

City Council Minutes – September 3, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 3, 2002. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price – 9. Mayor Felker presided –1.

AFTER THE MEETING was called to order, prayer was offered by Reverend Samuel Castro, Hispanic Ministry of the East Topeka Methodist Church.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION from the Kansas International Museum requesting consideration to waive the building permit fees for renovation of the former Montgomery Ward building to house the new museum was presented.

Minutes of the regular meeting of August 27, 2002 were presented.

APPLICATION for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors for North Topeka Golf Course, 350 SE Highway 24, was presented.

Councilmember Duffy asked to pull Item A, a communication for the Kansas International Museum for separate discussion.

Councilmember Hill asked to pull Item B, the minutes of the Regular Meeting of August 27, 2002 for separate discussion.

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

Councilmember Duffy inquired on the City of Topeka's policy concerning the waiver of permit fees and how is it applied.

Mayor Felker stated that the only requirement by the applicant is to submit a written request of waiver to be placed on the agenda for City Council approval or denial.

Councilmember Duffy asked what the money from the fees is used for and if the staff would get paid whether or not we receive the revenue.

In response, Mayor Felker stated that there has been no formal conversation concerning change of policy.

Councilmembers Stubbs asked to set up a work session to establish policy criteria.

Councilmember Hecht stated that she would not support this communication request because there is no policy criteria in place, and she feels that it would be spending the taxpayers money carelessly.

Councilmember Stubbs moved to approve the communication. The motion seconded by Councilmember Hill carried. Councilmember Hecht voted "no". (8-1-0)

Councilmember Hill requested that the minutes of the Regular Meeting of August 27, 2002 be deferred for one week because they just received them.

A REVISED PROJECT BUDGET in the amount of \$11,895,000 and ORDINANCE NO. 17882 introduced by Mayor Harry Felker, authorizing Improvement Project No. 28229 which provides for the construction of a new facility for removing water from the lime softening residual at the Water Treatment Plant as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka and rescinding City of Topeka Resolution No. 6783 placed on first reading August 27, 2002 was again presented.

Neil Dobler, Public Works Director gave the staff report.

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

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

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 placed on first reading August 20, 2002 was again presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Pomeroy stated that he opposes the project because it will allow growth to continue outside the city limits in conjunction with providing a service without receiving any fees.

Councilmember Stubbs asked if there is a certain lot size requirement, and if they are losing control as far as development of these lots.

Barry Beagle, Planning Department stated that they have to have at least three acres to build in accordance with zoning regulations.

Councilmember Stubbs stated that she is uncomfortable that such a small lot would be included.

Councilmember Duffy stated that he shares the concerns that have been expressed and would move to place this item in the Public, Health and Safety Committee for further discussion. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

Mayor Felker noted that there is a typo in line 16 and this item would return as 12-534 instead of 15.

A PROJECT BUDGET in the amount of \$250,000 and ORDINANCE NO. 17883 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, placed on first reading August 20, 2002 was again presented.

Terry Bertels, Forestry Department gave the staff report.

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

Councilmember Dunn moved to accept the project budget and adopt the ordinance. The motion seconded by Councilmember Hill 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.

RESOLUTION NO. 7258 introduced by Mayor Harry Felker relating to the leasing of privately owned property for the purpose of providing office space for employees of the City of Topeka, pursuant to Topeka City Code Section 2-460(c) was presented.

Kevin Rooney, City of Topeka Real Estate Officer stated that this would extend the lease for the city offices at 515 Kansas Avenue for three years, and allow the Public Works Department to expand.

Neil Dobler, Public Works Director appeared to answer questions.

Discussion continued on moving forward to find permanent office space for Public Works, Housing and Neighborhood Development and Municipal Court and the cost associated with finding or building a facility to house these departments.

