

City Council Minutes – May 7, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 7, 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, Stubbs, Hill and Price – 9. Mayor Felker presided –1.

AFTER THE MEETING was called to order, a Teacher's prayer was offered by Councilmember Vanessa Hill and the invocation was given by Carl Hill.

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

THE CONSENT AGENDA was presented as follows:

A communication requesting approval of the Mayor's recommendation to appoint Pat Hubbell to the Topeka Metropolitan Transit Authority for a 4-year term that will expire June, 2006, was presented.

Minutes of the Regular Meeting of April 9, April 16 and April 23, 2002, were presented.

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

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 Section 18-107, Fees, and specifically repealing said original section placed on first reading October 16, 2001, was again presented.

Councilmember Duffy gave a brief overview of the 2002 Operating Budget and what the initial plan was to help generate \$100,000 to assist the Helping Hands Humane Society for additional impound fees. Of this amount \$50,000 was to be funded through the General Tax

Fund and the remaining \$50,000 would be funded through an increase of pet registration fees, which have not been increased since 1981.

Mayor Felker gave an opportunity for anyone present to speak.

John Etzel, Roberta Tappley, Ellen Ross, and Joe Ledbetter appeared and spoke in opposition to the pet fees increase.

Councilmember Dunn continued the discussion stating that she has received many calls from people who can not afford the increase in pet fees, and believe that if the city would enforce the current pet fees, it would generate the money needed.

Councilmember Lane suggested doubling fines instead of increasing pet fees.

Councilmember Alcala stated that he feels the increase is unfair for those people who are responsible and do purchase pet licenses. He suggested to help generate more money the city should concentrate on enforcing the current ordinance that is in place. He also expressed the need to examine where the \$200,000 surplus in fuel costs are being distributed, and asked if that money could be used to help cover the costs for the Helping Hands Humane Society.

Councilmember Pomeroy asked the reason for the permit.

In response, Mayor Felker explained that the initial funding was set up to cover the costs associated with the handling of the increasing pet population by Animal Control, and to insure public, health and safety.

Dave Graverson, Interim Chief Administrative Officer stated that the pet license is also used to ensure the animal has been vaccinated.

Councilmember Hecht asked if the city is receiving the monies back that is lost through the court system due to a lack of collecting fines.

Councilmember Stubbs continued the discussion asking several questions. Where do the fees assessed from impound and fines go and is there a public notice sent out to inform all pet owners to purchase a license. She stated that there are several proactive avenues that could be taken to help resolve this problem, and the roots of this ordinance was to ensure public, health and safety of the community, not to generate revenue.

Councilmember Hill asked if the city collects license fees from pet shops.

Councilmember Duffy sympathized with the fact that no one likes to pay more taxes or fees. However, the Helping Hands Humane Society will suffer from the shortage of funds needed to cover the costs of handling animals that would otherwise be the responsibility of the City if this non-for-profit organization did not exist.

Councilmember Dunn stated that they should look at the entire system before increasing the fees due to the fact there have been several concerns from the public on the handling procedure of the animals at the Helping Hands Humane Society.

Councilmember Stubbs asked if they have seen any improvements in the court process concerning animals on hold for trial.

In response, Brenden Long, City Attorney stated that the court process has been expedited. Also, the Topeka Police Department is closely monitoring what the city is being charged concerning animals that are being held for trial, which in turn has significantly lowered the costs.

Councilmember Hecht stated that currently the Municipal Court does not have a warrant officer in place to enforce the law and collect fines.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

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

Councilmember Lane called the question.

Hearing no challenge to the call Mayor Felker asked for a vote on the ordinance.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

ORDINANCE NO. 17820 introduced by Councilmember Clark Duffy relating to impoundment fees to be paid to resume possession of any impounded dog, amending City of Topeka Code Section 18-126, Redemption, and specifically repealing said original section placed on first reading August 21, 2001, was again presented.

