

## City Council Minutes – September 18, 2001

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 18, 2001. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcala, Lane, Dunn, Duffy, Stubbs, Hill, and Price – 8. Council District No. 5 was vacant – 1. Mayor Felker presided –1.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Price.

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

Election was held for the District No. 5 Councilmember.

Lisa Hecht was elected on the second ballot.

Mayor Felker thanked all the other applicants and invited them to stay involved in city government.

Judge Neil Roach performed the swearing in ceremony for Councilmember Hecht.

Councilmember Hecht joined the Council.

THE CONSENT AGENDA was presented as follows:

FINAL PLAT for Clarion Lakes Subdivision No. 2 on property located about the east side of SW Clarion Lakes Drive, the centerline of which is approximately 200 feet north of SW Clarion Lakes Way in unincorporated Shawnee County, Kansas was presented.

A COMMUNICATION from Mayor Harry Felker recommending the appointment of John Williams to the Topeka/Shawnee County Metropolitan Planning Commission was presented. The terms are for three years.

Workers compensation settlement for Richard Hicks in the amount of \$18,000 was presented.

Disposition of claim appeal of Greg and Beverly Escobar in the amount of \$2,341 was presented.

Disposition of claim appeal of Sharon Bingham in the amount of \$1,152 was presented.

The Minutes of the Regular Meeting of September 4, 2001, were presented.

CEREAL MALT BEVERAGE APPLICATIONS bearing the approval of the Chief of Police and City

Inspectors were presented from the following:

Dillons #54	800 NW 25 <sup>th</sup> Street
Pick N Move Inc	706 SW Fairlawn Road
Pizza Parlor	1919 NE Seward Avenue
Prestige Food Mart	2201 SW 6 <sup>th</sup> Street

Councilmember Alcalá asked to separate the question on Items D and E, claims.

Councilmember Dunn asked to separate the question on Item C, workers compensation settlement.

Councilmember Dunn moved to approve the consent agenda except Items C, D, and E. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

Councilmember Alcalá asked for the original claim amounts for both claims.

Beth Schafer, Assistant City Attorney reported that the original claim amount for Greg and Beverly Escobar was \$5,170.02, and that the original claim amount for Sharon Bingham was \$3,764.84.

Discussion followed concerning responsibility for sewer backups and sewer insurance.

Councilmember Alcalá moved to approve the claims in the original amount of \$5,170.02 for Greg and Beverly Escobar and \$3,764.84 for Sharon Bingham. The motion seconded by Councilmember Lane failed.

Councilmembers Pomeroy, Hecht, Duffy, Stubbs, Hill, and Price voted “no.” (3-6-0)

Councilmember Pomeroy moved to approve the claims in the recommended amount of \$2,341 for Greg and Beverly Escobar and \$1,152 for Sharon Bingham. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Dunn asked for information concerning the history and present employment status of the employee who filed the workers compensation claim.

Beth Schafer, Assistant City Attorney responded that Mr. Hicks is no longer employed by the City of Topeka, and settlement would end the on-going relationship of the City with Mr. Hicks.

Councilmember Hill moved to approve the workers compensation settlement. The motion seconded by Councilmember Stubbs carried. Councilmember Duffy voted “no.” (8-1-0)

ZONING PETITION by Jack and Ruth Ecord and Joyce V. Hankamer requesting to amend the District Zoning Classification from “R-1” Single-Family Dwelling District to “C-4” Commercial District on property located about the east side of SW Burlingame Road, extending from approximately SW 45<sup>th</sup> Street (extended) to SW 49<sup>th</sup> Street, in the City of Topeka, Kansas, was presented.

AN ORDINANCE introduced by Mayor Harry Felker 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 Burlingame Road between SW 45<sup>th</sup> Street (extended) and SW 49<sup>th</sup> Street in the City of Topeka, Kansas from “R-1” Single-Family Dwelling District to “C-4” Commercial District placed on first reading August 7, 2001 was again presented. (Z00/52)

Barry Beagle of the Planning Department gave the staff report. He indicated that, due to the physical restraints of the flood plain and topographical structure of the land, uses for the land were limited.

Discussion followed concerning alternative uses for the land.

