

City Council Minutes – June 6, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 6, 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, and Hill –7. Mayor Wagnon presided -1. Absent: Councilmembers McClinton and Gardner -2.

AFTER THE MEETING was called to order, prayer was offered by Reverend Gregory Durant, New Light Baptist Church.

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

Mayor Wagnon stated that Councilmember McClinton was absent because he was attending business out of town.

Mayor Wagnon stated that Items 2A, a Final Plat for West Indian Hills Subdivision No. 11, 2C, a Final Plat for Clark Subdivision No. 2, 2E, a claim appeal and 2F, a Labor Contract between the City of Topeka and AFSCME, Local 1593 would be removed from the consent agenda and placed directly following the special presentation as requested by Councilmembers Duffy and Dunn.

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Family Fitness Center Subdivision on property located at the southwest corner of SW 42nd Street and SW Gage Boulevard in the City of Topeka, Kansas, was presented.

A COMMUNICATION recommending approval of a Workers' Compensation settlement agreement for Linda Osborne in the amount of \$32,500, was presented.

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

A & A Inc	2525 SW 29th Street	Kwik Shop #720	102 W 37th Street
Albertson's Food Center	5100 SW 29th Street	Kwik Shop #729	1700 Topeka Blvd
California Amoco	2740 California	Kwik Shop #732	5954 SW 29th Street
Charles R Wood Oil Co Inc	101 NE Hwy 24	Kwik Shop #737	801 Topeka Blvd

Charles R Wood Oil Co Inc	4601 S South Topeka Blvd	Kwik Shop #740	2277 SW 10th Street
Conoco #16004	1531 SW Wanamaker	Kwik Shop #743	5633 SW 21st Street
Conoco #16005	3830 SW 29th Street	Kwik Shop #757	2619 SW 21st Street
Delvin's One Stop	5943 SW 29th Street	Kwik Shop #778	738 SW Gage
Dillon's Store #28	300 W 29th Street	Kwik Shop #788	1414 SW 17th Street
Dillon's Store #47	2815 W 29th Street	Kwik Shop #789	746 Wabash
Dillon's Store #58	1400 Huntoon	Lakeview Amoco	3000 SE Croco
Dillon's Store #64	5720 W 21st Street	Larry's Shortstop	3834 S Topeka Blvd
Dillon's Store #67	2010 SE 29th Street	Mikes IGA	2620 NE Sardou
Downtown Amoco	600 SE Quincy	Oakmart Total	2518 NE Seward
Eakes & Steinbock	1401 NE Seward	Osco Drug #2089	2835 SW Wanamaker Rd
Fairlawn North 66	600 Fairlawn	Petro & Pantry #5	1611 E 29th Street
Fairlawn South 66	2836 Fairlawn Road	Prize Package Store	1420 E 6th Street
Falley's #1	3000 N Kansas Ave	Quality Gas & Shop Inc	1900 N Topeka
Falley's #2	1945 Gage	Quick Pic Inc #1	1000 SW Wanamaker
Falley's #27	1920 W 10th Street	Quick Pic Inc #3	2201 SW 6th Street
Falley's #4	3712 Burlingame	Quick Pic Inc #4	1020 N Topeka Blvd
Food 4 Less #11	1133 Wanamaker Rd	Rex's Texaco	2855 SW Wanamaker Rd
Food 4 Less #12	2210 N Tyler	Russ IGA Market	107 S Highway 24
Food 4 Less #3	2021 SE 29th Street	Sam's Club #8176	1401 SW Wanamaker
Food 4 Less #6	3110 E 6th Street	South Gage 66 #29136	3300 Gage
Herman's Beef&Sausage	823 W Gordon	Tilton's Oakland Market Inc	1905 Seward
J M Bauersfeld's	2020 NW Topeka Ave	Tilton's Westside Inc	1100 W 6th Street
J M Bauersfeld's	4015 SW 10th Street	Topeka Truck Plaza	1235 SW Wanamaker Rd
J M Bauersfeld's	2919 SW Wanamaker Rd	Total #4174	1161 SW Gage Blvd
Kelly Express	1001 SW Wanamaker	U Market Inc	935 SE 21st Street
Kum & Go #322	3335 Gage Blvd	Wal-Mart Super Center	1501 SW Wanamaker
Kwik Shop #705	1114 NW Topeka	Woods Mini Mart	1320 SW 6th Street
Kwik Shop #719	1107 W 6th Street		

Minutes of the Regular Meetings of May 16 and May 23 and revised Minutes of May 9, 2000, were presented.

