

## City Council Minutes – March 27, 2001

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 27, 2001. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcala, Pomeroy, McClinton, Dunn, Duffy, Lee, Hill, and Gardner –8. Deputy Mayor Carkhuff presided -1. Absent: Mayor Wagnon -1.

AFTER THE MEETING was called to order, prayer was offered by Reverend Gregory Smith, Antioch Missionary Baptist Church.

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

Councilmember Pomeroy moved to suspend the rules to add a resolution requesting a second crime summit. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

Councilmember Lee moved to reinstate the rules. The motion seconded by Councilmember McClinton carried unanimously. (9-0-0)

Deputy Mayor Carkhuff stated that the resolution would be placed following Item 5C.

THE CONSENT AGENDA was presented as follows:

A Final Plat for Altair Heights Subdivision No. 5 on property located about the northeast corner of SE 21<sup>st</sup> Street and SE Cedarwood Drive in the City of Topeka, was presented.

A Final Plat for Menninger Subdivision No. 6 located about the south side of SW Corporate View, the centerline of which is approximately 850-feet south of SW 6<sup>th</sup> Avenue in the City of Topeka, was presented.

A Communication from the City Attorney recommending approval of claim appeal for Roberta Travis in the amount of \$21,350, was presented.

Minutes of the regular meeting of March 20, 2001, were presented.

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

ORDINANCE NO. 17666 introduced by Mayor Joan Wagnon relating to the code of procedure for municipal courts amending City of Topeka Code §§ 50-36, 50-37, 50-38, 50-39, 50-40, 50-41, 50-42, 50-56, 50-57, 50-58, 50-59, 50-60, and 50-61 and specifically repealing said original section, placed on first reading November 14, 2000, was again presented.

John Etzel appeared in support of Section 6 that allows animal control officers to issue tickets for dogs running at large.

Councilmember Gardner commented that the ordinance was a considerable change in policy and he is not comfortable with the Municipal Court Judge issuing search warrants. He stated that there is too much political influence on a Municipal Judge.

Councilmember Lee stated that the committee heard no opposition to this section.

Linda Jeffrey explained the circumstances of when a search warrant might be requested or issued and stated that it would have to meet the same criteria as it does now before a District Judge.

Councilmember Dunn stated that the ordinance does not have safeguards to protect against abuse of authority to issue search warrants.

Councilmember Lee noted that the language "environmental code" has been stricken.

Councilmember Lee moved to amend the ordinance so that the Municipal Judge cannot issue search warrants for environmental code violations. The motion seconded by Councilmember Duffy carried.

Councilmembers Dunn, Carkhuff, and Gardner voted "no". (6-3-0)

Councilmembers Pomeroy and McClinton commented that they need to have confidence in the Municipal Court Judges.

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

A COMMUNICATION relating to the prosecution of misdemeanors, was presented.

Councilmember Duffy stated that he met with County Commissioners, City staff and District Attorney Hecht and they were receptive to the City's request. He stated that the goal is to have a system that is budget neutral. He commented that the start-up cost is a concern. He explained the items they discussed with the County for assistance in starting the misdemeanor program this year.

Councilmember Gardner moved to table Items 4C and 4D. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, Lee, and Hill voted "no". (3-6-0)

Judge Neil Roach, Municipal Court stated that they are already handling these cases.

Councilmember Carkhuff stated that the next Council needs to give the City's Judges the tools they need to get their job done.

Following a discussion about possible locations that would accommodate the need for a new facility, Councilmember Pomeroy moved to discuss Item 4F as the next item. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

RESOLUTION NO. 7140 introduced by Mayor Joan Wagnon authorizing initiation of condemnation proceedings to acquire easements by eminent domain for City of Topeka Project No. 60569, re-establishment of the alleyway between 3<sup>rd</sup> and 4<sup>th</sup> Streets and Watson and Saline Streets, was presented.

Councilmember Dunn moved to approve the resolution with the stipulation that we receive signatures from the property owner. The motion was seconded by Councilmember McClinton.

David Clemmons, area property owner stated that he has the signatures of property owners and will take them to Rusty Rakestraw, Engineering Department.

Doren Snook, area property owner asked how long it would take to open the alley.

The City Attorney explained that there was a legal process they had to follow and they would move as expeditiously as possible.

