

## **City Council Minutes – November 6, 2001**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 6, 2001. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcala, Lane, Dunn, Hecht, Stubbs, Hill, and Price – 7. Councilmembers absent: Pomeroy and Duffy – 2. Mayor Felker presided – 1.

AFTER THE MEETING was called to order, the Mayor invited everyone to participate in a moment of silence.

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

THE CONSENT AGENDA was presented as follows:

FINAL PLAT for 57<sup>th</sup> Street Industrial Park Subdivision on property located on the north side of SW 57<sup>th</sup> Street, the centerline of which is approximately 420-feet east of SW Lincoln Street within unincorporated Shawnee County, Kansas was presented.

FINAL PLAT for Makenna Leanne Subdivision on property located at the northeast corner of SW 69<sup>th</sup> Street and SW Lewelling Road in unincorporated Shawnee County, Kansas was presented.

Minutes of the Regular Meeting of October 23, 2001 were presented.

CEREAL MALT BEVERAGE APPLICATION bearing the approval of the Chief of Police and City Inspectors was presented for Conoco #16005 at 3830 SW 29<sup>th</sup> Street and Conoco #16004 at 1531 SW Wanamaker Road.

Councilmember Hill moved to approve the Consent Agenda. The motion seconded by Councilmember Dunn carried unanimously. (7-0-0)

CLAIM APPEAL of Richard Zuniga alleging that on April 7, 2001 he sustained physical injuries at the Topeka Public Golf Course was presented.

Steve Ebberts, Assistant City Attorney gave the staff report.

Richard Zuniga appeared to appeal the denial of his claim.

Councilmember Alcalá moved to approve the claim in the amount of \$2,633.51. The motion was seconded by Councilmember Lane.

Chuck Minner appeared in support of the claim appeal.

Dan Bartels, Topeka Public Golf Course Manager appeared on behalf of the golf course.

Councilmember Pomeroy entered the chamber.

Discussion followed concerning the event.

Councilmember Alcalá called the question.

The motion to approve the claim in the amount of \$2,633.51 failed. Councilmembers Pomeroy, Hecht, Stubbs, Hill, and Price voted “no.” (3-5-0)

AN ORDINANCE introduced by Mayor Felker, relating to establishing monthly water use rates and charges for consumers of water furnished by the Water Division of the City of Topeka, providing for additional water rates amending City of Topeka §§ 146-138, 146-139, and 146-140 of the Code of the City of Topeka and repealing said original sections placed on first reading on October 23, 2001 was again presented.

Neil Dobler, Public Works Director, Don Rankin, Water Superintendent, and Mark Green, Water Pollution Control Superintendent gave the staff presentation.

Councilmember Dunn moved to change the percent of increase in water use rates to 2.5% for 2002, 2003, and 2004 and add 2.0% increase in 2005-2009. The motion was seconded by Councilmember Lane.

Discussion followed concerning the permit requirements and options for funding.

Councilmember Stubbs made a substitute motion to adopt the ordinance as written and publicize the donation opportunity to help individuals in need. The motion was seconded by Councilmember Price.

Discussion followed concerning revenue bonding requirements and planned aesthetic changes.

Mayor Felker stated that he would withdraw the ordinances from the agenda for one week so options could be explored if the two motions were withdrawn.

Councilmembers Stubbs and Dunn withdrew their motions.

Marvin Schleif appeared in opposition to the rate increases.

Mayor Felker withdrew the ordinance for one week.

AN ORDINANCE introduced by Mayor Felker relating to monthly rates and charges for sanitary sewer excess strength (BOD) amending City of Topeka Code § 146-343(6)(a) and repealing said original section placed on first reading on October 23, 2001 was again presented.

Mayor Felker withdrew the ordinance for one week.

AN ORDINANCE introduced by Mayor Felker relating to the fees for dog permits specifically raising the fees for the permits, amending City of Topeka Code § 18-107, Fees, and specifically repealing said original section placed on first reading October 16, 2001 was again presented.

AN ORDINANCE introduced by Mayor Felker relating to the fees for cat permits specifically raising the fees for the permits, amending City of Topeka Code § 18-221, Fees, and specifically repealing said original section placed on first reading October 16, 2001 was again presented.

Councilmember Alcala moved to refer the ordinances for dog and cat permit fees to the Policy Committee. The motion was seconded by Councilmember Lane.

John Etzel appeared to speak in opposition to the ordinance and asked that the City contact those who are not complying with current permit requirements.

The motion to refer the ordinances for dog and cat permit fee increases to the Policy Committee carried unanimously. (8-0-0)

A COMMUNICATION regarding allocation of monies from the Special Alcohol Fund was presented.

Don Troth, Chair of the Special Alcohol Advisory Committee appeared to give the report.

Ron Eisenbarth, member of the Special Alcohol Advisory Committee appeared in support of the communication.