Councilmember Duffy moved to amend the ordinance by striking the balance of line 17 after the word "fees", and lines 18, 19, 20 and 21 and renumber the remaining lines. The motion was seconded by Councilmember Pomeroy.

Councilmember Price suggested a work session be scheduled regarding the animal issue.

Councilmember Stubbs suggested scheduling a separate work session over what impacts the city from a financial point of view on this issue.

The motion to amend carried. Councilmembers Alcalá, Lane and Dunn voted "no".

(6-3-0)

Ellen Ross suggested deleting line 28.

The ordinance as amended was adopted on roll call vote as follows; Ayes: Councilmembers Pomeroy, Hecht, Duffy, Stubbs, Hill and Price - 6. Noes: Councilmembers Alcala, Lane and Dunn - 3.

AN ORDINANCE introduced by Mayor Harry Felker relating to animals; amending the provisions of Sections, 18-2, and 18-8 relating to vicious animals and repealing the original Sections; also repealing Sections 18-90, 18-141, 18-142, 18-143, 18-144, 18-145, 18-146, 18-147, 18-148, 18-149, 18-150, 18-151, 18-152, 18-153, 18-154, 18-155, 18-156, 18-157, 18-158, 18-159, 18-171, 18-172, 18-173, 18-174, 18-175, 18-176, 18-177, 18-178, and 18-179 placed on first reading June 26, 2001, was again presented.

Brenden Long, City Attorney explained the ordinance, and stated that his staff is working on amendments to this ordinance.

Councilmember Stubbs asked for a comparison of the original ordinance and the companion ordinance so that an informed decision may be made concerning this issue.

Councilmember Duffy moved to table the ordinance until the companion document is produced but not more than thirty days. The motion seconded by Councilmember Stubbs carried. Councilmember Pomeroy voted "no". (8-1-0)

ORDINANCE NO. 17821 introduced by Mayor Felker designating and establishing the intersection of SE 6th Avenue and SE Deer Creek Parkway as a main trafficway in the City of Topeka and authorizing the said trafficway, hereinafter known as Trafficway Improvement Project No. 70188-02, all under the authority of K.S.A. 12-685 *et seq.* placed on first reading April 9, 2002, was again presented.

Neil Dobler, Director of Public Works gave the staff report.

Councilmember Lane gave the committee report.

Councilmember Dunn moved to accept the committee report. The motion seconded by Councilmember Lane, carried unanimously. (9-0-0)

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

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the City of Topeka's Economic Growth Incentive Program placed on first reading May 15, 2001, was again presented.

Councilmember Duffy addressed items F, G, H, I and J all as one package. He stated that these documents were either obsolete or had been addressed in another way and he would recommend that they not be approved.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the establishment of a cultural arts and entertainment district in the City of Topeka, Kansas placed on first reading May 15, 2001, was again presented.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the creation of the Advantage Topeka Program placed on first reading May 8, 2001, was again presented.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

AN ORDINANCE introduced by Councilmember Clark Duffy for the City of Topeka to begin implementation of its economic development goals placed on first reading May 15, 2001, was again presented.

The ordinance failed to be adopted on roll call vote as follows: Noes: Councilmember Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price - 9.

A RESOLUTION introduced by Councilmember Clark Duffy for the Greater Topeka Chamber of Commerce and GO Topeka to begin implementation of the City of Topeka's economic development goals in partnership with the City of Topeka placed on first reading May 15, 2001, was again presented.

Councilmember Duffy moved to adopt the resolution. The motion seconded by Councilmember Price failed by unanimous vote. (0-9-0)

RESOLUTION NO. 7232 introduced by Councilmembers John Alcalá and Harold Lane regarding rezoning of an area generally referred to as the East Topeka and Oakland neighborhoods pursuant to City of Topeka Code, Section 48-33.01(c) (2), was presented.

Councilmember Lane gave the committee report.