Councilmember Lane moved to adopt the resolution. The motion seconded by Councilmember Stubbs carried. Councilmember Pomeroy voted "no". (8-1-0)

A RESOLUTION introduced by Mayor Felker authorizing a grant of \$35,000 from the Park Land Acquisition and Development Fund for the purpose of purchasing and installing a play structure in Crestview Park was presented.

Terry Bertels, Forestry Department gave the staff report.

Councilmember Duffy asked if this item is contained in the 2002 Capital Improvement Program Budget.

Rogers Brazier, Parks and Recreation Director appeared to answer questions. He explained that this project is included in the CIP Budget for this year. However, the money was allocated for this project was used to replace the boiler at Garfield Community Center.

Councilmember Duffy stated that he opposes the resolution and the use of the Park Land Acquisition Fund as the funding source.

Councilmember Price moved to defer the resolution for two weeks to gather additional information. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

A RESOLUTION introduced by Mayor Felker describing and authorizing Improvement Project No. 30222 which provides for the development of Crestview Park by the installation of a play structure and authorizing a grant of \$35,000 from the Park Land Acquisition and Development Fund for the purpose of installing the play structure was presented.

Councilmember Dunn moved to defer the resolution for two weeks. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

A PETITION, PROJECT BUDGET in the amount of \$85,000 and RESOLUTION NO. 7259 introduced by Mayor Harry Felker, authorizing Improvement Project No. 40886-02 which provides for sanitary sewer service to Lots 1 through 21, Block "A", Red Oaks Place No. 3 and authorizing the same was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Hill moved to approve the petition, project budget and adopt the resolution. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

A PETITION, PROJECT BUDGET in the amount of \$190,000 and RESOLUTION NO. 7260 introduced by Mayor Harry Felker, authorizing Improvement Project No. 60561-02 which provides for the pavement of SW Red Oaks Court from SW Red Oaks Place easterly and southerly to south end of the cul-de-sac and authorizing the same was presented.

Councilmember Hill moved to approve the petition, project budget and adopt the resolution. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$92,000 and RESOLUTION NO. 7261 introduced by Mayor Harry Felker, authorizing Street Improvement Project No. 60582-B, which provides for the replacement of deteriorating pavement in the alley between SW Lincoln Street and SW Buchanan Street from SW Huntoon Street to SW 12th Street and authorizing the same was presented.

Neil Dobler, Public Works Director gave the staff report.

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

A RESOLUTION introduced by John Alcala relating to the application process for Transient Guest Tax funds to be distributed by the Topeka City Council was presented.

Councilmember Alcala moved to refer the resolution to the Policy Committee. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

RESOLUTION NO. 7262 introduced by Mayor Felker authorizing the transfer and expenditure from the Softball/Sports Facilities Reserve Fund to the Parks and Recreation

Foundation, Softball Improvement Account for the purpose of completing the remaining enhancements at the Rueger Park Softball Complex, pursuant to City of Topeka Ordinance No. 16269 was presented.

Doug Reynolds, Association Director of Administration of the Parks and Recreation Department gave the staff report.

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

RESOLUTION NO. 7263 introduced by Councilmember Clark Duffy, amending Article II, Section 5 "Residency Requirement" of the City of Topeka Personnel Rules and Regulations was presented.

Councilmember Duffy explained the resolution.

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

Discussion continued concerning consent of annexation by department heads, developing a time frame concerning annexation, and when the property in question would actually be annexed by the City of Topeka.

Councilmember Price expressed concerns that this requirement would discourage employees who live in the county to advance within or outside their department to a department head level position.

Councilmember Stubbs stated that she would not support the resolution at this time unless there are some provisions concerning annexation requirements and an alternative option for new employees, such as a payment in lieu of taxes they could make if they did not live in the city limits.

Mayor Felker gave an opportunity for anyone present to speak.

Arlene Clayton stated that this requirement would create a hardship for temporary and seasonal employees.