Councilmember Lee moved to approve the consent agenda as amended. The motion seconded by Councilmember Hill carried unanimously. (7-0-0)

PRESENTATION to Bill Kentling, Heartland Park, was presented.

Mayor Wagnon and Deputy Mayor Carkhuff presented a farewell plaque to Bill Kentling, Director of Heartland Park for his leadership and guidance at Heartland Park.

A FINAL PLAT for West Indian Hills Subdivision No. 11 on property located on the east side of SW Stutley Road approximately 1000-feet south of SW 21st Street in the City of Topeka, Kansas, was presented.

Councilmember Duffy expressed concerns that this could result in future drainage problems.

Barry Beagle, Planning Department explained that the drainage would not be impacted with this change. He stated that the set back requirements have been reduced from 30 to 25 feet.

Councilmember Hill moved to accept the public dedication. The motion seconded by Councilmember Lee carried unanimously. (7-0-0)

A FINAL PLAT for Clark Subdivision No. 2 on property located on the west side of SE Bennett Road, extending approximately from SE 23rd to SE 25th Streets in Unincorporated Shawnee County, Kansas, was presented.

Councilmember Duffy commented that he was opposed to the final plat because, in his opinion, it is not consistent with the Comprehensive Plan.

Councilmember Pomeroy moved to accept the public dedication. The motion seconded by Councilmember Hill carried. Councilmember Duffy voted "no". (6-1-0)

A Communication from the Public Health and Safety recommending denial of claim appeal for Frank Kirtdoll, was presented.

Linda Jeffrey, City Attorney explained the claim and why she recommended denial.

Frank Kirtdoll explained why he disagreed with the City Attorney's recommendations.

Councilmember Dunn asked for a report from the Committee.

Councilmember Lee gave the Committee report and explained the history of the demolition of the Garfield Building. She stated that Mr. Kirtdoll knew of the pending demolition before he purchased the building.

Linda Jeffrey outlined the process for demolition of the building.

Councilmember Lee moved to uphold the recommendations of the Public Health and Safety Committee to deny the claim. The motion seconded by Councilmember Duffy carried. Councilmembers Dunn and Alcalá voted "no". (5-2-0)

LABOR CONTRACT NO. 30569 between the City of Topeka and the American Federation of State, County and Municipal Employees (AFSCME), Local 1593, Development Services Division providing for working conditions within the bargaining unit including wage adjustment for 2000 and 2001, was presented.

Howard Uhl, Assistant Code Enforcement Director for the City explained the 2000 and 2001 financial allocations for Building Inspectors and one Zoning Inspector. He stated that there are a total of 13 positions.

Councilmember Carkhuff expressed concerns about the lack of building inspectors for the on-going construction and remodeling within the City.

Councilmember Dunn moved to accept the labor union contract. The motion seconded by Councilmember Lee carried unanimously. (7-0-0)

ORDINANCE NO. 17508 introduced by Mayor Joan Wagnon amending § 107, Fees of the Uniform Building Code, 1997 Edition, placed on first reading March 7, 2000, was again presented.

Councilmember Pomeroy gave the Committee report.

Jeff White, Director of Public Works gave the staff report.

Councilmember Alcalá moved to amend the language on lines 22 and 25 to change "50%" to "20%". The motion was seconded by Councilmember Dunn.

Councilmember Lee made a substitute motion to amend the language on lines 22 and 25 to change "50%" to "30%".

The motion died for lack of a second.

Councilmember Alcalá made a substitute motion to amend the language on lines 22 and 25 to change "50%" to "25%". The motion seconded by Councilmember Dunn failed. Councilmembers Dunn, Carkhuff and Duffy voted "no". (4-3-0)

Questions were raised about the \$5 million threshold, if there would be a formula to base the amount of the waiver on, and if sales tax revenue going to GO Topeka could be used to pay fees for economic development projects.

Councilmember Dunn made a substitute motion to insert language on line 26 that states, "the fee would not be granted if other economic development tax incentives are utilized or for an entity that is exempt from property tax". The motion was seconded by Councilmember Lee.

Linda Jeffrey stated that she would draft the language into the ordinance.

The motion carried. Councilmembers Pomeroy and Duffy voted "no". (5-2-0)

Councilmember Dunn moved to amend the language on lines 22 and 25 to change "50%" to "25%". The motion seconded by Councilmember Alcalá carried. Councilmembers Carkhuff and Duffy voted "no". (5-2-0)

The ordinance as amended was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Dunn, Carkhuff, Duffy, Lee, and Hill -7. Absent: Councilmembers McClinton and Gardner -2.

Mayor Wagnon left the meeting.

