

## City Council Minutes – October 1, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 1, 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, Councilmember Dunn asked for a moment of silent meditation.

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

Councilmember Dunn moved to suspend the rules and add two resolutions for Southboro Subdivision No.2 and two resolutions for Grand Oaks Subdivision to the agenda under New Business. The resolutions set a public hearing for November 5, 2002 to consider the advisability of two sewer and two street improvement projects. The motion seconded by Councilmember Hecht carried unanimously. (9-0-0)

Councilmember Dunn moved to reinstate the rules. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Mayor Felker stated that Item 4A, a public hearing and a resolution for England Estates Mobile Home Park and Item 5A, an amendment to the labor contract for the Firefighters, Local #83 are being withdrawn until further notice.

THE CONSENT AGENDA was presented as follows:

Councilmember Stubbs asked that Item A through Item F be voted on separately.

Councilmember Lane noted a typo on page 357, line 6 of the minutes of the regular meeting of September 24, 2002.

Councilmember Duffy asked that Item B be pulled for separate discussion.

A Final Plat for Rylie and Huxtable Subdivision on property situated between the abandoned Atchison, Topeka and Santa Fe Railroad and the Landon Trail, approximately 390-feet south of SE 21<sup>st</sup> Street in the City of Topeka, Kansas (P01/20) was presented.

Councilmember Price moved to approve the final plat. The motion seconded by Councilmember Hill carried unanimously. (9-0-0)

A Final Plat for McFarland Farm Subdivision No. 3 on property located at the southwest corner of SW Steeplechase Lane and SW 10<sup>th</sup> Street in the City of Topeka, Kansas (P02/29) was presented.

Councilmember Hill moved to approve the final plat. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

A Final Plat for the John O. Allen Subdivision No. 6 on property located on the East side of SW Westport Drive, the centerline of which is approximately 600 feet South of SW 21<sup>st</sup> Street in the City of Topeka, Kansas (P02/32) was presented.

Councilmember Stubbs moved to approve the final plat. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

Workers' Compensation claim settlement for Paul Kraus in the amount of \$50,000 was presented.

Councilmember Dunn moved to accept the Workers' Compensation claim settlement. The motion seconded by Councilmember Lane carried. Councilmembers Duffy and Stubbs voted "no". (7-2-0)

Workers' Compensation claim settlement for Kerry Matthews in the amount of \$17,560.80 was presented.

Councilmember Dunn moved to accept the Workers' Compensation claim settlement. The motion seconded by Councilmember Lane carried. Councilmembers Duffy, Stubbs and Price voted "no". (6-3-0)

Minutes of the Regular Meeting of September 24, 2002, were presented.

Councilmember Stubbs moved to approve the minutes as amended. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

A Final Plat for Misty Harbor Estates Subdivision on property located on the north side of SW 45<sup>th</sup> Street approximately 2800 feet east of SW Gage Boulevard in Shawnee County, Kansas (P02/27) was presented.

Councilmember Duffy expressed his appreciation for the design of the subdivision and asked if there would be any difficulty in delaying the approval of the final plat so that the annexation petition could be presented in conjunction with the final plat.

In response, Brenden Long, City Attorney stated that legally it is easier to annex a platted parcel of land because there are certain restrictions on unplatted parcels of land. The final plat must be approved before proceeding with annexation of the property.

Councilmember Duffy asked when the annexation of the property would occur.

Barry Beagle, Planning Department stated that the property could be annexed as soon as the final plat is recorded with the register of deeds.

Councilmember Pomeroy stated that he would like all final plat applications that are accompanied with consent to annexation to be acted on as soon as possible.

Councilmember Duffy moved to approve the final plat. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

RESOLUTION No. 7271 introduced by Mayor Harry Felker amending the adopted 2003-2004 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7255 was presented

Neil Dobler, Public Works Director gave the staff report and stated that when the 2003-2004 Capital Budget was adopted in August several projects were removed and placed on a deferred list. He stated that they are requesting that two STP Safety projects be added back into the Capital Budget. One project is at 3<sup>rd</sup> and Topeka, and the one is at 17<sup>th</sup> and Belle Avenue.

Councilmember Hill asked Lee Holmes to explain the projects as he did to the committee.

Councilmember Lane inquired on the type of traffic signals that would be used in this project.

Councilmember Pomeroy asked if the intersections within the detour route would be able to handle the increased traffic flow of large trucks.

Lee Holmes explained that they would install the most up-to-date traffic signals available, and the intersections involved in this project should be able to handle the increased flow of traffic.

Councilmember Stubbs requested that extra safety measures be taken to help eliminate speeding in the 17<sup>th</sup> and Belle Avenue intersection.

