

## City Council Minutes – February 14, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 14, 2006. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Ortiz -1.

AFTER THE MEETING was called to order, Mike Siebert, Executive Director of Topeka Youth for Christ, gave the invocation.

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

Neil Dobler, City Manager pulled item 6C, a resolution relating to the use of eminent domain for the College Hill Redevelopment Project from the agenda because it was no longer needed.

THE CONSENT AGENDA was presented as follows:

MINUTES of the Regular Meeting of February 7, 2006 were presented.

An Open After Mid-Night License application bearing the approval of the Chief of Police and City inspectors for The Catch, located at 1929 S. Kansas Avenue, was presented.

Councilmember Alcalá moved to approve the consent agenda. The motion seconded by Councilmember Preisner 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, February 14, 2006, at 6:00 P.M. to consider the advisability of the establishment of a redevelopment district for the Washburn-Lane College Hill area.

ORDINANCE NO. 18566 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 February 7, 2006 was again presented.

Neil Dobler, City Manager gave the staff report.

Bill Newsome, developer stated that they are very eager to move forward with the project. He explained that if the TIF district is approved then it would start the 30-day count down for approval by the Shawnee County Commissioners and U.S.D. No. 501.

Rich Caplan, author of the Washburn Lane College Hill Area Blight Study gave a brief overview of the findings of the blight study. He discussed the nine elements that determine if an area is blighted.

Mary Lou Herring, Frank Kirtdoll and Bob Tolbert expressed the following concerns about the project; is the outcome of the project going to be what the City intended; is there a real demand for the project because there are currently vacant apartments located in the area; does the risk of the project outweigh the benefit of the project; are the Council Rules being followed in regards to reconsideration of the project; the legality of the public hearing was questioned due to a discrepancy in the start time; and it was noted that possibly there were pages missing from the feasibility study.

Michael Dittamo and Deborah Swank spoke in support of the project and addressed the following points; the elimination of area blight; the importance of working with private developers for city growth; the importance of community involvement; and the unanimous support by area residents.

Grant Glenn, attorney for the developer appeared for questions. He stated that he would suggest that the Council defer action on the item until after 7:00 p.m. to coincide with the published notice establishing the time for the hearing.

Councilmember Alcalá asked the City Attorney if it was necessary to defer action on the item.

Brenden Long, City Attorney explained that the Council meeting start time changed from 7:00 p.m. to 6:00 p.m. after the Notice of Public Hearing was published in the Metro News. He stated that he would concur with Mr. Glenn and suggested that the Council defer action until after 7:00 p.m.

Councilmember Blackburn moved to defer action on the public hearing and ordinance until after New Business on the agenda. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

RESOLUTION NO. 7753 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)

Councilmember Blackburn gave the committee report. He stated that the Economic and Community Development Committee recommend "Do Pass" by a vote of 2-0-0 on February 8, 2006. He noted that the State of Kansas agrees with the City regarding the use of the area and is currently marketing the site.

Councilmember Preisner moved to adopt the committee report. The motion seconded by Councilmember Nave carried. Councilmember Haynes voted "no". (8-1-0)

Frank Kirtdoll stated that he believes the resolution is not necessary because area zoning already allows outside storage.

ORDINANCE NO. 18567 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, 2006 was again presented.

Councilmember Blackburn gave the committee report. He stated that the Policy and Finance Committee recommended “Do Pass” by a vote of 3-0-0 on February 8, 2006.

Neil Dobler, City Manager stated that the ordinance streamlines the administrative fee process charged by the City for benefit districts. He explained that the City would charge an overall administrative fee of 5%, which includes the engineering fee.

Councilmember Preisner moved to adopt the committee report. The motion seconded by Councilmember Harmon carried unanimously. (8-0-0)

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, 2006 was again presented.

Councilmember Haynes stated that the Policy and Finance Committee recommended approval by a vote of 3-0-0 on February 9, 2006. He explained that since that time it was discovered that the ordinance did not contain all of the eligibility standards. He suggested that they defer the ordinance for one week to allow for the amendments.

