

## City Council Minutes – January 21, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 21, 2003. 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 Sheryl Hishmeh, Mom's in Touch Program.

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

THE CONSENT AGENDA was presented as follows:

Minutes of the regular meeting of January 14, 2003, were presented.

APPLICATION for Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for Bavarian Inn, 712 W 2<sup>nd</sup> Street, was presented.

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

A PROJECT BUDGET in the amount of \$549,100 and AN ORDINANCE introduced by Mayor Harry Felker, authorizing Water Main Project No. 28494-00, which provides for the water transmission main installation along Indian Hills Road from Southwest 29<sup>th</sup> Street south to Southwest 33<sup>rd</sup> Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading January 14, 2003, was again presented.

Neil Dobler, Public Works Director gave the staff report.

Don Rankin, Water Superintendent explained why they needed the project and the areas they serve and stated that the water mains are to supplement deficiencies that are in the system now.

Councilmember Duffy questioned the project in relation to the Growth Management Plan.

Neil Dobler stated that they are in the process of hiring an intern from Kansas University to implement a system study in regards to infrastructure outside city limits and future annexation areas in relation to the Growth Management Plan.

Councilmember Pomeroy asked about a limit on hookups to Rural Water Districts.

In response, Don Rankin explained that rural water limit is based on gallons per minute, not hookups.

Joe Ledbetter spoke in opposition to the project and extending utilities to areas outside the city limits.

Councilmember Stubbs moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Dunn, Hecht, Duffy, Hill and Price voted "no". (3-6-0)

The ordinance was not adopted on roll call vote as follows: Ayes: Councilmembers Alcalá, Lane, and Stubbs -3. Noes: Councilmembers Pomeroy, Dunn, Hecht, Duffy, Hill and Price -6.

A PROJECT BUDGET in the amount of \$70,000 and ORDINANCE NO. 17952 introduced by Mayor Harry Felker, authorizing Improvement Project No. 30225-00, which provides for the design and installation of a new cushioned wood gymnasium floor

at 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 January 14, 2003, was again presented.

Ron Cathey, Parks and Recreation Department gave the staff report.

Councilmember Price moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Alcalá 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.

A PROJECT BUDGET in the amount of \$3,300,000 and ORDINANCE NO. 17953 introduced by Mayor Harry Felker, authorizing Storm Sewer Project No. 50006-06, which provides for the replacement of the undersized Jackson Street Storm Sewer System as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading January 14, 2003, was again presented.

Neil Dobler gave the staff report.

Councilmember Duffy complimented the staff on the project.

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

ORDINANCE NO. 17954 introduced by Clark Duffy, Lisa Stubbs, and Lisa Hecht, sitting as the Public Health and Safety Committee, relating to permit fees, amending City of Topeka Code Section 25-139 and Section 107.2 of the Uniform

Building Code and Section R109 of the CABO One and Two-Family Dwelling Code and specifically repealing said original sections placed on first reading January 14, 2003, was again presented.

Councilmember Lane moved to amend the ordinance on line 14 following "Table 1-A", inserting "except that commencing January 1, 2004, all such fees shall be waived provided the Joint Economic Development Organization reimburses the City of Topeka for all such fees." The motion was seconded by Councilmember Dunn.

Councilmember Stubbs inquired on how much money would be taken out of the quarter cent sales tax funds.

Councilmember Pomeroy stated that he likes the concept but would prefer to have it narrowed to include the Revitalization Act, rather than a blanket waiving of all fees.

Councilmember Duffy stated that he supports the motion.

Councilmember Dunn asked if the JEDO Board had been consulted on the issue and stated that she agrees with the concept.

Councilmember Stubbs stated that she agrees with Councilmember Pomeroy and she believes it would be useful in a refined process. This is a stand alone item that does not need to be attached to this particular ordinance and she would like to see more work done on it so that it would incorporate neighborhood plans or targeted areas.

Councilmember Alcalá stated that he would support the ordinance as it is written because it is a great way to get the sales tax money back into the city.

Councilmember Price stated that he likes the concept but it needs to be narrowed down.

Councilmember Hill stated that she believes this would be a good way to manage vacant lots.

Councilmember Duffy made a friendly amendment on line 14, following the word "fees" and before the word "shall" insert the statement "in areas identified by the City Council."

Councilmember Lane accepted. The second concurred.

Discussion continued by several Councilmembers on targeted areas, the twenty-five percent surcharge increase, and related issues to present to the JEDO Board for further consideration.

