

City Council Minutes – October 24, 2000

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 24, 2000. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcala, McClinton, Dunn, Carkhuff, Duffy, Lee, and Hill –8. Mayor Wagnon presided -1. Absent: Councilmember Gardner -1.

AFTER THE MEETING was called to order, prayer was offered by Reverend Pete Ross Gotta, Chaplain at the Menninger Foundation.

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

THE CONSENT AGENDA was presented as follows:

Minutes of the regular meetings of October 10 and 17, 2000, were presented.

CEREAL MALT BEVERAGE APPLICATION bearing the approval of the Chief of Police and City Inspectors was presented from Los Compadres, 225 NW Gordon.

Councilmember Hill moved to approve the consent agenda. The motion seconded by Councilmember McClinton carried. Councilmember Dunn "abstained". (7-1-0)

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 about 525 Kellam Street in the City of Topeka, from "R-1" Single Family Dwelling District all to "M-2" Multiple Family Dwelling District, placed on first reading October 17, 2000, was again presented. (Z70/53)

Councilmember Alcala stated that the applicant contacted him and asked that the request be disapproved because he did not want the zoning changed.

Councilmember Alcala moved to disapprove the ordinance. The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

ORDINANCE NO. 17581 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 about the east side of SW Clay Street and approximately 170 feet north of SW 6th Street in the City of Topeka, from "M-2" Multiple Family Dwelling District to "C-2" Commercial District, placed on first reading October 17, 2000, was again presented. (Z84/36)

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. Councilmember Gardner was absent -1.

ORDINANCE NO. 17582 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 about the northeast corner of SW 44th Street and SW Gage Boulevard in the City of Topeka, from "R-1" Single Family Dwelling District to "M-1" Two Family Dwelling District, placed on first reading October 17, 2000, was again presented. (Z87/42)

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. Councilmember Gardner was absent -1.

ORDINANCE NO. 17583 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 about 700 SE Jefferson Street in the City of Topeka, from "C-2" Commercial District and "M-2" Multiple Family Dwelling District all to "C-5" Commercial District, placed on first reading October 17, 2000, was again presented. (Z88/23)

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. Councilmember Gardner was absent -1.

ORDINANCE NO. 17584 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 about the south side of SW 21st Street and 600 feet west of SW Kingsrow Road in the City of Topeka, from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District, placed on first reading October 17, 2000, was again presented. (Z89/43)

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, Alcala, McClinton, Dunn, Carkhuff, Duffy, Hill, and Lee –8. Councilmember Gardner was absent -1.

ORDINANCE NO. 17585 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 about the west side of the 2200 block of SW Kingsrow in the City of Topeka, from "R-1" Single Family Dwelling District to "M-1" Two Family Dwelling District, placed on first reading October 17, 2000, was again presented. (Z89/45)

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, Alcala, McClinton, Dunn, Carkhuff, Duffy, Hill, and Lee –8. Councilmember Gardner was absent -1.

ORDINANCE NO. 17586 introduced by Mayor Joan Wagnon, authorizing the 9th Street and Kansas Parking Garage project, which provides for the construction of a 272 stall parking facility as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading October 17, 2000, was again presented.

Jeff White, Director of Public Works responded to questions raised last week.

Linda Jeffrey, City Attorney explained how this project differs from the IBM garage. She stated that she has also asked for information from the Kansas Department of Administration about the boundaries of the Capital Area Plaza Authority.

Jeff White explained that the City would pay for and own the garage only, not the retail space or top floor office space.

Constance Sawyer appeared and expressed concerns about the architectural structure of the garage. She stated that it eliminates the historical look of the building and the pathway to the Capitol Building.

Councilmember Alcalá stated that he would oppose the ordinance because it takes away two downtown businesses and the health of the parking fund.

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

ORDINANCE NO. 17587 introduced by Mayor Joan Wagnon relating to the management to City rights-of-way, placed on first reading October 17, 2000, was again presented.

Mike McGee, Assistant Public Works Director requested that the language in Section 18(a) be removed. He explained that he would come back with information regarding underground utilities by February and the ordinance could be amended at that time.

Councilmember Carkhuff moved to amend the language on page 23, line 568 to change "that" to "than" and line 569 change "shall" to "should". The motion seconded by Councilmember McClinton carried. Councilmember Lee voted "no". (7-1-0)

Councilmember Lee moved to delete lines 517 through 525 on page 21. The motion was seconded by Councilmember Duffy.

Councilmember Carkhuff noted that if those lines are deleted the requirement would not be in place for construction between now and when the ordinance is amended.