Councilmember Alcalá stated that he would support deferral for one week because it would make the document more beneficial.

Councilmember Haynes moved to defer the ordinance for one week. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

A FINAL PLAT for Shiloh Ridge Estates Subdivision No. 2 located on the south side of SE 21<sup>st</sup> Street the centerline of which is approximately 3,600 feet east of SE Croco Road within unincorporated Shawnee County, Kansas was presented. (P06/6)

Neil Dobler, City Manager gave the staff report. He stated that it is a replat of the area and a consent to annexation has been submitted.

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

Councilmember Duffy asked if the subdivision was contiguous to the city. He also asked if each property owner located between the subdivision's boundaries and the city limits have signed a consent to annexation.

Neil Dobler stated that the subdivision is not contiguous to the city and the property owners have not signed a consent to annexation.

Councilmember Duffy stated that the subdivision could not be annexed without Shawnee County's approval. He also expressed concern with the extra cost that would be acquired by the City of Topeka taxpayers for city services.

The motion to approve the final plat carried. Councilmembers Nave, Haynes and Duffy voted "no". (5-3-0)

RESOLUTION NO. 7754 introduced by City Manager Neil Dobler waiving the connection fees for water and sewer service to property located at 4020 NW 25<sup>th</sup> Street, Topeka, Kansas was presented.

Neil Dobler, City Manager gave the staff report. He stated that the waiver would help the Brickyard Inn rebuild their business from damage received from the flood in October of 2005.

Councilmember Duffy stated the he supports the project. He also stated that he commends staff because he believes that this is the way a city should develop.

Councilmember Alcalá moved to approve the resolution. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

CONTRACT NO. 36119 between the City of Topeka and Norton Bonaparte, Jr., defining the terms of his employment as City Manager, was presented.

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

Councilmember Nave commended Councilmembers Haynes and Harmon for their work on the agreement.

The motion to approve the agreement carried. Councilmember Duffy voted “no”.

(7-1-0)

Neil Dobler, City Manager stated that it would be an appropriate time to take action on the TIF redevelopment district for the Washburn-Lane College Hill area.

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

Councilmember Duffy stated that the majority of the Shawnee County Commissioners voted that the project would have an adverse impact on the County. He noted that the County’s resolution did not give specific reasons supporting their decision. He stated that he would like to submit additional documentation to supplement the ordinance so the County can make an informed decision.

Councilmember Duffy moved to amend the ordinance by adding the following documentation. The motion was seconded by Councilmember Preisner.

1. The Neighborhood Element of the Comprehensive Plan and Shawnee County Resolution No. 145-2000
2. The Washburn-Lane Element of the Comprehensive Plan and Shawnee County Resolution No. 2001-216
3. The developer agreement and the redevelopment plan
4. Documentation that the property has been assembled
5. CIP investments, Weed & Seed investments to reduce crime, Housing and Neighborhood Department investments in the plan
6. Any other supporting documents to help the County make an informed judgment

Councilmember Haynes made a substitute motion to include all of the documentation submitted by Councilmember Duffy, and the attachments and documents identified in the developer agreement. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18568 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 2701 North Kansas Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "C-4" Commercial District TO "C-4" Commercial District placed on first reading February 7, 2006 was again presented. (Z81/19)

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked if there were any additional exparte communications besides Councilmember Alcalá. There were none declared.

Councilmember Alcalá moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18569 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 6424 SW Huntoon Street in the City of Topeka, Kansas from “RR-1” Residential Reserve District TO “O&I-1” Office and Institutional District placed on first reading February 7, 2006 was again presented. *(Z05/17)*

Neil Dobler, City Manager gave the staff report.

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

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0).

