

City Council Minutes – January 25, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 25, 2000. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcala, Lee, Dunn, Duffy, Hill, Gardner, McClinton, and Pomeroy –8. Deputy Mayor Carkhuff presided-1. Absent: Mayor Wagnon –1.

AFTER THE MEETING was called to order, prayer was offered by Reverend Betty Glover, St Davis Episcopal Church and the Chaplain at Stormont Vail Hospital.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7038 introduced by Mayor Joan Wagnon, describing and authorizing Water Main Project No. 28439, which provides for the installation of a new six (6) inch water main extension, was presented.

PROJECT BUDGET AND RESOLUTION NO. 7039 introduced by Mayor Joan Wagnon, describing and authorizing Storm Sewer Project No. 50095, Phase 2, which provides installation of a new storm sewer system along SE Illinois Avenue, were presented.

REVISED PROJECT BUDGET AND RESOLUTION NO. 7040 introduced by Mayor Joan Wagnon, describing and authorizing the Shunga Pump Station Order Control Project No. 29034-2, which provides construction of odor control facilities for the Shunga Pump Station and rescinding City of Topeka Resolution No. 6983, were presented.

Minutes of the Regular Meeting of January 18, 2000, were presented.

CEREAL MALT BEVERAGE APPLICATIONS bearing the approval of the Chief of Police and City Inspectors were presented from the following:

D & D Dance Club - 516 SE 29th Street
Oakmart Total - 2518 NE Seward

Councilmember McClinton moved to approve the consent agenda. The motion seconded by Councilmember Lee carried unanimously. (9-0-0)

RESOLUTION NO. 7041 introduced by Councilmembers Betty Dunn and John Alcalá relating to changing the form of government, was presented.

Councilmember Pomeroy moved to allow public comment. The motion seconded by Councilmember McClinton carried. Councilmembers Alcalá, Dunn, and Gardner voted "no". (6-3-0)

Christy Caldwell, Greater Topeka Chamber of Commerce submitted written comments regarding the resolution. They suggest that the Council move forward on the recommendations presented by the Citizen's Task Force Committee.

Betsy Rohleder, appearing for Nancy Kindling, League of Women Voters read a statement from their organization. She stated that they could support a Council-Manager form of government and they still support the separation of administrative and policy making duties.

David Price appeared in support of the resolution.

Ben Blair, Representative of GO Topeka stated that they should consider whether the timing is right to look at changing the form of government. He stated that the agenda in Topeka needs to focus on other matters at hand. He stated that long range planning, lowering taxes and having an efficient government make the form of government we have work.

Councilmember Dunn stated that the City Manager form is a tool and would provide for a professional to enhance government.

Lisa Stubbs appeared in support of the resolution. She stated that it could take the fiscal responsibility out of the political sphere.

Councilmember McClinton stated that he agreed with earlier comments made that the timing is not right because there has not been a public out cry to change the current form of government.

Councilmember Lee expressed opposition to the resolution. She stated that structural changes could be expensive and there are no guarantees.

Councilmember Alcalá called the question.

Councilmember Pomeroy challenged the call.

The Chair ruled the call out of order because there was no motion on the floor.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Dunn.

Councilmember McClinton expressed concern that the proposed change would remove power and influence of the people that he represents. He named several cities that were moving toward some hybrid type of government like the City of Topeka has. He cited several examples of those cities.

Councilmember Pomeroy suggested a committee be formed to look at specifically what type of government would be placed on the ballot.

Councilmember Pomeroy moved to strike the language "to have the League review" and reconvene the Committee to develop a proposal for a council/manager form of government. The motion was seconded by Councilmember McClinton.

Councilmember Gardner stated that there was no support for the recommendations made by the Task Force appointed by the Council to review the form of government. He stated that he supports the resolution.

Councilmember Duffy stated that he supported the suggestion to improve the budgetary process, and a change in the form of government is not necessary to make that change. He stated that he has not received any calls or letters for or against this issue.

Councilmember McClinton stated that ultimately a proposal to change the form of government would amend the Charter ordinance. He expressed concern regarding the time and work that would be wasted if the proposal to amend the Charter ordinance failed.

Councilmember Carkhuff stated that the Committee's report was clear. He stated that they recommended City/County consolidation. He stated that he was opposed to re-convening the Committee. He also stated that they could have difficulties with finding people to serve on it.

The motion to amend failed. Councilmembers Alcala, Lee, Carkhuff, Duffy, Hill, Gardner, and McClinton voted "no". (2-7-0)

Councilmember Dunn stated that the resolution was being presented because of a commitment she made while campaigning. She explained that fifty-one cities in Kansas have gone to a City Manager form of government, and sixty-six percent review this form annually. She encouraged the Councilmembers to let the people decide whether they want to change the form of government.

Councilmember Dunn called the question.