Ben Crosland of CP Engineers and Surveyors appeared on behalf of the petitioners. He stated that the current business wants to expand, and the zoning is needed to allow the expansion as well as other uses for the land.

Discussion followed concerning what a “C-4” Commercial District allows.

Barry Beagle provided the business alternatives within a “C-4” Commercial District.

Ben Crosland commented on the expense of a PUD and why a “C-4” Commercial District was preferable in this case.

Joe Crisp and John Vosbinder, who live in the protest area appeared to speak in opposition.

Mayor Felker asked if anyone had any ex parte communications to report. None were acknowledged.

Councilmember Duffy moved to override the Planning Commission's recommendation and disapprove the request. The motion seconded by Councilmember Stubbs carried. Councilmembers Pomeroy and Lane voted "no." (7-2-0)

ZONING PETITION by Bradford and Adrienne Prokop requesting to amend the District zoning classification from "M-1" Two Family Dwelling District, "E" Multiple Family Dwelling District and "M-3" Multiple Family Dwelling District all to "M-S" Medical Service District on property located at the northwest corner of SW 10<sup>th</sup> Avenue and SW Lane Street in the City of Topeka, Kansas was presented.

AN ORDINANCE introduced by Mayor Harry Felker 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 northwest corner of SW 10<sup>th</sup> Avenue and SW Lane Street in the City of Topeka, from "M-1" Two Family Dwelling District, "E" Multiple Family Dwelling District and "M-3" Multiple Family Dwelling District all to "M-S" Medical Service District placed on first reading September 4, 2001 was again presented. (Z01/13)

Barry Beagle provided the staff report.

Jerry Dinnen of Associated Management Services appeared on behalf of the petitioner to answer questions.

Ted Mize, President of Old Town NIA appeared to ask that City Council consider the character of a neighborhood before making zoning changes.

Discussion followed concerning the amount of parking lots on Lane Street and the desire to have as much green space as possible.

Councilmember Pomeroy moved to defer the zoning petition and ordinance until the first Tuesday in January 2002. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

ZONING PETITION by Bradford and Adrienne Prokop requesting to amend the District zoning classification from “M-1” Two Family Dwelling District, “E” Multiple Family Dwelling District and “M-3” Multiple Family Dwelling District all to “M-S” Medical Service District on property located at the northwest corner of SW 10<sup>th</sup> Avenue and SW Lane Street in the City of Topeka, Kansas was presented.

ORDINANCE NO. 17720 introduced by Mayor Harry Felker 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 10<sup>th</sup> Avenue and SW Washburn Avenue in the City of Topeka, from “M-3” Multiple Family Dwelling District and “O&I-2” Office and Institutional District to “M-S” Medical Service District placed on first reading September 4, 2001, was again presented. (Z01/12)

Mayor Felker gave an opportunity for individuals to speak on the petition. No one appeared.

Councilmember Pomeroy moved to approved the petition and adopt the ordinance. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

Councilmember Pomeroy thanked the Councilmembers for considering the concerns of the NIA and the developer for their consideration.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill, and Price – 9.

A COMMUNICATION from the Planning Department submitting a request by Craig and Sara Crook for a waiver to the provisions of the Shawnee County Wastewater Management Plan with respect to a 9.63-acre parcel located at 945 NW Menninger Road in the City of Topeka, Kansas was presented.

Barry Beagle gave the staff report. He stated that the owners would use an engineered, non-discharging sewage system due to the cost of providing sanitary sewer to the property. He also stated that the Kansas Department of Health and Environment have provided designs for acceptable systems in low percolating soil,

and one of the approved systems would be installed. Public Works has agreed to the waiver if such a system would be installed.

Neil Dobler, Public Works Director stated that no current plan exists to service the area with sanitary sewer lines.

Discussion followed concerning potential contamination of Soldier Creek and extension of sewer lines to the area.

Deputy Mayor Dunn referred the communication to the Public Health and Safety Committee.

A COMMUNICATION requesting authorization for the Mayor to sign the Letter of Acknowledgement relating to a source water assessment for the City of Topeka was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Hill moved to approve the communication. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$488,700, AND RESOLUTION NO. 7185 introduced by Mayor Felker, authorizing Improvement Project No. 15058, Phase 1, which provides for the improvement of the channel between S.W. 10<sup>th</sup> Street and S.W. Wanamaker Road as more specifically described herein was presented.