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

A ZONING PETITION and ORDINANCE NO. 18570 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 3620 and 3626 SW Wanamaker Road in the City of Topeka, Kansas from “PUD” Planned Unit Development District to “R-1” Single Family Dwelling District ALL TO “PUD” Planned Unit Development District (O&I-1 use group) placed on first reading February 7, 2006 was again presented. *(PUD05/5)*

Neil Dobler, City Manager gave the staff report.

Mayor Bunten asked for exparte communications. There were none declared.

Councilmember Blackburn moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0).



The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Alcalá, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -8. Absent: Ortiz -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 at 2824 NW Rochester Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "PUD" Planned Unit Development District (M-1a use group) placed on first reading February 7, 2006 was again presented. (*PUD06/2*)

Neil Dobler, City Manager gave the staff report.

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

Councilmembers Kennedy, Alcalá, Nave, Duffy, Blackburn, Preisner and Harmon declared *exparte* communications.

Councilmember Alcalá submitted a protest petition. He urged the Council not to support the petition because of area traffic issues and the proposed housing units do not fit the character of the neighborhood.

Councilmember Blackburn asked if the property is located in the FEMA Floodway or the 100-year Floodplain. He also asked if the developer has an adequate excavating plan in place to help avoid flooding.

David Thurbon, Planning Director stated the property is located outside the floodplain.

John Ladson, Bartlett & West Engineers stated that "fill" would be placed on the south side of the road and a detention pond would be constructed for the area. He also stated that an area drainage report has been completed and approved.

Councilmember Blackburn expressed concern with the cost of the sewer extension and the 5-year timeline mandate.

David Thurbon stated that the sewer extension would not involve other property owners, therefore, eliminating the 5-year sewer extension mandate.

Councilmember Blackburn asked if the traffic study that was conducted for the new Wal-Mart Store included this area.

David Thurbon stated that the study mainly encompassed the commercial area along Highway 24. He explained that the housing would generate approximately 250 trips per day, which is a low volume of traffic for that area.

Councilmember Nave stated that he opposes the project because of the type of houses being proposed and the developer did not meet with the neighbors.

The motion to approve the zoning petition and adopt the ordinance failed.  
Councilmembers Kennedy, Alcalá, Nave, Haynes and Harmon voted "no". (3-5-0)

AN ORDINANCE introduced by City Manager Neil Dobler, exempting certain property, more specifically property owned by River Bottom Group, Inc. from property taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at approximately 3801 NW 14<sup>th</sup> Street, Topeka, Shawnee County, Kansas was presented for first reading.

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

Councilmember Duffy submitted a pending request for the annexation of Shiloh Ridge Estates Subdivision No. 2 and the Brickyard Inn.

Councilmember Nave stated that he would like to meet with the City Manager to discuss the complaints he has received regarding littering, and the large amounts of trash located near 21<sup>st</sup> and Hudson, and 29<sup>th</sup> and Indiana. He also stated that he has received complaints regarding the low lighting of Massachusetts Street and a number of other locations in his district.

Councilmember Alcalá requested that the City Manager check the property located on the corner of Furman Road and Highway 24. He explained that he has received a number of complaints regarding large amounts of trash on the property. He stated that he has contacted staff regarding the issue and was told that there is only one truck available to pick up trash.

Mayor Bunten announced that February 14, 2006 was the deadline to submit individual or committee House Bills to the State Legislature for consideration. He stated that he believes it is crucial for the Council to form a committee as soon as possible to review a number of issues that will directly affect the City of Topeka.

Councilmember Alcalá stated that he would form a committee. He requested that all Councilmembers interested in serving on the committee submit a request to the Council Office by Wednesday, February 15, 2006.

Councilmember Preisner noted that on December 5, 2005 at 9:00 a.m. the City Manager, the City Attorney, the City's lobbyists and himself attended a meeting with Shawnee County delegation. He stated that they submitted a proposed legislative agenda at that time. He suggested that any additional requests by the Council should be submitted to the committee as soon as possible.

David Owen and Frank Kirtdoll appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:42 p.m.

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Iris Walker  
City Clerk