

## City Council Minutes – February 6, 2001

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 6, 2001. 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, Duffy, Lee, and Hill –7. Mayor Wagnon presided -1. Absent: Councilmembers Carkhuff and Gardner -2.

AFTER THE MEETING was called to order, prayer was offered by Renaldo Davis.

Mayor Wagnon announced that Iris Walker, City Clerk, recently had knee replacement surgery and Linda Jeffrey, City Attorney, is on vacation and they would be off throughout the month of February. She stated that Beth Schafer, Assistant City Attorney, and Susan Cunningham, Records Manager, would be filling in for them.

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

THE CONSENT AGENDA was presented as follows:

Mayor Wagnon stated that there was a request to divide the question. She stated that Item 2A, a Resolution relating to housing tax credits, and Item 2E, a Communication regarding a Workers' Compensation settlement agreement, would be removed from the consent agenda and placed directly following as requested by Councilmember Duffy.

RESOLUTION NO. 7127 introduced by Mayor Joan Wagnon and Councilmember Fran Lee relating to housing tax credits for senior rental housing through Wesparke Village Two, LLC and Continental Realty, Inc., was presented.

A COMMUNICATION requesting approval of an amendment to contract #30826 between the City of Topeka and the International Association of Firefighters Local #83, was presented.

A FINAL PLAT for Harlan Subdivision on property located on the north side of SW University Boulevard, west of SW Topeka Boulevard within unincorporated Shawnee County, Kansas, was presented.

CEREAL MALT BEVERAGE APPLICATION bearing the approval of the Chief of Police and City Inspectors was presented for Tequila's Family Mexican Restaurant, Inc., 1525 SW Lane.

Minutes of the regular meeting of January 23, 2001, were presented.

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

A COMMUNICATION recommending approval of a Workers' Compensation settlement agreement for William Cooper in the amount of \$24,500, was presented.

Councilmember Lee moved to approve the communication. The motion seconded by Councilmember Hill carried. Councilmembers Alcala and Duffy voted "no". (5-2-0)

RESOLUTION NO. 7126 introduced by Mayor Joan Wagnon and Councilmember Sam Carkhuff relating to housing tax credits for rental housing through Commercial Group, Inc., was presented.

Councilmembers Carkhuff and Gardner entered the room.

Councilmember Duffy explained that Commercial Group, Inc. made two requests for housing tax credits and moved to amend the resolution by adding the language " Mount Vernon Apartments." The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

Councilmember Carkhuff moved to approve the resolution as amended. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE NO. 17637 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 January 23, 2001, was again presented. (CPA00/5)

John Dugan, Director of the Planning Department explained the development strategy and summarized the elements that make up the plan. He stated that the primary goal is to re-establish downtown Topeka.

Several Councilmembers commented that the plan should have a vision that gets the public involved, it should incorporate new ideas and encourage entertainment activities, and it should include timelines.

Councilmember Duffy commented that he felt the plan does not identify specific goals that would make it successful. He expressed concerns about the development process of the proposal and asked who would be responsible for implementation of it.

John Dugan stated that the proposal is a land use plan. He explained that operational plans would follow.

Bob Beardsley, Planning Department appeared to answer questions and stated that they were working with area property owners to get them involved in the planning process.

Councilmember McClinton moved to adopt the ordinance. The motion seconded by Councilmember Lee carried. Councilmember Gardner voted "no". (8-1-0)

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

DISCUSSION of meeting with the District Attorney, was presented.

Judge Neil Roach, City Municipal Court appeared and explained that the City Council adopted an ordinance relating to the prosecution of misdemeanor crimes in 1996 but did not publish it, therefore it was not legal. He stated that the City's options as a result of the ordinance being published on December 27, 2000 was to repeal the ordinance that was adopted, do nothing legislatively except for addressing the new misdemeanors from that date, or they could expand their jurisdiction to include domestic battery issues and misdemeanor drug cases. He stated that they could be ready next week to prosecute the cases on a temporary basis but would need additional financing to locate a larger facility that would accommodate a larger case load and additional staff.

Councilmember Lee explained the ordinance and gave the committee report.

Councilmember Pomeroy asked what type of crimes would be prosecuted.

Judge Roach stated that they would be taking over assault, battery, and criminal damage to property cases. He stated that eventually they would be prosecuting domestic battery cases and possibly misdemeanor drug cases when additional funds and staffing needs are put in place.

John Knoll, Attorney for the City of Topeka appeared to answer questions. He stated that staff learned that the ordinance had not been published in 1996 as a result of an open records request that was submitted by Robert Hecht in December of 2000.

Following a discussion, a cost estimate of the transition and the amount of revenue generated annually from fines were requested. A suggestion was made to open the budget at the earliest possible date so funds could be allocated. Questions were also raised about possible locations that would accommodate courtroom needs.

Judge Roach stated that they have considered using Heritage Hall, Kansas Expo centre, and area community centers.

Councilmember Duffy expressed concerns about knowing what our jurisdiction should be and what crimes would be prosecuted by Shawnee County until the City is fully compliant with the ordinance.

