

City Council Minutes – March 7, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 7, 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, Nave, Haynes, Duffy, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Blackburn -1.

AFTER THE MEETING was called to order, Councilmember Preisner asked for moment of silent meditation.

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

Councilmember Alcala moved to suspend the Council Rules to add a Public Improvement Project Petition, Project Budget and Resolution for Street Improvement Project No. 60611-03 to the agenda. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

Councilmember Alcala moved to reinstate the Council Rules. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7763 of the City of Topeka naming banks and savings institutions that are designated as depositories for all City of Topeka accounts and authorizing signatures and rescinding City of Topeka Resolution No. 7606 was presented.

MINUTES of the Regular Meeting of February 28, 2006 were presented.

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

A PUBLIC IMPROVEMENT PROJECT PETITION, PROJECT BUDGET in the amount of \$528,525 and RESOLUTION NO. 7764 introduced by City Manager Neil Dobler

authorizing Street Improvement Project No. 60611-03 located at approximately S.W. 47th Court, S.W. Misty Harbor Drive and S.W. Rolling Court as more specifically described herein was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Blackburn entered the room.

Councilmember Preisner moved to approve the petition, project budget and resolution.

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, held Tuesday, March 7, 2006, at 6:00 P.M. to consider the advisability of Improvement Project No. 12064 which provides for the design, right-of-way, and utility relocation for the construction of a grade separation structure on NW Lower Silver Lake Road.

A PROJECT BUDGET in the amount of \$5,543,451.23 and RESOLUTION NO. 7765 introduced by City Manager Neil Dobler authorizing 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. The public hearing, project budget and resolution were deferred from the meeting of February 21, 2006.

Neil Dobler, City Manager gave the staff report. He explained the breakdown of the cost of the project.

Mike Teply, Acting Public Works Director stated that they met and had a discussion with many residents and business owners in the area. He stated that they reviewed the trip generation method, and residential property owners would account for approximately fifteen percent of the

trips. He noted that as it stands, residential owners would pay about eleven percent. He stated that he also contacted sixteen businesses to see if they were interested in paying the resident's share, and ten said no, four didn't reply, and two said yes, but would like additional information. He gave the breakdown of assessments for the benefit district and said the estimated cost for most residential properties would be approximately \$300, agricultural properties \$192, and commercial properties \$6,000.

Councilmember Alcalá moved to remove the residential properties from the benefit district. The motion was seconded by Councilmember Ortiz.

Following further discussion, regarding complete elimination of the benefit district Councilmember Alcalá withdrew his motion. The second concurred.

Councilmember Alcalá moved to eliminate the benefit district. The motion was seconded Councilmember Preisner.

John Hamilton, Dawn Kramer, Brenda McElroy, Reuben Sullivan, Evelyn McCormick, Chris Sullivan, Michelle Sullivan and Robert Meier spoke in opposition to the benefit district. The following points were discussed; the unfairness of assessing the people who live near the project; the increase of area traffic safety issues; the lack of necessity for the project; how the project would drastically change the neighborhood; and the lack of professional courtesy displayed by the City when informing the residents about the project.

Charlene Showalter and Toni Meier spoke in support of the project. They emphasized the importance of the project in relation to medical assistance response time, and the elimination of traffic safety hazards.

Councilmember Duffy asked the purpose of the project.

Neil Dobler stated that it would eliminate a hazardous railroad crossing. He explained that the threshold for the majority of railroad crossings is 10,000 and this railroad crossing ranks high at 300,000.

Councilmember Haynes asked how the City's bonded indebtedness would be affected if the benefit district were eliminated.

Jim Langford, Finance Director stated that the City's bonded indebtedness would be approximately \$170 million.

Councilmember Preisner noted that there are several different sources to retire general obligation bonded indebtedness, other than property taxes. He asked for information on the other sources available next week.

Councilmember Blackburn asked that a request to support the project be made to JEDO.

Councilmember Alcala encouraged support for elimination of the benefit district. He also encouraged the Council not to support the project at this time.