Councilmember Hill moved to accept the committee report and adopt the resolution. The motion seconded by Councilmember Dunn carried. Councilmember Duffy voted "no". (8-1-0)

A PROJECT BUDGET in the amount of \$50,000 and ORDINANCE No. 17898 introduced by Mayor Felker, authorizing Improvement Project No. 30223-00, which provides for the installation of a new roof over the gymnasium at Central Park 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 September 24, 2002 was again presented.

Rogers Brazier, Parks and Recreation Director gave the staff report.

Ron Cathey, Parks and Recreation Department explained the project.

Councilmember Dunn asked what the life expectancy is on the roof and what type of warranty it would have.

Ron Cathey stated that the products used are fairly new and they have nothing to compare it with, but the roof would have a fifteen year warranty.

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

A PROJECT BUDGET in the amount of \$50,000 and ORDINANCE No. 17899 introduced by Mayor Harry Felker, authorizing Improvement Project No. 30224-00, which provides for the replacement of roofs at Ward-Meade's Pauline Depot, Fillmore House, and Children's Party House in Gage Park as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading September 24, 2002 was again presented.

Ron Cathey explained the project.

Councilmember Dunn moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Stubbs 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.

RESOLUTION No. 7272 introduced by Mayor Harry Felker amending the adopted 2002-2003 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7244 was presented.

Rogers Brazier gave the staff report and stated that this amendment would reduce the amount of the Central Park Community Center gym roof replacement from \$150,000 to an amount not to exceed \$50,000 and fund roof projects at several other facilities.

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

CHARTER ORDINANCE No. 88 introduced by Councilmembers Clark Duffy, Gary Price, Duane Pomeroy, John Alcala and Harold Lane increasing the transient guest tax from five percent to six percent through December 31, 2015 and amending Charter Ordinance Section A15-17 and repealing original said section placed on first reading September 24, 2002 was again presented.

Randy Goldsmith, representative for the Kansas Lodging Association stated that they are not opposed to the Great Overland Station project. He stated that the lodging industry is declining, and the Topeka lodging industry does not have the same type of facilities as most of their competitors. To compete with surrounding areas they must offer lower prices, and an increase in the bed tax will raise the rates and directly effect the bookings of large events in the Topeka area.

Discussion followed by several Councilmembers on the amount of bed tax that other cities have compared to Topeka, and what the potential benefits would be to the hotel industry with the development of new tourist attractions.

Councilmember Stubbs suggested a work session to pull together the history of the City of Topeka and put together a marketing strategy that would increase economic development.

Dennis Carpenter, President and CEO of the Kansas Hospitality Association stated that they do support investments that bring additional tourist attractions to the City of Topeka. He suggested other alternatives to raising money for the Great Overland Station Project instead of raising the bed tax.

Gregg Allen, spoke in support of the Transient Guest Tax increase.

John Glassman, Great Overland Station, stated that this project would give people a reason to come to the City of Topeka and spoke in support of the ordinance.

Jack Strukel, representative for the Veterans Committee spoke in support of the ordinance and expressed his appreciation for the Veterans Memorial at the Great Overland Station.

Mike Welch, distributed a handout concerning the City of Topeka hotel rates compared to other cities and spoke in support of the ordinance.

Arlene Clayton, expressed her concerns on the Wet Lands.

Bob Sherbourne, expressed his concerns with the construction of the Topeka Boulevard Bridge and how it will effect the flow of traffic to the Great Overland Station.

Marge Bradshaw, spoke in support of the ordinance and the importance history plays in bringing tourists to the community.

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

Councilmember Pomeroy asked about the breakdown of expenditure, and if they could limit the dollar amount as well as an expiration date.

In response, Councilmember Duffy explained the original resolution that was passed in August 2002. He stated that the increase would stay intact until the 2.5 million dollars is raised for the project or until the year 2015. The balance that is leftover each year will flow into the historical preservation fund. If the tax increase passes there would be a formal amendment to the resolution that would include an expenditure breakdown in accordance with normal budget procedures.

Several Councilmembers expressed their concern with the language of the resolution.

Councilmember Duffy stated that he wanted to emphasize that the City Council is sensitive to the lodging industry's concerns and looks forward to their input at the work session.

The motion to adopt the charter ordinance carried unanimously. (9-0-0)

The charter 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 Councilmembers John Alcala, Harold Lane, Betty Dunn and Vanessa Hill canceling the public hearing for considering certain lands for annexation to the City of Topeka, Kansas, as established by City of Topeka Resolution No. 7252, and repealing said original resolution was presented.

Mayor Felker noted that there have been questions raised concerning procedural issues on this item.

The parliamentarian ruled that there is not a procedural issue concerning this item.

Councilmember Duffy stated that he feels that there is a procedural issue with this item because the public hearing has already been set.

Councilmember Alcala stated that the reason this item was placed on the agenda is because he feels that all the information needed to make an informed decision has not been

provided, and he would like a breakdown of the financial impact that the annexation is going to have on the City of Topeka.

