

City Council Minutes – April 2, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 2, 2002. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price –9. Mayor Felker presided –1.

AFTER THE MEETING was called to order, prayer was offered by Pastor Gene Schmidt retired president of the Kansas District of Lutheran Church of the Missouri Senate.

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

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of March 26, 2002, were presented.

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

Councilmember Price stated that on February 5, 2002 the Deputy Mayor placed two resolutions concerning Council Rules in the Policy Committee. He stated that pursuant to Council Rule 7.1 any document placed in committee and not acted on within 30 days may be removed from committee by a vote of the council.

Councilmember Price moved that the Policy Committee be discharged from considering the resolutions concerning City Council Rules 6.A and 6.12, and that those resolutions which have been delivered to the City Clerk, be considered at the next City Council Meeting. The motion was seconded by Councilmember Stubbs.

Councilmember Alcalá made a substitute motion to table the documents. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Alcalá, Duffy, Stubbs, and Price voted "no". (4-5-0)

Councilmember Alcala moved to reconsider previous action taken. The motion seconded by Councilmember Lane carried. Councilmembers Pomeroy, Duffy, Stubbs, and Price vote "no". (5-4-0)

Mayor Felker stated the motion to reconsider carried, and asked for a vote on the motion to table indefinitely.

The motion to table indefinitely carried. Councilmembers Pomeroy, Duffy, Stubbs, and Price voted "no". (5-4-0)

ORDINANCE NO. 17810 introduced by Mayor Harry Felker authorizing the City of Topeka, Kansas, to issue its taxable Industrial Revenue Bonds, Series A2002 (SBL Project) in the maximum principal amount of \$50,000,000 for the purpose of purchasing, acquiring, constructing, improving, equipping and installing certain facilities; authorizing execution of a Trust Indenture by and between the City and Commerce Bank & Trust, in the City of Topeka, Kansas, as Trustee; authorizing the City to lease said project to the Federal Home Loan Bank of Topeka; and authorizing execution of a lease by and between said City and the Federal Home Loan Bank of Topeka placed on first reading March 26, 2002, was again presented.

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

ORDINANCE NO. 17811 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 placed on first reading March 26, 2002, was again presented.

Councilmember Lane gave the committee report. He stated that the Public Improvements Committee met on March 27, 2002 and heard a staff presentation. He stated that the committee recommended that 1124 Quincy be pulled and deferred until a later date.

Councilmember Pomeroy move to accept the committee report. The motion seconded by Councilmember Lane carried unanimously. (9-0-0-)

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

ZONING PETITION Z02/5 by Lee's Truck, Inc. requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District and "C-4" Commercial District all to "C-4" Commercial District on property located on the south side of NE US Highway 24 approximately 1,300-feet west of NE Meriden Road in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17812 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 on the south side of NE US Highway 24 approximately 1,300-feet west of NE Meriden Road in the City of Topeka, Kansas, from "R-1" Single Family Dwelling District and "C-4" Commercial all to "C-4" Commercial District placed on first reading March 5, 2002, was again presented.

Barry Beagle, Planning Department gave the staff report. He noted that there was a legal protest petition of 42.6% filed, and approval would require an affirmative vote of seven of the nine Councilmembers. He stated that the Zoning and Platting Committee recommended this proposal be partially approved. He explained that the committee approved changing the zoning of Lot one to "C-4" and left Lot two to remain "R-1" Single Family Dwelling District.

Lee Sack, applicant appeared and stated that the new business would create three new jobs immediately, and two more by the end of the year. He stated that there would also be an increase in property taxes for this property, and all work would be done in the back of the property.

Mayor Felker gave an opportunity for anyone present to speak concerning the petition. No one appeared.

All nine Councilmembers disclosed their ex parte communication.

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

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

Final Plat for Sack Subdivision by Leroy J. Sack on property located at 417 NE Highway 24 in the City of Topeka, Kansas was presented.

Councilmember Dunn moved to accept the public dedication. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

PROJECT BUDGET in the amount of \$281,579 and ORDINANCE NO. 17813 introduced by Mayor Felker, authorizing Improvement Project No. 13129-00, which provides for the remodeling of the Fire Administration Building to provide accessibility to disabled individuals, including the design, construction, and construction observation services and all contingencies needed for a complete project, specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading March 26, 2002, was again presented.

