

## City Council Minutes – March 14, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 14, 2000. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Dunn, Carkhuff, Duffy, Lee, Hill, and Gardner –8. Mayor Wagnon presided-1. Absent: Councilmember McClinton -1.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Alcalá.

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

Mayor Wagnon stated that Councilmember McClinton was absent because he was attending the National League of Cities meeting in Washington, D.C.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION requesting authorization of a lease agreement of unimproved agricultural ground located south of NW 17<sup>th</sup>, was presented.

A FINAL PLAT for Murray Subdivision No. 8 on property located at the southwest corner of NW Walnut Road and NW Dondee Lane in unincorporated Shawnee County, Kansas, was presented.

A COMMUNICATION recommending approval of the Workers' Compensation settlement agreement for Vicki Trembly in the amount of \$23,000, was presented.

Minutes of the Regular Meeting of March 7, 2000, were presented.

Councilmember Dunn noted two corrections to the minutes. She pointed out that the claim appeal for Karen Black, located on page 71, was withdrawn by Mayor Wagnon and referred to the Legal Department, and gave the correct spelling to Gene Bilynsky's name, located on page 77.

Councilmember Lee moved to approve the consent agenda with the corrections to the minutes. The motion seconded by Councilmember Dunn carried. Councilmember Duffy voted "no". (7-1-0)

PETITION, PROJECT BUDGET AND RESOLUTION NO. 7051 regarding the improvement of Aries Avenue of the Aquarian Acres Subdivision, Street Improvement Project No. 60554, in the amount of \$100,985, were presented.

Mayor Wagnon stated that the additional information that was requested at last week's Council meeting has been provided as part of the Council packet.

Eric Dinkel, developer appeared to answer questions. He explained the lot sizes and stated that they were in compliance with what is on file at the Register of Deeds.

Councilmember Alcalá asked Eric Dinkel if he has met with the neighbors and if he has considered removing them from the improvement district.

Mr. Dinkel stated that he offered to allow Mr. Gonzales to pay one half of his share of the assessment amount, but he declined. He stated that Mr. Gonzales' properties would benefit from the improvement and should be part of it.

Councilmember Lee asked how much the neighbors would be assessed.

Eric Dinkel stated that approximately \$3,000 to \$3,700.

Mayor Wagnon noted that the intent and agreement made in 1985 by the original developer was not recorded and is not a legal document.

Councilmember Alcalá asked Mr. Gonzales if he was willing to compromise or negotiate on the assessment amount.

Mr. Gonzales stated that the intent of the letter from Mr. Bohl was that the residents would not have to pay for the street improvement and it should be honored. He stated that he is financially responsible for the improvement of his driveway. He requested that these items be postponed so that he could contact an attorney.

Linda Jeffrey, City Attorney explained the deed restrictions that were distributed to each Councilmember. She stated that there was no indication in the restrictions that the developer would pay for improvements to the street.

Councilmember Dunn moved to reduce the district by removing Mr. Gonzales and Mr. Bowman's lots from the improvement district. The motion was seconded by Councilmember Alcalá.

Councilmember Pomeroy stated that he could not support removing the vacant lot from the improvement district, because that lot could be developed.

The motion failed. Councilmembers Pomeroy, Carkhuff, Duffy and Lee voted "no". (4-4-0)

Councilmember Dunn moved to defer the item for two weeks. The motion was seconded by Councilmember Gardner.

Councilmember Carkhuff suggested they exempt the two houses that were already there, which would be lots one and fifteen.

Councilmember Gardner withdrew his second to Councilmember Dunn's motion.

Councilmember Dunn withdrew her motion.

Councilmember Carkhuff moved to exempt lots one and fifteen from the improvement district and spread the cost of the project over the remaining thirteen lots. The motion was seconded by Councilmember Gardner.

Councilmember Dunn stated that she could not support the motion because the purchasers of the property thought this cost was included with the cost of their lots.

Councilmember Alcalá stated that he agreed with Councilmember Dunn.

The motion carried. Councilmembers Dunn and Alcalá voted "no". (6-2-0)

Councilmember Carkhuff asked if the 125 feet that borders lots one and fifteen will be paved.

Eric Dinkel stated that they would be paved.

Councilmember Pomeroy moved to approve the petition and project budget and adopt the resolution as amended. The motion seconded by Councilmember Lee carried. Councilmembers Dunn and Alcalá voted "no". (6-2-0)

PROJECT BUDGET for the replacement of Burlingame Road Bridge Project No. 12044 over the south Shunganunga Creek, was presented.