Councilmember Dunn inquired on the letter concerning annexation that was left by the Mayor's predecessor.

Councilmember Lane asked why they were annexing certain areas when there are areas in his district that need developed.

Councilmember Hill stated that she has similar concerns with the plan and the financial impact that it is going to have on the community.

Neil Dobler, Public Works Director explained the annexation process in detail and stated that he would provide a breakdown of the financial impact as soon as possible.

Several Councilmembers expressed their support of annexation and the importance of future city growth.

Dennis Schwartz, General Manager of Shawnee County Rural water District No. 8 expressed concerns on the physical constraints to the city providing water service to the area.

Sheila Walker and Mike Goodwin, spoke in support of the resolution and distributed a list of questions that they would like answered before proceeding with the annexation.

Mayor Felker stated that the public hearing has been set and all information needed will be provided and questions answered.

Councilmember Pomeroy moved to pause the discussion and continue with the first readings. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "M-2" Multiple Family

Dwelling District and located at 800 SW 12<sup>th</sup> 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 amending the "District Map" referred to and make 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 northwest corner of NW Independence Avenue and NW Topeka Boulevard in the City of Topeka, from "R-1" Single Family Dwelling District to "C-4" Commercial District and specifically repealing City of Topeka Ordinance 17602 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 northwest corner of SE 38<sup>th</sup> Street and SE Colfax Place in the City of Topeka, from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District and specifically repealing City of Topeka Ordinance 17574 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 SW Munson Avenue and SW Buchanan Street in the City of Topeka, Kansas, from "R-2" Single Family Dwelling District TO "PUD" Planned Unit Development District. ("M-2" usage) was presented for first reading.

AN ORDINANCE introduced by Mayor Felker, exempting certain property owned by H.J. Heinz, Inc. from ad valorem taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at

approximately 2200 N.W. Brickyard Road, Topeka, Shawnee County, Kansas, was presented for first reading.

AN ORDINANCE introduced by Mayor Felker, exempting certain property, more specifically property owned by Delta Designs Limited from ad valorem taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at approximately 1535 N.W. 25<sup>th</sup> Street, Topeka, Shawnee County, Kansas, was presented for first reading.

Following first readings, discussion continued on annexation and the importance of gathering all the information needed prior to the public hearing so an informed decision can be made from both sides of the issue.

Councilmember Lane moved to extend the meeting to finish this item and the four resolutions that were added to the agenda. The motion seconded by Councilmember Alcala failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Councilmember Stubbs called the question.

Councilmember Alcala challenged the call.

The Mayor asked for a vote on if the question should be called.

The challenge failed. Councilmembers Alcala, Lane and Dunn voted "no". (6-3-0)

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

RESOLUTION No. 7273 introduced by Mayor Harry Felker setting the public hearing for Lateral Sanitary Sewer Improvement Project No. 40644, Phase 3 was presented.

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

RESOLUTION No. 7274 introduced by Mayor Harry Felker setting the public hearing for Street Improvement Project No. 60468, Phase 4, which provides for the improvement of SE 43<sup>rd</sup> Terrace and SE Michigan Avenue was presented.

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

RESOLUTION No. 7275 introduced by Mayor Harry Felker setting the public hearing for Lateral Sanitary Sewer Improvement Project No. 40350, Phase 4 was presented.

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

RESOLUTION No. 7276 introduced by Mayor Harry Felker setting the public hearing for Street Improvement Project No. 60566-03, which provides for the improvement of SE 44<sup>th</sup> Terrace, SE 44<sup>th</sup> Parkway, SE Truman Avenue, and SE 44<sup>th</sup> Street, was presented.

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

Councilmember Alcalá moved to extend the meeting through public comment. The motion seconded by Councilmember Lane carried. Councilmembers Pomeroy, Hecht and Stubbs voted "no". (6-3-0)

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy inquired on the status of the hate rally report and the rehabilitation of homes report that he requested several weeks ago. He stated that he would like to see limitations placed on adult book store locations.

Councilmember Lane asked what the status was on the water bill payment service.

Councilmember Duffy announced a Public, Health and Safety Committee meeting concerning the orderly growth and harmonious development in the City of Topeka, and the consideration of the Wage Re-opener held on October 4, 2002 at 7:30 a.m. in the City Council Office. He stated that when the Misty Harbor Subdivision Final Plat is complete he would like to proceed with the annexation process immediately, and he would like it posted as pending on future agendas until it is on for consideration, per Council Rule 5.3.

Councilmember Alcalá requested that the incident concerning the Abbot Community Center be examined more closely.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Senator Anthony Hensley, Vic Miller, Henry McClure, David Price and Larry Cobbler appeared to speak under public comment

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:50 p.m.

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Iris Walker  
City Clerk