

City Council Minutes – February 28, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 28, 2006. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcala, Ortiz, Haynes, Blackburn, Preisner and Harmon -7. Mayor Bunten presided -1. Absent: Councilmember Nave and Duffy -2.

AFTER THE MEETING was called to order, Reverend Francis Bartlett, Topeka Youth for Christ gave the invocation.

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

A PRESENTATION and report by Ken Daniels, Secretary and Gregg Cooper, Vice Chair of the “Development Services Committee”, was presented. They gave highlights of the committee’s report and answered questions.

Councilmember Nave entered the chambers.

Councilmember Blackburn moved to refer the Development Services Committee report to the Economic Development Committee for further review. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

Councilmember Preisner moved to suspend the rules to add a resolution to the agenda concerning the need for legislation that will protect children and their families from sex offenders, and a final plat for Hickory Ridge Estates Subdivision No. 10 to next week’s agenda. The motion was seconded by Councilmember Alcala.

Councilmember Alcala asked to separate the vote on the resolution and the final plat.

The motion to add the resolution carried unanimously. (8-0-0)

Councilmember Alcala stated that he supported approval of the final plat, but he would not support putting it back on the agenda because of the six-month rule.

Councilmember Ortiz stated that she agreed with Councilmember Alcala.

The motion to add the final plat to next week's agenda failed. Councilmembers Alcala, Kennedy, Ortiz, Nave, Haynes and Harmon voted "no". (2-6-0)

Councilmember Blackburn moved to add a resolution to the agenda as Item 7E relating to Council support of enactment of Jessica's Law by the Kansas Legislature. The motion seconded by Councilmember Kennedy carried unanimously. (8-0-0)

Councilmember Blackburn moved to reinstate the rules. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

MINUTES of the Regular Meeting of February 21, 2006 were presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Alcala 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 28, 2006, at 6:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40906-01, authorized by Resolution No. 7352, adopted and approved June 17, 2003.

ORDINANCE NO. 18573 introduced by City Manager Neil Dobler, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District No. 40906-01 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary

Sewer District No. 40906-01, as defined and described in Resolution No. 7352, adopted and approved June 17, 2003, placed on first reading February 21, 2006 was again presented.

Neil Dobler gave the staff report.

No one appeared to speak concerning the assessments.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. (8-0-0)

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

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ORDINANCE NO. 18574 introduced by City Manager Neil Dobler, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District No. 40906-02 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40906-02, as defined and described in Resolution No. 7517, adopted and approved September 7, 2004, placed on first reading February 21, 2006 was again presented.

Neil Dobler gave the staff report.

No one appeared to speak concerning the assessments.

Councilmember Preisner moved to close the public hearing 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: Alcala, Kennedy, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon –8. Absent: Duffy –1.

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ORDINANCE NO. 18575 introduced by City Manager Neil Dobler, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60468-05 with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60468-05 as defined and described in Resolution No. 7386, adopted and approved September 2, 2003, placed on first reading February 21, 2006 was again presented.

Neil Dobler gave the staff report.

No one appeared to speak concerning the assessments.

Councilmember Preisner moved to close the public hearing 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: Alcala, Kennedy, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon –8. Absent: Duffy –1.

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ORDINANCE NO. 18576 introduced by City Manager Neil Dobler, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60575, Phase 2, with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60575, Phase 2, as defined and described in Resolution No. 7522, adopted and approved September 14, 2004, placed on first reading February 21, 2006 was again presented.

Neil Dobler gave the staff report.

No one appeared to speak concerning the assessments.

Councilmember Blackburn moved to close the public hearing 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: Alcala, Kennedy, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon –8. Absent: Duffy –1.

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 28, 2006, at 6:00 P.M. to consider the advisability of Street Improvement Project No. 70196-02 which provides for the construction of SW MacVicar Avenue from SW 6th Street to eastbound I-70 exit ramp.

A PROJECT BUDGET in the amount of \$5,504,900 and RESOLUTION NO. 7757 introduced by City Manager Neil Dobler authorizing 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, was presented.

Neil Dobler gave the staff report.

Councilmember Blackburn gave the committee report and stated that the committee recommended “Do Pass”. He explained U.S.D. 501’s participation in the project and benefits they would receive from the project.