ORDINANCE NO. 17476 introduced by Mayor Joan Wagnon, authorizing Bridge Project No. 12044, which provides for construction of the bridge and approaches of Burlingame Road over Shunganunga Creek, north of 45<sup>th</sup> Street and Burlingame Road, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading March 7, 2000, was again presented.

Norm Davis, Engineering Division gave the staff report.

Councilmember Dunn moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Carkhuff.

Councilmember Duffy stated that he was opposed to the project because it is the first appropriation of money for the next fiscal year and should be considered during the next budget process.

When asked if they would lose funding if the budget and ordinance was not approved at this time, Norm Davis responded that they would not lose funding but in order to meet the State's deadlines they need to begin acquiring the right-of-way and moving utilities now.

The motion carried. Councilmembers Duffy and Lee voted "no". (6-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Dunn, Carkhuff, Hill and Gardner-6. Noes: Councilmembers Duffy and Lee -2. Absent: Councilmember McClinton -1.

PROJECT BUDGET for Trafficway Improvement Project No. 70179 to reconstruct Huntoon Street 350' east of Fairlawn Road to McAlister Street, was presented.

AN ORDINANCE introduced by Mayor Joan Wagnon designating and establishing Trafficway Improvement Project No. 70179 of the City of Topeka and authorizing the improvement of said trafficway located at Huntoon Street from 300 feet east of Fairlawn Road to McAlister Street, hereinafter known as Trafficway Improvement Project No. 70179, all under the authority of K.S.A. 12-685 et seq, placed on first reading March 7, 2000, was again presented.

Councilmember Pomeroy challenged why the ordinance was on the agenda because it takes two votes to refer an item out of Committee.

Mayor Wagnon explained that it was never referred to Committee, it is an informal process to allow the Public Improvements Committee to review it.

Tim Green, Project Engineer gave the staff report.

Councilmember Gardner asked about the access points to McFarland Farms.

Tim Green stated that there is one access onto 10<sup>th</sup> Street and another gated access onto Huntoon Street.

Councilmember Gardner stated that both Huntoon and 10<sup>th</sup> Street needs to be improved. He requested traffic data for 10<sup>th</sup> Street as was done with Huntoon Street.

Councilmember Duffy stated that he voted no in committee because the City is committing property tax, sales tax and street funds to this project. He stated that other projects could only be funded with General Obligation Bonds and he preferred that this project go through the normal appropriation process. He stated that the highest ranked projects for level of service and accidents should be done first. He stated that this project was premature.

Councilmember Duffy moved to amend Section 3, line 34 to strike \$871,370 GOB funding for the project in lieu of the following: \$74,100 for sidewalks from abutting property owners; \$351,658 from Storm Water Utility; \$47,800 from the Water fund; and \$397,812 from the Street fund. The motion was seconded by Councilmember Gardner.

Councilmember Gardner stated that if the development is causing this need for improvements, the City needs to get a policy in place that would require the developer to help pay for improvements.

Councilmember Hill stated that she could not support property owners paying for a portion of the improvements. She noted that the project was in the Capital Improvement Program.

Councilmember Pomeroy stated that he was uncomfortable addressing the project without a map. He stated that he was not sure how many lanes should be in the project.

Councilmember Gardner stated that he was opposed to referring it back to committee because the project started in 1998 and the design work has been done. He stated that Councilmember Duffy's issues have merit, but the timing may not be appropriate.

Mayor Wagnon stated that she would like to find out what impact the project would have on the water and stormwater fund.

Deputy Mayor Carkhuff referred the project budget and ordinance to the Public Improvements Committee.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE NO. 17477 introduced by Mayor Joan Wagnon pertaining to an amendment to the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan, placed on first reading March 7, 2000, was again presented.  
(CPA00/01)

ZONING PETITION Z00/01 to amend the district zoning classification from "R-1" Single Family Dwelling District to "PUD" Planned Unit Development District on property commonly known as the Topeka State Hospital and generally bounded by I-70, SW 6<sup>th</sup> Street, SW MacVicar Avenue and SW Oakley Avenue to the north, south, east and west in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17478 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 commonly known as the Topeka State Hospital Complex and generally bounded by S.W. 6<sup>th</sup> Street, I-70, S.W. MacVicar Avenue and S.W. Oakley Street to the south, north, east and west respectively, in the City of Topeka, Kansas, from "R-1" Single Family Dwelling District all to "PUD" Planned Unit Development District (mixed land use), placed on first reading March 7, 2000, was again presented. (Z00/01)

Mayor Wagnon noted that public comment regarding the Topeka State Hospital grounds was held last week.

