

City Council Minutes – August 13, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 13, 2002. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcala, Lane, Hecht, Duffy, Stubbs, Hill and Price – 7. Absent: Mayor Felker -1, Councilmembers Pomeroy and Dunn –2.

Mayor Felker, Councilmembers Pomeroy and Dunn were attending Emergency Preparedness Training in Virginia.

The City Clerk called the meeting to order and asked for nominations to chair the meeting due to the absence of the Mayor and Deputy Mayor.

Councilmember Lane nominated Councilmember Hill.

Councilmember Price nominated Councilmember Duffy.

As a result of two nominations, the parliamentarian suggested that a "yes" vote would represent Councilmember Hill and a "no" vote would represent Councilmember Duffy.

Following the vote, the City Clerk announced that Councilmember Hill received three votes and Councilmember Duffy received four votes.

Councilmember Alcala moved to nominate Councilmember Price as a compromise chair. The motion was seconded by Councilmember Stubbs.

Councilmember Price declined the nomination to chair the meeting.

Councilmember Duffy withdrew his name from consideration.

Councilmember Hill was nominated to serve as chair of the meeting by a vote of 7-0-0.

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.

Councilmember Duffy moved to suspend the rules to add a final plat for Pioneer Curtis Homes Subdivision. The motion seconded by Councilmember Price carried unanimously. (7-0-0)

Councilmember Duffy moved to reinstate the rules. The motion seconded by Councilmember Stubbs carried unanimously. (7-0-0)

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the re-appointment of Vance Kelly to the Topeka-Shawnee County Landmarks Commission for a three-year term which will expire January 31, 2005, was presented.

Councilmember Price moved to accept the consent agenda. The motion seconded by Councilmember Lane carried unanimously. (7-0-0)

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 13, 2002, at 7:00 P.M., in conjunction with vacation request V02A/5 by HIL, L.L.C., owners, to vacate a 20-foot wide east-west alley right-of-way which adjoins the north side of their property, 1516 SW 6th Avenue, Haynes Subdivision, City of Topeka, Shawnee County, Kansas.

ORDINANCE NO. 17873 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, placed on first reading August 6, 2002, was again presented.

Barry Beagle, Planning Department gave the staff report.

Councilmember Hill gave an opportunity for anyone present to speak.

Allison Saber, representative of the applicant appeared in support of the vacation.

Councilmember Alcalá moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Lane carried unanimously. (7-0-0)

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

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 13, 2002, at 7:00 P.M., in conjunction with vacation request V02E/5 by Richard Hines and Amy Rottinghaus, owners, to vacate a 12-foot wide sanitary sewer easement on property located at 2432 SE Eveningtide Way in the City of Topeka, Kansas.

ORDINANCE NO. 17874 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, placed on first reading on August 6, 2002, was again presented.

Barry Beagle gave the staff report.

Councilmember Hill gave an opportunity for anyone present to speak. No one appeared.

Councilmember Lane moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Price carried unanimously. (7-0-0)

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

ORDINANCE NO. 17872 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 placed on first reading August 6, 2002, was again presented.

Councilmember Lane moved to adopt the ordinance. The motion was seconded by Councilmember Alcalá.

Phil Wolfe, Bond Counsel appeared for questions.

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

ORDINANCE NO. 17875 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, placed on first reading on August 6, 2002 was again presented.

Barry Beagle gave the staff report.

Councilmember Hill gave an opportunity for anyone present to speak. No one appeared.

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

ZONING PETITION (Z02/6) by Thomas A. and Margaret K. McDonald requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District TO "O&I-

1" Office and Institutional District on property located at 1603 SW 29th Street in the City of Topeka, Kansas, was presented.

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, placed on first reading on August 6, 2002 was again presented.

Barry Beagle gave the staff report.

Councilmember Alcalá asked if the zoning change would effect the neighbors in that area.

In response, Barry Beagle explained that changing the zoning in this area to an office and institutional zoning classification is not compatible with the residential nature of the neighborhood, and approval of this request could set off further zoning changes of higher intensity in the neighborhood along SW 29th Street.

Councilmember Stubbs asked if this ordinance is approved, would they be able to monitor what types of business come into the area.

Barry Beagle stated that any type of business with this specific zoning regulation would be allowed to operate in this area.

Councilmember Hill asked if there were any exparte communications. None was declared.

Councilmember Hill gave an opportunity for anyone present to speak.

Joe Huerter, representative of the applicant appeared in support. He explained the project and stated that the applicants would continue to be good neighbors. This is a commercial

thoroughfare and will continue to be in the future. None of the city departments other than Planning have a problem with the business.

Councilmember Alcalá called the question.

Councilmember Alcalá withdrew the call for the question.

Councilmember Alcalá stated that it would be very difficult not to support this business when there are businesses in operation adjacent to the property in question.

Joe Huerter explained that he is unsure if a zoning change will raise the value of the home, however it will place this property in a higher tax bracket and the applicant is willing to pay for all fees incorporated with the zoning change of the property.

Councilmember Stubbs asked what restrictions are on this type of zoning.

Councilmember Alcalá moved to adopt the recommendation of the Zoning and Platting Committee. The motion seconded by Councilmember Lane.

