

City Council Minutes – June 4, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 4, 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, Mayor Felker 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 Red Oaks Place No. 3 on property located on the south side of SW Red Oaks Place and either side of SW Red Oaks Court (proposed) City of Topeka, Kansas, was presented.

Minutes of the regular meeting of May 21, 2002 and May 28, 2002, were presented.

APPLICATION for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors were presented for the following:

Bauersfeld's	2919 S.W. Wanamaker
Bauersfeld's	4015 S.W. 10 th Street
Bauersfeld's	2020 N.W. Topeka Boulevard
Berkshire Country Club	3720 S.W. 45 th Street
California Amoco	5740 California
Casey's General Stores #2261	600 Rice Road
Casey's General Stores #2312	4441 S.E. California Avenue
Conoco #16005	3830 S.W. 29 th Street
Conoco #16004	1531 S.W. Wanamaker Road
Dillons #28	300 W. 29 th Street
Dillons #47	2815 W. 29 th Street
Dillons #54	800 N.W. 25 th Street
Dillons #58	1400 Huntoon
Dillons #64	5720 W. 21 st Street
Dillons #67	2010 S.E. 29 th Street
The Dock	2838 S.E. 29 th Street

06-04-02

Downtown Amoco	600 S.E. Quincy
Eakes & Steinbock Thriftway	1401 Seward
Fairlawn North 66 #27755	600 Fairlawn Road
Fairlawn South 66 #27760	2836 Fairlawn Road
Falley's #4	3712 Burlingame Road
Falley's #1	3000 N. Topeka Boulevard
Falley's #2	1945 S.W. Gage Boulevard
Falley's Market #6	3110 S.E. 6 th Street
Falley's #27	1920 S.W. 10 th Street
Food 4 Less #50	5311 S.W. 22 nd Place
Food 4 Less #12	2210 N. Tyler
Food 4 Less #3	2021 S.E. 29 th Street
Herman's Beef & Sausage House	823 W. Gordon
Kelly Express	1001 S.W. Wanamaker Road
Kwik Shop #788	1414 S.W. 17 th Street
Kwik Shop #789	746 N.E. Wabash Avenue
Kwik Shop #778	738 S.W. Gage Boulevard
Kwik Shop #757	2619 S.W. 21 st Street
Kwik Shop #743	5633 S.W. 21 st Street
Kwik Shop #740	2277 S.W. 10 th Street
Kwik Shop #737	801 S.W. Topeka Boulevard
Kwik Shop #732	5954 S.W. 29 th Street
Kwik Shop #729	1700 Topeka Boulevard
Kwik Shop #720	102 S.W. 37 th Street
Kwik Shop #705	1114 N.W. Topeka Boulevard
Lakeview Amoco	3000 Croco
Larry's Shortstop	3834 S. Topeka Boulevard
Lucy's Fourth Market	401 S.E. Lake
Mike's IGA	2620 N.E. Sardou
Oakmart Amoco	2518 N.E. Seward
Oscos Drug #5189	2835 S.W. Wanamaker
Pick N Move, Inc.	706 S.W. Fairlawn Road
Prize Package, Inc.	1420 E. 6 th Street
Quality Gas & Shop, Inc.	1900 N. Topeka Avenue
Rex's Texaco	2855 S.W. Wanamaker
Sam's Club #8176	1401 S.W. Wanamaker Road
South Gage 66 #29136	3300 Gage
Tilton's Oakland Market	1905 Seward
Tilton's Westside	1100 W. 6 th Street
Topeka Truck Plaza	1235 S.W. Wanamaker Road
Total #4174	1161 S.W. Gage Boulevard
Total #4172	512 S.W. Topeka Boulevard
U Market	935 S.E. 21 st Street
Wal-Mart Supercenter #1802	1501 S.W. Wanamaker Road
Wood's Oil Company, Inc.	101 N.E. Highway 24

Councilmember Dunn moved to approve the consent agenda. The motion seconded by Councilmember Hill carried. Councilmember Duffy voted "no". (8-1-0)

A PROJECT BUDGET in the amount of \$537,600, city share \$174,400 and ORDINANCE NO. 17842 introduced by Mayor Harry Felker, authorizing Improvement Project No. 30127, Phase 9, which provides for the construction of a ten (10) foot wide multipurpose trail and related appurtenances to complete the trail project as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 28, 2002, was again presented.