Councilmember Gardner moved to adopt the joint ordinance, zoning petition and zoning ordinance. The motion was seconded by Councilmember Dunn.

Mayor Wagnon asked the Councilmembers to declare *ex parte* communications.

Councilmembers Pomeroy, Dunn, Hill, Lee, Gardner and Carkhuff stated that they have had discussions with people surrounding the project.

Councilmember Lee suggested deferring the vote until full Council is present.

Mayor Wagnon stated that there might not be a full Council for several weeks.

Councilmember Pomeroy moved to add a requirement to the Master PUD that states "any demolition permit would come before Council prior to its issuance". The motion was seconded by Councilmember Dunn.

Councilmember Gardner stated that he was opposed to creating unnecessary barriers to the development.

Councilmember Lee stated that she supports the amendment but expressed concerns about the building that is being utilized by the blind.

The motion failed. Councilmembers Alcalá, Dunn, Carkhuff, Hill, Duffy and Gardner voted "no".

(2-6-0)

Councilmember Pomeroy moved to add a requirement to the Master PUD that states, "any demolition permit for a building that is more than seventy-five years old is required to come before Council prior to its issuance". The motion was seconded by Councilmember Dunn.

Councilmember Gardner stated that he was opposed to the motion because it hampers the prospect of development.

Councilmember Lee noted a letter that was submitted to Council by Martha Haggendorn Krause that includes her recommendations.

The motion failed. Councilmembers Alcala, Dunn, Carkhuff, Hill and Gardner voted "no". (3-5-0)

Councilmember Gardner moved to place a restriction on the Master PUD that states, "the center Administration Building cannot be demolished before April 1, 2001". The motion was seconded by Councilmember Dunn.

Councilmember Gardner stated that this would allow one year for any group wanting to preserve the building to come forward.

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

Councilmember Pomeroy moved further restrict the Master PUD by adding, "after April 1, 2001, any demolition permit for the Administration Building is required to come before Council". The motion was seconded by Councilmember Dunn.

Councilmember Gardner stated that he was opposed to the motion.

Councilmember Duffy stated that he supported the motion because it should be a decision of the local government.

The motion failed. Councilmembers Alcala, Dunn, Carkhuff, Hill and Gardner voted "no". (3-5-0)

Councilmember Carkhuff stated that he wanted assurance that the City will have enough right-of-way for future street improvements at 6<sup>th</sup> Street and Oakley.



Barry Beagle, Planning Department explained that the plan includes a right-of-way for the east side of 6<sup>th</sup> Street and Oakley.

Councilmember Carkhuff asked about quality standards of the multi-family project. He stated that the project needs to maintain a high level of quality and should complement the redevelopment plan so that it will stay in keeping with the character of the neighborhood ten years from now.

Nancy Sykes, representative of MRV and Associates stated that they recognize that this is a special piece of property. She stated that she has been discussing the plan with John Dugan, Planning Director, and will continue to work with him to ensure the development maintains a conformance direction.

Councilmember Pomeroy stated that it was important that the project have an access point off of Gage Boulevard.

The motion to adopt the joint ordinance, zoning petition and zoning ordinance carried unanimously. (8-0-0)

Both ordinances were adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Duffy, Dunn, Carkhuff, Hill, Lee and Gardner-8. Absent: Councilmember McClinton -1.

ZONING PETITION (Z00/02) by Mary Jean Beard requesting to amend the District Zoning Classification from "M-1" Two-Family Dwelling District to "M-S" Medical Services District on property located at the southwest corner of SW 7<sup>th</sup> Street and SW Lane Street, in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17479 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 at 701 SW Lane Street in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District to "M-S" Medical Services District, placed on first reading March 7, 2000, was again presented. (Z00/02)

Mayor Wagnon gave the opportunity for anyone present to speak.

Steve Ballou, Associate for Associated Commercial Brokers appeared to answer questions.

Mayor Wagnon asked the Councilmembers to declare ex parte communications. There were none.

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

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Duffy, Dunn, Carkhuff, Hill, Lee and Gardner-8. Absent: Councilmember McClinton -1.

RESOLUTION NO. 7052 introduced by Mayor Joan Wagnon in accordance with Section 48-25.01 of the Code of the City of Topeka, approving a City of Topeka Conditional Use Permit to establish a public utility structure on property currently zoned "R-1" Single Family Dwelling District and located at 2200 SW Central Park Avenue in the City of Topeka, Kansas, was presented. (CU00/1)

Mark Green, Engineering Division gave the staff report. He stated that they worked with Quinton Heights Neighborhood Association on the project.

