

City Council Minutes – August 6, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 6, 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 Councilmember Alcala.

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

THE CONSENT AGENDA was presented as follows:

FINAL PLAT for Eveningside Subdivision on property located at the northwest corner of SW 30th Street and SW Eveningside Drive in the City of Topeka, Kansas. (P02/12), was presented.

FINAL PLAT for Highland Crest Plaza Subdivision on property located at the southeast corner of SE Fremont Street and SE 29th Street in the City of Topeka, Kansas. (P02/19), was presented.

A Final Plat for Gardner Estates Subdivision No. 3 on property located at the northwest corner of SE 23rd Terrace and SE Cuvier Street within unincorporated Shawnee County, Kansas. (P02/21), was presented.

APPLICATION for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors for The Depot, Inc., 2901 SE Fremont, was presented.

Minutes of the regular meeting of July 9, 2002 and July 23, 2002 were presented.

Councilmember Price asked to pull Item C, the final plat for Gardner Estates Subdivision for separate discussion.

Councilmember Stubbs asked to pull Item A, the final plat for Eveningside Subdivision for separate discussion.

Councilmember Dunn moved to accept the remainder of the consent agenda. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

Councilmember Price inquired on why the final plat requested by Gardner Estates Subdivision No. 3 was not required to follow the regular rules and regulations that have been set by the City of Topeka, and who will bear the financial burden if the final plat is denied.

In response, Barry Beagle Planning Department explained that there was an error in marking the foundation however, the error was not discovered until after the foundation was in place. After careful consideration by the Zoning and Platting Committee they did not feel that the reduced amount of the front yard setback would be a great deviation from the character of the neighborhood, therefore, recommending approval of the plan. If the final plat is rejected the cost will be absorbed by the applicant.

Councilmember Dunn moved to approve the final plat. The motion seconded by Councilmember Lane carried. Councilmembers Duffy and Price voted "no". (7-2-0)

Councilmember Stubbs inquired on the final plat requested by Eveningside Subdivision. She asked if there have been any changes made since the time the plat was initially brought before the City Council, and if the lots were now secure for development.

Barry Beagle stated that there have been no changes with this final plat and the lots are financially secure to begin development.

Councilmember Duffy moved to defer for one week. The motion was seconded by Councilmember Stubbs.

Councilmember Alcalá asked if there would be any repercussions if the final plat would be deferred for one week.

Barry Beagle explained that deferring this item for one week would not cause any detrimental setbacks in the project, however, approval of the new rear-alley entrance design was one of the main factors that contributed to Zoning and Platting Committees decision on the zoning changes.

Councilmember Duffy stated that the final plat could be deferred for two weeks and brought back before the City Council with the Zoning Petition.

In response Kent Fruits, builder and developer of the project stated that this plan has been through several phases including re-platting and neighborhood opposition over the past five months, and they would appreciate a decision on the matter as soon as possible.

Councilmember Dunn asked if the opposition by the neighborhood has been resolved.

Barry Beagle stated that the residents of the neighborhood, supports a six-lot, single or two-family dwelling subdivision. The objections expressed were in conjunction with an eight-lot subdivision proposal. The residents did not feel that this type of development would fit the character of the neighborhood.

The motion to defer for one week carried. Councilmembers Alcalá, Lane, Dunn and Hill voted "no". (5-4-0)

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, August 6, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8th Street for the purpose of hearing and answering questions or objections of taxpayers relating to the proposed use of all funds and the amount of tax to be levied.

John Etzel spoke in opposition of the proposed budget and gave alternate suggestions for budget cuts.

Ben Scott, Chairperson of the Parks and Recreation Board spoke in support of the proposed budget and encouraged strong consideration for increases in departmental funds for the Parks and Recreation Department.

Jack Alexander expressed his concerns surrounding the lack of diversity in the City of Topeka's work force and feels that the City has recently passed up several opportunities to change the complexion of the work force.

Karen Hiller, representative of Housing and Credit Counseling, Inc., spoke in support of the proposed budget and thanked the City Council for their steady support.

Jay Landrum, representative of the Heartland Park Race Track expressed his support of the proposed budget and thanked the City of Topeka for all their support.

Several Councilmembers expressed their thanks and appreciation for the revenue and the community contributions the race track has generated for the City of Topeka.

Mayor Felker asked if there was anyone else that would like to speak on the FY2003 Proposed Budget. No one appeared.

