

City Council Minutes – February 8, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 8, 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, McClinton, Carkhuff, and Pomeroy –8. Mayor Wagnon presided-1. Absent: Councilmember Gardner -1.

AFTER THE MEETING was called to order, prayer was offered by Imam Omar Hazim, Islamic Center of Topeka.

Mayor Wagnon stated that Councilmember Duffy has invited the Boy Scout troops to help with the Presentation of Colors and Pledge of Allegiance.

Councilmember Duffy welcomed the members of Boy Scouts Pack Ten and Jim Oliver, Pack Leader for the ceremony.

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

Mayor Wagnon stated that Councilmember Gardner would not be attending the meeting due to an illness in his family.

Mayor Wagnon stated that there has been a request to refer agenda Item 3E, the temporary sign ordinance, to the Economic Development Committee for review. She stated that she would notify those who signed up to speak of the date the public hearing would be held.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7043 introduced by Mayor Joan Wagnon and Councilmember Carkhuff, expressing support for the Woodland Court Housing Development Project, was presented.

RESOLUTION NO. 7044 introduced by Mayor Joan Wagnon and Councilmember Alcala, expressing support for the Woodland Properties Housing Development Project, was presented.

Minutes of the Regular Meeting of February 1, 2000, were presented.

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

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE NO. 17465 introduced by Mayor Joan Wagnon relating to the "M-1" Two Family Dwelling District, amending Topeka City Code § 48-8.02(b), Provisional uses, and specifically repealing said original section and amending Article XXVI, Additional Regulations, all contained in the Comprehensive Zoning Regulations for Topeka and unincorporated portions of Shawnee County, placed on first reading February 1, 2000, was again presented.

Barry Beagle, Planning Department gave the staff report.

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

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, McClinton, Dunn, Carkhuff, Duffy, Hill, and Lee -8.

ZONING PETITION Z99/39 by Noller Topeka Properties, L.C. requesting to amend the district zoning classification from "M-1" Two-Family Dwelling District to "PUD" Planned Unit Development District ("C-3" commercial usage limited to vehicle sales) on property located at the southeast corner of SW 23rd Street and SW Topeka Boulevard in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17466 introduced by Mayor Joan Wagnon 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 the southeast corner of SW 23rd Street and SW Topeka Boulevard in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District to "PUD" Planned Unit Development District, placed on first reading February 1, 2000, was again presented. (Z99/39)

Barry Beagle gave the staff report.

Mayor Wagnon gave an opportunity for anyone present to speak.

Dick Moore, adjoining property owner appeared in support of the petition.

Vince Cook, representative the Noller Properties explained the project and stood for questions.

Mayor Wagnon asked Councilmembers to declare exparte communications. There were none.

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

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, McClinton, Dunn, Carkhuff, Duffy, Hill, and Lee -8.

ZONING PETITION (Z99/43) by Ross A. and Marie P. Clemmons, proposing to amend the district zoning classification from "C-2" Commercial District to "C-3" Commercial District on property located at the northeast corner of SE Chester Avenue and SE Sardou Street in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17467 introduced by Mayor Joan Wagnon 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 the northeast corner of SE Chester Avenue and SE Sardou Street in the City of Topeka, Kansas from "C-2" Commercial District to "C-3" Commercial District, placed on first reading February 1, 2000, was again presented. (Z99/43)

Barry Beagle gave the staff report. He explained the Planning staff's principal objections and concern of the petition.

Mayor Wagnon gave an opportunity for anyone present to speak.

Ross Clemmons, the applicant stated that he purchased the property in September of 1999. He stated that ten to fifteen cars maximum would be displayed on the lot. He stated that it would not clutter the neighborhood or cause excessive traffic. He explained that the property is no longer be abandoned, nor is it an eyesore. He also stated that it would provide for two jobs and would generate sales tax revenue.

Harold Harrick, Realtor appeared in support of the petition. He stated that many service stations in the City have been converted to car lots and it has not been detrimental to the neighborhood.

Bill Heath, nearby business owner appeared in support of the petition.

Mayor Wagnon asked Councilmembers to declare exparte communications.

Councilmember Alcala stated that he has spoken with Ross Clemmons, the NIA and has had phone conversations with other people involved with the project.

Councilmember Dunn stated that she has had discussions with the NIA in favor of the petition and received several phone calls.

Councilmember Dunn moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Duffy carried. (6-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers McClinton, Dunn, Carkhuff, Duffy, Hill, and Lee -6. Noes: Councilmembers Pomeroy and Alcala -2.

A COMMUNICATION from Royce and Karolyn Fullmer requesting to vacate a platted drainage easement dedicated with the Sherwood Estates Subdivision No. 58 in 1989, was presented. The property is located within the 3-mile extraterritorial limit of the City of Topeka.

Barry Beagle gave the staff report.

Councilmember Duffy asked why the easement existed in the first place.

Barry Beagle stated that it was a dual utility and drainage easement.

Councilmember Pomeroy moved to receive the communication. The motion was seconded by Councilmember Dunn.

Councilmembers Lee and Duffy commented that the Public Improvement Committee was currently reviewing these types of drainage concerns.

Councilmember Lee asked who is responsible for drainage on this property.

Linda Jeffrey, City Attorney stated that the City has no legal responsibility or liability for drainage on the property. She stated that it is in the Sherwood Improvement District and the County would have to resolve that issue.