Councilmember Lane moved to accept the committee report. The motion seconded by Councilmember Dunn, carried unanimously. (9-0-0)

Councilmember Alcalá moved to adopt the resolution. The motion seconded by Councilmember Lane, carried unanimously. (9-0-0)

A COMMUNICATION submitting a request from the White Lakes Optimist Club requesting \$5,000 from the Transient Guest Tax Fund to provide free children's activities at the Spirit of Kansas 2002 Festival on July 4th, 5th and 6th at Lake Shawnee, was presented.

Erich Naethe appeared in support of the request and to answer any questions.

Councilmember Stubbs asked if the White Lakes Optimist Club has approached other organizations to help fund this event. She stated that she would prefer a detailed report from the organization to show the break down of where the money will be spent.

Councilmember Alcalá asked how much of the money would be spent on security for the event.

Councilmember Lane supported the request due to the amount of revenue this event will generate.

Councilmember Price and Duffy stated they will not support the request do to the lack of accountability of funds.

Councilmember Alcalá moved to approve the communication. The motion seconded by Councilmember Dunn, failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs, and Price voted "no". (4-5-0).

RESOLUTION NO. 7233 introduced by Mayor Felker, pursuant to City of Topeka Code Section 130-337 concerning sidewalk repairs at locations more specifically described herein, was presented.

Neil Dobler, Director of Public Works gave the staff report.

Councilmember Dunn asked if there would be any funds to help those who can not afford to repair the sidewalks themselves.

Councilmember Price moved to adopt the resolution. The motion was seconded by Councilmember Stubbs.

Councilmember Alcalá made a substitute motion to defer for one week. The motion seconded by Councilmember Dunn, failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs, Hill and Price voted "no". (3-6-0)

The motion to adopt the resolution carried. Councilmembers Alcala and Lane voted "no". (7-2-0)

Final Plat for 22nd Park Subdivision on property extending east of SW Washburn Avenue at SW 22nd Street Park in the City of Topeka, Kansas, was presented. (P00/40)

A Quit Claim Deed providing for the disposition of a portion of vacated SW 22nd Street Park right-of-way extending east of SW Washburn Avenue, was presented.

Barry Beagle, Planning Department gave the staff report.

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

AN ORDINANCE introduced by Councilmember Clark Duffy relating to redemption of cat after payment of impoundment fees, amending City of Topeka Code Section 18-239, Redemption, and specifically repealing said original section, was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of 12-foot wide utility easement and an adjoining 12-foot wide temporary construction easement located along the north lot line of property located at 3721 SW Topeka Boulevard, as dedicated by White Lakes Plaza Subdivision, City of Topeka, Shawnee County, Kansas, was presented for first reading. (V02E/3)

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of 25-feet of a 30-foot wide platted building setback along SW Chelsea Drive dedicated by Fairlawn Executive Plaza and Fairlawn Executive Plaza No. 3 for property located at the southwest corner of SW 21st Street and SW Chelsea Drive, City of Topeka, Shawnee County, Kansas, was presented for first reading. (V02SB/4)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA

ORDINANCE introduced by Mayor Felker and Councilmembers Clark Duffy and Duane Pomeroy, amending the Comprehensive Zoning code by adding as permitted, provisional and conditional uses, group residence general, group residence limited, correctional placement residence general, and correctional placement residence limited, and providing definitions therefor, amending City of Topeka Code Chapter 48, Article XXXV and Article XXVI, and specifically amending City of Topeka Section 48-2.02(c), 48-3.02(c), 48-4.02(c), 48-5.02(c), 48-6.02(c), 48-7.02(c), 48-8.02(c), 48-8a.02(c), 48-9.02(a) and (c), 48-10.02(a) and (c), 48-11.02(a) and (c), 48-12.02(c), 48-13.02(c), 48-17.02(a) and (c), 48-18.02 (a) and (c), 48-23.02(a) and (c); 48-23a.03.2, 48-23a.04.2, and specifically repealing said original code sections as noted in Section 48 of the Joint Shawnee County Resolution/City of Topeka Ordinance, was presented for first reading.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA

ORDINANCE introduced by Mayor Felker and Councilmembers Clark Duffy and Duane Pomeroy, relating to uses that are regulated by adoption of City Ordinance and County Resolution, was presented for first reading.