Councilmember Dunn moved to close the public hearing. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

Mayor Felker announced that the FY2003 proposed budget discussions would continue on August 20 and 27, 2002 if anyone would like to attend the meetings.

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, August 6, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8th Street for citizen comment on the proposed FY2003 Consolidated Plan.

Randy Speaker, Housing and Neighborhood Director gave the staff report. He explained the FY2003 Consolidated Plan in detail including public input, plan changes, HUD's review of the preliminary draft of the plan, and CDAC subcommittee reviews. He stated that the changes proposed are necessary to redirect and improve the focus of the program, and he looks forward to enhancing Topeka's neighborhoods.

Several Councilmembers continued the discussion inquiring on the new point system that would be used to allocate funds, funding for the Tennessee Town Projects, funding of the Fanny May Foundation, lost funds if not used, comparison of 2002 to 2003 budget expenditures, and encouraged implementation of more large projects.

JoAnn Peavler, Chairperson for the CDAC Committee stated that they have not yet constructed an advisory report, however, she supports the efforts that have been made towards organizational improvements of the Housing and Neighborhood Department.

Councilmember Alcalá expressed the importance of not cutting the funding needed to mail the Housing and Neighborhood Development newsletters. He has received several calls from his constituents stating that this is their only way of receiving information concerning the HND programs.

Betty Phillips, Hi-Crest resident spoke in opposition of the organizational changes taking place in the Housing and Neighborhood Department, city employees use of HND Programs and inquired on the proposed Hi-Crest Rental House Development.

In response, Randy Speaker explained that the employees involved in the programs were more than eligible to receive the benefits, and working for the City of Topeka does not exclude a person's eligibility for these programs.

Councilmember Alcala asked if HND would consider the 501C-3 Program to be used as a write-off for large companies giving them an incentive to contribute more money towards the Neighborhood Improvement Programs.

Councilmember Duffy inquired on the Hi-Crest development project.

Randy Speaker stated that there was a timing issue involved with this project. When he was approached with the decision to implement phase two of the project he had only been employed with the city for two weeks. Considering the amount of money involved, he did not feel that he could make an informed decision at that time, therefore, he asked that the project be put on hold until further notice.

Councilmember Duffy asked how he plans to proceed with the project.

In response, Randy Speaker stated that he would like to see a neighborhood plan implemented for this project similar to the East Topeka Neighborhood Plan, utilizing money where it is needed the most. He has studied the plan and there are certain factors involved that would exclude this from being considered a typical rental house development.

Councilmember Dunn expressed concerns on losing the private lenders money that has already been invested in the project.

Randy Speaker explained that the only money that would be lost at this time is a \$50,000 feasibility study, and that cost is usually consumed by the developer. However, he would like to meet with the private lenders involved and explain their options on how best to invest their money.

Diane Alpert, owner of the Highland Crest Shopping Center and applicant of the Hi-Crest Rental House Development and Josh Sheldon, engineer explained the proposed project and the financial implications involved in re-developing the shopping center in conjunction with a

large-scale affordable housing development. To date, her company has invested in excess of \$3,000,000 to secure the sixteen-acre plot of land needed for this project. However, due to the amount of money involved she will lose the option to this land if a decision is not made soon to continue with the project. They would hope and encourage that the City of Topeka would not pass up this opportunity for a combined effort to help improve the Hi-Crest area.

Councilmember Dunn expressed the importance of the implementation of this project and what it means to the Hi-Crest area community. She asked if Mr. Speaker could meet with the developers as soon as possible to resolve the financial issues involved with the project.

Councilmember Hecht asked what exactly needs to be done so that this project can move forward.

Mayor Felker stated that he would set up a meeting with all parties involved and resolve the financial problems involved so they can continue with this project as soon as possible.

Beca Vaughn, representative of the Topeka Independent Living Resource Center stated that the funding should equalize low-income opportunity which in turn assures equal opportunity within the community.

Jim Bolten expressed concerns with the procedures used in determining re-construction or demolition of homes in the Tennessee-Town Homes area.

Brenden Long, City Attorney stated that the City of Topeka is in litigation with Mr. Bolten and can not comment on his case at this time.

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

ORDINANCE NO. 17870 introduced by Mayor Felker and Councilmembers Clark Duffy and Duane Pomeroy relating to uses that are regulated by adoption of City Ordinance and

specifically repealing City of Topeka Ordinance No. 17830 placed on first reading June 11, 2002, was again presented.

Councilmember Dunn explained the ordinance and stated that the Policy Committee recommended a language change.

