

## City Council Minutes – July 23, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 23, 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, prayer was offered by Rabbi Lawrence Karol, Temple Beth Sholom.

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

THE CONSENT AGENDA was presented as follows:

FINAL PLAT by Dornwood Acres Subdivision No. 2 on property located east of SE Highland Avenue and north of SE 23<sup>rd</sup> Street in the City of Topeka, Kansas (P02/16), was presented.

FINAL PLAT by GO Topeka and Target Corporation of property located at 1100 SW 57<sup>th</sup> Street in unincorporated Shawnee County, Kansas for the SW 57<sup>th</sup> Street Distribution Center Subdivision (P02/24), was presented.

APPLICATION for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors for Sonny & Sons, 2201 SW 6<sup>th</sup> Street, was presented.

Minutes of the regular meeting of July 9, 2002 and July 16, 2002 were presented.

Councilmember Hill requested that the July 9, 2002 minutes be pulled for a correction to clarify the motion on the appointment of the Administrative Municipal Court Judge.

Councilmember Dunn moved to accept the consent agenda excluding the July 9, 2002 Minutes. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

ORDINANCE NO. 17869 introduced by Mayor Harry Felker relating to animals; amending the provisions of Sections 18-1, 18-2, 18-8, 18-90 and 18-157, relating to vicious animals and Pit Bull dogs, and repealing the original Sections placed on first reading July 16, 2002 was again presented.

Mayor Felker gave an opportunity for anyone present to speak.

Ellen Ross, appeared in support of the ordinance and expressed the importance of purchasing microchip scanners for the animal control officers to identify the animals.

Harlan Forslund, appeared in support of the ordinance. He suggested that the ordinance should include safety provisions for people and animals, and no one person should be allowed to have more than one vicious dog.

Patricia Noel, professional pet trainer appeared in support of the ordinance and stressed the importance of enforcing behavior modification of dogs.

Jennifer Powell, professional pet trainer stated that with proper socialization training any dog has the capability of being a good addition to the community.

Councilmember Pomeroy inquired on repeat vicious animal violations, insurance policies and microchipping. He stated that he opposes the ordinance because he thinks the community would be safer if Pit Bull dogs were banned from city limits.

Councilmember Hill stated that this ordinance would help eliminate repeated violations from Pit Bull dog owners because after the first offense, by law the animal will be destroyed. Other breeds of dogs will be put to sleep on the first or second offense depending on the situation.

Councilmember Stubbs stated that the committee spoke with several insurance companies and they do not issue policies for Pit Bull dogs. However, they do under certain circumstances cover random dog bites, which is incorporated into the homeowner's policy.

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

A PROJECT BUDGET in the amount of \$18,229,597 and RESOLUTION NO. 7247 introduced by Mayor Harry Felker, describing Improvement Project No. 29091-4-1B which provides for the rehabilitation of the Oakland Treatment Plant and authorizing the same, and rescinding City of Topeka Resolution No. 7222, was presented.

Neil Dobler, Public Works Director gave the staff report. He explained the three phases of the project that will extend over the next four to five years. Currently Phase 1 of the project is underway, Phase 2 is under design and will be implemented in the year 2003, and Phase 3 will be implemented in the year 2005. This project will be financed by KDHE State Revolving funding, and the project is being set up in five separate bid packages to help maximize local contractors.

Councilmember Alcala moved to approve the project budget and adopt the resolution. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

RESOLUTION NO. 7248 introduced by Councilmember Gary Price amending Topeka City Council Rules of Procedures, specifically Rule 6.A and Rule 6.12, and rescinding said original sections was presented.

Councilmember Alcala requested a point of order and questioned if the documents should be on the agenda since they were tabled.

Councilmember Pomeroy stated that the point of order issued was resolved last week.

Ginny Burghart, Council Assistant read a section of the February 5, 2002 City Council Minutes concerning the motion made on both of the resolutions introduced by Councilmember Price at the request of Councilmember Alcalá.

Following the reading, Councilmember Alcalá stated that his request for a point of order is based on the motion made February 5, 2002 to table the resolutions "indefinitely" or until the end of the "session". He said his interpretation of the legal definition of "indefinitely" or until the end of "session" would mean until the next election.

Mayor Felker stated that every situation or interpretation is different however, he would like the parliamentarian to make an official ruling in this instance to clarify the legal definition.

In response, Braxton Copely stated that in this particular case "indefinitely" or end of the "session" would be defined as a two-year period of time in conjunction with the next election.

Councilmember Alcalá moved to remove the resolution from the agenda. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Mayor Felker stated that he did not agree with the definition of session and would like the Legal Department to do some further research.

Councilmember Price explained the resolution.

Councilmember Duffy stated that he supports the resolution because the current committee structure does not allow for the opportunity to discuss the items in committee. Therefore, the structure is simply not effective.

Councilmember Dunn stated that she opposes the resolution and feels that it costs the taxpayers more money to bring documents out of committee to vote them down than to let them die in committee.