The motion carried unanimously. (9-0-0)

RESOLUTION NO. 7139 introduced by Mayor Joan Wagnon and Councilmembers Sam Carkhuff and Clark Duffy authorizing budget adjustment in the amount of \$400,000 from the general fund to provide necessary finances for the City to prosecute misdemeanors, was presented.

Councilmember Duffy commented that they have not done this before so this budget is their best judgement of costs for 2001, made at his request.

Councilmember Duffy moved to amend the resolution on line 20 to insert the language "and authorized positions" after the word "category". The motion seconded by Councilmember Carkhuff carried.

Councilmember Gardner voted "no". (8-1-0)

Councilmember McClinton moved to approve the resolution as amended. The motion was seconded by Councilmember Duffy.

Joe Ledbetter appeared and suggested using the courtrooms at the County to prosecute these cases.

John Etzel appeared and commented that they should ask the County for jail costs.

The motion to approve the resolution as amended carried. Councilmembers Dunn and Gardner voted "no". (7-2-0)

Councilmember Dunn stated that she voted "no" because they should use the money for fighting crime rather spending it on building a new facility.

ORDINANCE NO. 17667 introduced by Councilmembers Sam Carkhuff and Clark Duffy relating to Article II, Municipal Court, amending City of Topeka Code § 50-26, Courts and fees and specifically repealing said original section, placed on first reading March 20, 2001, was again presented.

Councilmember Carkhuff moved to amend the ordinance on line 16 to change "\$100" to "\$105". The motion seconded by Councilmember Duffy carried. Councilmember Gardner voted "no". (8-1-0)

Councilmember Duffy explained the ordinance.

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

ORDINANCE NO. 17668 introduced by Councilmember John Alcala authorizing Downtown Topeka Inc., The Greater Topeka Chamber of Commerce and The Topeka Convention and Visitors Bureau to hold "Thursday Live - Meet Me Downtown" events at certain times in 2001, placed on first reading March 20, 2001, was again presented.

Devin Sutherland, Executive Director of Downtown Topeka, Inc. appeared to answer questions.

Councilmember Gardner moved to amend the ordinance by inserting the specific Thursday dates and "September 14 and 15, 2001". The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

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

PETITION, PROJECT BUDGET, AND RESOLUTION NO. 7141 introduced by Mayor Joan Wagon authorizing the relocation of sanitary sewer improvements located in Lateral Sanitary Sewer District No. 40585, Phase 4, as more specifically described herein, in the amount of \$11,066, were presented.

Councilmember Dunn moved to approve the petition and project budget and adopt the resolution. The motion seconded by Councilmember Lee carried unanimously. (9-0-0)

RESOLUTION NO. 7142 introduced by Councilmember Sam Carkhuff authorizing the expenditure of \$4,000 in general fund contingency monies for the Volunteer Center of Topeka, was presented.

Councilmember Carkhuff explained the resolution.

Patsy Congrove, Volunteer Center of Topeka appeared to answer questions and explained the program to recognize volunteers.

Councilmember Dunn moved to approve the resolution. The motion seconded by Councilmember Alcala carried. Councilmember Gardner voted "no". (8-1-0)

Councilmember Gardner stated that he voted "no" because he was opposed to the splurge of funding from the General Fund.

RESOLUTION NO. 7143 introduced by Councilmember Clark Duffy authorizing the grant of \$350,000 from the general fund for the purpose of implementing Phase I of the Downtown Topeka Redevelopment Plan, was presented.

Councilmember Duffy explained the resolution and moved for approval of the resolution. The motion was seconded by Councilmember Lee.

Councilmember Pomeroy moved to amend the resolution on page 1, line 13 by inserting the language "his or her" after the word "Mayor". The motion seconded by Councilmember Carkhuff carried unanimously. (9-0-0)

Councilmember Alcala noted that the County has not voted on the Downtown Plan yet.

Councilmember Duffy commented that the City has adopted the plan and approval of the resolution would support it.

Councilmember Alcala moved to refer the resolution to the Economic Development Committee for review. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, Lee and Hill voted "no". (3-6-0)

Councilmember McClinton moved to approve the resolution as amended. The motion was seconded by Councilmember Duffy.

Councilmember Alcala made a substitute motion to amend the resolution to split the funds evenly between the Downtown Redevelopment Plan and the Downtown North Topeka Redevelopment Plan to be distributed by the Planning Department. The motion seconded by Councilmember Gardner failed.

Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, Lee and Hill voted "no". (3-6-0)

Councilmember Dunn stated that she was opposed to supporting the resolution prior to obtaining public input. She suggested putting the money into police cars.