Brenden Long, City Attorney explained the two amendment options available.

Councilmember Hecht stated that she does not feel a need for an amendment to the ordinance and would like to see this ordinance passed.

Councilmember Alcalá asked why this was brought back before the City Council.

Barry Beagle explained that when there is a code change it is standard procedure to send it back through the Planning Department to get their approval.

Councilmember Pomeroy moved to adopt the ordinance. The motion was seconded by Councilmember Price.

Councilmember Alcalá made a substitute motion to accept option two of the amendments. The motion was seconded by Councilmember Dunn.

Councilmember Duffy stated that he and Councilmember Pomeroy worked directly with a Civil Rights Attorney for over six months crafting both ordinances concerning this matter. He stated that he is fairly confident that the original ordinances are the best option to pursue.

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

Gary Statton, Chaplain for the Forbes Field Detention Center for Youth and owner and operator of a group residence home spoke in opposition of the new regulations and feels that he was not properly informed of the changes taking place.

Kathy Howard, neighbor to the Oxford Houses spoke in support of the ordinances.

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

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Dunn, Hecht, Duffy, Stubbs, Hill and Price -7. Noes: Councilmembers Alcala and Lane -2.

ORDINANCE NO. 17871 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 Code 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 this City of Topeka Ordinance and specifically repealing City of Topeka Ordinance No. 17829 placed on first reading June 11, 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.

A RESOLUTION introduced by Councilmember John Alcala requesting designation of \$250,000 per year for 10 (ten) consecutive years beginning FY2003 from the Transient Guest Tax fund to restore the Great Overland Station was presented.

Councilmember Alcala explained the resolution and the importance of completing the Great Overland Station so that the City of Topeka can benefit from the tourism that it would attract.

Bob St. John, President of the Board of Directors for the Great Overland Station gave a presentation. He explained the mission and features of the project, the prime location, community improvement and economic development.

Several Councilmembers expressed their support of the project.

Councilmember Hecht expressed concerns in allocating money to this project for the next ten years. She stated that the Great Overland Station should re-apply on a yearly basis for financial assistance.

Mayor Felker asked if there was a motion to extend the meeting.

Councilmember Lane move to extend the meeting until the agenda is complete.

Councilmember Alcala made a substitute motion to extend the meeting until 11:30 p.m. and decide at that time if they should continue with the agenda. The motion was seconded by Councilmember Dunn.

Councilmember Lane withdrew his motion.

Councilmember Pomeroy made a substitute motion, to extend the meeting through First Readings. The motion seconded by Councilmember Duffy carried. Councilmembers Alcala, Lane, Dunn and Duffy voted "no". (5-4-0)

Following the extension of the meeting. Several Councilmembers expressed concerns on the implementation of a ten-year contract with the Great Overland Station and stated that they would be more comfortable renewing the contract on a yearly basis.

Councilmember Pomeroy stated that he agrees with allocating the funds on a yearly basis. However, in order to secure the federal grants involved with this project a ten-year commitment needs to be made so that the funds may be allocated properly.

Councilmember Price stated that the funding source needs to be specified in this project. If they are trying to generate revenue from the Bed Tax Fund then he supports the project, however if they are proposing to reallocate existing money, then this would take away from other projects.

Councilmember Alcala gave a brief overview of the city's current funding and what it is being used for.

Several Councilmembers continued the discussion on how the city allocates money and if there would be another alternative to fund the project instead of using the Bed Tax Funds.

Bob St. John stated that there is not a preference of where the funds come from, however, they do not want to pass up the opportunity to receive the funds needed to help complete this project.

Councilmember Duffy stated that he would like to see the breakdown of the funds from start to finish of each phase on how much money would be received from private individuals, the federal government and what the contributions would be from the City of Topeka. Also, if funds are allocated for the development of the River Front Park would there be a problem with distributing the funds to the Parks and Recreation Department so they can develop the park.

In response John Glassman stated that it is not important where the funds are generated from. Their main concern is not to lose the opportunity of the funding that is available to assist with this project, and they would be more than willing to allow the Parks and Recreation Department to develop the River Front Park.

Discussion continued on what funds are actually available, how they would be allocated, and if the Bed Tax should be increased.

Randy Bailes, Financial Director stated that he would prepare a financial report and distribute it next week.

Randy Goldsmith, President of the Topeka Lodging Association expressed his concerns using the Bed Tax Fund as a financing mechanism.