Councilmember Hecht stated that she would abstain from discussion and voting on this issue because her husband is employed by the Fire Department.

District Chief Weaver explained the project.

Councilmember Dunn moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Hill.

Councilmember Pomeroy asked if there were any plans in the near future to build a new Fire Administration Building in a different location. He also asked if Hallmark was interested in acquiring the property for expansion.

District Chief Weaver stated that the building is sufficient for their needs at this time, and they have no plans to move in the near future.

The motion carried unanimously. (8-0-0)

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

PROJECT BUDGET in the amount of \$869,715 and AN ORDINANCE introduced by Mayor Felker designating and establishing Trafficway Improvement Project No. 70196-01 of the City of Topeka and authorizing the improvement of said trafficway located at the MacVicar Avenue eastbound I-70 off ramp to a point 900 lineal feet south, hereinafter known as Trafficway Improvement Project No. 70196-01, all under the authority of K.S.A. 12-685, et seq., placed on first reading March 26, 2002, was again presented.

Neil Dobler, Public Works Director gave the staff report. He stated that MacVicar, I-70 to 6th Street has been in their long range plan. He stated that the State Department of Administration and their developer, Opus approached them to move this portion of the project up to accommodate a gateway into Kanza Park. He explained why Public Works supports the

project, and stated that it was also an economic development decision that ties in with the business park.

Councilmember Duffy expressed his concern that the three projects (Bridge and two Trafficways) listed on the agenda would increase property taxes by 25 percent for the next thirty years. He emphasized the need to contemplate a vision for Topeka, and to create a policy for projects the city authorizes for economic development as to what the expectation of commitment of developers should be.

Following further discussion, Councilmember Duffy suggested that the Joint Economic Development Organization (JEDO) be contacted about their commitment to the project; reduce the project by \$500,000 that was requested of the State; and the costs for the sidewalks be paid by the landowners.

Councilmember Duffy moved to defer action on the project until such time as administration brings back the appropriate information. The motion was seconded by Councilmember Dunn.

David Harrison, Director of Real Estate for Opus explained that they have an agreement with the State to develop the old State Hospital grounds. He further explained that their focus is to build buildings and create momentum for development. He stated that they are looking at spending approximately \$600,000 to establish a front opening to the park.

Councilmember Lane gave the committee report.

Following further discussion on developing policies that are fair to all developers, the motion to defer carried. Councilmembers Hecht and Hill voted "no". (7-2-0)

PROJECT BUDGET in the amount of \$2,347,810 and ORDINANCE 17814 introduced by Mayor Harry Felker, authorizing Project No. 12053-03, which provides for Part B of the

bridge design and intersection improvements to Topeka Boulevard Bridge over the Kansas River as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading March 26, 2002, was again presented.

Neil Dobler, Public Works Director gave the staff report. He distributed a memo regarding funding options for the Topeka Boulevard Bridge, an Addendum No. 1, Alternative Planning Criteria - Minimizing Bridge Costs, and a memo from Tim Green, City Engineer.

Discussion followed on proposed options to fund construction of the bridge, how long the bridge would last if heavy trucks were kept off of it, how much the bridge would cost ten years out, and use of earnings tax as an option to pay for the bridge.

Councilmember Duffy expressed his concerns about the information in the Topeka Boulevard Bridge Study. He stated that there were three questions he was looking for the study to answer; is the bridge needed, alternative designs, and alternative funding mechanisms. He stated that he was disappointed in the document because in his opinion the report was unresponsive to the questions posed.

Councilmember Duffy moved to approve \$951, 370 for design of removal of the bridge and detour routes. The motion died for lack of a second.

Neil Dobler explained the objectives for building the bridge.

Senator David Jackson, Mike Welch, James Robuck, Darrell Six, Frank Kerr, and John Glassman appeared in support of the project. They stated that the bridge was needed for access to businesses in North Topeka and access for emergency vehicles.

Bob Sherbourne appeared for questions.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion was seconded by Councilmember Lane.