J.D. Yanek, Realtors & Builders Coalition stated that when they met with the Public, Health and Safety Committee they did not discuss the extension of building permits and they support delaying action on the ordinance at this time.

Councilmember Alcalá made a substitute motion to defer pending the next JEDO meeting for discussion. The motion was seconded by Councilmember Dunn.

The parliamentarian ruled that the substitute motion was out of order because items can not be deferred for more than one week.

Councilmember Dunn moved to refer to the Economic and Development Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Dunn withdrew the motion.

The motion to amend carried. Councilmember Price voted "no". (8-1-0)

Councilmember Dunn moved to refer to the Economic and Development Committee. The motion died for lack of second.

Councilmember Alcala moved to table the ordinance. The motion died for lack of second.

Councilmember Stubbs moved to approve the ordinance as amended. 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.

A FINAL PLAT by Westar Energy for Sherwood Estates Subdivision No. 62 (P02/36) on property located generally on the east side of SW Stutley Road and north of SW 41<sup>st</sup> Street within unincorporated Shawnee County, Kansas, was presented.

David Thurbon, Planning Director gave the staff report and explained the need for a second entrance.

Councilmember Price inquired on consent to annex for the area.

Cindy Reed, Westar Energy appeared to answer questions.

Councilmember Duffy inquired on the extension of Stutley Road and improvements on SW 41<sup>st</sup> Street by the County.

Councilmember Dunn moved to accept the final plat. The motion seconded by Councilmember Lane carried. Councilmembers Hecht, Duffy and Price voted "no". (6-3-0)

A RESOLUTION introduced by Councilmember Gary Price, relating to the application process for Transient Guest Tax funds to be distributed by the Topeka City Council and rescinding City of Topeka Resolution No. 7298 was presented.

Councilmember Price stated that item C was amended to incorporate item B.

Councilmember Price made a motion to disapprove the resolution. The motion was seconded by Councilmember Hecht.

Councilmember Pomeroy suggested that they consider item C first, and if it is approved, item B becomes mute.

RESOLUTION NO. 7306 introduced by Councilmember Gary Price, relating to the distribution of money and financial assistance administered through the City of Topeka was presented.

Councilmember Price explained the resolution and stated that it would ensure that government agencies are paid before organizations receive grants.

Councilmember Hecht stated that she supports this resolution because it addresses the problem of lack of accountability by organizations, and ensures that they are in good standing.

Councilmember Lane expressed concern with funds that would be distributed to the less fortunate.

Councilmember Dunn expressed concerns with creating a problem for people who are targeted or expecting HUD monies.

Councilmember Price moved to substitute item B, as amended for item C. The motion was seconded by Councilmember Stubbs.

Councilmember Alcala expressed concern about the impact it would have on the people with handicaps or the elderly that are depending on these funds from the city to live. He suggested that a safety net be incorporated into the resolution to protect them or prevent it from happening.

Councilmember Lane suggested an amendment following subparagraph 2, to insert the statement "Be it further resolved that the requirements of the resolution shall not apply to grants, loans, or other financial assistance provided for the repair of an individuals principal residence provided to an individual for rental assistance."

Several Councilmembers expressed concern about not being able to provide financial assistance where it is needed the most.

Councilmember Hill suggested removing the word "person" from line 18.

Councilmember Duffy suggested providing a section that would give the Mayor authority to waive the provisions of the resolution, "Be it further resolved, that the Mayor may waive the provisions of this Resolution for individuals and report any waiver to the City Council."

Councilmember Lane moved to amend following subparagraph 2, "Be it further resolved that the requirements of the resolution shall not apply to grants, loans, or other financial assistance provided for the repair or improvement of an individuals principal residence provided to an individual for rental assistance." The motion was seconded by Councilmember Dunn.

The motion to amend failed. Councilmember Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Councilmember Duffy moved to provide an additional section to include, "Be it further resolved, that the Mayor may waive the provisions of this Resolution for individuals and report any waiver to the City Council." The motion was seconded by Councilmember Dunn.

JoAnn Peavler spoke in opposition of the resolution and stated that many developers do not plan to pay taxes on a lot until it is developed. The city needs to give all the support it can to agencies that provide infill housing and more study needs to be done on this issue to consider the outcome.

Councilmember Hill made a substitute motion to table one week. The motion was seconded by Councilmember Dunn.

The motion to table failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Priced voted "no". (4-5-0)

Councilmember Alcalá made a substitute motion to defer to the Public, Health and Safety Committee. The motion seconded by Councilmember Dunn failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (4-5-0)

Councilmember Duffy's motion to amend carried unanimously. (9-0-0)

Councilmember Price moved to adopt the resolution as amended. The motion was seconded by Councilmember Dunn.