Councilmember Lane moved to amend line 26 by deleting the word "up" and replacing it with "shall act upon by approval, denial or recommendation of the Committee." The motion was seconded by Councilmember Duffy.

Councilmember Pomeroy suggested removing the word "recommendation".

Councilmember Lane withdrew the motion. The second concurred.

Councilmember Lane moved to amend line 26 by deleting the word "up" and replacing it with "upon". The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

Discussion continued regarding, cost analysis of removing an item from Committee, maintaining the "check and balance system", and the over all effectiveness of the Committees' policies and procedures.

Councilmember Pomeroy moved to adopt the resolution as amended. The motion was seconded by Councilmember Duffy.

Councilmember Hecht expressed concerns on the amount of time and debate it takes for the Council to vote an item up or down.

Marge Bradshaw spoke in opposition of the resolution. She stated that the City Council needs a rules and procedures handbook to follow.

Frank Kirtdoll spoke in opposition of the resolution. He stated that in order to make an informed decision on adopting an ordinance it is important not to rush the process.

The motion to approve the resolution as amended carried. Councilmembers Lane, Dunn, Hill and Alcalá voted "no". (5-4-0)

RESOLUTION NO. 7249 introduced by Councilmember Gary Price amending the Rules of Procedure for City Council Committees was presented.

Councilmember Price explained the resolution.

Councilmember Dunn asked why the assignment to a Committee is a two-year term and the assignment of Deputy Mayor is a one-year term.

In response, Councilmember Price stated that he would suggest that an amendment be made to the resolution so the time served on a Committee is consistent with the Deputy Mayor's.

Councilmember Stubbs moved to amend the resolution to change lines 35 and 44 to read a "one-year" term instead of a "two-year" term. The motion was seconded by Councilmember Pomeroy.

In addition to the changes on lines 35 and 44, Councilmember Pomeroy suggested to strike the word "elections" from line 29 to clarify the amendment.

The motion carried. Councilmember Alcalá voted "no". (8-1-0)

Councilmember Dunn noted a typo on line 105 that needs to be corrected.

Councilmember Dunn commented on the increased number of meetings the Deputy Mayor would be required to attend, the difficulty in scheduling a regular bi-weekly meeting in conjunction with all five members being able to attend, and questioned who would set up the Committee meetings and who would assign the Committee members.

Councilmember Price stated that currently all Councilmembers are serving on two or more committees. The new structure will require the Deputy Mayor to attend additional meetings giving that individual in that position an opportunity to have more interaction with the committee as a whole. The committee Chairperson will schedule the meetings, and each committee will consist of five members. Each Councilmember shall fill out a committee preference list for a standing committee and it would be approved by the Deputy Mayor.

Councilmember Lane and Hill inquired on how the existing committees are going to be merged into two separate committees and when will the new policy be effective.

Councilmember Price stated that the committees would consist of five members each and welcomes any suggestions concerning the merger of the committees.

Councilmember Alcalá asked how the new Chairperson of the committees would be chosen.

Councilmember Price stated that the Chairperson would be elected by the committee members.

Councilmember Pomeroy discussed the advantages of implementing a third committee, consisting of three members each.

In response, Councilmember Price explained that he purposed only two committees with the intent of giving the Deputy Mayor more opportunity to interact with all of the committee members. However, he supports any suggestions made for amendments.

Councilmember Pomeroy moved to amend to have three standing committees; Policy and Finance, Economic and Community Development and Public, Health and Safety. The motion was seconded by Councilmember Price

Councilmember Stubbs stated that three standing committees with regular scheduled meeting times would allow the public to become more involved.

The motion to approve the amendment carried. Councilmember Dunn voted "no". (8-1-0)

Councilmember Pomeroy moved to amend to strike line 26 "The Deputy Mayor shall serve on both as Chair of the committees." Also strike lines 29 beginning with "in May following Council elections," and the word "elections" on line 30 and replace it with "in September". The motion seconded by Councilmember Stubbs carried. (7-2-0)

Councilmember Dunn moved to amend to strike lines 15 through 26 and replace it with "The Council shall have one (1) standing committee that will meet every other Tuesday at 5:30 p.m.". The motion seconded by Councilmember Alcala failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Councilmember Price moved to adopt the resolution as amended. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcala, Lane, Dunn and Hill voted "no". (5-4-0)

RESOLUTION NO. 7250 introduced by Councilmember Clark Duffy relating to the implementation of the 2001 Topeka Crime Summit recommended solutions was presented.

Councilmember Duffy explained the resolution. He suggested that each recommendation in the Crime Summit Report be considered by the responsible party and monitored and implemented by the Mayor and Chief Administrative Officer, and a report from the Mayor sent to the City Council on a quarterly basis.

Councilmember Duffy moved to adopt the resolution. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

Councilmember Alcala made a request to move Item C ahead of Item B, under New Business on the agenda.

