

City Council Minutes – October 3, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 3, 2000. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcalá, Dunn, Duffy, Lee, and Hill–5. Deputy Mayor Carkhuff presided -1. Absent: Mayor Wagnon, Councilmembers Pomeroy, McClinton and Gardner -4.

AFTER THE MEETING was called to order, prayer was offered by Marge Heeney.

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

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of September 26, 2000, were presented.

CEREAL MALT BEVERAGE APPLICATION bearing the approval of the Chief of Police and City Inspectors was presented from Casey's General Store #2312, 4441 SE California Avenue.

Councilmember Dunn moved to approve the consent agenda. The motion seconded by Councilmember Lee carried unanimously. (6-0-0)

Councilmember Alcalá moved to suspend the rules to add a resolution that would allow the families of police officers who have lost their lives in the line of duty, to attend the National Law Enforcement Memorial Service in Washington, D.C. The motion seconded by Councilmember Dunn carried unanimously. (6-0-0)

Deputy Mayor Carkhuff stated that it would be discussed as Item 4G, under New Business.

Councilmember Dunn moved to add the Ordinance regarding the WaterTower Place Redevelopment District that was recently voted out of the Economic Development Committee. The motion seconded by Councilmember Alcalá failed. Councilmembers Duffy and Lee voted "no". (4-2-0)

Councilmember Dunn moved to reinstate the rules. The motion seconded by Councilmember Duffy carried unanimously. (6-0-0)

ORDINANCE NO. 17555 introduced by Mayor Joan Wagnon, instituting a real estate lien upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the cost for sewage collection and treatment

where such payments to the City have not been made due to neglect, failure or refusal to pay, pursuant to K.S.A. 12-631k, placed on first reading September 26, 2000, was again presented.

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

ORDINANCE NO. 17556 introduced by Mayor Joan Wagnon and Councilmember John Alcalá amending City of Topeka Ordinance No. 17474, which exempted certain property, more specifically property owned by Mainline Printing, Inc., from ad valorem taxation for economic development purposes, pursuant to the provision of the Code of the City of Topeka, Chapter 138, Article III, and located at 818 Adams, Topeka, Kansas, and specifically repealing said original ordinance, placed on first reading September 26, 2000, was again presented.

Linda Jeffrey, City Attorney explained the ordinance.

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

A Communication from the Public Health and Safety Committee recommending approval of claim appeal for Jeanette L. Corber, in the amount of \$611.10, was presented. Ms. Corber filed a claim against the City of Topeka alleging that on March 24, 2000 a City sewer line backed up into the basement of her rental property located at 3101 SE Humboldt Street.

Councilmember Lee gave the committee report and moved for acceptance of the report. The motion seconded by Councilmember Duffy carried. Councilmember Dunn voted "no". (5-1-0)

Councilmember Gardner entered the room.

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. Councilmember Gardner and Carkhuff voted "no". (5-2-0)

A Communication from the Public Health and Safety Committee recommending denial of claim appeal for Christopher Kincade, was presented. Mr. Kincade filed a claim against the City of Topeka alleging that on June 2, 2000 he slipped and fell on the grass leading to the parking lot while leaving Hillcrest Pool and broke his ankle. He alleged that he was forced to walk on the grass in order to exit the recreation area because people sitting on the stairway were blocking the steps.

Councilmember Lee gave the committee report and moved for acceptance of the report. The motion seconded by Councilmember Duffy carried. Councilmember Dunn voted "no". (6-1-0)

Linda Jeffrey explained why the City is not liable for damages sustained at recreational facilities.

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 unanimously. (7-0-0)

A Communication from the Public Health and Safety Committee recommending denial of claim appeal for Klint Paillette, was presented. Mr. Paillette filed a claim against the City of Topeka alleging that on June 13, 2000 a piece of the light framing that was already broken on a traffic signal fell off and hit the hood of his vehicle, making four scratches.

Councilmember Lee gave the committee report.

Following a discussion about the City's legal obligation, Councilmember Alcalá made a substitute motion to approve the claim. The motion seconded by Councilmember Dunn failed. Councilmembers Carkhuff, Duffy, Lee and Hill voted "no". (3-4-0)

Councilmember Lee moved to accept the committee report. The motion seconded by Councilmember Duffy failed. Councilmembers Alcalá, Dunn, and Gardner voted "no". (4-3-0)

Linda Jeffrey, City Attorney and Parliamentarian stated that there were not five votes to approve or disapprove the claim appeal by Council therefore the recommendations of the Public Health and Safety Committee to deny the claim would be upheld.

PROJECT BUDGET AND RESOLUTION NO. 7094 introduced by Mayor Joan Wagnon, describing Sidewalk Improvement Project No. 24105-B, located along the south side of Golf Park Boulevard from SE Fremont to SE Irvingham and authorizing the same, in the amount of \$40,130, were presented.

Councilmember Carkhuff explained the resolution.

Jeff Hunt, Engineering Department appeared to answer questions.

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

David Price appeared and commented about the use of Community Development Block Grant (CDBG) funds for the project.