Councilmember Haynes asked if the City would need to take property for this project.

Mike Teply, Acting Public Works Director stated they would need to acquire temporary and permanent water easements.

Councilmember Haynes stated that he believes there are many streets more in need of improvement than this project, and he would not support it.

Councilmember Preisner moved to close the public hearing and adopt the committee report. The motion was seconded by Councilmember Blackburn.

Councilmember Kennedy asked for support of the project.

Discussion continued relating to U.S.D. 501's participation in the benefit district and if they could shift U.S.D. 501's assessment to the City.

Neil Dobler noted that the City improved 6th Street from MacVicar to Gage Boulevard which was a benefit to Hummer Park, and U.S.D. 501 did not participate in the project.

Councilmember Haynes asked about the increase in bonded indebtedness with this project.

Jim Langford, Finance Director stated that the total would be about \$168 million with this project.

Neil Dobler stated that \$2 million would be refunded from the benefit district.

The motion carried. Councilmember Haynes voted "no". (7-1-0)

RESOLUTION NO. 7758 introduced by City Manager Neil Dobler amending the City of Topeka Personnel Code, was presented.

Neil Dobler, City Manager stated that these are basic changes to the personnel code brought about in a large part by the change in form of government.

Councilmember Haynes gave the committee report and stated that they recommended approval of these changes, but would defer any further changes until after the City Manager and Attorney is on board.

Frank Kirtdoll appeared and stated that the Council should defer the document until the new City Manager is on board.

Joe Ledbetter stated that he concurs with Mr. Kirtdoll. He also expressed his concern with the City's policy relating to veteran's preference in hiring and lay-offs.

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

A PROJECT BUDGET in the amount of \$44,091,810 and ORDINANCE NO. 18577 introduced by City Manager Neil Dobler authorizing Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the City Council of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof pursuant to K.S.A. 12-195 *et. seq.*, and all amendments thereto placed on first reading February 21, 2006, was again presented.

Neil Dobler, City Manager gave the staff report and expressed thanks to the Shawnee County Delegation for their support of the project.

Joe Ledbetter commented that he asked if the state had funds to assist with the project, and was told that they did, but it was not pursued by the City

David Owen expressed his concern that bodies were buried under the Topeka Blvd. Bridge, and asked that care be exercised when the bridge is demolished. He also asked that the bridge be constructed so that it is homeless proof.

Bob Sherburne appeared in opposition to the bridge project because he felt that the design of the bridge was flawed.

Councilmember Alcalá moved to approve the project budget 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: Alcalá, Kennedy, Ortiz, Nave, Haynes, Blackburn, Preisner and Harmon –8. Absent: Duffy –1.

A COMMUNICATION submitting the Topeka Zoo master plan for Council approval, was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes moved to approve the Zoo Master Plan. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

AN AGREEMENT and Memorandum of Understanding between the City of Topeka and the Friends of the Topeka Zoo, Inc. for 2006, was presented.

Neil Dobler, City Manager gave the staff report and stated that this is a one-year agreement that outlines the responsibilities and expectations of both organizations.

Councilmember Kennedy stated that she could not support the agreement because she had no input in the document.

Councilmember Haynes expressed his concern that the contract allowed funds to be approved for projects before the fact, or before the funds from Friends of the Topeka Zoo (FOTZ) are raised.

Neil Dobler stated that none of the projects are set in stone, so there is no commitment for the City to expend funds until the project budget is approved. He stated that there is a commitment for FOTZ to raise funds.

Councilmember Haynes asked if the agreement established a legal obligation of the City to expend funds.

Brenden Long, City Attorney stated he sees no obligation on the part of the City to expend funds. He stated that there is a process the city has to go through to expend funds which included adoption of a project budget and ordinance.

Councilmember Alcalá expressed his concern that the contract commits money that isn't raised yet, while access to dollars already in their possession is not committed.

Neil Dobler stated that they would look at each project as it comes along and see if funds from FOTZ and the City are available.

Councilmember Haynes asked if the wording in the contract "to expand exhibitions and to authorize and fund" was a financial obligation for the City.