Councilmember Dunn moved to accept the allocation of funds as recommended. The motion seconded by Councilmember Hill carried unanimously. (8-0-0)

RESOLUTION NO. 7197 introduced by Mayor Felker authorizing the expenditure from the Softball/Sports Facilities Reserve Fund for the purpose of completing the remaining enhancements at the Rueger Park Softball Complex, pursuant to City of Topeka Ordinance No. 16269 was presented.

Rogers Brazier, Director of Parks and Recreation gave the staff report.

Councilmember Dunn moved to approve the expenditure from the Softball/Sports Facilities Reserve Fund. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

RESOLUTION NO. 7198 introduced by Mayor Harry Felker in accordance with Section 48-25.01 of the Code of the City of Topeka, approving a City of Topeka Conditional Use Permit to establish a commercial radio broadcasting and/or receiving tower on property currently zoned “R-1” Single Family Dwelling District with Resolution of Intent to “O&I-2” Office and Institutional District and situated between SW Executive Drive and I-470, the centerline of which is approximately 250-feet north of SW Huntoon Street in the City of Topeka, Shawnee County, Kansas was presented. (CU01/18)

Councilmember Dunn moved to adopt the resolution. The motion seconded by Councilmember Hill carried unanimously. (8-0-0)

A RESOLUTION introduced by Mayor Harry Felker in accordance with Section 48-25.01 of the Code of the City of Topeka, approving a City of Topeka Conditional Use Permit to establish a demolition landfill on property currently zoned “R-1” Single Family Dwelling District and on property located adjacent to the west side of the Kansas Turnpike and US Highway 75 and situated between SW 45<sup>th</sup> Street, extended, and SW 49<sup>th</sup> Street in the City of Topeka, Kansas was presented. (CU01/14)

Barry Beagle of the Planning Department gave the staff report.

Discussion followed concerning the effects of the landfill on the view of Topeka from the Kansas Turnpike.

Councilmember Lane moved to defer the resolution for one week to allow the applicant to appear and answer questions. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

AN ORDINANCE introduced by Mayor Felker relating to delivery vehicles, making provisions for the issuance of delivery vehicle permits, restrictions thereof, and annual fees was presented for first reading.

AN ORDINANCE introduced by Mayor Felker relating to ambulance services within the City of Topeka, Kansas, providing a non-exclusive franchise to American Medical Response, Inc., f/k/a Medevac MidAmerican, Inc. to operate an ambulance service within the City of Topeka, Kansas was presented for first reading.

AN ORDINANCE introduced by Mayor Felker approving cost estimates of the proposed improvements to the municipally owned wastewater system of the City of Topeka, Shawnee County, Kansas, to wit; construction of a new Central Park Pump Station with additional force main, rehabilitation of the Furman Interceptor sewer and related sewer mains and laterals, extension of lateral sewer lines throughout the wastewater system and replacement of existing deteriorated piping and equipment to maintain reliability of the overall wastewater system and doing all other things necessary and incidental thereto, and authorizing the publication of the notice of intention for the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay the cost thereof was presented for first reading.

AN ORDINANCE introduced by Mayor Felker approving cost estimates of the proposed improvements to the municipally owned waterworks system of the City of Topeka, Shawnee County, Kansas, by removing and replacing existing deteriorating water mains and installing new transmission mains within the water distributions system to improve quality and reliability of the system and doing all other things necessary and incidental thereto, and authorizing the publication of the notice of intention of the Council of the City of Topeka, Kansas, to make such

improvements and to issue and sell revenue bonds of said City to pay the cost thereof was presented for first reading.

Neil Dobler, Public Works Director gave the staff report.

AN ORDINANCE introduced by Mayor Harry Felker annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, located at 1685 SE 45<sup>th</sup> Street and the City boundary, and said land being annexed for all City purposes, is hereby assigned to a specific City Council District in accordance with Section A2-18 of the Code of the City of Topeka, and, repealing Ordinance 17736 was presented for first reading. (A01/7)

Neil Dobler, Public Works Director gave the staff report.

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of the north 6-feet of a platted 20 foot wide public utility easement located along the south lot line of property located at 5209 SW 40<sup>th</sup> Terrace as dedicated by Clarion Woods Subdivision No. 3, City of Topeka, Shawnee County, Kansas was presented for first reading. (V01E/8)

Barry Beagle of the Planning Department gave the staff report.

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 southeast corner of SE 13<sup>th</sup> Street and SE Monroe Street in the City of Topeka, from “M-1” Two Family Dwelling District to “I-1” Light Industrial District was presented for first reading. (Z84/30)

Barry Beagle of the Planning Department gave the staff report.

Ruby Thornton, owner appeared to answer questions.

Discussion followed concerning the proximity of the Monroe School.

Deputy Mayor Dunn referred the ordinance to the Public Improvement Committee.