Richard Forester, President of the Topeka Convention and Visitors Bureau requested that the City Council require the Great Overland Station Board of Directors to supply the figures to justify using Bed Tax to fund the project, and consider allowing the community to pay for the project.

Gregory Allen, 1800 SW 27th Street spoke in support of the project and stated that it should be supported by the community because it is a community project.

Councilmember Alcalá moved to approve the communication.

Councilmember Duffy made a substitute motion to refer the communication to the Economic and Development Committee. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcalá, Lane and Dunn voted "no". (6-3-0)

A COMMUNICATION requesting approval of the Real Estate Officers Report for acquisition of Sumner School, and authorization for the Mayor to sign the real estate agreement was presented.

Kevin Rooney, Real Estate Officer for the City of Topeka gave the staff report.

Councilmember Pomeroy moved to approve the communication. The motion seconded by Councilmember Duffy carried. Councilmembers Lane and Dunn voted "no". Councilmember Alcalá was out of the room. (6-3-0)

RESOLUTION NO. 7252 introduced by Mayor Felker declaring an interest in, and establishing a public hearing date for considering the unilateral annexation of certain lands to the City of Topeka, Kansas, was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Stubbs stated that due to the amount of people signed up to speak she would like to clarify that tonight is not the actual public hearing. It is the adoption of a resolution to establish the date for the public hearing.

Vic Miller, Ed Peck, Sheila Walker spoke in opposition of the annexation.

Councilmember Alcalá stated that he opposes the annexation because he feels that resolving the inner city problems should be their priority at this time.

Councilmember Dunn moved to disapprove the resolution. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy made a substitute motion to approve the resolution. The motion was seconded by Councilmember Stubbs.

The parliamentarian ruled that the substitute motion was out of order.

Councilmember Duffy spoke in opposition to the motion to disapprove the resolution and stated that they need to hold the public hearing to give him the opportunity to make an informed decision through public testimony.

Councilmember Dunn withdrew her motion to disapprove the resolution.

Councilmember Pomeroy made a motion to approve the resolution. The motion was seconded by Councilmember Stubbs.

Councilmember Alcalá made a substitute motion to defer one week. The motion was seconded by Councilmember Dunn.

The motion to defer for one week failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Councilmember Dunn made a substitute motion to include the entire area, including areas two and three proposed for annexation.

The parliamentarian ruled that the substitute motion was out of order.

Leslie Kindel, Jack Savely, Dennis Schwartz, Vince Melvin, Jr. and Sarina Carroll appeared in opposition of the annexation, and expressed their concerns regarding the process.

Councilmember Lane made a motion to adjourn the meeting. The motion seconded by Councilmember Alcala failed. Councilmembers Pomeroy, Hecht, Stubbs, Hill and Price voted "no". Councilmember Duffy was out of the room. (3-5-0)

Nensy Helsner and James Hunt spoke in opposition of the annexation.

Councilmember Alcala made a motion to extend the meeting through Public Comment. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Brad Oliver spoke in opposition of the annexation.

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

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 20-foot wide alley right-of-way adjoining the north side of 1516 SW 6th Avenue, as dedicated by the plat of Haynes Subdivision, City of Topeka, Shawnee County, Kansas, was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 12-foot wide sanitary sewer easement on property located at 2432 SE Eveningtide Way, as

dedicated by plat of Shawnee Lake Subdivision "C", 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 about the northeast corner of SE Wittenburg Road and the Kansas Turnpike in the City of Topeka, from "C-4" Commercial District and "I-1" Light Industrial District ALL TO "I-2" Heavy Industrial District and specifically repealing City of Topeka Ordinance 17595 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 property located at 1603 SW 29th Street in the City of Topeka, from "R-1" Single Family Dwelling District to "O&I-1" Office and Institutional District was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker authorizing the City of Topeka, Kansas, to issue its Housing and Health Care Revenue Bonds, Series 2002, (Brewster Place Project) in the aggregate principal amount of \$2,225,000 for the purpose of financing the costs of constructing, equipping and improving certain residential and health care facilities located on the Brewster Place Campus in the City; authorizing the execution of a second supplemental indenture by and between the City and Commerce Bank & Trust, Topeka, Kansas, as trustee, authorizing the execution of a second supplemental lease by and between the City and the Congregational Home, a Kansas Not-For-Profit Corporation; and authorizing and approving certain additional documents and actions in connection with the issuance of said bonds was presented for first reading.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent
at 1:30 a.m.

Iris Walker
City Clerk