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

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

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

A PROJECT BUDGET and ORDINANCE NO. 17843 introduced by Mayor Felker, authorizing security improvements to the City Hall Municipal Building, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading May 14, 2002, was again presented.

Dave Graverson, Interim Chief Administrative Officer gave the staff report. He explained the four options available and the potential impact each option has on the general operating budget.

Ed Klump, Chief of Police appeared for questions.

Several Councilmembers discussed the pros and cons of each option.

Councilmember Lane moved to approve Option D. The motion was seconded by Councilmember Alcala.

Councilmember Stubbs made a substitute motion to adopt Option C, excluding employee cleaning staff. The was motion seconded by Councilmember Price.

Councilmember Alcala made a substitute motion to the substitute motion made by Councilmember Stubbs to approve Option C, minus the camera surveillance equipment. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy challenged the second substitute motion.

In response, Brenden Long, City Attorney stated that a substitute motion can not be amended more than twice, and if so it would eradicate the original motion that was made.

Councilmember Duffy noted that if the substitute motion failed it would bring them back to the original motion, which is the same as Councilmember Alcala's second substitute motion.

Ruth Maus, City of Topeka employee appeared in support of implementing a security system at City Hall.

Brenden Long ruled that Councilmember Alcala's substitute motion was out of order.

Councilmember Pomeroy stated he was not comfortable with the extent of the security system presented for City Hall and is opposed to the substitute motion.

Councilmember Stubbs stated that she feels this is a reasonable expense for reasonable security at City Hall.

Councilmember Dunn called the question.

Hearing no challenge to the call, Mayor Felker asked for a vote on Councilmember Stubbs' substitute motion.

The motion failed. Councilmembers Pomeroy, Alcalá, Lane, Dunn, Hecht and Hill voted "no". (3-6-0)

Mayor Felker asked for a vote on the original motion made by Councilmember Lane to approve Option D.

The motion failed. Councilmembers Pomeroy, Dunn, Hecht, Stubbs and Price voted "no". (4-5-0)

Councilmember Alcalá made a motion to approve Option D, minus the LEC Lock System. The motion seconded by Councilmember Lane carried. Councilmembers Pomeroy, Stubbs, Hill and Price voted "no". (5-4-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Alcalá, Lane, Dunn, Hecht and Duffy -5. Noes: Councilmembers Pomeroy, Subbs, Hill and Price -4.

A PROJECT BUDGET in the amount of \$252,616.40, city share \$106,966.40 for intersection improvement Project No. 70188-02, SE 6th Avenue and SE Deer Creek Parkway was presented.

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

Councilmember Lane moved to accept the project budget. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

ORDINANCE NO. 17844 introduced by Mayor Felker relating to carnivals and shows, amending City of Topeka Code Section 102-86, Carnivals and shows, and specifically repealing said original section placed on first reading May 28, 2002, 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.

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.

AN ORDINANCE introduced by Mayor Harry Felker relating to animals; amending the provisions of Sections 18-1, 18-2, and 18-8 relating to vicious animals and repealing the original Sections; also repealing 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 was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker relating to exotic or captive wild animals; amending the provisions of Sections 18-6 and repealing the original Sections was presented for first reading.

John Knoll, City Prosecution Office explained the following ordinances and appeared for questions. He said they wanted to focus on vicious animals instead of a particular breed for enforcement purposes.

Several Councilmembers expressed concern with lifting the ban on pit bulls within the city limits, and would like to redraft the ordinance so that it would address both issues involved, vicious animals and pit bulls.