The motion carried unanimously. (7-0-0)

PRESENTATION regarding Resolutions of Intent by John Dugan, Planning Director, was presented.

John Dugan stated that there are a total of 150 outstanding cases and they have reviewed the 130 cases within the City limits. He stated that they would be presented to Council in increments. He also stated that proper notification would be sent to those involved with the rezoning process.

Councilmember Carkhuff asked if the larger areas could be presented first.

PRESENTATION by Darrell Dibbern, Fire Marshall, was presented.

Darrell Dibbern stated that the Planning Department and Fire Department were evaluating fire department access into residential and commercial subdivisions. He explained that the fire code requires two access points into a subdivision. He stated that he contacted other organizations regarding accessibility into residential subdivisions. He stated that those with only one access require sprinkler systems.

RESOLUTION NO. 7095 introduced by Councilmember John Alcala authorizing expenditure of \$12,000 in general fund contingency monies for the purpose of attending the National Law Enforcement Memorial Service, was presented.

Councilmember Alcala explained the resolution.

Councilmember Dunn moved to approve the resolution. The motion seconded by Councilmember Alcala carried unanimously. (7-0-0)

AN ORDINANCE introduced by Mayor Joan Wagnon and Councilmembers Samuel Carkhuff and James McClinton, amending City of Topeka Ordinance No. 17452, which exempts certain property, more specifically property owned by Co-Nect-It Frame Corporation 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 approximately 1100 SE Rice Road and specifically repealing said original ordinance, was presented for first reading.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Joan Wagnon relating to provisional uses for the "C-2" commercial district, amending City of Topeka Code § 48-16.02(b) Use Regulations, provisional uses and Article XXVI, Additional Regulations and specifically repealing said original § 48-16.02(b), was presented for first reading. (ACZR00/3)

AN ORDINANCE introduced by Mayor Joan Wagnon relating to the vacation of a 20 foot public alley right-of-way as dedicated within the Westlawn Addition to the City of Topeka, Kansas, and generally located about the northeast corner of SW 10th Street and SW Lane Street in the City of Topeka, Shawnee County, Kansas, was presented for first reading. (V00A/05)

AN ORDINANCE introduced by Mayor Joan Wagnon relating to the vacation of a 20-foot wide public alley as dedicated by Arlington Heights Subdivision, City of Topeka, Shawnee County, Kansas, on property located on the west side of SW Saline Street, the centerline of which is approximately 140-feet north of SW 6th Avenue in the City of Topeka, Kansas, was presented for first reading. (V00A/6)

AN ORDINANCE introduced by Mayor Joan Wagnon relating to the vacation of a 16-foot wide sanitary sewer easement as dedicated by Home Depot Addition, City of Topeka, Shawnee County, Kansas, on property located approximately 600-feet east of SW Wanamaker Road and approximately 240-feet south of SW 11th Street in the City of Topeka, Kansas, was presented for first reading. (V00E/1)

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 southeast corner of SW 21st Street and SW Urish Road in the City of Topeka, from "R-1" Single Family Dwelling District to "C-2" Commercial District, was presented for first reading. (Z89/41)

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 southeast corner of the Kansas Turnpike and SE Adams Street in the City of Topeka, Kansas, from "RR-1" Residential Reserve District, "R-1" Single Family Dwelling District and "M-2" Multiple Family Dwelling District all to "PUD" Planned Unit Development District ("R-4" use group category), was presented for first reading. (Z00/29)

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 6th Avenue, the centerline of which is approximately 160-feet west of SE Rice Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District to "O&I-1" Office and Institutional District, was presented for first reading. (Z00/42)

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 within the block bounded by SE 10th Avenue, SE 11th Street, SE Quincy Street and SW Monroe Street in the City of Topeka, Kansas, from "C-4" Commercial District and "C-5" Commercial District all to "C-5" Commercial District, was presented for first reading. (Z00/43)

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 south side of the Kansas Turnpike, the centerline of which

is approximately 310-feet west of SE Oakview Lane in the City of Topeka, Kansas, from "I-1" Light Industrial District to "R-1" Single Family Dwelling District, was presented for first reading. (Z00/46)

Deputy Mayor Carkhuff stated that Item 5K has been withdrawn at the request of the applicant.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, Chief Administrative Officer reminded Council that the City of Topeka is hosting the League of Kansas Municipalities Annual Conference this weekend at the Kansas Expocentre and gave an itinerary of events. He explained that the Zoo is going through a re-accreditation process with the American Zoo and Aquarium Association (AZA) because of recent problems they have had with the USDA. He stated that the re-accreditation has been tabled for review.

David Mask, Director of the Zoo explained the re-accreditation process. He commented that they are addressing issues with the elephants, and the staffing that is required to take care of them.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Deputy Mayor Carkhuff commended John Arnold and staff for responding quickly to his request to repair inoperable streetlights throughout the City.

Councilmember Alcalá stated that he has not received his request for a report of expenditures for WaterTower.

Linda Jeffrey gave a response to Councilmember Gardner's request for information about regulatory cases handled by the Consultant that the City hired for the electric rates cases.

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

Iris Walker
City Clerk