

City Council Minutes – October 8, 2002

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 8, 2002. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price -8. Mayor Felker presided -1. Absent: Councilmember Pomeroy -1.

AFTER THE MEETING was called to order, prayer was offered by Jack Alexander.

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

Mayor Felker announced that Councilmember Pomeroy would be late because he was attending a league tennis tournament out of town.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION from the Police Department requesting approval of a license for Club Security & Investigation to Operate a Security Company within the Topeka City limits as per City ordinance Article XI Sec. 30-396 through Sec. 30-427 was presented.

Minutes of the Regular Meeting of October 1, 2002, were presented

Councilmember Hill moved to approve the consent agenda. The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

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, October 8, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8th Street to consider approval of a Conditional Use Permit to establish retail sales of mobile homes west of SE Croco Road and south of U.S. Highway 40.

RESOLUTION NO. 7277 introduced by Mayor Harry Felker in accordance with Section 48-3.02 (c) (9) of the Code of the City of Topeka, approving a Conditional Use Permit to establish retail sales of mobile homes as an incidental and subordinate activity on property zoned

"RR-1" Residential Reserve District and located approximately 450-feet west of SE Croco Road and 1380-feet south of U.S. Highway 40 in the City of Topeka, Kansas, was presented.

The City Clerk read a letter into the record from Virgil Funk. He stated that the Croco-K4 Trafficway Neighborhood Association has consistently opposed any zoning and planning changes along Croco Road that is not in keeping with the "R-1" zoning.

Barry Beagle, Planning Department gave the staff report. He stated that approval would allow for the retail sale of mobile homes as an incidental and subordinate activity to the routine business operation of England Estates Mobile Home Park. The sales functions shall be limited to the interests of England Estates Mobile Home Park and not apply to any other parks. The area surrounding the subject site consists of a blend of single and multi-family residential uses. The proposed use should blend with the character of the existing neighborhood.

Councilmember Stubbs asked if this was a normal use of a Conditional Use Permit.

Barry Beagle stated that this request is not unusual because most mobile home parks have club houses located within them that are also used as a leasing or management office.

Bob Perry, attorney representing the applicant appeared to answer questions and stated that his client is willing to comply with all conditions of the permit.

Councilmember Price asked why the intended use was not presented at the time of the original final plat, and if this permit is granted who will enforce the regulations.

In response, Bob Perry stated that when the initial application was made for the platting of the land there were no plans to sell mobile homes, and the regulations of this permit would be enforced by the acting agencies in charge.

JoAnn Peavler, vice president of the East Topeka Neighborhood Association spoke in opposition. She stated that the city would be allowing spot zoning in a residential area, and the

club house is not open yet and it is already divided into several rooms. The City of Topeka would be legalizing an illegal business because the applicant is already advertising this location as a sales office for all six of their locations.

Charles Selleck spoke in opposition and stated that they were originally guaranteed that the new building would only be used as a club house. He asked who would monitor the conditional use regulations.

Ella Hodges spoke in opposition and stated that this is a "child like" attempt to get their way because they have not been honest with the East Topeka Neighborhood Association.

Lisa Smith resident of S&J Mobile Homes spoke in opposition of the request.

Joyce Funk spoke in opposition of the request and stated that at the time the club house was built they were aware of the zoning, and they should uphold the integrity of the residential neighborhood.

Carrie Doty, a previous resident of S&J Mobile Homes spoke in opposition of the request and expressed concerns with who will be monitoring their operations so that they have to comply with the regulations of the Conditional Use Permit.

Councilmember Dunn moved to close the public hearing and adopt the resolution. The motion was seconded by Councilmember Lane.

Charles Selleck noted that there are fourteen empty lots, eleven lots for sale and six lots that are vacant.

Councilmember Stubbs asked Barry Beagle to address the concerns on spot zoning in this area. She asked if they can display empty mobile home units on club house property for retail sale, and if the applicant were to violate the regulations of the permit what would be the repercussions.

Barry Beagle stated that when a conditional use permit is issued the zoning remains unchanged. Each district categorizes usage in three ways; permitted use, provisional use and conditional use. A Conditional Use Permit is used only for operational differences that are not compatible with the given location. This particular district does have other areas that are used for other reasons than typical residential use.

One of the conditions of the permit is that no inventory may be displayed at the club house or elsewhere within the Mobile Home Park other than existing homes that have been previously owned and occupied with the Mobile Home Park. If the applicant is found to be in violation of the conditions there are two procedures that would be followed. First, the zoning department would have to investigate the situation. If they found them to be in noncompliance the applicant would have a certain amount of time to comply with the regulations set forth. The second step is to pursue the issue through Municipal Court, and then if they still are not in compliance the City Council has the option to hold a public hearing and make a decision to revoke the permit.

Councilmember Price asked why there is a temporary road that is being used to provide access to the club house, and if this road was included in the plans of the original final plat. He also asked if the city has the authority to remove it.

Barry Beagle explained that the road was built as a result of a U.S. Highway 40 construction project, and he is unsure if this was intended to be a used as a temporary road only or an allowance for the Mobile Home Park. He stated that he would ascertain if the road should be there, and also check with the Fire Department on the necessity of accessibility as a second outlet to the park. The original plat recognizes the road as an internal outlet, as does this request.

Councilmember Duffy stated that he intended to support this request but concerns have been raised on the amount of square footage that has been requested for the office space, and he is not prepared to support this at this time.