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 southwest corner of SE 37<sup>th</sup> Street and SE Adams Street in the City of Topeka, Kansas, from “PUD” Planned Unit Development District to “C-2” Commercial District was presented for first reading.

Barry Beagle of the Planning Department gave the staff report.

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 southwest corner of SE 37<sup>th</sup> Street and SE Colfax Place in the City of Topeka, from “PUD” Planned Unit Development District to “C-2” Commercial District was presented for first reading. (Z87/6(2))

Barry Beagle of the Planning Department gave the staff report.

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 approximately 280-feet north of SW 29<sup>th</sup> Street and 500-feet east of SW Villa West Drive in the City of Topeka, from “PUD” Planned Unit Development District to “C-4” Commercial District was presented for first reading. (Z91/28)

Barry Beagle of the Planning Department gave the staff report.

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 on property generally located between SW Atwood and SW Cambridge Avenues on the north side of SW 37<sup>th</sup> Street in the City of Topeka, Kansas,

from “M-2” Multiple Family Dwelling District ALL TO “PUD” Planned Unit Development District (“M-1a” usage) was presented for first reading. (Z01/22)

Barry Beagle of the Planning Department gave the staff report.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA

ORDINANCE introduced by Harry Felker pertaining to an amendment to the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan was presented for first reading.

(CPA01/02)

Bill Fiander, Interim Planning Director gave the staff report.

Discussion followed concerning infill housing.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA

ORDINANCE introduced by Mayor Felker, amending City of Topeka Code Chapter 48 §§ 48-23a.00, 48-23a.01, 48-23a.03, 48-23a.04, and 48-23a.06, Comprehensive Zoning Regulations for the City of Topeka and unincorporated areas of Shawnee County by revising X-Mixed Use Districts, provisions and specifically repealing said original sections was presented for first reading. (ACZR01/05)

Bill Fiander, Interim Planning Director gave the staff report.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA

ORDINANCE introduced by Harry Felker pertaining to an amendment to the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan was presented for first reading.

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade

neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “R-1” Single Family Dwelling District, “M-2” Multiple Family Dwelling District, and “C-2” Commercial District to “OS-1” Open Space District was presented for first reading. (Z01/20)

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “I-2” Heavy Industrial District to “I-1” Light Industrial District was presented for first reading. (Z01/21)

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “M-1” Two-Family Dwelling District, “M-2” Multiple Family Dwelling District, and “C-2” Commercial District to “R-2” Single-Family Dwelling District was presented for first reading. (Z01/16)

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade

neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “C-4” Commercial District to “X-1” Mixed Use District was presented for first reading. (Z01/19)

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “M-2” Multiple Family Dwelling District to “M-1A” Limited Multiple Family Dwelling District was presented for first reading. (Z01/17)

Bill Fiander, Interim Planning Director gave the staff report.

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 within the Ward-Meade neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from “C-2” Commercial District to “C-1” Neighborhood Commercial District was presented for first reading. (Z01/18)

Bill Fiander, Interim Planning Director gave the staff report.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER:

John Arnold, Chief Administrative Officer reported that the department heads were being especially cautious with spending due to the current economy.

John Arnold reported that property insurance rates are anticipated to increase 18-20% next year due to the events on September 11, 2001.

John Arnold presented an infrared receiver for the hearing impaired. He said that the receivers would be available for attendees at the next City Council meeting.

Discussion followed concerning the impact of anticipated increases in expenses.

#### REPORTS OF COMMITTEES AND OFFICERS:

Councilmember Pomeroy reported that the Community Development Committee would meet November 8, 15, and 29 at 3:30 p.m. in the Council Office or in the Executive Conference Room.

#### PRESENTATIONS BY MEMBERS OF THE COUNCIL:

Councilmember Pomeroy congratulated the Mayor, staff, and other Councilmembers for hosting the Sunflower State Games in Topeka.

Councilmember Pomeroy offered suggestions for selecting JEDO members and asked that the City Attorney assist in developing the procedure as quickly as possible due to time constraints.

Mayor Felker reported that there would be a City Council meeting on December 4 and possibly December 27.

Councilmember Alcalá expressed his concern that the City's bond counsel not be the same as a company's bond counsel when doing industrial revenue bonds.

Discussion followed concerning IRB procedures and responsibilities of bond counsels for IRB's.

Councilmember Dunn asked if the Councilmembers could do anything to show support for Security Benefit Group.

Mayor Felker stated that nothing could be done until SBG had submitted a document for consideration. He also reported that the legal staff are reviewing the legality of issuing IRB's after construction.

**PUBLIC COMMUNICATIONS AND COMMENTS:**

Denise Eulert, Joel Stottlemire, Sandy Swartz, Rev. L. S. Wheeler, and Jason Jacob appeared to speak for Public Comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:55 p.m. by unanimous consent.

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Iris Walker  
City Clerk