The motion to eliminate the benefit district carried unanimously. (9-0-0)

Councilmember Haynes moved to close the public hearing. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner moved to approve the project budget and resolution as amended. The motion seconded by Councilmember Alcala carried. Councilmembers Kennedy, Alcala, Ortiz and Haynes voted "no". (5-4-0)

ORDINANCE NO. 18580 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 placed on first reading February 28, 2006 was again presented.

RESOLUTION NO. 7762 introduced by City Manager Neil Dobler prescribing the form and details of the Full Faith and Credit Star Bonds, Series 2006-A (Heartland Park), of the City of Topeka, Kansas, in the aggregate principal amount of \$10,460,000 the issuance of which was authorized by the issuer pursuant to its Ordinance No. 18580 adopted and approved March 7, 2006; and authorizing certain other documents and actions in connection of the issuance of the bonds was presented.

Neil Dobler, City Manager gave the staff report.

Jim Langford, Budget and Finance Director stated that there were eight bids received and Prager, Sealy & Company was the successful bidder with an interest rate of 4.389 percent.

Councilmember Preisner moved to adopt the ordinance and approve the resolution. The motion seconded by Councilmember Kennedy 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.

ORDINANCE NO. 18581 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 placed on first reading February 28, 2006 was again presented.

Neil Dobler, City Manager gave the staff report. He stated that the ordinance would make City law consistent with State law.

Councilmember Blackburn 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, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

ORDINANCE NO. 18582 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 placed on first reading February 28, 2006 was again presented.

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

A PROJECT BUDGET in the amount of \$1,800,000 and ORDINANCE NO. 18583 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 placed on first reading February 28, 2006 was again presented.

Neil Dobler, City Manager gave the staff report.

Mike Coker, Zoo Director gave a presentation on the project, and stated that it would give the elephants, giraffes and hippos additional indoor space.

Councilmember Blackburn asked if the Friends of the Topeka Zoo (FOTZ) were approached to participate in the project.

Neil Dobler stated that as part of the agreement under consideration, FOTZ would participate in projects included in the Capital Improvement Program.

Councilmember Haynes asked the necessary amount needed to meet AZA requirements.

Mike Coker, Zoo Director stated that if they took the other elements out of the project, it would be about \$1 million. He stated that the other projects are needed as well, to keep the city current with AZA guidelines in the future. He stated that the Engineer indicated it would be more costly to try and retrofit the improvements onto the existing building, rather than going with the addition.

Councilmember Kennedy asked if there has been an attempt to have a private or corporate sponsor to provide matching funds for the project.

Councilmember Duffy stated that he understood there was a formula available on private fund raising, and asked for information on this to see how fund raising for the zoo compared. He also asked for a copy of the letter from AZA requesting the improvements, and a copy of the letter from the Engineer stating that the project could not be retrofitted.

Joe Ledbetter appeared and expressed his concern about the lack of fund raising by FOTZ, missed construction deadlines, and nonparticipation by FOTZ in the project.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Duffy carried. Councilmember Haynes voted “no”.
(8-1-0)

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

ORDINANCE NO. 18584 introduced by Councilmembers Bill Haynes, John Alcalá 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 placed on first reading February 28, 2006 was again presented.

Councilmember Haynes moved to amend the ordinance on line 26 to include “dependent”. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Harmon carried unanimously. (9-0-0)

The ordinance was adopted as amended on roll call vote as follows: Ayes: Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9.

A COMMUNICATION requesting approval of the Council to rename Highland Crest Park, located at 3303 SE Irvingham to the Betty Phillips Park was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Ortiz moved to approve the communication. The motion was seconded by Councilmember Alcala.

Betty Dunn appeared in support of the communication and enumerated the hard work, all of which was voluntary, that Betty Phillips was involved in for the Highland Crest area. She stated that she believes Ms. Phillips is very deserving of this honor.

Councilmember Kennedy read an email received from someone who was of the opinion that Parks and Facilities should not be named after persons who are still living because they could do something to tarnish the name of the park or facility while still alive.

Joe Ledbetter appeared in support of the communication and stated that Betty Phillips did a lot of work for the area in the past, and continues to volunteer and work for improvement in the area, and she deserves the recognition.

Councilmember Duffy spoke in opposition of the motion. He stated that the process for providing the recognition is lacking. He stated that he has heard nice things about Betty Phillips orally, but there is nothing in writing to substantiate this honor. He stated that the standard for this honor should be high, and this one is lacking. He also stated that there are many people in the city deserving of this honor.