The motion to receive the communication carried. Councilmember Duffy voted "no". (7-1-0)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE, introduced by Mayor Joan Wagnon which provides for amendments to the Comprehensive Zoning regulations including definitions, removal of sign, and temporary sign regulations and the repeal of Topeka City Code provisions relating to temporary signs and removal of signs, placed on first reading February 1, 2000, was again presented.

Deputy Mayor Carkhuff referred the ordinance to the Economic Development Committee for review.

A FINAL PLAT for the Topeka Baptist Church Subdivision on property located at the southeast corner of SW 45th Street and SW Gage Boulevard in the City of Topeka, Kansas, was presented.

Councilmember Dunn moved to accept public dedication. The motion seconded by Councilmember Lee carried unanimously. (8-0-0)

A FINAL PLAT for McFarland Farm Subdivision, a 45.89 acre, fifteen lot residential subdivision on property located at 4401 SW 10th Avenue in the City of Topeka, Kansas, was presented.

Councilmember Dunn moved to accept public dedication. The motion seconded by Councilmember Lee carried unanimously. (8-0-0)

A FINAL PLAT for Sherwood Park Subdivision No. 4, a 23.14-acre, sixty-one lot residential subdivision on property extending west of Indian Hills Road at approximately SW 27th Street in unincorporated Shawnee County, Kansas, was presented.

RESOLUTION NO. 7045 introduced by Mayor Joan Wagnon, relating to Sherwood Park Subdivision, was presented.

John Dugan, Planning Director gave the staff report.

Doug Wright, representative for the developer stated that the development is in compliance with all requests of the City and the plat is in order for acceptance by the City.

Tony Smith, adjoining property owner requested consent to annexation occur prior to development of homes so potential homeowners could be made aware of the annexation.

Councilmember McClinton moved to adopt the resolution. The motion was seconded by Councilmember Pomeroy.

Councilmember Duffy expressed his concerns about accepting the open space for a park because of the water retention and storm water run-off.

Doug Wright stated that the land could not be built upon.

Councilmember Pomeroy stated that they were in no position to decide if this would be a park.

Councilmember Pomeroy moved to delete lines ten through twelve on the second page. The motion seconded by Councilmember Dunn carried. Councilmember Alcalá voted "no". (7-1-0)

The motion to adopt the resolution as amended carried. Councilmember Alcalá voted "no". (7-1-0)

Councilmember Pomeroy moved to accept public dedication. The motion was seconded by Councilmember Hill.

Councilmember Duffy stated that he sent a memo to the Planning Director expressing his concerns regarding the plat and comprehensive zoning regulations.

Councilmember Duffy made a substitute motion to table the plat until annexation is completed.

The motion died for lack of a second.

The motion to accept public dedication carried. Councilmember Alcalá, Dunn and Duffy voted "no". (5-3-0)

A Communication from the Public Health and Safety Committee recommending payment of \$2,545.27 on claim appeal for Richard Munoz, was presented.

Councilmember Lee gave the Committee report and explained the recommendations.

Councilmember Lee moved to accept the Committee report and pay the claim in the amount of \$2,545.27. She stated that Mr. Munoz was in agreement that there would be no further claims paid on this property relative to this series of events.

The motion seconded by Councilmember Duffy carried. Councilmember Carkhuff voted "no". (7-1-0)

A Communication from the Public Health and Safety Committee recommending denial of claim appeal for Joseph Ledbetter, was presented.

Mayor Wagnon stated that the applicant has requested that this item be withdrawn.

AN ORDINANCE introduced by Mayor Joan Wagnon, adopting the National Electrical Code, 1999 Edition, amending City of Topeka Code § 26-341, § 26-342, § 26-343, and § 26-382, and specifically repealing said original sections, was presented for first reading.

Mayor Wagnon stated that the following items would be referred to the Economic Development Committee once they are read by the City Clerk.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the City of Topeka's Economic Growth Incentive Program, was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the Advantage Topeka Program, was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the establishment of a cultural arts and entertainment district in the City of Topeka, Kansas, was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the Downtown Revitalization Act, was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the Entrepreneurial Venture and Small Business Loan Program, was presented for first reading.

A RESOLUTION introduced by Councilmember Clark Duffy to begin implementation of the City of Topeka's economic development goals, was presented.

A RESOLUTION introduced by Councilmember Clark Duffy to begin implementation of the City of Topeka's economic development goals, was presented.

Deputy Mayor Carkhuff referred the five ordinances and two resolutions presented by Councilmember Duffy to the Economic Development Committee.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, CAO stated that he recently received a letter from the Heinz Corporation that announced one hundred jobs would be relocated to the Heinz Group here in Topeka from El Paso, Texas. He stated that this was a result of Council action and an economic development audit that was done by the Chamber of Commerce. He stated that a response from the League of Kansas Municipalities has been distributed to Council relating to the request to the League to draft an ordinance on the form of government. He stated that they have also received a packet from the National Civic League that was requested by Councilmember Dunn, which includes their model City ordinance.

Mayor Wagnon distributed copies of a document from John Dugan regarding system enhancement proposals and stated that it serves as a follow up to earlier actions taken by Council.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Dunn asked for details regarding privatizing Rice Community Center.

Mayor Wagnon stated that it has been under discussion for the past one and a half years. She stated that RFP's are out. She explained that the City would repair the building and ask private groups to manage it.

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

Iris Walker
City Clerk