The motion to approve the resolution carried. Councilmembers McClinton, Carkhuff, Duffy and Lee voted "no". (5-4-0)

ORDINANCE NO. 17460 introduced by Mayor Joan Wagnon authorizing initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Traffic Signal Installation Project No. 14083, at the intersection of Southwest Burlingame road and Southwest 33rd Street, placed on first reading January 18, 2000, was again presented.

Mike McGee, Assistant Director of the Public Works Department appeared to answer questions.

Deputy Mayor Carkhuff gave an opportunity for anyone present to speak.

Councilmember Alcala stated that he was opposed to the ordinance. He stated that the City should resolve these issues with the negotiation process rather than the condemnation process.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, Hill, and Lee -6. Noes: Councilmembers Alcala, Dunn, and Gardner -3.

AN ORDINANCE introduced by Mayor Joan Wagnon relating to zoning petition filing fees, amending City of Topeka Code § 134-97. Filing Fees and specifically repealing said original section, placed on first reading January 18, 2000, was again presented.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Joan Wagnon relating to zoning petition filing fees, amending City of Topeka Code § 48-33.06. Filing Fees and specifically repealing said original section, placed on first reading January 18, 2000, was again presented.

Councilmember Gardner stated that he was opposed to the ordinance because he was unsure an increase in fees would encourage development.

Barry Beagle, Planning Department stated that no opposition has been received. He stated that the fee structure was in line with what other Kansas Counties charge for these services.

Councilmember Gardner asked how much revenue the increase would generate. He suggested reducing the Planning Department's General fund by the same amount. He asked if services would increase.

John Arnold, CAO stated that the fees have been increased to approximately fifty percent of the processing cost. He stated that the fees have been increased to let development pay its own way.

Jeff White, Director of Budget and Research explained that the fees collected were approximately \$50,000. He stated that the allocation for the Planning Department from the budget is roughly \$250,000, which comes from the General Fund. He explained that the fees would not substantially subsidize the Department.

Councilmember Gardner moved to defer Items 4C and 4D for one week so they could receive additional financial information. The motion seconded by Councilmember Duffy carried. Councilmember Carkhuff voted "no". (8-1-0)

A COMMUNICATION from the Planning Department for a request by WHM Crane & Construction Company for a waiver to the provisions of the Shawnee County Wastewater Management Plan, was presented.

The waiver is sought with respect to an undeveloped 3.33-acre parcel located on the south side of SE 21st Street in the East Interchange Plaza Subdivision.

Barry Beagle gave the staff report.

Councilmember Duffy asked if there was a provision to terminate the waiver at the appropriate date.

Barry Beagle stated that they would be required to connect to the sanitary sewer extension when it becomes available.

Councilmember Dunn moved to approve the communication. The motion seconded by Councilmember Carkhuff carried unanimously. (9-0-0)

RESOLUTION NO. 7042 introduced by Mayor Joan Wagnon setting the public hearing for the purpose of considering the advisability of paving a portion of the Aquarian Acres Subdivision known as Aries Avenue, pursuant to K.S.A. 12-6a01 *et seq.* and hereafter known as Street Improvement Project No. 60554, was presented.

Linda Jeffrey, City Attorney explained the hearing requirements under K.S.A. 12-6a01 *et seq.*

Mike McGee explained the project.

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

A RESOLUTION introduced by Mayor Joan Wagnon authorizing initiation of condemnation proceedings to acquire easements for City of Topeka Drainage Improvement Project No. 15051, Phase 4, at Southwest 31st Street Terrace and Muirfield Court, was presented.

AN ORDINANCE introduced by Mayor Joan Wagnon for the condemnation and appropriation of lands in the City of Topeka for Drainage Improvement Project No. 15051, Phase 4, in the area of Southwest 31st Terrace and Southwest Muirfield Court, was presented for first reading.

Councilmember Lee asked if the property owners have been contacted.

Mike McGee stated that there is only one property owner that they are still negotiating with. He stated that the drainage pipe needs to be upgraded and the upgrade would eliminate the flooding of basements within the area.

Councilmember Lee moved to refer the resolution and ordinance to the Public Health and Safety Committee so they could hear from the property owner. The motion seconded by Councilmember Carkhuff carried. Councilmembers Dunn and Hill voted "no". (7-2-0)

AN ORDINANCE introduced by Mayor Joan Wagnon authorizing the City of Topeka, Kansas to provide for the improvement of the eastbound I-470 exit ramp at Southwest 21st Street, including all contingencies needed for a complete project and payment of all costs incidental to and incurred by the City of Topeka, Kansas, for said improvements by the City-at-large; and the issuance, sale and delivery of general obligation bonds of the City to pay for any or all costs related to said improvements, was presented for first reading.

AN ORDINANCE introduced by Mayor Joan Wagnon, authorizing Project No. 14084, which provides for the installation of a new mast arm traffic signal system as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Mayor Joan Wagnon relating to the management to City rights-of-way, was presented for first reading.

Councilmember Gardner asked how long staff has worked on the ordinance.