Joe Huerter noted that if the petition did not get six votes to override the Zoning and Platting Committee's recommendation, or five votes to disapprove the petition, the petition would need to go back to the Zoning and Platting Committee for review.

Brenden Long agreed with Mr. Huerter's statements and added that an additional option would be to continue the petition.

Councilmember Duffy commented on the integrity of the Planning Commission and stated he felt they faithfully discharged their duties.

Councilmember Alcalá withdrew his motion. The second concurred.

Councilmember Alcalá moved to defer one week and present the petition to the entire City Council. The motion seconded by Councilmember Lane failed. Councilmembers Hecht, Stubbs and Price voted "no". (4-3-0)

Councilmember Alcala spoke in support of the proposal and encouraged support of small businesses.

Councilmember Duffy stated that there are total of eighty parcels in this area and all of them are residential except three. It is not the applicant's fault that there is a zoning issue. However, the City Council as a whole needs to make a decision on how this area is going to be zoned.

Councilmember Duffy moved to adopt the recommendation of the Zoning and Platting Committee. The motion seconded by Councilmember Stubbs failed. Councilmembers Alcala, Lane and Hill voted "no". (4-3-0)

There was no further discussion on the petition, and therefore it was referred back to the Zoning and Platting Committee.

A COMMUNICATION from Wings Over Topeka Foundation requesting \$10,000 to assist in underwriting the Family Freedom Day at Forbes Field on September 28, 2002, was presented.

Councilmember Alcala stated that he plans to submit criteria on how Bed Tax Funds should be allocated in the near future.

Councilmember Hill gave an opportunity for anyone present to speak.

Stewart Entz, Wings Over Topeka Foundation appeared for questions.

Councilmember Stubbs asked the total cost of the event, and if they have requested funds from the county.

Stewart Entz stated that they need \$26,000 for civilian activities, \$5,000 for trash removal and awards, and \$15,000 for insurance and they have not requested money from the county.

Councilmember Duffy expressed his support of the event and asked if they have approached the Topeka Visitors Bureau for the money needed. He also inquired on the list of contributors and the amount of money they gave, if the State of Kansas has made a donation, and stressed the importance of the City of Topeka receiving the same recognition as the other sponsors of the event.

Councilmember Alcalá stated that he feels the City of Topeka is more approachable than the Topeka Visitors Bureau, and this is why the city receives more requests to fund events in Topeka.

Councilmember Alcalá moved to accept the communication. The motion was seconded by Councilmember Lane.

Councilmember Hill inquired on the amount of Bed Tax Funds that could be used for this request.

Randy Bailes, Financial Director stated that he agrees with the staff recommendation to allocate \$9,800 for this event, a larger amount would require budget authority.

Councilmember Hecht stated that she supports this event and is looking forward to attending however, she will not support the communication. Repeatedly the Council is approached with requests to support certain events in Topeka with no financial data to support how much money is actually contributed to the Bed Tax Fund.

Councilmember Stubbs moved to make a substitute motion to defer for two weeks in order to gather additional information and establish criteria for these funds. The motion seconded by Councilmember Price failed. Councilmembers Alcalá, Lane and Hill voted "no".

(4-3-0)

Councilmember Alcala moved to accept the communication in the sum of \$9,000. The motion seconded by Councilmember Lane carried. Councilmembers Hecht and Stubbs voted "no". (5-2-0)

FINAL PLAT for Pioneer Curtis Homes Subdivision on property located at 1334 NW Jackson Street in the City of Topeka, Kansas (P00/32) was presented.

Barry Beagle gave the staff report.

Rick Crate, representative of the Pioneer Group appeared for questions. He stated that this property is ready for financial closing and would appreciate a decision as soon as possible.

Councilmember Alcala stated that he has received several calls from his constituents concerning the appearance of the property and would like to see an improvement.

Angela Sharp, Professional Engineer Consultants appeared for questions.

Councilmember Price moved to approve the final plat. The motion seconded by Councilmember Duffy carried unanimously. (7-0-0)

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 northwest corner of SW 30th Street and SW Eveningside Drive in the City of Topeka, from "R-1" Single Family Dwelling District to "M-1" Two Family Dwelling District was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Project No. 14108-00, which provides for the replacement of traffic signal controllers that are out of date and are no longer supported by the manufactures 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 for the condemnation and appropriation of lands in the City of Topeka for infill development purposes in East Topeka was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be an Economic Development Meeting concerning the resolution on the Great Overland Station on August 16, 2002, at 7:10 a.m.

Councilmember Hecht announced that there would be a open house at Washburn University Henderson Hall, Room 100, on August 18, 2002 starting at 6:30 p.m. until 8:30 p.m. concerning the hate dialogue in Topeka.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy stated that he had received a letter from the County Commission concerning statements he made at last week's council meeting. The statements that were made were of his opinion solely, and not those of the City Council as a whole.

Councilmember Alcala stated that it is very important to keep a good working relationship with the county.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Lanell Rohr, JoAnn Peavler, Ron Michalis, Michael Carter, Megan Phelps-Roper, Shirley Phelps-Roper, Vic Miller and Robert Gilmore appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 9:28 p.m.

Iris Walker
City Clerk

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