ZONING PETITION (Z00/18) by Concrete Unlimited Construction, Inc. requesting to amend the District Zoning Classification from "C-4" Commercial District and "C-4" Commercial District with Resolution of Intent to "I-2" Heavy Industrial District all to "I-2" Heavy Industrial District on property located east of SE Wittenberg Road and situated between SE 21st Street and the Kansas Turnpike in the City of Topeka, Kansas, was presented.

AN ORDINANCE 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 on the west side of the Kansas Turnpike Interchange situated between SE 21st Street and the Kansas Turnpike in the City of Topeka, Kansas from "C-4" Commercial District and "C-4" Commercial District with Resolution of Intent for "I-2" Heavy Industrial District and "I-1" Light

Industrial District all to "I-2" Heavy Industrial District, placed on first reading May 2, 2000, was again presented. (Z00/18)

A COMMUNICATION by Concrete Unlimited Construction, Inc. requesting a waiver to the provisions of the Shawnee County Wastewater Management Plan, was presented.

Barry Beagle gave the staff report. He stated that the Zoning and Platting Committee recommended disapproval because it was not an appropriate use along the gateway into the City.

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

John Hamilton, Attorney representing the applicant and Penney's Concrete Inc. appeared to explain the project and addressed the concerns expressed.

David Hoover, President of Penney's Concrete Inc. appeared to explain the background of his Company and the impacts the proposal would have on neighborhoods in Topeka.

Several Councilmembers expressed concerns about upgrading the area to I-2 heavy industrial, possible obnoxious odors, the danger of heavy trucks traveling west on 21st Street because of the incline, and lights and noise generated by truck traffic. They suggested that possible alternative sites be considered.

Representatives from the East End NIA appeared in opposition to the proposal. They commented that through truck traffic creates too much danger to the residential areas and there are other areas in Topeka already zoned for heavy industrial usage.

David Hoover responded to the concerns expressed.

Barry Beagle explained the differences between I-1 and I-2 classifications. He stated that the proposal is uncharacteristic of the land uses they would support for this area.

Dave Ireland, Chairman of the Zoning and Platting Committee stated that he visited the Penney's Concrete plants in Lawrence and Kansas City. He stated that he was opposed to the proposal because it would create a negative impact and it is not an appropriate land use for the area.

Deputy Mayor Carkhuff asked the Councilmembers to declare exparte communications.

Councilmembers Pomeroy, Alcala, Dunn, Carkhuff, Duffy, Lee and Hill stated that they have had communications with people surrounding the proposal.

Councilmember Dunn moved to approve the recommendations by the Zoning and Platting Committee and staff to disapprove the petition and communication. The motion seconded by Councilmember Lee carried. Councilmember Carkhuff voted "no". (6-1-0)

PROJECT BUDGET for the replacement of a water main attached to the north bound Westgate Bridge across the Kansas River, Project No. 28403, was presented.

ORDINANCE NO. 17509 introduced by Mayor Joan Wagnon approving the proposed improvements to the Municipally owned water system of the City of Topeka, Shawnee County, Kansas, by removing and replacing the existing 12 inch main waterline supported by the existing Westgate Bridge with a new 24 inch waterline and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the Governing Body 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, placed on first reading May 23, 2000, was again presented.

Councilmember Lee moved to approve the project budget. The motion seconded by Councilmember Carkhuff carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Dunn, Carkhuff, Duffy, Lee, and Hill -7.

PROJECT BUDGET for the Signalization Upgrade at SE 6th Avenue and SE Monroe Street, Project No. 14085, was presented.

ORDINANCE NO. 17510 introduced by Mayor Joan Wagnon, authorizing Improvement Project 14085, which provides for the installation of a new mast arm traffic signal system at SE 6th Avenue and SE Monroe Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 23, 2000, was again presented.

Councilmember Lee moved to approve the project budget. The motion seconded by Councilmember Carkhuff carried. (6-1-0)

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

PROJECT BUDGET for the Signalization Upgrade at SE 8th Street and SE Monroe Street, Project No. 14093, was presented.

ORDINANCE NO. 17511 introduced by Mayor Joan Wagnon, authorizing Improvement Project 14093, which provides for the installation of a new mast arm traffic signal system at SE 8th Street and SE Monroe Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 23, 2000, was again presented.

Councilmember Alcalá moved to approve the project budget. The motion seconded by Councilmember Hill carried. (6-1-0)

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

PROJECT BUDGET for the preliminary design and property appraisal for the 9th and Kansas Parking Garage Project No. 13126, was presented.

ORDINANCE NO. 17512 introduced by Mayor Joan Wagnon, authorizing City of Topeka Project No. 13126, which provides for preliminary design and right-of-way review for a new parking garage at 9th and Kansas as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 23, 2000, was again presented.

