office.

A PROJECT BUDGET in the amount of \$398,700 and ORDINANCE NO. 18556 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 29<sup>th</sup> Street from Wanamaker Road to Urish Road, and authorizing the same placed on first reading January 10, 2006 was again presented.

Neil Dobler, City Manager gave the staff report. He stated that the project would be funded from the one-half cent sales tax revenue.

Councilmember Priesner moved to approve the project budget and 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, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

RESOLUTION NO. 7744 introduced by City Manager Neil Dobler setting the public hearing for Improvement Project No. 12064 which provides for the construction of an overpass on NW Lower Silver Lake Road above the Union Pacific Railroad Tracks, located East of NW Saline Street and West of NW Furman Road, was presented. The West end of the proposed overpass will connect to the planned construction and widening of one mile of NW Lower Silver Lake Road.

Neil Dobler, City Manager gave the staff report. He stated that the public hearing would be held on February 21, 2006.

Councilmember Alcala clarified that the City's financial portion of the project is \$805,000.

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

Councilmember Blackburn asked if they could continue to recruit other funding sources.

Neil Dobler agreed that they could continue to recruit funding for the project.

Tony Meier, area resident stated that his main concern is safety because of possible delays in emergency call response time due to the railroad crossing. He encouraged the Council to approve the project so State funding is not lost.

Neil Dobler stated that they received a letter from KDOT informing the City to make a decision on the project by the end of January or the funds may be utilized in another location.

Teresa Miller, President of the North Topeka Neighborhood Improvement Association stated that they are concerned about the truck traffic delivering grain. She asked that each company be notified prior to beginning construction so the drivers can map an alternate route.

Neil Dobler stated that they would notify all area companies.

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

A ZONING PETITION and ORDINANCE NO. 18557 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 21<sup>st</sup> 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. The zoning case was remanded back to the Planning Commission on December 13, 2006. (Z05/38)

David Thurbon, Planning Director gave the staff report. He stated that the petition was remanded back to the Planning Commission to address traffic and landscaping issues. He explained that the Planning Commission reheard the petition and returned with the same recommendation to approve by a vote of 7-1-0 on December 28, 2005.

Brenden Long, City Attorney stated that the Council could adopt the recommendation or reverse it. He noted that any action would require a simple majority vote of five.

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

Councilmember Ortiz stated that she has reservations relating to the zoning case and will not support it. She stated that area residents are against the zoning change because they are concerned about traffic safety, drainage, depreciation of area property, preserving area trees, and the location of the building.

Councilmember Blackburn asked if a drainage report would be required.

David Thurbon stated that a drainage report would be required to obtain a building permit.

Each Councilmember declared exparte communications through personal conversations, telephone calls, emails and written correspondence.

The motion to approve the resolution carried. Councilmembers Kennedy, Alcala and Ortiz voted "no". (6-3-0)

A FINAL PLAT for Stone Crest Subdivision located at the northeast corner of SE California Avenue and SE 45<sup>th</sup> Street within unincorporated Shawnee County, Kansas was presented. (P05/23)

Neil Dobler, City Manager gave the staff report. He stated that the property is adjacent to city limits and would be annexed.

Councilmember Duffy asked why the five conditions outlined in the preliminary plat were not included in the final plat.



David Thurbon, Planning Director stated that the applicant chose not to make the revisions and the Planning Commission approved the final plat without requiring compliance of the conditions.

Councilmember Duffy asked why the proposed park area was so small compared to the size of the development.

David Thurbon stated that the developer anticipates in the near future that the adjacent properties will develop increasing the size of the park.

Councilmember Duffy moved to approve the final plat with the stipulation that SE Sandstone Circle is shown to connect a 10-foot pedestrian sidewalk easement with SE 45<sup>th</sup> Street (Condition 3). The motion was seconded by Councilmember Preisner.

Councilmember Alcalá stated that it was his understanding that the applicant originally agreed to the conditions. He asked why the applicant changed their mind.

Mike Engler, Bartlett & West Engineers stated that the applicant never agreed to the conditions. He explained that in the preliminary stage of the plat they asked the Planning Commission to drop the sidewalk easement requirements. He stated that in the final stage of the plat the applicant asked the Planning Commission to reconsider their request and they agreed. He stated that the applicant believes that building sidewalks along the side of property boundaries or houses creates privacy and security issues.

The motion to approve the final plat with the stipulation that Condition 3 is included failed. Councilmembers Kennedy, Alcalá, Ortiz, Nave and Harmon voted "no". (4-5-0)

Councilmember Alcalá moved to approve the final plat. The motion seconded by Councilmember Haynes carried. Councilmembers Nave, Duffy and Preisner voted "no". (6-3-0)

AN ORDINANCE introduced by City Manager Neil Dobler amending City of Topeka Code Chapter 134, Article II, Division 1, and Code Sections 134-1, 134-42, 134-43 , 134-44, 134-45, 134-46 and 134-47, establishing procedures for administrative plat approval, and specifically repealing said original sections was presented for first reading. *(ASR05/1)*

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 1901 SW Fairlawn Road in the City of Topeka, Kansas from "M-1" Two Family Dwelling District TO "C-1" Commercial District was presented for first reading. *(Z05/41)*

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 3500 SE 29<sup>th</sup> Street in the City of Topeka, Kansas from "O&I-2" Office and Institutional District TO "C-2" Commercial District was presented for first reading. *(Z05/43)*

AN ORDINANCE introduced by City Manager Neil Dobler concerning the Redevelopment District for the Washburn Lane College Hill area, and specifically repealing City of Topeka Ordinance No. 18544 was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy authorizing the College Hill Redevelopment Plan public improvement project, providing for certain infrastructure improvements and the acquisition of real property for economic development purposes within the City of Topeka, Kansas was presented for first reading.

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

Neil Dobler, City Manager stated before leaving the City Manger's position he would like the following reports completed and implementation schedules distributed:

- Topeka Police Department Narcotics Unit Report
- City of Topeka Zoo Report
- Diversity Committee Report
- P-Card Committee Report

Councilmember Alcalá asked for an update on the status of the Topeka Landmark Commission member vacancies and also the status of renaming Hi-Crest Park.

Neil Dobler stated that he would send an updated report on the Topeka Landmarks Commission member vacancies as soon as possible. He also stated that the name change request for Hi-Crest Park should be on the Council agenda sometime in February.

Councilmember Blackburn stated that the Economic and Community Development Committee discussed the Business Friendly Committee report at the last meeting and constructed a list of recommended changes. He encouraged each Councilmember to closely review each recommendation and submit any additional changes or suggestions prior to review by the Committee of the Whole.

Keith Long and Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:00 p.m.

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Iris Walker  
City Clerk