

## City Council Minutes – June 13, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 13, 2000. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, McClinton, Dunn, Carkhuff, Duffy, Lee, Hill, and Gardner –9. Mayor Wagnon presided -1.

AFTER THE MEETING was called to order, prayer was offered by Minister Jorge Quinones, Defenders of the Christian Faith Temple.

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

Councilmembers Alcalá, Dunn and Gardner presented a proclamation to the Starduster's Youth Group for observation of the upcoming Juneteenth Celebration.

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 17513 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, placed on first reading June 6, 2000, was again presented.

A COMMUNICATION requesting acceptance of the Real Estate Officer's Report and approval to dispose of City of Topeka surplus real property located at 1202 SW Clay and adjoining 1015 SW 12<sup>th</sup> Street by negotiated sale to Habitat for Humanity, was presented.

A COMMUNICATION recommending the appointment of Ed Rolfs to the Topeka Metropolitan Transit Authority for a 4-year term, was presented.

Minutes of the Regular Meeting of June 6, 2000, were presented.

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

RESOLUTION NO. 7068 introduced by Mayor Joan Wagnon, which adopts a relocation policy for WaterTower 2000, was presented.

John Arnold, Chief Administrative Officer explained why the City has to adopt a relocation policy.

Kevin Rooney, Neighborhood Services explained the policy and stated that it meets federal guidelines. He stated that no one would be displaced until they have at least one comparable dwelling to consider. He explained how they would provide resources and information to those being relocated, including businesses and non-profit organizations, throughout the process.

Councilmember Alcala moved to defer the resolution for one week because of a large agenda. The motion was seconded by Councilmember Gardner.

Councilmember Lee made a substitute motion to accept the proposal and adopt the relocation policy. The motion was seconded by Councilmember McClinton.

Councilmember Dunn asked if the area has been declared as blight and slum.

Kevin Rooney stated that a blight study was done in the 1980's that recognized the area as slum and blight.

Mayor Wagnon stated that HUD has several objectives and the removal of slum and blight is only one of them. She stated that one national objective is economic development and that is why federal funds are being used.

Councilmember Gardner stated that he would oppose the motion because they have not had an opportunity to visit with HUD and because he does not believe that there will be a redevelopment plan with theaters and restaurants.

Kevin Rooney responded to additional questions about the relocation advisory service and homes in the district.

The substitute motion carried. Councilmembers Alcala, Dunn, Hill and Gardner voted "no". (5-4-0)

AN ORDINANCE introduced by Councilmember Sam Carkhuff prohibiting smoking in restaurants, amending City of Topeka Code §§ 78-229, 78-233 and 78-238 and specifically repealing said original sections, placed on first reading June 6, 2000, was again presented.

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, placed on first reading June 6, 2000, was again presented.

Councilmember Carkhuff explained why he proposed the ordinance. He stated that no establishment could guarantee a non-smoking area without physical barriers in an undivided area. He stated that he has heard a lot of testimony from a large amount of people and found that it was an emotional issue with arguments on both sides.

Councilmember Gardner stated that the ordinance would ban smoking in all restaurants. He commented that the ordinance is not consistent with the objectives as stated.

Councilmember Carkhuff stated that he would like smoking banned in restaurants but would consider amendments.

Councilmember Pomeroy moved to adopt the amendments from the Public Health and Safety Committee and accept both Committee reports. The motion was seconded by Councilmember Lee.

Councilmember Lee explained the amendments.

The motion carried. Councilmembers Dunn and Gardner voted "no". (7-2-0)

Several people appeared to comment about the proposal. Comments included: business owners should have the right to decide; smoking is a choice; approval would have a negative impact on social life; approval would have a negative economic impact on businesses; second hand smoke is unhealthy; restaurants are a public place so they should be non-smoking; approval tells the community that we care about their health; the ordinance is confusing, it should be made simple and ban smoking; statistics have changed, about three-fourths of adults in the County are now non-smokers; air cleaning systems cannot take care of the problem; would lose about 16-17% of sales if approved; businesses should be able to accommodate both smokers and non-smokers; approval would provide cleaner air; food absorbs tobacco smoke, why should we eat it; the ordinance should be

approved locally and then expand to State; a majority of customers are smokers; approval would cripple the businesses of Topeka and customers would go elsewhere.

Councilmember Gardner moved to amend the ordinance in Section 3, Permitted Public Smoking Areas, to add, "Truckstops/Travel Plazas, facilities whose primary business is the sale of diesel fuel and gas with minimum parking for not less than 40 tractor/trailers, to include 24 hour convenience store, truck repair and restaurant, all on same parcel of land, so long as it is posted 'Smoking is allowed in designated areas only'". The motion seconded by Councilmember Hill carried. Councilmembers McClinton, Carkhuff, Duffy and Lee voted "no". (5-4-0)

Councilmember McClinton moved to extend the meeting until the end of "First Readings". The motion was seconded by Councilmember Pomeroy.

Councilmember Alcalá made a substitute motion to extend the meeting until the end of the agenda. The motion seconded by Councilmember Dunn failed. Councilmembers McClinton, Carkhuff, Duffy and Lee voted "no". Councilmember Gardner was out of the room. (4-5-0)

The original motion failed. Councilmembers Alcalá, McClinton, Dunn, Duffy, Hill and Gardner voted "no". (3-6-0)

Councilmember Dunn moved to extend the meeting until the end of the agenda. The motion seconded by Councilmember Alcalá carried. Councilmembers McClinton, Carkhuff, Duffy and Lee voted "no". (5-4-0)

Mayor Wagnon entered the room.

Deputy Mayor Carkhuff suggested removing the ordinances from the agenda because of the late hour.