Jeff White, Director of Public Works gave the staff report.

Councilmember Lee moved to approve the project budget. The motion seconded by Councilmember Carkhuff failed. Councilmembers Alcalá, Dunn and Hill voted "no". (4-3-0)

Councilmember Hill moved to reconsider the previous action. The motion seconded by Councilmember Carkhuff carried. Councilmembers Dunn and Alcala voted "no". (5-2-0)

Councilmember Duffy moved to approve the project budget and adopt the ordinance with the intention to approve the demolition permit when it comes before the Council. The motion was seconded by Councilmember Lee.

Councilmember Pomeroy made a substitute motion to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Carkhuff carried. Councilmembers Alcala and Dunn voted "no". (5-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Carkhuff, Duffy, Lee, and Hill -5. Noes: Councilmembers Alcala and Dunn -2. Absent: Councilmembers McClinton and Gardner -2.

RESOLUTION NO. 7067 introduced by Mayor Joan Wagon, canceling the Council meeting of July 5, 2000, was presented.

Councilmember Alcala spoke in opposition to the resolution.

Councilmember Duffy moved to approve the resolution. The motion seconded by Councilmember Carkhuff carried. Councilmember Alcala voted "no". (6-1-0)

AN ORDINANCE introduced by Councilmember Sam Carkhuff prohibiting smoking in restaurants, amending City of Topeka Code §§ 78-226, 78-229, 78-233 and 78-238 and specifically repealing said original sections, was presented for first reading.

Several Councilmembers encouraged people to submit their opinions about the proposal via phone call or e-mail.

Linda Jeffrey gave a presentation regarding the State Statute that addresses smoking in public places.

AN ORDINANCE introduced by Mayor Joan Wagnon, authorizing Improvement Project No. 30127, Phase 7, which provides for the construction of a pedestrian/bicycle trail as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

Councilmember Duffy requested that a presentation be given to Council about the Heritage trail system. He asked what plans are being used to develop the Shunga Trail.

AN ORDINANCE introduced by Mayor Joan Wagnon relating to moved buildings, amending Section 3404 - Moved Buildings, of the Uniform Building Code, 1997 Edition, City of Topeka Code § 26-422, Section 101.5.6, moved buildings, and City of Topeka Code § 26-607, Application; fee, and specifically repealing said original sections, was presented for first reading.

AN ORDINANCE introduced by Mayor Joan Wagnon relating to the vacation of a 20 foot wide public alley as dedicated by Horne's 2nd Addition, City of Topeka Shawnee County, Kansas, on property located between SW Horne Street and SW Washburn Avenue, the centerline of which is approximately 140-feet south of SW 6th Avenue, City of Topeka, Kansas, was presented for first reading. (V00A/4)

AN ORDINANCE 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 on the north side of SE 45th Street, the centerline of which is approximately 860-feet west of SE Adams Street in the City of Topeka, Kansas from "R-1" Single Family Dwelling District to "M-1" Two Family Dwelling District, was presented for first reading. (Z00/21)

AN ORDINANCE 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 southwest corner of SW 8th Street and SW Lane Street in the City of Topeka, Kansas from "O&I-2" Office and Institutional District to "M-S" Medical Services District, was presented for first reading. (Z00/22)

AN ORDINANCE 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 NW Morse Street and NW Polk Street in the City of Topeka, Kansas from "R-2" Single Family Dwelling District to "R-4" Single Family Dwelling District, was presented for first reading. (Z00/24)

Councilmember Dunn moved to extend the meeting until the end of the agenda. The motion seconded by Councilmember Alcalá carried. Councilmember Carkhuff voted "no". Councilmember Duffy was out of the room. (5-2-0)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Lee announced that the Animal Control Advisory Council would meet Thursday, June 8, 2000 at 5:30p.m. in the Law Enforcement Center.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcalá asked that they acknowledge veterans in their prayers today because of D-Day. He asked if there were signed agreements with the developers for WaterTower.

John Arnold, CAO stated that he would provide him with a copy once they are signed.

Councilmember Dunn asked for feedback from the convention held in Las Vegas regarding possibilities for WaterTower 2000.

John Arnold stated that they have had some positive feedback.

Councilmember Alcalá expressed appreciation for the recent NIA award that was given to him by his district.

Councilmember Pomeroy requested information about the delay with the septic tanks converting to the sewer system in North Topeka along Menninger Rd.

Councilmember Dunn asked how many water main breaks there have been over the last few months and what caused them.

Jeff White explained that dryness and changes in the weather cause breaks.

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

Iris Walker
City Clerk