Councilmember Ortiz asked if FOTZ was asked if they would be willing to assist with repairs to the zoo.

Neil Dobler stated that they tried to determine what the City should be responsible for and what FOTZ should be responsible for, and some of the maintenance at the Zoo is the City's responsibility.

Councilmember Blackburn stated that there are still some questions that need to be answered, and asked if they could refer the agreement to a Committee of the Whole meeting for discussion next week.

Councilmember Preisner moved to refer the agreement to the Committee of the Whole for discussion next week. The motion was seconded by Councilmember Alcala.

Joe Ledbetter stated that he thought it was appropriate to send the agreement to committee. He expressed other concerns about the contract, operation of the zoo and care of the animals.

Councilmember Blackburn asked if there is a local version of the Friends of the Zoo that could be considered.

Councilmember Alcala noted that a lot of money goes to FOTZ through memberships, and there may be another way to handle memberships so that the money goes directly to the Zoo.

The motion carried unanimously. (8-0-0)

Neil Dobler stated that the agreement would be listed under the Miscellaneous Item for a Committee of the Whole discussion next week.

RESOLUTION NO. 7759 introduced by City Manager Neil Dobler setting a public hearing for consideration of the adoption of the Redevelopment Project Plan for the College Hill Redevelopment Plan, was presented.

Neil Dobler, City Manager stated that the resolution sets the public hearing for April 4, 2006 for consideration of the Redevelopment Project Plan.

Councilmember Haynes asked if there were any issues remaining regarding eminent domain for the project.

Henry McClure, developer stated that they are still in negotiations, and he felt optimistic that they would reach an agreement.

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

Frank Kirtdoll appeared and stated that council rules prohibit reconsidering something twice within six months. He asked someone on the council to call a point of order to reconsider the resolution before the council.

The motion to approve the resolution carried unanimously. (8-0-0)

RESOLUTION NO. 7760 introduced by Councilmembers Jeff Preisner, John Nave and Clark Duffy concerning the need for legislation that will protect children and their families from sex offenders, was presented.

Councilmember Preisner stated that the resolution was sponsored by the Public Health & Safety Committee. He asked Robin Block to respond to questions.

Robin Block, Kansas Organizer for the National Organization to protect children stated that there is a large number of sex offenders in the community who are not supervised. She stated that the resolution calls for intensive supervision and surveillance of sex offenders that have been released into the community.

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

RESOLUTION NO. 7761 introduced by Councilmembers Brett Blackburn and Lana Kennedy expressing the support of the Council of the City of Topeka, Kansas, for the enactment of “Jessica’s Law” by the Kansas Legislature, was presented.

Councilmember Blackburn explained that Jessica’s Law provides for harder sentences for those who commit sexual crimes against children.

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

ORDINANCE NO. 18578 introduced by City Manager Neil Dobler annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at the corner of SW 43rd Terrace and SW Shenandoah Road within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading February 21, 2006, was again presented. (A06/1)

Neil Dobler, City Manager gave the staff report.

Councilmember Haynes moved to adopt the ordinance. The motion seconded by Councilmember Blackburn carried unanimously. Councilmember Preisner left the meeting. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Kennedy, Ortiz, Nave, Haynes, Blackburn, and Harmon –7. Preisner left the meeting –1. Absent: Duffy –1.

ORDINANCE NO. 18579 introduced by City Manager Neil Dobler annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at 6446 SW Huntoon Street within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading February 21, 2006, was again presented. (A06/4)

Neil Dobler, City Manager gave the staff report.

Councilmember Harmon moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried. Councilmember Preisner left the meeting. Councilmember Alcala was out of the room. (6-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcala, Kennedy, Ortiz, Nave, Haynes, Blackburn, and Harmon –6. Noes: Alcala was out of the room –1. Preisner left the meeting –1. Absent: Duffy –1.

AN ORDINANCE introduced by City Manager Neil Dobler, relating to the installation of backflow prevention devices, amending City of Topeka Code Section 26-459 and specifically repealing said original section, was presented for first reading.

