

## City Council Minutes – March 19, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 19, 2002. 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, Hecht, Duffy, Hill and Price –8. Absent: Councilmember Stubbs -1. Mayor Felker presided –1.

AFTER THE MEETING was called to order, Councilmember Duffy asked for a moment of silent meditation.

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

THE CONSENT AGENDA was presented as follows:

Final Plat for Rogers Addition on property located at the northeast corner of NW Rochester Road and U.S. Highway 24 in the City of Topeka, Kansas, was presented. (P01/15)

Minutes of the Regular Meeting of March 12, 2002, were presented.

APPLICATION for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors for Tequita's Mexican Restaurant, Inc., 1525 SW Lane, was presented.

Councilmember Dunn moved to approve the consent agenda. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

### 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 19, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street in conjunction with vacation request V02E/2 by Robert and Yvonne Berry to vacate two (2) 12-foot wide utility easements located on the north side of NW Lower Silver Lake Road and approximately 300-feet west of NW Vail Road, which adjoins their property.

ORDINANCE NO. 17804 introduced by Mayor Harry Felker relating to the vacation of a portion of two (2) separate 12-foot wide utility easements located on the north side of NW Lower Silver Lake Road and approximately 300-feet west of NW Vail Road as dedicated by Swader-Hobble Subdivision, City of Topeka, Shawnee County, Kansas, placed on first reading March 12, 2002, was again presented. (V02/E/2)

Barry Beagle, Planning Department gave the staff report.

Mayor Felker 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 Alcalá carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Hill and Price –8. Absent: Councilmember Stubbs –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 19, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street in conjunction with vacation request V02A/3 by Robert and Yvonne Berry and Gilbert V., Jr. and Bonnie Swader to Vacate a 20-foot wide strip of alley right-of-way located on the north side of NW Lower Silver Lake Road approximately 300-feet west of NW Vail Road, which adjoins their property.

ORDINANCE NO. 17805 introduced by Mayor Harry Felker relating to the vacation of a portion of a 20-foot wide alley right-of-way located on the north side of NW Lower Silver Lake Road and approximately 300-feet west of NW Vail Road as dedicated by Swader-Hobble Subdivision, City of Topeka, Shawnee County, Kansas, placed on first reading March 12, 2002, was again presented. (V02A/3)

Barry Beagle, Planning Department gave the staff report.

Mayor Felker 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. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Hill and Price -8 Absent: Councilmember Stubbs -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 19, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8<sup>th</sup> Street in conjunction with vacation request V02SB/2 by RJ Development, Inc. to vacate 5.5 feet of a 30-foot platted building setback line along SW Broadview Drive for property located at the southwest corner of SW Red Oaks Place and SW Broadview Drive.

ORDINANCE NO. 17806 introduced by Mayor Harry Felker relating to the vacation of 5.5-feet of a 30-foot wide platted building setback along SW Broadview Drive dedicated by Red Oaks Place for property located at the southwest corner of SW Red Oaks Place and SW Broadview Drive, City of Topeka, Shawnee County, Kansas, placed on first reading March 12, 2002, was again presented. (V02SB/2)

Barry Beagle, Planning Department gave the staff report.

Mayor Felker 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 Lane carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Hill and Price -8 Absent: Councilmember Stubbs -1.

Councilmember Alcala moved to advance Item 5B ahead of Item 5A because there were a number of people present who wanted to speak on Item 5B. The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

ORDINANCE NO. 17807 introduced by Councilmember John Alcala adding a provision to Chapter 10 of the City of Topeka Code establishing prohibited zones for the selling or serving of alcoholic liquor, placed on first reading March 12, 2002, was again presented.

Councilmember Alcala stated that they have been working on neighbor plans and quality of life issues in the neighborhoods. He stated that he proposed the ordinance to help address some safety concerns because there are a lot of vacant facilities within the neighborhoods.

Councilmember Alcala moved to adopt the ordinance. The motion was seconded by Councilmember Dunn.

Councilmember Duffy asked if the ordinance could be applied in zones by neighborhood instead of city wide.

Beth Schafer, Assistant City Attorney stated that the ordinance would withstand a challenge better if it was uniformly applicable as possible.