Councilmember Blackburn suggested getting underwriters for projects and placing their name somewhere on the project. He stated that he would abstain from voting because he does not want to belittle Ms. Phillips accomplishments, but he also does not want to set a precedent.

Councilmember Kennedy stated that she believes Betty Phillips is a keeper of Highland Crest and deserving of this recognition.

The motion to approve carried. Councilmembers Duffy and Preisner voted “no”. Councilmember Blackburn abstained. (6-2-1)

A COMMUNICATION appealing the decision of the State Historic Preservation Officer regarding the denial of a demolition permit on property located at 228 SW Taylor Street, was presented.

Neil Dobler, City Manager gave the staff report.

Miriam Burke, Development Services Director appeared to answer questions. She explained the repair value for the structure is close to \$34,000.

Mayor Bunten stated that he looked at the property, and in his opinion, it should be demolished.

Councilmember Kennedy stated that she spoke with the Neighborhood Improvement Association, and they support demolition of the structure.

Councilmember Blackburn stated that he supports the demolition.

Councilmember Nave moved to find that there is no feasible alternative to demolition. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A COMMUNICATION appealing the decision of the State Historic Preservation Officer regarding the denial of a demolition permit on property located at 724 SW 4th Street, was presented.

Neil Dobler, City Manager gave the staff report and stated that this is a commercial building.

Councilmember Kennedy stated that the structure is directly across the street from Sumner School, and it needs to be demolished.

Councilmember Kennedy moved to find that there is no feasible alternative to demolition. The motion seconded by Councilmember Alcala carried unanimously. (9-0-0)

RESOLUTION NO. 7766 introduced by City Manager Neil Dobler setting a public hearing for Sanitary Sewer Improvement Project No. 40936-00 was presented.

Neil Dobler, City Manager stated that the next three resolutions schedule public hearings for projects located in the Horseshoe Bend Subdivision.

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

RESOLUTION NO. 7767 introduced by City Manager Neil Dobler setting a public hearing for Sanitary Sewer Improvement Project No. 40936-01 was presented.

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

RESOLUTION NO. 7768 introduced by City Manager Neil Dobler setting a public hearing for Street Improvement Project No. 60619-00 was presented.

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

A PROJECT BUDGET in the amount of \$235,000 and RESOLUTION NO. 7769 introduced by City Manager Neil Dobler describing and authorizing Improvement Project No. 13151 which provides for repairs and renovations to City Hall, the Law Enforcement Center and the Cyrus K. Holliday Building as more specifically described herein and specifically authorizing the transfer and expenditure of general fund monies was presented.

Neil Dobler, City Manager gave the staff report.

Councilmember Duffy noted that the City would recoup funds spent on the project acquired through energy savings.

Councilmember Blackburn asked if there were any ADA issues associated with this project.

Neil Dobler stated there were not in this project, but they are in process of doing a self-assessment for ADA issues.

Councilmember Preisner moved to approve the project budget and the resolution. The motion seconded by Councilmember Haynes carried unanimously. 9-0-0

ORDINANCE NO. 18585 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of June 27, 2005 through February 5, 2006 and enumerating said expenditures herein was presented for first and final reading.

Neil Dobler, City Manager stated that they started the process again as a result of the committee's recommendations that studied the issue.

Councilmember Blackburn noted that he would abstain on items pertaining to his business.

Brenden Long, City Attorney stated that this is not the contract, so it is not necessary to abstain.

Councilmember Blackburn moved to adopt the ordinance. The motion seconded by Councilmember Preisner 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. 18586 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of February 6, 2006 through February 12, 2006, and enumerating said expenditures herein was presented for first reading and final reading.

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

Councilmember Ortiz noted that some of the amounts listed did not have a description.

Jim Langford, Budget and Finance Director stated that the amounts in question are purchasing card purchases and they are on a separate printout distributed to the Council.