AN ORDINANCE introduced by Councilmembers Jeff Preisner, Richard Harmon, John Alcala, Clark Duffy, Sylvia Ortiz, Lana Kennedy, John Nave and Bill Haynes authorizing the St. Patrick's Day Committee to hold the St. Patrick's Day Fair on March 17, 2006, was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler, authorizing Improvement Project No. 30259-00, which provides for improvements for the design and construction of 3,500 square feet to enhance the Animals and Man Facility needed to be in full compliance with AZA and USDA regulations at the Topeka Zoological Park located at 635 Gage Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of City of Topeka, was presented for first reading.

AN ORDINANCE introduced by City Manager Neil Dobler authorizing the issuance of \$10,460,000 aggregate principal amount of Full Faith and Credit Star Bonds, Series 2006-A (Heartland Park), of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 12-1770 et. seq., as amended and supplemented, was presented for first reading.

AN ORDINANCE introduced by Councilmembers Bill Haynes, John Alcala and Richard Harmon establishing a franchise fee refund program for the City of Topeka, and repealing City of Topeka Ordinance No. 18572 in its entirety, was presented for first reading.

A COMMITTEE OF THE WHOLE MEETING discussion relating to renaming/naming of facilities, and the proposal to rename Highland Crest Park, located at 3303 SE Irvingham to the Betty Phillips Park, was presented.

Councilmember Haynes moved to adjourn into the committee of the whole. The motion seconded by Councilmember Nave carried unanimously. (7-0-0)

Councilmember Blackburn expressed his concern about setting a precedent in naming a park after someone who is still living. He suggested other options to honor volunteers for their work and dedication to the community, such as placing a plaque or bench in the park with the honoree's name on it.

Several Councilmembers suggested naming facilities on a case-by-case basis. It was also noted that other facilities and parks have been named after people who are still living, and that allows the person to share in the honor with their friends and family.

Following further discussion Councilmember Alcala moved to remove the document out of the Committee of the Whole, and place it on next week's agenda for consideration. The motion seconded by Councilmember Haynes carried unanimously. (7-0-0)

Councilmember Blackburn suggested that the Council establish a policy for the process of naming a facility or park so they don't show favor to one person and not another person.

Brenden Long stated that the process they have in place is vague and very general, and they could establish a further process or make it more specific if they desired.

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

Neil Dobler distributed a memo from the Finance Director and stated that is was the Financial Status Report 2005 Year End. He asked Jim Langford, Finance Director to highlight the report.

Jim Langford highlighted the Executive Summary in the memo and stated they the Council could meet to discuss the report in detail at a later date, or they could call him with any questions they may have.

Councilmember Blackburn asked the City Attorney to check on the legislation relating to mandatory incarceration for nonpayment of fines. He stated that if people are incarcerated they are unable to work to have money to pay fines.

Councilmember Kennedy stated that she noticed a large amount of delinquent taxes on the report, and asked if they could check with the County for the status of the taxes, and when the properties would be sold. She also asked the members of the Public Health and Safety Committee to meet on the sexual buffer ordinance as soon as possible so that it could be brought back before the Council for action. Councilmember Kennedy also commented on the recent rash of criminal problems in the city during the past week, and asked for guidance on getting stiffer penalties.

Councilmember Blackburn suggested sending a resolution to the legislature requesting stiffer sentences for criminals.

Mayor Bunten commented that a lot of crimes are a result of drug use, and reconstruction of the narcotic unit at the police department will help with that. He stated that he also supports the legislation relating to gang activity. He suggested scheduling a meeting with the Police Chief to discuss increasing their presence in certain areas, and getting tough with gang related activity.

Councilmember Blackburn stated that they might need to think about adding additional officers in the drug unit.

Councilmember Alcalá stated that he would like to find out how the officers are deployed before hiring additional officers. He stated that they might just need to be shifted around to other areas of the City.

Councilmember Ortiz agreed with Councilmember Alcalá and stated that constituents also play a big part in helping to control crime. She stated that it is important that they call when they see something that doesn't look right in their neighborhood, and have the Police Department check it out.

Councilmember Blackburn asked if John Myers could contact USD 501 to see if they can lobby JEDO to provide funds for the street improvement project discussed earlier.

Frank Kirtdoll appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:25 p.m.

Iris Walker
City Clerk