Councilmember Price asked if this ordinance would apply to a day care or pre-school.

Beth Schafer stated that a pre-school or day care is not included in the school building definition.

Mark Hobart, Jim Pierce, Pam Morse, Jerry Jaramillo, Alice Ziegler, Staci Warren, Ben Schmidlein, Steve Schmidlein, Tom Schmidlein, Rita Bennett and Father Raymond May appeared in support of the ordinance. They expressed their concerns about an establishment that serves liquor being located close to a school or Church being unsafe for children, and also that it was a quality of life issue for the neighborhood.

Councilmember Duffy stated that he would not support the ordinance because restricting restaurants in the entire City would not solve the problem.

Councilmember Pomeroy stated that he believed this ordinance would reaffirm and strengthen policy already established with the Cereal Malt Beverage ordinance.

Councilmembers Dunn and Lane expressed their support for the ordinance.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Hill and Price –7. Noes: Councilmember Duffy –1. Absent: Councilmember Stubbs –1.

AN ORDINANCE introduced by Councilmembers Duane Pomeroy, Clark Duffy, and Gary Price, sitting as the Economic Development Committee, relating to the Topeka Public Building Commission, pursuant to and in accordance with the provisions of K.S.A. 12-1757, et seq., amending § 26-66, Created, § 26-67, Members, and § 26-68, Functions, and repealing said original sections, placed on first reading January 8, 2002, was again presented.

Councilmember Duffy moved to accept the committee report. The motion seconded by Councilmember Dunn carried. Councilmember Hill voted “no”. (7-1-0)

Councilmember Pomeroy explained that the committee amended the membership from five members to seven, and the appointees by the Mayor must be residents of the City.

Councilmember Duffy stated that the committee reviewed every item brought before them and responded to each one. He stated that they have a detailed copy of their proceedings, and that information is available upon request.

Councilmember Hill stated that she had some questions about the information she received from Mary Turkington this afternoon. She also questioned the need for a Public Building Commission since there were so many recommended changes.

Councilmember Hill moved to defer action on the ordinance for one week to have time to get her questions answered and get additional information. The motion seconded by Councilmember Alcala carried. Councilmembers Pomeroy and Price voted “no”. (6-2-0)

RESOLUTION NO. 7224 introduced by Councilmembers Clark Duffy, Betty Dunn, and Lisa Hecht relating to the City of Topeka Zoo, was presented.

Councilmember Duffy explained that he supported the resolution so they could take a strong look at what the City has as a vision for the Zoo. He stated that his objective was not to avoid dealing with the bond issue relating to the Zoo. He stated that there are three issues that he would like to have addressed: the care and safety of the animals, a Master Plan for the Zoo (the last one was 1988), and accreditation. He stated that this will provide concrete information for the future, but without the community rallying around the group, it may not be successful.

Councilmember Hecht stated that she has and continues to spend a lot of time at the Zoo, and she shares Councilmember Duffy's concerns about the condition of the Zoo. She stated that she did not believe they are getting all the information they need to fully fund the Zoo.

Councilmember Dunn expressed her concerns about the care of the animals, especially the elephants.

Councilmember Pomeroy moved to amend line 31 to include County consolidation. The motion seconded by Councilmember Dunn carried. Councilmembers Alcala and Hill voted "no". (6-2-0)

Councilmember Pomeroy moved to amend the resolution by striking lines 32-34 which would delete reference to a moratorium of all capital improvement projects at the Topeka Zoo until the Study Report is received. The motion seconded by Councilmember Price carried. Councilmember Hill voted "no". (7-1-0)

Councilmember Alcala stated that in his opinion the Zoo has deteriorated over the past several years. He stated that he also has concerns about the accountability of the Zoo and care of the animals, and he felt that the Zoo is important and essential to the quality of life in Topeka.

Councilmember Lane stated that he supports the resolution with the amendments.

Councilmember Price stated that he opposes the resolution because it just adds another layer to getting problems solved. He stated that the problems could be addressed through Administration.