Councilmember Duffy stated that he would oppose the motion and support the ordinance as is.

Councilmember Dunn stated that she also opposes the motion.

Councilmember Lee withdrew her motion. The second concurred.

Councilmember Pomeroy stated that he opposes the ordinance because it does not exempt in-fill housing.

Councilmember Lee moved to amend the ordinance on line 525 to insert "notwithstanding the above, nothing this provision shall not require in-fill housing to have undergrounding". The motion seconded by Councilmember Pomeroy carried. Councilmember Carkhuff voted "no". (7-1-0)

The ordinance as amended was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, McClinton, Dunn, Duffy, Hill, and Lee –7. Noes: Councilmember Carkhuff -1. Councilmember Gardner was absent -1.

PROJECT BUDGET for Project No. 12027, Phase 2, authorizing the design only for the replacement of the Swygart Pedestrian Bridge over the Shunganunga Creek, in the amount of \$35,000, was presented.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Dunn carried. Councilmember Carkhuff was out of the room. (7-1-0)

ORDINANCE NO. 17588 introduced by Mayor Joan Wagnon, authorizing Improvement Project 12027-02, which provides for design of a replacement pedestrian bridge over the Shunga Creek as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading October 17, 2000, was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, McClinton, Dunn, Duffy, Hill, and Lee –7. Councilmember Carkhuff was out of the room -1. Councilmember Gardner was absent -1.

ORDINANCE NO. 17589 introduced by Councilmember Clark Duffy relating to the creation of the Entrepreneurial Venture and Small Business Loan Program, placed on first reading October 17, 2000, was again presented.

Councilmember Pomeroy gave the committee report. He stated that the ordinance was passed out of committee without recommendation.

Councilmember Pomeroy moved to approve the committee report. The motion seconded by Councilmember McClinton carried. Councilmembers Dunn and Carkhuff were out of the room. (6-2-0)

Councilmember Duffy explained the ordinance.

Councilmember Duffy distributed amendments to the ordinance (see Council packet) and moved for approval of the amendments. The motion was seconded by Councilmember Pomeroy.

Joe Ledbetter appeared in support of the ordinance.

Councilmember Hill asked where the money would come from.

Councilmember Duffy explained that it would come from interest earned on idle funds.

The motion to amend carried. Councilmember Dunn voted "no". (7-1-0)

Councilmember Alcalá moved to further amend the ordinance on line 89 to insert "on a monthly basis". The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

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

A COMMUNICATION from Mayor Wagnon regarding discussion of the Topeka Housing Authority memo and policies, and approval for submission of the Topeka Housing Authority's 2001 Public Housing and Section 8 Program budgets, was presented.

Mayor Wagnon stated that they would be hearing discussion from the public and taking action on the budget only. She stated that public comment regarding Topeka Housing Authority (THA) policies would be held in November when the resolution to create a quasi-public entity to carry out public housing related activities is on the agenda for action.

Councilmember Alcalá challenged the ruling of the Chair.

Mayor Wagnon asked for a vote on whether to sustain the ruling of the Chair.

The ruling of the Chair was not sustained. Councilmembers Alcalá, Dunn, and Hill voted "no". Councilmember Pomeroy "abstained". (4-3-1)

Tuck Duncan, Chair of the Topeka Housing Authority Board stated that they have been removed from the troubled agency status by HUD. He commented that they provide an opportunity for community input at all of their Board meetings. He urged approval of the proposed budget because they need to have something on file with HUD. He stated that this year's budget is basically the same as the one submitted last year.

John Johnston, Director of Neighborhood Services explained the improvements that they have made in public housing from February 15, 1999 to October 15, 2000 and explained the results of the changes. He stated that they are in compliance and are a "standard" rather than "troubled" authority. He further explained that they have done more than \$1.6 million in capital improvements, returned nine off-line units to rentable status, and improved the appearance and curb appeal. He summarized the program performance, financial health, and specialized training of staff. He noted the results of a tenant satisfaction survey that was done by HUD dated October 1999. He stated that the overall offenses reported in Public Housing dropped from 135 to 69.

In explaining the future of THA, John Johnston stated that the Quality Housing and Work Responsibility Act of 1998 (QHWRA) requires at least one member of every housing authority governing board to be a tenant. The THA has a Board of Commissioners that serves as an advisory body, and the governing body for THA is the City Council. Since there is no legal or practical way to add a tenant to the City Council, they have been working with HUD to clarify their options to meet the governing board requirement. He explained that the only way to comply with the requirement is to utilize the powers given to municipalities under the terms of the Kansas Municipal Housing Law to create a quasi-public entity to carry out public housing related activities. He stated that they must comply with the Federal law or lose their funding. He explained the transition principles of moving staff and benefits to a quasi-public entity.