Councilmember Alcala stated that he spoke with a few people that lived in the mobile home park, and the majority of the feedback was positive and the appearance of the park was clean.

Councilmember Dunn stated that she is proud of the mobile home parks in the Topeka area. The appearance of the parks are clean and the parks have been a great source of affordable housing in the community.

Councilmember Stubbs asked for clarification of exactly what the six-hundred square feet of office space would be used for, and how would this area accommodate future growth within the sales department.

Bob Perry stated that approximately two-hundred square feet would be used for office space and the remaining space would be used as shared space for park purposes. This office will only facilitate sales within this mobile home park, therefore, they do not anticipate a lot of growth.

Councilmember Lane stated that he feels this Mobile Home Park is a good addition to the Topeka community and the road to the club house is in good condition. The road eliminates excess traffic through the park and provides accessibility for public safety vehicles.

Councilmember Dunn made a substitute motion to close the public hearing. The motion seconded by Councilmember Hill carried. Councilmember Price voted "no". (7-1-0)

Councilmember Stubbs moved to amend the resolution to limit the office space to three-hundred square feet. The motion seconded by Councilmember Duffy carried. Councilmembers Alcalá, Hecht and Price voted "no". (5-3-0)

Councilmember Dunn moved to adopt the resolution as amended. The motion seconded by Councilmember Lane carried. Councilmembers Hecht and Price voted "no". (6-2-0)

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, October 8, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8th Street relating to an economic development property tax exemption for Delta Designs Limited.

ORDINANCE NO. 17900 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. 25th Street, Topeka, Shawnee County, Kansas, placed on first reading October 1, 2002, was again presented.

John Myers, Economic Development Specialist gave the staff report and stated that the company is planning an expansion to the building as well as equipment and machinery improvements. The capital investments will increase their production capacity and allow for the creation of six new jobs at the starting wage of \$9.50 an hour including benefits.

Councilmember Dunn moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Stubbs carried unanimously. (8-0-0)

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

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, October 8, 2002, at 7:00 P.M., in the Council Chamber, 214 East 8th Street relating to an economic development property tax exemption for Heinz Pet Products.

ORDINANCE NO. 17901 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, placed on first reading October 1, 2002, was again presented.

John Myers gave the staff report and stated that the company plans to add a large building addition and enhance equipment and machinery. The total investment of \$3,100,000 will result in the creation of ten to twelve new jobs at a starting wage of \$15.77 an hour including benefits.

Councilmember Dunn asked if the companies that are given a tax break are monitored on a regular basis.

In response, John Myers stated that all companies that are involved in this process are monitored closely.

Councilmember Dunn moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Hecht carried unanimously. (8-0-0)

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

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 Dunn gave the staff report and stated that Councilmember Stubbs presented a substitute resolution at the committee meeting.

Councilmember Alcala moved to combine the two resolutions and send both documents back to the Policy and Finance Committee. The motion seconded by Councilmember Lane carried. Councilmember Hecht voted "no" (7-1-0)

A ZONING PETITION (HL02/8) by Roger and Trenda Young requesting to amend the District Zoning Classification by granting "HL" Historic Landmark Overlay District to property currently zoned "M-2" Multiple Family Dwelling District and located at 800 SW 12th Street in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17902 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 12th Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading October 1, 2002, was again presented.

Barry Beagle gave the staff report.

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

Councilmember Lane moved to approve the zoning petition 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 Alcala, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price -8. Absent: Councilmember Pomeroy -1.

ORDINANCE NO. 17903 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 placed on first reading October 1, 2002, was again presented.

Barry Beagle gave the staff report.

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

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

ORDINANCE NO. 17904 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 38th 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 placed on first reading October 1, 2002, was again presented.

Barry Beagle gave the staff report.

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

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

A ZONING PETITION (Z02/29) by AMO Housing I, L.P. requesting to amend the District Zoning Classification from "R-2" Single Family Dwelling District TO "PUD" Planned Unit Development District ("M-2" usage) on property located at the southeast corner of SW Munson Avenue and SW Buchanan in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17905 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 placed on first reading October 1, 2002, was again presented.

Barry Beagle gave the staff report.

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

Councilmember Dunn moved to approve the zoning petition and adopt the ordinance.

The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

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

A FINAL PLAT for Hickory Creek Subdivision No. 2 on property located south of the easterly extension of SW 45th Street, the centerline of which is approximately 2,341-feet east of SW Auburn Road within unincorporated Shawnee County, Kansas, was presented. (P00/44)

Councilmember Dunn moved to table this item until they get resolution on a legal matter.

The motion seconded by Councilmember Price carried unanimously. (8-0-0)

AN ORDINANCE introduced by Councilmember Gary Price relating to the placement of sign code enforcement responsibilities on the public works director, planning director or their designees, removal of signs located in the city's rights-of-way, establishing fines for sign code violations, and changing the bond or insurance requirements, amending City of Topeka Section 118-8, 118-10, 118-11, 118-12, 118-13, 118-37, 118-56, 118-57, 118-58, 118-60, 118-104, and 118-179 and specifically repealing said original sections was presented for first reading.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Hecht commended the Topeka Police Department on a job well done this weekend.

Councilmember Stubbs stated that the Springfield, Missouri trip was extremely beneficial, and clarified any misconceptions that the trip was anything other than business related.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Cliff Gardner appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 9:38 p.m.

Iris Walker
City Clerk