Councilmember Duffy moved to amend the Project Budget to add \$150,960 to include design for I-70 connection to the Topeka Boulevard Bridge. The motion seconded by Councilmember Pomeroy carried. Councilmembers Alcalá and Lane voted “no”. (7-2-0)

Councilmember Duffy moved to amend the Project Budget to add \$156,300 to include design of the Kansas Avenue Fly-off for the Bridge. The motion seconded by Councilmember Price carried. Councilmember Dunn voted “no”. (8-1-0)

Councilmember Duffy moved to amend the Project Budget to add \$182,650 to include design of the Topeka Boulevard Fly-off. The motion seconded by Councilmember Price failed. Councilmembers Pomeroy, Alcalá, Lane, Dunn, Hecht, Stubbs and Hill voted “no”. (2-7-0)

Councilmember Duffy made a substitute motion to approve the project budget for design for removal of the bridge, design for the construction of intersection improvements, and design for replacement of the bridge with amendments, that if replaced will be financed subject to approval of the voters of a one-quarter cent county-wide sales tax. The motion was seconded by Councilmember Pomeroy.

Councilmember Pomeroy made a friendly amendment to the motion that the bridge be financed with county-wide sales tax for the amount over and above any amount of state and federal funding received. Councilmember Duffy accepted the amendment to the motion.

Councilmember Price asked if the total amount received from the one-quarter cent sales tax would be dedicated for the Topeka Blvd. Bridge and not split with other organizations or projects.

Councilmember Pomeroy stated that would be the intent.

Mayor Felker noted that would require special legislation, and they would have to ask the local Delegation to draft it so it would be 100% dedication to the Topeka Blvd. Bridge.

The motion carried. Councilmembers Lane and Alcala voted “no”. (7-2-0)

RESOLUTION NO. 7227 introduced by Mayor Felker authorizing and adopting the 2004-2008 Capital Improvement Program for the City of Topeka, Kansas, was presented.

Councilmember Lane stated that the Public Improvements Committee met on March 27, 2002 and recommended some changes to the Capital Improvements Program.

Councilmember Lane moved to accept the committee report. The motion seconded by Councilmember Dunn carried. Councilmember Pomeroy voted “no”. (8-1-0)

Councilmember Dunn moved to adopt the resolution. The motion was seconded by Councilmember Hill.

Councilmember Duffy asked if these projects were consistent with the Growth Management Plan and the Economic Development Plan.

Neil Dobler explained how the projects in the CIP address the Growth Management Plan.

Discussion followed relating to TEA-21 funds and applications.

Councilmember Duffy stated that the City has a Comprehensive Trail Plan, and on three occasions funds for the plan were diverted for other uses.

Councilmember Duffy moved to increase the \$150,000 in year 2003 for trail development to \$1,291,000 funded by general obligations bonds. The motion was seconded by Alcala.

Councilmember Hill made a substitute motion to include \$150,000 for years 2004 through 2008 for trail development funded by general obligation bonds. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs, and Price voted "no". (4-5-0)

Mayor Felker stated that the motion failed and asked for a vote on the original motion.

The motion carried. Councilmembers Alcala, Dunn, and Hill voted "no". (6-3-0)

Discussion followed concerning the project for the Helen Hocker Theater.

Councilmember Duffy moved to amend the project amount for the Helen Hocker Theater to \$500,000 to build two 30' x 30' classrooms. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, Alcala, Stubbs, Hill, and Price voted "no". (4-5-0)

Councilmember Duffy requested additional information on the Helen Hocker Theater Project.

Rogers Brazier, Parks and Recreation Director stated that he would get more detailed information on the project to the council.

Mayor Felker stated that he understood part of the funding would come from supporters of Helen Hocker and he would check on that.

Councilmember Price asked for information on the number of students impacted and how Helen Hocker fits into the overall plan for Gage Park.

Rogers Brazier stated that Bill Riphahn, Park Planner was currently updating the plan for Gage Park.

Councilmember Duffy stated that he understood the South Kansas Avenue extension in the year 2003 was to be funded by an Improvement District.

Councilmember Duffy moved to strike general obligation bonds as the source of funding for the project and change the source to an Improvement District. The motion seconded Councilmember Stubbs carried unanimously. (9-0-0)

Councilmember Duffy moved to delete the Gage, 10th to 12th Street Project in the year 2005 for \$1.7 million. The motion seconded by Councilmember Pomeroy carried.