Linda Jeffrey, City Attorney stated this is a unique opportunity for the City, but it is also a challenge. She noted that if Councilmembers had specific questions relating to personnel matters, they would need to discuss them in an executive session.

Mayor Wagnon stated that before they go into executive session they would hear first reading on the bond ordinance for the Brewster Place project.

AN ORDINANCE introduced by Mayor Joan Wagnon authorizing the City of Topeka, Kansas, to issue its Health Care Facilities Revenue Bonds, Series 2000, (Brewster Place Project) in the aggregate principal amount of \$2,100,000 for the purpose of financing the costs of improvements to certain residential health care facilities located on the Brewster Place Campus in the City; authorizing the execution of a first supplemental indenture by and between the City and Commerce Bank & Trust, Topeka, Kansas, as trustee; authorizing the execution of a first supplemental lease by and between the City and The Congregational Home, a Kansas not-for-profit corporation; and authorizing and approving certain additional documents and actions in connection with the issuance of said bonds, was presented for first reading.

Councilmember Alcalá stated that in order to avoid damaging the City's position he would move to adjourn into executive session for a period not to exceed 30 minutes to discuss personnel issues relating to THA employees, and reconvene at 10:20 p.m. The motion seconded by Councilmember Dunn carried.

Councilmembers Pomeroy, McClinton and Duffy voted "no". (5-3-0)

The Council reconvened the meeting at 10:20 p.m. No action was taken.

Councilmember Alcalá moved to extend the executive session for 10 additional minutes. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, and Lee voted "no". (3-5-0)

Councilmember Alcalá suggested having the tenants elect their representative to serve on the Board.

Mayor Wagnon stated that administration would do everything possible to assure a smooth and painless transition as possible.

Councilmember McClinton recommended appointing at least two or three tenants to the Board.

Councilmember Lee moved to approve submission of the budget. The motion seconded by Councilmember Dunn carried. Councilmember McClinton voted "no". (7-1-0)

Angela Waters appeared and stated that she was opposed to the budget. She expressed her concerns about the current operation of the Topeka Housing Authority.

Councilmember Carkhuff moved to extend the meeting until the end of the agenda.

Councilmember Alcalá made a substitute motion to extend the meeting to finish comments from the public on the THA issue. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, and Lee voted "no". (3-5-0)

Councilmember Pomeroy moved to extend the meeting until 11:30 p.m. The motion was seconded by Councilmember Duffy.

Councilmember Alcalá made a substitute motion to extend the meeting to finish comments on THA, allow for public comments and end the meeting. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy and Lee voted "no". (3-5-0)

Councilmember Pomeroy's motion to extend the meeting until 11:30 p.m. failed. Councilmembers Dunn, Alcalá and Hill voted "no". Councilmember Lee "abstained". (4-3-1)

The meeting was adjourned.

Iris Walker
City Clerk

Special Session

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 24, 2000. The Councilmembers of the City of Topeka met in special session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, McClinton, Dunn, Carkhuff, Duffy, Lee, and Hill –8. Mayor Wagnon presided -1. Absent: Councilmember Gardner -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 Tuesday, October 24, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8th Street for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the City Clerk for Lateral Sanitary Sewer Improvement Project No. 40834H, Phase II.

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 McClinton carried unanimously. (8-0-0)

ORDINANCE NO. 17578 introduced by Mayor Joan Wagnon, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of lateral sanitary sewer with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40834-H, Phase II, as defined and described in Resolution No. 7010, placed on first reading October 17, 2000, was again presented.

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

Iris Walker
City Clerk

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

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

ORDINANCE NO. 17579 introduced by Mayor Joan Wagnon, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of lateral sanitary sewer with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40862, Phase II, as defined and described in Resolution No. 7026, placed on first reading October 17, 2000, was again presented.

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

Iris Walker
City Clerk

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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 Tuesday, October 24, 2000, at 7:00 P.M., in the Council Chamber, 214 East 8th Street for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the City Clerk for Street Improvement Project No. 60549-H.

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

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

ORDINANCE NO. 17580 introduced by Mayor Joan Wagnon, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60549-H with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60549-H as defined and described in Resolution No. 6975, placed on first reading October 17, 2000, was again presented.

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

Iris Walker
City Clerk