Mike McGee explained the process they used and stated that all of the utility companies were agreeable to the ordinance.

Councilmember Gardner questioned the language regarding vending machines. He suggested including language that would include a vending machine permit fee of \$50 per occurrence per machine.

Councilmember Duffy moved to refer the ordinance to the Public Improvements Committee. The motion seconded by Councilmember Gardner carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Joan Wagnon amending City of Topeka Code § 54-43 pertaining to defacement of property by graffiti and specifically repealing said original section, was presented for first reading.

AN ORDINANCE introduced by Mayor Joan Wagnon amending Topeka City Code §§ 66-27, 66-31, 66-31.1, and 66-31.2, pertaining to nuisances, including defacement of property by graffiti in the illustrative enumeration, excepting graffiti nuisances from the imposition of the thirty-five dollar (\$35.00) administrative fee, and specifically repealing said original sections, was presented for first reading.

Deputy Mayor Carkhuff referred both graffiti ordinances to the Community Development Committee for further review at the request of Mayor Wagnon.

Councilmember Gardner announced that the Community Development Committee would meet Tuesday, February 1, 2000, at 5:30p.m. in the City Council Office to discuss the graffiti ordinances.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, CAO stated that Mayor Wagnon would like a work session to be held Thursday, February 3, 2000, from 5:30p.m. to 7:00p.m. to discuss parking garages and the Topeka Metropolitan Transit Authority bus transfer station and garage.

Councilmember Gardner stated that he was opposed to scheduling work sessions on evenings other than Tuesday because of Councilmembers that have families.

Councilmember McClinton asked if the Public Improvements Committee could discuss the parking issues prior to presenting them to Council. He announced that the Committee would meet Thursday, February 9, 2000.

Deputy Mayor Carkhuff stated that a work session could be scheduled after the Public Improvements Committee met. He stated that a work session could be scheduled for Tuesday, February 15, 2000.

John Arnold asked Jeff White to present information regarding the State Legislature demand transfers.

Jeff White stated that the Governor's recommendation for the State's fiscal 2001 budget imposes demand transfers. He explained what impacts they would have on the City.

John Arnold distributed copies of the City's snow removal policy, which was requested by Councilmember Pomeroy. He also provided information regarding the South Topeka Boulevard Project between 11th and 15th Street. He briefly explained each of the five phases.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Lee announced that the Public Health & Safety Committee would meet Monday, January 31, 2000, at 5:30p.m. to discuss the condemnation ordinance for SW 31st St. Terrace and Muirfield Ct.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Gardner expressed interest to form a committee that could assemble and review information regarding the development of the Watertower District. He suggested that Councilmembers be more involved with future negotiation discussions.

Councilmember Hill asked if there could be a communication forwarded to the Planning Commission regarding the bill that is in the Legislature that places restrictions on liquor establishments and their distance from churches and schools.

Several Councilmembers questioned whether this request would be an amendment to the Legislative Policy, and if so, would there need to be an action by Council so that it could appear on the agenda.

Linda Jeffrey stated that she would work on getting information regarding this issue to Mayor Wagon for review.

Councilmember Dunn moved to extend the meeting until the end of public comment. The motion seconded by Councilmember Gardner carried. Councilmember Carkhuff, Duffy, and Lee voted "no". (6-3-0)

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent.

Iris Walker
City Clerk

Special Session

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 25, 2000. The Councilmembers of the City of Topeka, Kansas met in special session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Dunn, McClinton, Duffy, Hill, Lee and Gardner –8. Deputy Mayor Carkhuff presided -1. Absent: Mayor Wagnon –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 on January 25, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8th Street 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 Improvement Project No. 40869.

Deputy Mayor Carkhuff gave an opportunity for anyone present to speak. No one appeared.

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

ORDINANCE NO. 17458 introduced by Mayor Joan Wagnon, 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 a lateral sanitary sewer with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40869, as defined and described in Resolution No. 6816, adopted and approved on October 14, 1997, placed on first reading January 18, 2000, was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, McClinton, Dunn, Carkhuff, Duffy, Hill, Lee and Gardner-9.

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Deputy Mayor Carkhuff gave an opportunity for anyone present to speak.

Regis Dougherty appeared to request that the street assessment be spread over a fifteen year period.

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

ORDINANCE NO. 17459 introduced by Mayor Joan Wagnon, 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. 60332-H, Phase II with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60332-H, Phase II, as defined and described in Resolution No. 6893, adopted and approved June 19, 1998, placed on first reading January 18, 2000, was again presented.

Councilmember Gardner moved to amend section three to change ten (10) to fifteen (15) and adopt the ordinance. The motion was seconded by Councilmember Dunn.

Bill McCarter, Engineering Department stated that it was a development owned project.

The ordinance as amended was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, McClinton, Dunn, Carkhuff, Duffy, Hill, Lee and Gardner-9.

Iris Walker
City Clerk