Ellen Ross, Monica Matthews, Judy Matthews and Mr. Kester expressed their concerns on the issue.

Councilmember Pomeroy moved to make an amendment to the ordinance on page 2, line 39, to place a period after the word animal and strike the remainder of the paragraph; on line 45 to place a period after the word involved and strike the remainder of the paragraph. The motion seconded by Councilmember Alcala carried. Councilmember Dunn was out of the room. (8-1-0)

Mayor Felker asked for a vote on the amended ordinance.

The ordinance was not adopted on roll call vote as follows: Noes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price -9.

Councilmember Pomeroy asked that the amendment that was approved be included in the revised ordinance when it is brought back.

Deputy Mayor Dunn moved to refer the ordinances relating to vicious dogs and exotic animals to the Public Health and Safety Committee.

A PETITION, PROJECT BUDGET in the amount of \$24,490.27 and RESOLUTION NO. 7237 introduced by Mayor Harry Felker authorizing the Lateral Sanitary Sewer Improvement Project No. 40904-01 as more specifically described herein were presented.

Neil Dobler, Interim Public Works Director gave the staff report and stated that he distributed a revised project budget in the amount of \$18,972.88.

Councilmember Price moved to accept the petition, revised project budget and adopt the resolution. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Felker, amending Chapter 48 of the Code of the City of Topeka, Comprehensive Zoning Regulations for the City of Topeka and unincorporated areas of Shawnee County by creating Landscape Requirements and regulations for the City of Topeka, Kansas, and specifically repealing City of Topeka Ordinance No. 17786 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 "C-5" Commercial District and located at 929 S. Kansas Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading.

AN ORDINANCE introduced by Mayor Felker relating to the vacation of a 25-foot wide and 60-foot wide access easement on property located at 350 NE U.S. 24 Highway, as dedicated by plat of North Topeka Golf Center, City of Topeka, Shawnee County, Kansas, was presented for first reading.

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 Munson Avenue and SW Buchanan Street in the City of Topeka, Kansas, from "R-2" Single Family Dwelling District to "PUD" Planned Unit Development District ("M-2" usage) was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker amending "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 37th Street and SW Chelsea Drive in the City of Topeka, from "R-1" Single Family Dwelling District with Resolution of Intent for "PUD" Planned Unit Development District ("M-2" use group) to "M-1" Two Family Dwelling District was presented for first reading.

AN ORDINANCE introduced by Councilmembers Clark Duffy, Duane Pomeroy and Gary Price, sitting as the Economic Development Committee, relating to the arts, creating the

Office of the Arts, and the Arts Advisory Committee, the Arts Grant Program and the Art in Public Places Program was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graverson, submitted a communication from Devin Sutherland, Downtown Topeka Incorporated (DTI) Director regarding the closing of T-Wolfee's.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Lane announced a Public Improvements Committee Meeting concerning the All-Night Parking Ordinance on June 4, 2002, at 3:00 p.m., located in Room 255, City Hall.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy requested information concerning the Shorey Estate Homes.

Councilmember Lane stated that he has received several calls from his constituents about tall grass in his district. There are eight residential lots that need mowed. He suggested that the city hire additional contractors to handle the problem.

Councilmember Alcala expressed his concern that the match was not met when T-Wolfee's closed.

Councilmember Lane suggested that in the future DTI applicants put the money received in an escrow account or submit a letter of credit from their bank.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Joe Ledbetter, Tom Wohlgemuth, Jim Flott and Jason Chaika appeared to speak under public comment.

Councilmember Dunn moved to adjourn into executive session for a period not to exceed twenty minutes for the purpose of discussing a legal matter. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

After twenty minutes had passed, motion was made and carried to extend the executive session for an additional ten minutes.

Following the ten minute extension of the executive session, the City Council reconvened in open session. Mayor Felker stated that no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:40 p.m.

Iris Walker
City Clerk