

## City Council Minutes – August 20, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 20, 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, Hill and Price – 8. Mayor Felker presided–1. Absent: Councilmember Stubbs -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.

Councilmember Stubbs was absent due to a death in her family.

THE CONSENT AGENDA was presented as follows:

FINAL PLAT for Southboro Subdivision No. 8 on property situated between SE Indiana Avenue and SE Illinois Avenue, immediately south of SE 43<sup>rd</sup> Street in the City of Topeka, Kansas, (P02/22), was presented.

FINAL PLAT for Hidden Valley Subdivision No. 2 on property located at the southwest corner of SW 17<sup>th</sup> Street (proposed) and SW Urish Road within unincorporated Shawnee County, Kansas, (P02/28), was presented.

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

Minutes of the regular meeting of August 6, 2002 and August 13, 2002 were presented.

Councilmember Dunn stated that she would like the August 13, 2002 City Council Meeting minutes to reflect that Mayor Felker, Councilmembers Pomeroy and Dunn were absent

from last week's meeting because they were attending Emergency Preparedness training in Virginia.

Councilmember Dunn moved to accept the consent agenda including the correction to the August 13, 2002 minutes. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

A ZONING PETITION (Z02/8) by Southwest Baptist Church, Inc., requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District TO "M-1" Two Family Dwelling District on property located at the northwest corner of SW 30<sup>th</sup> Street and SW Eveningside Drive in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17876 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 30<sup>th</sup> Street and SW Eveningside Drive in the City of Topeka, from "R-1" Single Family Dwelling District to "M-1" Two Family Dwelling District, placed on first reading July 9, 2002, was again presented. (Z02/8)

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

Barry Beagle, Planning Department gave the staff report.

Evie Green, owner of property adjacent to the Southwest Baptist Church expressed her concerns regarding the proposed zoning reclassification and inquired on why the neighbors were not contacted on the change.

Councilmember Alcala stated that it was his interpretation that the Planning Department had visited with the neighbors on this issue.

In response, Barry Beagle stated that there has been no direct contact between the Planning Department and the neighbors. At the July 9, 2002 meeting Mark Burkhart, stated that there had been a group of residents that expressed opposition to the original plan of an eight, two-family dwelling development that did not fit the characteristic of the neighborhood. However, they did accept the alternative proposal of a six, two-family dwelling development.

Councilmember Pomeroy asked if the alley could be aligned with Eveningside Drive.

Councilmember Price asked if they could insure a twenty-five foot wide driveway as stipulated in the original proposal.

Barry Beagle stated that he would have to consult with the Engineering Department about realigning the alleyway, and the stipulations that were initially set for the final plat would be honored.

Rick Bassett, developer appeared for questions. He stated that there has been contact with some of the surrounding neighbors, and he is disappointed that the residents of the neighborhood do not support the new development. He will contact the project engineer to redesign the alleyway aligning it with Eveningside Drive.

Mayor Felker asked if there was additional exparte, besides Councilmember Price. There was none declared.

Councilmember Dunn moved to approve the petition, adopt the ordinance, and accept the final plat. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

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

A PROJECT BUDGET in the amount of \$102,400 and ORDINANCE NO. 17877 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, placed on first reading August 13, 2002, was again presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Lane asked if this project would enable more areas downtown to switch to the late night flashing system.

Councilmember Dunn asked if this phase completes the project.

In response, Neil Dobler stated that this project has several phases that are to be completed over the next seven years, and all of the phases include the late night flashing system.

Councilmember Lane moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

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

ORDINANCE NO. 17878 introduced by Mayor Felker for the condemnation and appropriation of lands in the City of Topeka for infill development purposes in East Topeka placed on first reading August 13, 2002, was again presented.

Kevin Rooney, City of Topeka real estate officer gave the staff report.

Councilmember Dunn asked what this part of the phase will cost, how many lots are involved and were any of the homes obtained through imminent domain.

Councilmember Duffy asked if any of the property owners have refused to sell.

In response, Kevin Rooney stated that the estimated cost of this phase of the project is \$45,000 and involves eleven parcels. The majority of the properties have title problems and no one has refused to sell at this point. Of those eleven parcels, five were obtained through negotiations and the remaining six parcels are in the process of being acquired through imminent domain.

Mayor Felker gave an opportunity for anyone present to speak. No one appeared.

Councilmember Lane moved to adopt the ordinance. The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

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

ORDINANCE NO.17879 introduced by Mayor Harry Felker relating to exotic or captive wild animals; amending the provisions of Sections 18-6 and repealing the original Sections placed on first reading June 4, 2002, was again presented.

Councilmember Hill gave the committee report.

Councilmember Hill moved to accept the committee report. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

Councilmember Hill moved to make an amendment to the ordinance on line 49 to add the words "post secondary" ahead of educational institutes. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

Councilmember Price expressed concerns with how the words "exotic animal" on line 30 of the ordinance would be interpreted, and asked why the permit requirements have been eliminated.

Brenden Long, City Attorney explained that the initial permit requirement procedure dated back to 1989 and was initiated for grandfathering purposes only. Currently, there are no exotic animal permits issued in the city, therefore, the committee felt that there is no longer a need for them. This ordinance specifically pertains to the buying and selling of an exotic animal and the city has other codes and ordinances that define "exotic animal".

Councilmember Pomeroy asked if eliminating the permit process would cause any economical impacts on the city.