Mayor Wagnon withdrew the ordinance from the agenda. She stated that it would reappear at a later date.

PROJECT BUDGET AND RESOLUTION NO. 7069 introduced by Mayor Joan Wagnon, describing Street Improvement Project No. 60557 which provides cutback parking improvements along the east side of SW

Jackson Street and the north side of SW 10<sup>th</sup> Street, adjacent to Memorial Hall and authorizing the same, was presented.

Councilmember McClinton moved to disapprove the project budget and resolution. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, Alcala, Carkhuff, Hill, and Gardner voted "no". (4-5-0)

Councilmember Gardner moved to approve the project budget and resolution. The motion was seconded by Councilmember Alcala.

Several Councilmembers spoke in opposition to the proposal because it would remove some of the older trees and landscaping from downtown and commented that the project has not been justified.

Questions were raised about whether the project is being proposed for ADA compliance or because of parking needs.

Anthony Fadale, ADA Coordinator for the State of Kansas explained that the State's concern is to provide accessible parking along an accessible route into the accessible entrance. He noted that the project would provide eleven additional parking spaces with four van accessible parking spaces at various locations.

Jeff White, Director of Public Works explained that this is a partnership with the State to provide accessible parking downtown.

Councilmember Duffy made a substitute motion to refer the project budget and resolution to the Public Improvement Committee so they could explore possible alternatives to accommodate ADA requirements. The motion seconded by Councilmember McClinton failed. Councilmembers Alcala, Dunn, Hill, and Gardner voted "no". Councilmember Carkhuff was out of the room. (4-5-0)

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

Mayor Wagnon stated that Item 6C, a Zoning Petition (Z00/24) for the placement of an owner-occupied manufactured home at the northeast corner of NW Morse Street and NW Polk Street has been withdrawn from the agenda at the request of the petitioner.

ZONING PETITION (Z00/21) by Ron D. Shuman requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District (Council approved this reclassification on May 9, 2000) to "M-1" Two Family Dwelling District on property located on the north side of SE 45<sup>th</sup> Street, the centerline of which is approximately 860-feet west of SE Adams Street in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17515 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 45<sup>th</sup> 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, placed on first reading June 6, 2000, was again presented. (Z00/21)

ZONING PETITION (Z00/22) by Lane Street Properties requesting to amend the District Zoning Classification from "O&I-2" Office and Institutional District to "M-S" Medical Services District on property located at the southwest corner of SW 8<sup>th</sup> Street and SW Lane Street in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17516 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 8<sup>th</sup> 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, placed on first reading June 6, 2000, was again presented. (Z00/22)

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

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

Councilmember McClinton moved to approve both petitions and adopt both ordinances. The motion seconded by Councilmember Gardner carried unanimously. (9-0-0)

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

AN ORDINANCE introduced by Mayor Joan Wagnon annexing land to the City of Topeka, Kansas, in accordance with K.S.A. (1999 Supplement) 12-520, located at the southeast corner of SW 10<sup>th</sup> Street and SW Urish Road, said land being annexed for all City purposes and hereby assigned to a specific City Council District in accordance with Section A2-18 of the Code of the City of Topeka and specifically repealing City of Topeka Ordinance No. 17504, was presented for first reading. (A00/05)

AN ORDINANCE introduced by Mayor Joan Wagnon annexing land to the City of Topeka, Kansas, in accordance with K.S.A. (1999 Supplement) 12-520, located on the south side of Kansas Turnpike and approximately 1600 feet east of SE Adams Street, said land being annexed for all City purposes and hereby assigned to a specific City Council District in accordance with Section A2-18 of the Code of the City of Topeka, was presented for first reading. (A00/06)

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, CAO presented a report from Fleet Services regarding the cost of gasoline. He explained how the increase in fuel prices has affected the budget.

Mayor Wagnon announced the funeral arrangements for the officers that lost their lives in the recent helicopter crash.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Dunn asked about the scheduling for budget hearings.

Mayor Wagnon asked if there was a consensus to hold budget hearings on Tuesdays.

Councilmember Dunn, Budget Chair asked the Council for their opinion and it was agreed the budget hearings would be held on Tuesdays and would be televised.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy stated that the area of 8<sup>th</sup> and Lane is in a state of decline and expressed concern about one block west of there. He asked if these concerns could be addressed. He stated that there was an item sent out of the Economic Development Committee and asked that it be reflected on the Documents in Council Committee Report Sheet. He also suggested that they decide on a procedure for placing presentations on the agenda.

Councilmember Alcala asked for comments from people regarding the smoking ordinances.

Councilmember Dunn stated that it was the responsibility of the Deputy Mayor to do the Council's budget. She commented that it is being proposed that the Council's budget would be reduced by \$18,626 this year.

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, June 13, 2000. The Councilmembers of the City of Topeka, Kansas met in special session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcala, McClinton, Dunn, Carkhuff, Duffy, Hill, Lee and Gardner –9. Mayor Wagnon presided –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 June 13, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street in conjunction with vacation request V00A/4 by St. Francis Hospital and Medical Center, owners, to vacate a 20-foot wide public alley located approximately 140-feet south of SW 6<sup>th</sup> Avenue and running between SW Horne Street and SW Washburn Avenue in the City of Topeka.

Barry Beagle, Planning Department gave the staff report.

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

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

ORDINANCE NO. 17514 introduced by Mayor Joan Wagnon relating to the vacation of a 20 foot wide public alley as dedicated by Horne's 2<sup>nd</sup> 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 6<sup>th</sup> Avenue, City of Topeka, Kansas, placed on first reading June 6, 2000, was again presented.

(V00A/4)

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

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Iris Walker  
City Clerk