The motion to adopt the ordinance carried. Councilmember Ortiz voted “no”. (8-1-0)

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

ORDINANCE NO. 18587 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of February 13, 2006 through February 19, 2006, and enumerating said expenditures herein was presented for first reading and final reading.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Duffy abstained. (8-0-1)

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

ORDINANCE NO. 18588 introduced by City Manager Neil Dobler allowing and approving city expenditures for the period of February 20 through February 26, 2006 and enumerating said expenditures herein was presented for first reading and final reading.

Councilmember Preisner moved to adopt the ordinance. The motion seconded by Councilmember Haynes carried. Councilmember Duffy abstained. (8-0-1)

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

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

Councilmember Preisner moved to adjourn into the Committee of the Whole. The motion seconded by Councilmember Alcalá carried. Councilmember Harmon was out of the room. (8-1-0)

Neil Dobler, City Manager gave a report on FOTZ operations.

Bill Conner, Vice President of FOTZ appeared for questions.

Joe Ledbetter stated that he is opposed to a multi-year contract between the City of Topeka and FOTZ.

Jane Mackey explained that FOTZ has not engaged in any major fund raising other than the gala and the other funds come from donors.

Neil Dobler distributed amendments to the contract for consideration next week.

Councilmember Alcalá asked the City Manager to put the agreement back on the agenda next week.

Jim Cole, FOTZ Board Member, expressed his concern that FOTZ seems to be under a lot of scrutiny, and he is not sure why.

Councilmember Haynes moved to adjourn out of the Committee of the Whole. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

Councilmember Kennedy moved to remove an ordinance relating to sex offenders out of the Public, Health and Safety Committee, and place it on the agenda for consideration next week. The motion was seconded by Councilmember Alcalá.

Councilmember Haynes made a substitute motion to remove the ordinance from committee and refer it to a Committee of the Whole meeting on Saturday morning at 10:00 a.m. The motion was seconded by Councilmember Kennedy.

Councilmember Preisner stated that the committee is scheduled to meet on Monday, and should have it on the agenda next Tuesday.

Councilmember Alcalá stated that he would not support the substitute motion.

Councilmember Preisner stated that he would not support either motion because they are at the end of investigating the ordinance.

Councilmember Haynes stated that he would like to discuss all issues and questions with staff and council before voting on the issue.

Councilmember Blackburn stated that he is concerned about regulating the law in Topeka concerning sex offenders, and not focusing on what the state is trying to do.

Councilmember Duffy stated that they all have the same objective, but it gets complicated in trying to figure out how to address it. He stated that he is concerned that what the City does could make the situation worse. He stated that he would not support either motion because the Public, Health and Safety Committee needs to bring their work to a conclusion.

Councilmember Nave commented that the experts need to be at the meeting.

Councilmember Preisner stated that the ordinance went to committee because the council was not ready to vote on it, because they were not educated on the issue.

The substitute motion failed. Councilmembers Alcala, Ortiz, Nave, Duffy, Blackburn Preisner and Harmon voted "no". (2-7-0)

The original motion failed. Councilmembers Nave, Haynes, Duffy, Blackburn, Preisner and Harmon voted "no". (3-6-0)

Councilmember Kennedy asked for the status on the sale of the zoo farm.

Brenden Long, City Attorney stated that the earnest money is still in escrow, and they are trying to obtain it. He stated that he would keep the Council informed.

Councilmember Kennedy asked if the City has a new ordinance concerning grease traps.

Neil Dobler stated that the ordinance has been in place for ten years and it has not changed.

Several Councilmembers thanked Neil for serving as Interim/Acting City Manager, and stated that they appreciated the good job he did in carrying out those duties.

Councilmember Ortiz thanked the Mayor for riding through East Topeka to look at the graffiti. She stated that the Church at 6th and Davies also has graffiti.

Brenden Long stated that they have a current ordinance that they are cleaning up so the victims are not penalized because the graffiti has not been removed from their structures.

Councilmember Blackburn asked if they could close off 35th Terrace.

Mike Teply stated that it is possible.

Neil Dobler stated that they would start the process of vacating that portion of the street through the Planning Department.

Councilmember Preisner announced that there would be a Public, Health and Safety Committee meeting held on March 13, 2006 at 4:30 p.m. in the Executive Conference Room.

Joseph Ledbetter appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:04 p.m.

Iris Walker
City Clerk