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

AN ORDINANCE introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "X-3" Mixed Use

District and located at 200 NW Railroad Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4, was presented for first reading. *(HL02/2)*

AN ORDINANCE introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "C-5" Commercial District and located at 719 SW Van Buren Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4, was presented for first reading. *(HL02/3)*

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Traffic Signal Improvement Project No. 14087-00, located at SW/SE 11th Street and S. Kansas Avenue as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Mayor 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 SE 6th Avenue and SE Rice Road in the City of Topeka, from "R-1" Single Family Dwelling District to "O&I-1" Office Institutional District, was presented for first reading. *(Z02/9)*

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 northeast corner of SW 11th Street and SW Robinson Avenue in the City of Topeka, from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District, was presented for first reading. *(Z77/48)*

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Water Pollution Control Project No. 29093 which increases the size of the Deer Creek Sanitary service pump

station, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Councilmember Harold Lane relating to the prohibition of all-night parking, amending City of Topeka Code Section 142-581, All-night parking prohibited, and specifically repealing said original section, was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Storm Sewer Project No. 50015, Phase 4, which provides for the replacement of the undersized Mulvane Storm Sewer System as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Mayor Felker relating to the adoption of the Uniform Plumbing Code, 2000 edition, amending City of Topeka Code Section 26-251, 26-254, 26-256, 26-257, 26-258, 26-259, 26-261, 26-406, 26-409, 26-410, 26-421.1, 26-422, 26-423, 26-424, 26-425, 26-425.1, 26-426, 26-427, 26-428, 26-428.2, 26-429, 26-429.1, 26-430, 26-431, 26-432, 26-432.1, 26-432.2, 26-433, 26-433.2, 26-434, 26-435, 26-437, 26-437.1, 26-438, 26-439, 26-440, 26-441, 26-442, 26-442.1, 26-443, 26-444, 26-445, 26-445.1, 26-446, 26-448, 26-450, 26-451, 26-453, 26-457, 26-458, 26-459, 26-460, 26-461, 26-463, and 26-464 and specifically repealing said original sections; repealing City of Topeka Code Section 26-425.2, 26-426.1, 26-428.1, 26-433.1, 26-442.2, 26-442.3, 26-454, 26-455, and 26-456; amending Uniform Plumbing Code, 2000 edition section 316.1.6, 603.4.13, 705.1, 910.7, 1211.1, 1217.1, and 1217.4 and specifically repealing said original sections; and repealing Uniform Plumbing Code, 2000 edition section 103.4, 510.8, 610.5, 703.3, 710.1, 1210.1, 1211.2, 1211.2.1, 1211.2.2, 1211.8, 1211.9, 1211.9.1, 1211.9.2, 1211.9.3, and 1211.9.4, and Tables 12-11, 12-12, 12-13 and 12-14, was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Lane stated that the Community Development Committee did not meet on April 26, 2002 as the committee sheet reflects.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcala received several calls from his constituents concerning high-speed traffic in the areas of 200, 300, 400, 500, and 600 blocks of Rice Road involving all age groups and encouraged an increase in the enforcement of speed limits in this area.

Councilmember Dunn stated as a Council it is very important to make sure people with disabilities and those who are less fortunate are being provided for and taken care of.

Councilmember Hecht stated that she attended the AIDS Memorial at Gage Center. She was also an active participant in the "Foot Loose" performance at the Helen Hocker Theater. Lastly, she acknowledged former Police Chief Dana Hummer in honor of Law Enforcement Week.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Raymond Martinez, David Price, and Joe Ledbetter appeared to speak for public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 9:53 p.m.

Iris Walker
City Clerk