Mayor Felker stated that since the change in the form of government, Parks and Recreation has suffered the most. He explained that they are behind the rate of inflation in their financing. He stated that he would like to see a new Zoo, but the City cannot afford it. He stated that they have invested millions in the current site and still have bond issues to be paid. He explained that because the way things were handled for the past few years, they have lost corporate funding and they are currently working to restore support from the corporations. He stated that they will also seek additional support at budget time. He explained that through a combination of City and Community efforts, they are making progress, and a delay at this time is not warranted.

Richard Wells, President of Friends of the Topeka Zoo, (FOTZ) appeared and stated that they are willing to work with the committee. He stated that they are concerned with delay of the bond issue which would also delay getting the Zoo accredited.

Dave Graversen, Acting Chief Administrative Officer expressed his concern about the time commitment the Study Group would require of staff, and about the Group dealing with personnel matters. He stated that staff could get so burdened down putting information together

that it could interfere with day to day tasks. He stated that they want to fully cooperate with the Study Group but perhaps they could further define the group's scope after it is put together.

Councilmember Duffy stated that he would not support the resolution even though he is one of the sponsors. He stated that in the last few weeks he spoke with the Zoo Director about some of the issues, and he received no answers for the long-term vision of the Zoo. He stated that the Zoo Director, staff, FOTZ as well as other Zoo Directors do not support the resolution, and they are the ones who would provide information the Council is wanting.

Mayor Felker expressed the importance of following through with some of the recommendations of a group or committee that commits months of their time to do a study.

Councilmember Pomeroy moved to approve the resolution as amended. The motion seconded by Councilmember Lane carried. Councilmembers Duffy, Hill and Price voted "no".

(5-3-0)

DISCUSSION relating to the Topeka Performing Arts Center (TPAC), was presented.

Richard Wienckowski, TPAC Chair stated that they had some good discussions with SMG, but felt they were more suitable for a larger market. He stated that they are currently visiting with Management Compass, a company that manages talents, policies and procedures for employees and focuses on how to raise funds in a City this size. He encouraged the Council to approve their contract.

Councilmember Alcalá stated that he was interested in getting information on how to reduce TPAC's operating costs and bring in quality shows.

Mr. Wienckowski stated that Compass impressed him with their ability to get communities behind a Performing Arts Center as well as bringing in quality performances.



Joe Ledbetter appeared and expressed his concerns about the cost of running TPAC and stated that they need to find a way to reduce TPAC's operating costs. He suggested they find a way to have people who live in the County help support TPAC.

Mayor Felker stated that they would bring a five (5) year contract back next week for Council consideration with two three-year options.

A RESOLUTION introduced by Councilmembers Betty Dunn and Harold Lane relating to the Housing and Neighborhood Development Department, was presented.

The Deputy Mayor referred the resolution to the Community Development Committee.

AN ORDINANCE introduced by Mayor Harry Felker assessing the costs of sidewalk repair to real properties, more specifically described hereinafter, all pursuant to the authority found in Topeka City Code §§ 126-96 through 102, inclusive, was presented for first reading.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lane asked what funds were used to reimburse the \$179,323 to HUD because the Watertower Project was not completed.

Councilmember Pomeroy asked if any options on property in the Watertower area were paid.

Councilmember Dunn asked that Administration check on the purchase of Sumner School so the City does not have to pay the \$50,000 back.

Councilmember Pomeroy announced that the Community Development Committee would meet on Thursday, March 21, 2002 at 5:00 p.m. either in the Council office or the Executive Conference Room.

Councilmember Duffy stated that Public Works gave him and Councilmember Hill a briefing on the Topeka Boulevard Bridge proposal because they were absent last week. He noted

what he felt were three shortcomings with the document. One was lack of proper documentation on why the bridge needs to be replaced. Another shortcoming was that the document only had one design criteria with eight alternatives, and the third was that the financing recommendation was weak. He stated that if they increase taxes by ten percent, they need to ask if they want to build a bridge as a vision for the community, or consider other initiatives to build the bridge and other visions for the City.

**PUBLIC COMMUNICATIONS AND COMMENTS:**

Joe Ledbetter appeared to speak for public comments.

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

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Iris Walker  
City Clerk