Councilmember Duffy commended Mark Green for working with the NIA on the project.

Ellen Ross, President of the Quinton Heights-Steele NIA thanked Mark Green and his staff for working with the neighborhood.

Councilmember Lee moved to adopt the resolution. The motion seconded by Councilmember Hill carried unanimously. (8-0-0)

Mayor Wagnon withdrew item 6A, discussion regarding the settlement of H.T. Paul Company, Inc. v. City of Topeka. She stated that there would be an executive session for Tuesday, March 21, 2000 at 6:30p.m. to discuss the settlement.

A CHARTER ORDINANCE introduced by Mayor Joan Wagnon exempting the City of Topeka, Kansas, from the provisions of K.S.A. 12-1695 and K.S.A. 12-16, 101 relating to the establishment of a

Convention and Tourism Committee in accordance with transient guest tax provisions, was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, CAO expressed concern regarding the increase in gas prices and how it will impact the budget. He stated that he has instructed City staff to continually provide him with updates on how gasoline prices are affecting their budgets.

Councilmember Gardner asked John Arnold to draft a letter to the congressional delegation encouraging them to repeal the 1993 four-cent sales tax on gasoline.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lee asked for an update regarding the claim appeal of Karen Black, which was referred to the Legal Department last week.

Linda Jeffrey stated that progress is being made and it should be resolved soon.

Councilmember Dunn asked when the HRC ordinance would be presented to Council for approval. She also asked for a report regarding HRC.

Councilmember Lee commended Karen Holstein, Director of Finance, for the recent award she received for her excellence in financial reporting.

Councilmember Pomeroy stated that he recently returned from the National League of Cities conference in Washington, D.C. He stated that one of the most important issues came from Mayor Bob Knight from Wichita. He explained some of Mayor Knight's efforts to undo racism and gave some highlights from a brochure he received.

Councilmember Hill stated that she received a memo that Huntoon Street will be closed March 16, 2000 and asked why.

Jeff White, Public Works Director stated that it would be closed due to a water line replacement and will be closed for approximately two weeks.

Councilmember Dunn stated that she was recently chosen to attend a National Leadership conference in Washington, D.C. She stated that there was emphasis on racism, family and faith. She stated that Kansas was very well represented.

Councilmember Alcalá stated that he has received several calls regarding the clean up process with John Levin's area. He stated that he has five weeks remaining to clean up the debris on his property.

Mayor Wagnon stated the clean up process has taken longer because of difficulties in obtaining all the necessary permits.

Councilmember Duffy stated that oral history is a contribution to society but should not determine procedures or actions by the City Council. He stated that he would like to work with someone on a process to document oral procedure of Council Committee meetings. He also commended Mayor Wagnon for the reorganization she has done with Housing and Neighborhood Development. He stated that it clearly has put the department on the right track.

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

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Iris Walker  
City Clerk

## Special Session

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 14, 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, Duffy, Carkhuff, Duffy, Hill, Lee and Gardner –8. Mayor Wagnon presided –1. Absent: Councilmember McClinton -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 March 14, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street to obtain citizen comment and review of a property tax exemption ordinance for improvements to real and personal property on behalf of Mainline Printing, Inc., located at 818 SE Adams, in the City of Topeka.

John Dugan, Director of Planning gave the staff report.

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

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

ORDINANCE NO. 17474 introduced by Mayor Joan Wagnon and Councilmember John Alcalá, exempting certain property, more specifically property owned by Mainline Printing, Inc., from ad valorem taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at 818 Adams, Topeka, Kansas, placed on first reading March 7, 2000, was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Duffy, Dunn, Carkhuff, Hill, Lee and Gardner-8. Absent: Councilmember McClinton -1.

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Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas held on March 14, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street in conjunction with vacation request V00S/1 by Frank and Anita Pase, owners of Lot 28, Terra Heights Subdivision, City of Topeka, Shawnee County, Kansas, to vacate a 50-foot wide public right-of-way located on the south side of SW Sanneman Drive between Lots 28 and 30.

Barry Beagle, Planning Department gave the staff report.

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

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

ORDINANCE NO. 17475 introduced by Mayor Joan Wagnon relating to the vacation of a 50-foot wide public right-of-way as dedicated by Terra Heights Subdivision, City of Topeka, Shawnee County, Kansas; on property located on the south side of SW Sanneman Drive in the City of Topeka, Kansas, placed on first reading March 7, 2000, was again presented. (V00S/1)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Duffy, Dunn, Carkhuff, Hill, Lee and Gardner-8. Absent: Councilmember McClinton -1.

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Iris Walker  
City Clerk