Robert Hecht, District Attorney for Shawnee County appeared and explained that misdemeanor crimes have been prosecuted by the District Attorney's office but stated that there is a backlog of 5,600 cases. He stated that their office would continue to prosecute any crime that endangers a child. He commented that he felt the City was financially capable to prosecute misdemeanor crimes based on financial comparisons that he has done with surrounding cities and any start-up difficulties could be overcome.

Councilmember Dunn asked for copies of the two memos that were distributed by Mr. Morris in 1996.

Robert Hecht stated that he would provide her with copies.

A COMMUNICATION requesting approval to authorize the Parks and Recreation Department to solicit bids for installation of a wood gymnasium floor at the Rice Community Center, and to pay the successful bidder

from unexpended prior year Community Development Block Grant (CDBG) funds in a not-to-exceed amount of \$27,000, was presented.

Councilmember Alcala moved to approve the communication. The motion seconded by Councilmember Lee carried. Councilmembers Dunn, Carkhuff, and Gardner were out of the room. (6-3-0)

A COMMUNICATION requesting approval of construction for two phases of the Water Treatment Plant rehabilitation project and the Westgate Bridge Project, was presented.

PROJECT BUDGET for Water Treatment Plant Rehabilitation Project No. 28244, located at 3245 NW Waterworks Road, in the amount of \$3,647,500, was presented.

Councilmember Lee moved to approve the communication and project budget. The motion seconded by Councilmember Pomeroy carried. Councilmembers Dunn, Carkhuff, and Gardner were out of the room. (6-3-0)

Councilmember Duffy asked Jeff White, Director of Public Works, to send a notice to Charles Benjamin of the SIERRA Club letting him know that the Communication and Project Budget have been approved by the direction of the Council.

AN ORDINANCE introduced by Mayor Joan Wagnon, amending City of Topeka Ordinance No. 17586 which authorized construction of a 272 stall parking garage at approximately 9<sup>th</sup> Street and Kansas Avenue, was presented for first reading.

AN ORDINANCE introduced by Mayor Joan Wagnon amending City of Topeka Ordinance No. 17632 relating to annexation Case No. A00/13, amending Section 2 of said ordinance and specifically repealing said Section 2, was presented for first reading.

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 SW Huntoon Street and SW Oakley Street in the City of Topeka, Kansas, from "C-2" Commercial District to "O&I-1" Office and Institutional District, was presented for first reading. (Z01/02)

AN ORDINANCE introduced by Mayor Joan Wagnon relating to Administrative Hearing procedures for nuisance violations amending City of Topeka Code § 66-31.2 and specifically repealing said original section, was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, Chief Executive Officer stated that the "Every Neighborhood Counts" celebration scheduled for March 25, 2001 would be funded by the Community Policing Program. He stated that they are continuing to monitor the increase in fuel prices. He also reported that the elevator at City Hall is up and running.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Lee announced that the Public Health and Safety Committee would meet Thursday, February 8, 2001 at 4:30p.m. in the Council office to review claim appeals.

Councilmember Pomeroy stated that the Economic Development Committee met last week and voted to direct staff to prepare the necessary documents to place the WaterTower Tax Increment Financing (TIF) District in the Neighborhood Revitalization Act (NRA). He also stated that he had difficulty obtaining access to the Council Chambers last week at 5:15 p.m. for a scheduled committee meeting and asked that it be more accessible.

Councilmember Lee announced that there would be a coffee at Barrington Square, Barrington Village at PT's on Thursday, February 8, 2001 at 11:00 a.m. for anyone who would like to attend.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmembers Alcalá and Dunn commented that they were opposed to funding the "Every Neighborhood Counts" celebration from the Community Policing Program because of needs in other areas.

Councilmember McClinton asked how the City was doing with the increase in utility bills.

Randy Bailes, Director of Finance stated that he would provide a report.

Councilmember Alcala asked if people could deny an upcoming Water Pollution Control (WPC) survey that would be conducted door-to-door because of safety concerns.

Jeff White, Director of Public Works stated that the public is under no obligation to respond to the survey.

Councilmember Gardner asked for a copy of a contract that was awarded to McElroy's in November of 2000 in the amount of \$15,000. He also asked for the latest report on payments that are going to the law firm of Frieden, Haynes, and Forbes for representation with electrical rates.

Councilmember Lee asked if more notification could be given to fast food restaurants regarding the signage requirements of the smoking ordinance that was approved by Council.

Beth Schafer, Assistant City Attorney suggested using Channel 4 to help get the word out.

Councilmember Dunn asked for a report on the \$85,000 that was allocated to the Child and Adolescent Center last year.

Councilmember Pomeroy asked if Shawnee County's version of the law enforcement consolidation could be placed on a future City Council agenda for communication purposes.

Councilmember Gardner asked if the City Attorney could prepare a resolution identical to the County's position regarding the law enforcement consolidation so that they could move forward.

Joann Peavler, Palace Holtz, Clara Simmons, and Joe Ledbetter appeared to speak during public comment.

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

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Iris Walker  
City Clerk