Neil Dobler gave the staff report.

Councilmember Hill asked whether the channel would be open or covered.

Neil Dobler replied that the channel would remain open for an environmental and economic benefit.

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

RESOLUTION NO. 7186 introduced by Mayor Felker rescinding Resolution No. 6110 which relates to block parties was presented.

Neil Dobler gave the staff report.

Councilmember Hill moved to approve the resolution. The motion seconded by Councilmember Hecht carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 1 foot wide strip of alley right-of-way adjacent to 724, 726 and 728 S. Kansas Avenue as dedicated by Original Town Subdivision, City of Topeka, Shawnee County, Kansas was presented for first reading. (V01A/4)

Barry Beagle gave the staff report.

AN ORDINANCE introduced by Mayor Felker, authorizing Project No. 14096-00, which provides for the installation of an upgraded traffic signal system at S.E. 4<sup>th</sup> Street and S.E. Monroe Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

Neil Dobler gave the staff report.

#### REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER:

John Arnold, Chief Administrative Officer reported that Kansas ranked 47<sup>th</sup> on the Small Business Survival Index he found on the internet.

John Arnold also reported that a memorandum had been delivered to the council office regarding how Information Technology fees were calculated.

#### REPORTS OF COMMITTEES AND OFFICERS:

Mayor Felker reported that a joint meeting with Shawnee County Commissioners to discuss the interlocal agreement had been scheduled for 6:00 p.m. on September 25, 2001.

Councilmember Duffy stated that he would prefer to meet as a Council before meeting with the county.

Mayor Felker responded that he would meet with the Council next week and schedule a joint meeting with the commissioners at a later date.

Mayor Felker also announced that Cox Cable had offered to make a presentation to the City Council, which is scheduled for September 25, 2001.

**PRESENTATIONS BY MEMBERS OF THE COUNCIL:**

Councilmember Pomeroy commended the Mayor for his handling of Topeka's response to crisis situations and the Deputy Mayor's participation in recent crisis events.

Councilmember Lane asked that individuals take notice of the American flag flying over 427-429 S. Kansas. He stated that the building was where the Topeka Constitution was written in 1855.

Councilmember Lane thanked John Arnold for staff response during emergency situations the past weekend.

Councilmember Alcala thanked the Mayor for the recent Oakland area cleanup. He also pledged support by Oakland members for future cleanup events.

Councilmember Dunn commended the area churches for their response to the national crisis. She thanked the Greater St. Peter's Church specifically for their service on Sunday, which was attended by Mayor Felker, Councilmember Price, and herself.

Councilmember Dunn thanked the Police Department for their work in the Hi-Crest area targeting drug dealers.

Mayor Felker said that he is meeting with legislators to discuss changing sentencing guidelines.

Councilmember Stubbs said that she has also been speaking with legislators about sentencing guidelines.

**PUBLIC COMMUNICATIONS AND COMMENTS:**

Charles Criqui and Jerry Lee appeared to speak for Public Comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:05 p.m. by unanimous consent.

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Iris Walker  
City Clerk



## **Special Session**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 18, 2001. The Councilmembers of the City of Topeka met in special session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Lane, Dunn, Duffy, Hecht, Stubbs, Hill, and Price – 9. Mayor Felker 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 Tuesday, September 18, 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 ordinance for improvements to real and personal property on behalf of Southwest Publishing and Mailing, located at 2600 NW Topeka Boulevard, Topeka, Kansas.

John Arnold gave the staff report.

Richard Swearingen appeared on behalf of the applicant to answer questions.

Discussion followed concerning the number of additional full time jobs to be created.

Kathy Moellenberndt of the Greater Topeka Chamber of Commerce appeared to provide details concerning the review committee.

Mayor Felker gave an opportunity for anyone else to speak concerning the tax exemption. No one appeared.

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

ORDINANCE NO. 17719 introduced by Mayor Felker and Councilmember Duane Pomeroy exempting certain property, more specifically property owned by Southwest Publishing 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 2600 NW Topeka Blvd placed on first reading September 4, 2001 was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill, and Price – 9.

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Iris Walker  
City Clerk