Ed Klumpp, Chief of Police stated that because all of the permits that have been issued were grandfathered in and no licenses have been issued, there would be no economic impact by eliminating this process.

Councilmember Dunn moved to adopt the ordinance as amended. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

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

RESOLUTION NO. 7253 introduced by Councilmember John Alcala requesting designation of \$200,000 per year for approximately thirteen (13) consecutive years beginning FY2003 from the Transient Guest Tax fund to restore the Great Overland Station was presented.

Councilmember Duffy gave the committee report.

Councilmember Duffy moved to adopt the committee report as amended. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

Councilmember Duffy explained the resolution. He stated that three major changes were made to the document. The intent of the resolution, allocation of funds, and the source of funding. The source of funding will be generated from the Transient Guest Tax Fund. This will be increased from five percent to six percent, effective January 1, 2003, and these funds would be allocated over the next thirteen years to this project. Due to the financial implications from the increase there is a Economic Development Committee meeting scheduled on August 23, 2002 at 7:10 a.m. in room 255, City Hall to discuss the pros and cons of the increase.

Mayor Felker stated that there are restrictions on allocating funds in accordance with the cash basis law.

Councilmember Alcalá stated that he supports the project and it is a great opportunity for the City of Topeka to generate revenue.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Lane.

John Glassman, Great Overland Station explained the project.

Councilmember Dunn asked why the city needed to purchase the property.

In response, Brenden Long stated that a decision to purchase the property does not have to be made right now. This resolution is the first step of many to get the project moving.

Councilmember Price stated that this project should be treated as a partnership and it is an excellent opportunity to continue the redevelopment of North Topeka.

Councilmember Hecht explained why she opposes the resolution and believes that Government should not pledge money in advance.

Brenden Long explained that the Great Overland Station would have to reapply for the funding every year.

Bob Sherbourne spoke in opposition to the resolution and feels that only a percentage of the revenue made from the Great Overland Station should be allocated to the project, not a set amount every year.

Mark Burnheide, Great Overland Station spoke in support of the resolution.

Russell Estes, Veterans Organization spoke in support of the resolution and thanked the City Council for their support of the Veterans Memorial.

Beth Fager, volunteer for the Great Overland Station spoke in support of the resolution and stressed the importance of the project to the community as a whole.

Kevin Kelley, general contractor for Kelley Construction, spoke in support of the resolution.

The motion to approve the resolution carried. Councilmember Hecht voted "no". (7-1-0)

RESOLUTION NO. 7254 introduced by Mayor Harry Felker and Councilmembers Lisa Hecht, Clark Duffy, Gary Price, Duane Pomeroy, Lisa Stubbs, John Alcala, Betty Dunn, Harold Lane, and Vanessa Hill stating that the City of Topeka is against the national Socialist Movement's pro-white, anti-gay and anti-Jewish messages and beliefs which it plans to promote during its White Unity Rally at the State Capitol on August 24, 2002, was presented.

Councilmember Hecht explained why the resolution was created and the message it will send to the City of Topeka resident's.

Fred Phelps, Jr., Steve Drain, Jonathan Phelps, Charles Hockenbarger, Karl Hockenbarger and Ben Phelps spoke in support of freedom of speech.



Pedro Irigronegary, William Richards, Jason Chaika and Robert Gilmore spoke in support of the resolution.

Councilmember Price moved to approve the resolution. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

AN ORDINANCE introduced by Mayor Harry Felker relating to the extension of water service outside the city limits and establishing criteria therefore, amending City of Topeka Code Section 146-37 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 30218-00, which provides for the improvement of Crestview Community Center 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, attesting to the increase in taxes levied for budget year 2003 necessary to finance public services for the City of Topeka, was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Neil Dobler, Public Works Director gave a report on the status of the Deer Creek Sanitary Sewer Project.

Ernest Hawley expressed his concerns about the Deer Creek Sanitary Sewer Project and the importance of hiring a contractor from the area that cares about the environment.

JoAnn Peavler expressed concerns on the public notice for the Deer Creek Sanitary Sewer Project.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcala submitted a resolution for placement on a future Council agenda relating to the application process for Transient Guest Tax funds. He requested that the resolution concerning the Compensation Study for the street employees be placed on next weeks agenda if possible, and requested a summary sheet on the Ward Martin Creek Soccer Field Project.

Councilmember Hecht explained the safety measures and procedures that will be implemented by the Topeka Police Department at the National Socialist Rally and expressed concern for the City Street workers that were involved in the attempted suicide tragedy earlier today.

Councilmember Dunn gave a brief overview of the conference she attended last week.

Councilmember Hill announced that the Topeka Police Department Citizens Academy would begin in September, 2002, and encouraged citizen participation.

Councilmember Pomeroy stated that the conference that he attended last week was a positive experience demonstrating good relations between the City of Topeka and Shawnee County.

Councilmember Duffy submitted a proposed resolution for placement on a future Council agenda amending the Residency Requirements of the City of Topeka Personnel Rules and Regulations.

Councilmember Lane announced that the Interfaith of Topeka would be open for silent meditation and prayer on August 24, 2002.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Councilmember Pomeroy moved to extend the meeting until the end of the agenda. The motion seconded by Councilmember Dunn carried. Councilmember Duffy voted "no". (7-1-0)

Jesus Campos, JoAnn Peavler, Dennis Rogers, Anthony Fidel, Sharon York, Ted R. Mize, Joe Ledbetter and David Price appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:20 p.m.

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Iris Walker  
City Clerk