Councilmembers Pomeroy, Dunn, and Hill voted "no". (6-3-0)

Councilmember Pomeroy moved to extend the meeting for one hour. The motion was seconded by Councilmember Price.

Councilmember Alcalá made a substitute motion to extend the meeting until the agenda was finished. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Hecht, Duffy, Hill, and Price voted "no". (4-5-0)

The motion to extend the meeting for one hour carried. Councilmembers Hecht and Duffy voted "no". (7-2-0)

Councilmember Duffy moved to amend the projects for the Fly-off on Kansas Avenue and the Topeka Boulevard Bridge design consistent with previous action taken tonight. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

Councilmember Duffy moved to strike general obligation bonds as source of funding for the projects listed under the heading Change in Funding Designation until funding designation can be determined. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

Councilmember Dunn moved to delete the Sardou Bridge Project in the year 2006 for \$202,540. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Dave Graversen, Acting CAO noted that projects had been added to the 2002 Capital Improvement budget and suggested amending the resolution to include years 2002 through 2008.

Councilmember Hill moved to approve the Capital Improvement Program as amended for the years 2002 through 2008. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

CONTRACT NO. 31914 between the City of Topeka and Helping Hands Humane Society, Inc. providing for the care of animals brought to the shelter by the Animal Control Unit of the Topeka Police Department, was presented.

Chief Klumpp gave the staff report.

Councilmember Pomeroy suggested asking the Judge to assess the charge for animals on hold back to the dog owner if convicted of a charge.

Councilmember Pomeroy moved to approve the contract. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

PETITION AND RESOLUTION NO. 7228 introduced by Mayor Felker authorizing Lateral Sanitary Sewer District No. 40901, Phase 1, located at approximately 3310 SW Springcreek Place as more specifically described herein, was presented.

Councilmember Pomeroy moved to approve the petition and adopt the resolution. The motion seconded by Councilmember Hill carried. Councilmember Stubbs was out of the room. (8-1-0)

PETITION, PROJECT BUDGET in the amount of \$1,466,780 AND RESOLUTION introduced by Mayor Felker authorizing Trafficway Improvement Project No. 70197-01, located approximately west of Topeka Boulevard from S.W. 57th Street North to S.W. 53rd Street as more specifically described herein, was presented.

Councilmember Price moved to defer for one week. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Harry Felker amending City of Topeka Code §§142-211, 142-212, 142-213, 142-214, and 142-215 relating to school speed zones and specifically repealing said original sections, was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "R-1" Single Family Dwelling District and located at 1011 SW Cambridge Avenue in the City of Topeka Code Section 80-4, was presented for first reading. (HL02/1)

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 southeast corner of SW 29th Terrace and SW Lincoln Street in the City of Topeka, Kansas, from "R-1" Single Family Dwelling District to "PUD" Planned Unit Development District ("M-1" usage), was presented for first reading.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Harry Felker pertaining to an amendment to the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan, was presented for first reading.

PRESENTATIONS BY THE CHIEF ADMINISTRATIVE OFFICER:

Dave Graversen, Acting CAO distributed a Demolition Report prepared by Code Compliance showing demolitions for 2000 and the first quarter of this year.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy stated that the Community Development Committee began the process of looking into the operation of the Housing and Neighborhood Development Department, and requested quarterly reports of all projects and their status. Jeff White indicated that the reports were done on a monthly basis, but they have not received any as of yet.

Randy Bailes, Finance Director stated that the reports were done a monthly basis and he would distribute copies to the Council.

Councilmember Dunn requested a copy of the CAPER Report.

Councilmember Alcalá reported an unsafe structure south of S.E. 5th and Lamar near the corner of Scott School.

Councilmember Hecht stated that she wanted to inform the community that a violent predator who has been convicted of violent rape and kidnapping was released by the court on his own recognizance until sentencing. She stated that he will be in our community for approximately 28 days until his date of sentencing.

PUBLIC COMMUNICATIONS AND COMMENTS:

Bob Sherbourne appeared to speak for public communication and comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:48 p.m.

Iris Walker
City Clerk