Councilmember Gardner moved to amend the resolution on line 13 to add the language "that the contract between Downtown Topeka Inc., and the City come back before the Council for approval". The

motion seconded by Councilmember Alcala failed. Councilmembers Pomeroy, McClinton, Carkhuff, Duffy, Lee and Hill voted "no". (3-6-0)

The motion to approve the resolution as amended carried. Councilmember Dunn, Alcala and Gardner voted "no". (6-3-0)

RESOLUTION NO. 7144 introduced by Councilmember Duane Pomeroy for a report on the year 2000 Crime Summit, and requesting a second Crime Summit for the year 2001, was presented.

Councilmember Pomeroy moved to approve the resolution. The motion seconded by Councilmember Lee carried. Councilmember McClinton left the room. (8-1-0)

A CHARTER ORDINANCE introduced by Councilmembers Betty Dunn and Duane Pomeroy concerning the election of the deputy mayor, amending City of Topeka Charter Ordinance Section A2-21, and specifically repealing that original section, was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

John Arnold, Chief Administrative Officer gave a report regarding the stormwater utility.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lee asked about removal of the sign at 29<sup>th</sup> and Topeka Blvd.

Councilmember Dunn thanked John Arnold for giving her a report on the \$85,000.

Councilmember Pomeroy requested clean up of the culverts along Rochester Road near Hwy 24 and North Soldier Creek, South of Menninger Road and requested a follow-up report.

Councilmember Dunn asked for a report from the Kansas Bureau of Investigation (KBI) regarding the Zoo.

Councilmember Alcala asked what the statute of limitation was on misdemeanor cases and what impact that would have on the number of cases the City would have.

Councilmember Pomeroy requested a report on what kind of provisions would be made to have people look at misdemeanors. He also asked for a report on the possibilities of funding concerts in the summer.

Councilmember Dunn moved to extend the meeting until the end of the agenda. The motion seconded by Councilmember Alcala carried. Councilmember Carkhuff and Duffy voted "no". Councilmember McClinton left the meeting. (6-3-0)

James Bolden, Joe Ledbetter, and Frank Kirtdoll appeared and spoke during public comment.

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, March 27, 2001. 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, Duffy, Lee, Hill, and Gardner –8. Deputy Mayor Carkhuff presided -1. Absent: Mayor Wagnon -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, March 27, 2001, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street to obtain citizen comment and review of a property tax exemption for improvements to real and personal property on behalf of Co-Nect-It-Frame Corporation, 1100 SE Rice Road in the City of Topeka, Kansas.

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

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

ORDINANCE NO. 17663 introduced by Mayor Joan Wagnon and Councilmembers Samuel Carkhuff and James McClinton, amending City of Topeka Ordinance No. 17557 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, placed on first reading March 20, 2001, was again presented.

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

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Iris Walker  
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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, March 27, 2001, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> 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, on all lots, parcels and pieces of ground liable for the cost of Street Improvement Project No. 60542-H, Phase II.

Bill McCarter, Engineering Department gave the staff report.

Deputy Mayor Carkhuff 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. (9-0-0)

ORDINANCE NO. 17664 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. 60542-H, Phase II with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60542-H, Phase II as defined and described in Resolution No. 7018, adopted and approved October 19, 1999, placed on first reading March 20, 2001.

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

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Bill McCarter, Engineering Department gave the staff report.

Deputy Mayor Carkhuff 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 Hill carried unanimously. (9-0-0)

ORDINANCE NO. 17665 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. 60552-H with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60552-H, as defined and described in Resolution No. 7011, adopted and approved September 28, 1999, placed on first reading March 20, 2001, was again presented.

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

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Bill McCarter, Engineering Department gave the staff report.

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

Gilbert Gonzalez, area property owner appeared and stated that his property was to be exempt and his driveway was to be paved.

Bill McCarter explained that the driveway was not replaced because it was illegally placed there prior to annexation.

Linda Jeffrey, City Attorney explained that Mr. Gonzales' lot was excluded.

Councilmember Alcala stated that he recalls an agreement for the driveway and stated that it should be checked.

Councilmember Dunn moved to close the public hearing and table the ordinance until a staff report on the driveway could be received. The motion seconded by Councilmember Alcala carried. Councilmember Carkhuff voted "no". (8-1-0)

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Iris Walker  
City Clerk