In response to the request, Councilmember Duffy stated that in the past we have been required by law to publish the budget that was presented by the Mayor. However, if this is not the case then he supports the request.

RESOLUTION NO. 7251 introduced by Deputy Mayor Betty M. Dunn and Councilmember Clark Duffy, expressing the intent of the City Council to prepare a budget for the City of Topeka that requires no increase in the City's mill levy for 2003, was presented.



Councilmember Duffy moved to adopt the resolution. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy moved to amend to the resolution to strike the word "prepare" and replace in with "adopt" in line 14.

The motion to adopt the resolution as amended carried unanimously. (9-0-0)

Councilmember Pomeroy moved to amend the resolution to include the statement "no reduction in the percentage of the reserve fund balances from 2002". The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Hecht stated that she feels it is premature to adopt this resolution considering that not all of the departments have given their 2003 Budget Presentation.

Councilmember Hill moved to amend to strike the word "prepare" and replace it with "adopt" in line 4. The motion seconded by Councilmember Price carried. Councilmember Hecht voted "no". (8-1-0)

Councilmember Duffy moved to adopt the resolution as amended. The motion seconded by Councilmember Dunn carried. Councilmember Hecht voted "no". (8-1-0)

A COMMUNICATION by the City of Topeka authorizing the publication of the Notice of Hearing for the 2003 budget during the Council's regular session on August 6, 2002, was presented.

Councilmember Dunn moved to accept the Communication. The motion was seconded by Councilmember Hecht.

Jim Langford, Budget Director distributed a list of issues for the Council to consider for setting property tax and expenditure limits. He noted that the communication represents the Mayor's proposed budget less \$330,000 in expenditures from technical corrections, and reduced

property valuation as reviewed on July 16, 2002. He explained the loss of \$227,375 in Motor Vehicle Property Tax Revenue in 2002 because of Washburn v. Shawnee County, and stated that the loss of this revenue will result in a lower beginning balance for 2003, reducing available revenue to fund the 2003 budget. He further explained that the impact is spread among five property tax funds as follows: General \$92,597; General Improvement \$4,293; Special Liability \$2,469; Parks and Recreation \$56,136; and Bond & Interest \$71,853. He suggested that property tax revenue be increased by \$227,375 to offset the loss. He stated that \$150,000 expenditure for Downtown Topeka Grant Program, \$8,000 per car for purchase of additional VDO cameras for police cars and the Zoo review was also included in the Mayor's proposed budget.

Councilmember Duffy moved to amend the communication to increase the property tax revenue by \$227, 375 as suggested. The motion seconded by Councilmember Price carried. Councilmembers Alcalá and Lane voted "no". (7-2-0)

Councilmember Dunn moved to accept the communication as amended. The motion seconded by Councilmember Hecht carried. Councilmembers Alcalá and Lane voted "no". (7-2-0)

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graverson stated that he would distribute the contract with Compass Facility Management, Inc. and a report on their diversity that he just received. He also asked how many Councilmembers wanted an individual copy of the Capital Improvement Plan.

Neil Dobler, Public Works Director gave a brief update on the growth areas and future annexation goals of the City of Topeka.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Pomeroy stated that the Community Development Committee heard the preliminary report on the Sign Ordinance on July 23, 2002 and the ordinance will be presented to the City Council in the near future.

Councilmember Dunn stated that the Policy Committee met on July 22, 2002 to discuss the Group Home Ordinance and the ordinance will be presented to the City Council within the next few weeks.

Councilmember Alcala expressed concern with the Policy Committee meeting that was held on July 22, 2002. He stated that the a former Assistant City Attorney, who is now serving as the Administrative Municipal Court Judge was allowed to attend an Executive Session which provided the City of Topeka with information that could make the meeting null and void due to the possibility of violating the attorney-client privilege information laws.

Councilmember Hill stated that the Public, Health and Safety Committee will met on August 5, 2002 at 4:00 p.m. in the City Council Chambers concerning the resolution on the Mutual Aid Agreement between the Prairie Band Potawatomi Nation and the City of Topeka, and the Exotic Animal Ordinance.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lane inquired on the Mt. Asbury zoning issue and how the problem will be resolved. He stated that he had received a letter from a constituent concerning the construction at 913 Kansas and the generators at the Landon State Building. He stated that he would like to see the code compliance issues handled in an efficient manner in the Holiday Park area.

Councilmember Pomeroy expressed concern on the Mt. Asbury zoning issue and if similar zoning problems have occurred do they need to be corrected. He stated that he would

like to revisit the process of determining the percentage of cost replacement for rehabilitation compared to the demolition of houses.

Councilmember Duffy submitted a request for consideration of a future agenda concerning a amendment to the Human Relations Commission Ordinance and an Intimidation or Bias Crimes Ordinance.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Margie Phelps, Pedro Irigoneronigary and LeeAnn Martin appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:03 p.m.

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Iris Walker  
City Clerk