The motion to adopt the resolution carried. Councilmembers Stubbs and Price voted "no". (7-2-0)

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 720 SW Jackson Street 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 Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "C-5" Commercial District and located at 909 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 Harry Felker relating to the vacation of a 5-foot wide strip of a 35-foot wide drainage/utility easement on property located east of SW Ancaster Road at SW 23rd Street, extended, as dedicated by the plat of West Indian Hills Subdivision No. 11, 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 SE 33rd Street and SE Minnesota Avenue 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 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 on the west side of SW Frazier Avenue at SW 4th Street, extended, in the City of Topeka, Kansas, from "O&I-2" Office and Institutional District to "O&I-3" Office and Institutional District 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 on the Eastside of SW Wanamaker Road. The centerline of which is approximately 710-feet South of SW 29th Street in the City of Topeka, Kansas, from "C-2" Commercial District TO "PUD" Planned Unit Development District was presented for first reading.

ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 13131-01, which provides for the repair/replacement of the Topeka Performing Arts Center's roof covering system as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

Councilmember Duffy moved to defer the ordinance for one week. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Felker, authorizing Improvement Project No. 30221, which provides for the development of Gage Park and the construction of two play structures as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

Councilmember Dunn moved to defer the ordinance for two weeks. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

AN ORDINANCE introduced by Councilmembers Gary Price, Duane Pomeroy, Clark Duffy and Lisa Hecht making it unlawful to commit certain crimes by reason of any motive of intimidation or bias based on the race, religion, creed, color, sex, sexual orientation, disability, national origin or ancestry, or age of an individual or group was presented for first reading.

AN ORDINANCE introduced by Councilmembers Clark Duffy and Lisa Hecht relating to the discrimination ordinances, amending Topeka City Code Sections 82-290, 82-291, 82-293, 82-295, 82-296, 82-297, 82-298, 86-2, 86-28, 86-51, 86-52, 86-111, 86-112, 86-114, 86-131, 86-134 and specifically repealing said original sections was presented for first reading.

Mayor Felker noted that he would be out of town next week due to a prior commitment, and asked if the Council wanted to defer action on the ordinances until September 17th.

Councilmember Alcalá stated that because he is employed by Hill's Pet Products and is also a shareholder and they sent a letter in support of the ordinance he would abstain from voting and discussion because of a possible conflict.

Councilmember Stubbs moved to defer the ordinance until September 17, 2002. The motion seconded by Councilmember Hill failed. Councilmembers Pomeroy, Lane, Hecht, Duffy and Price voted "no". Councilmember Alcalá abstained. (3-5-1)

Councilmember Lane moved to limit all public comment to four minutes with no extensions. The motion seconded by Councilmember Dunn carried. Councilmember Alcalá abstained. (8-0-1)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be a Public, Health and Safety Committee organizational meeting on September 13, 2002 at 7:30 a.m. in the City Council Conference Room.

Councilmember Lane announced that there would be an Economic Development Committee organizational meeting on September 13, 2002 at 4:00 p.m. in the City Council Conference Room.

Councilmember Pomeroy announced that there would be a Redistricting Committee meeting on September 12, 2002 at 1:00 p.m. in the Executive Conference Room.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy distributed a Charter Ordinance concerning a one-percent increase in the Transient Guest Tax Fund for placement on a future agenda.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Marvin Schletf, Pedro Irigonegaray, Roy Menninger, Shirley Phelps-Roper, Sam Phelps-Roper, Megan Phelps-Roper, Fred Phelps, Jr., James Lord, Ralph Knehans, L.D. Holmes, Todd Reeves, Bonnie Cuevas, Dale Schmidt, Denise Eulert, John Strickler, Mike Congdon, Tiffany Muller, Richard Donner, Bill Beachy, L.S. Wheeler, Reverend Paul Evans, Jason Chaika, Ryan Freed, Al Crable, Anthony Barber, Ben Williams, Richard Mote and Andrea Hall appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:50 p.m.

Iris Walker
City Clerk

09-03-02
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