Councilmember Alcalá stated that he would not support the resolution because he does not know what effect it would have on east Topeka.

Councilmember Lane stated that he opposes the resolution because of the effect it may have on certain areas of the city.

Councilmember Dunn stated that she could not support the resolution as it is written because it could further penalize the people in need.

The motion to adopt as amended carried. Councilmembers Alcalá, Lane, Dunn and Hill voted "no". (5-4-0)

RESOLUTION NO. 7307 introduced by Mayor Harry Felker setting the public hearing for the purpose of considering adoption of a resolution which authorizes Street Improvement Project No. 60444-02, specifically to extend SW 20<sup>th</sup> Park from Westport Drive west to existing pavement was presented.

Neil Dobler gave the staff report.

Councilmember Price inquired on why the area of right-of-way was not purchased with the initial parcel of land.

Neil Dobler explained that there has always been issues surrounding this project because of the small amount of land acquired compared to the cost of the project.

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

Anderson Chandler, President Fidelity State Bank & Trust Company appeared in support of the project and stressed the importance of the project due to the safety issues involved with the area.

Mr. Gilbert, area business owner appeared in support of the project and explained the need of the project because of the safety issues involved.

Steve Cain, General Manager Lewis Toyota explained the improvements they have made to the property and stated that they have not been contacted about the project and would like to be involved in the process.

The motion to adopt the resolution carried. Councilmember Alcalá voted "no".  
(8-1-0)

Mayor Felker asked to consider item F before E because there was a request for an executive session before consideration of E.

APPLICATIONS for Cereal Malt Beverage License, Dance Hall License and Open After Midnight License bearing the approval of the Chief of Police and City Inspectors for Big Will's & Majors, 705 Kansas Avenue, were presented.

Ed Klumpp, Chief of Police drew attention to his memorandum explaining why he recommended denial of the licenses.

Councilmember Dunn asked how the denial of licenses would effect the business and if this is normal procedure on processing these types of licenses.

In response, Ed Klumpp stated that he is not sure how this type of situation was handled prior to him becoming Chief of Police, he believes it is his obligation to inform the City Council of any information needed to make an informed decision.

Ramon Gant, owner Big Will's & Major's stated that he is unaware of the information that has been provided to the City Council and has attempted to contact the Police Department on several different occasions. His intent was to provide a restaurant with great food, pleasant atmosphere, and to generate an older crowd to the downtown area. He stated that the Police Department has been in his establishment four times with no reason.

Ed Klumpp stated that the Police Department initially responded to a sign posted outside the establishment. The sign advertised that the establishment would be open until 6:00 a.m. and invited patrons' to bring their own liquor into the establishment. Police Officers visited the establishment three more times following the initial visit to ensure that proper regulations were being followed.

Ramon Gant stated that if the Police Department would have responded to his requests for a meeting, he would have resolved this matter before now and would appreciate an opportunity to meet with the Chief of Police to resolve this issue.

Councilmember Alcala stated that he would like to give Mr. Gant an opportunity to clear things up and moved to refer for one week. The motion was seconded by Councilmember Lane.

Councilmember Hecht stated that she would not support the applications because she has all of the information needed to make a decision.

Councilmember Price inquired on the hours of operation.

Councilmember Lane stated that he would support the deferral because he believes in rehabilitation.

Councilmember Stubbs stated that she would support the deferral because the information that has been provided brings up several procedural questions and requested that Devin Sutherland, DTI be available to answer questions at the January 28, 2003, City Council meeting.

Councilmember Dunn inquired on how the loan for the establishment was funded and what the terms are.

Councilmember Price asked if the application for the business loan has the same requirements as the license applications.

Ramon Gant explained that Go Connection funded the project and all of the requirements were similar for both applications except that a business plan was required before they could receive a loan.

Councilmember Duffy inquired on why a dining and entertainment loan was provided with Go Connection funds and would like a representative from the organization available to answer questions at the January 28, 2003, City Council meeting.

The motion to defer one week carried. Councilmembers Hecht and Duffy voted "no". (7-2-0)

Councilmember Price moved to adjourn into executive session for a period not to exceed thirty minutes to discuss non-elected personnel. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcalá and Lane voted "no". (7-2-0)

Following the thirty minute time period the Council reconvened into open session and Mayor Felker stated that no action had been taken.

A COMMUNICATION to appoint David H. Graversen as Chief Administrative Officer for the City of Topeka was presented.

Councilmember Price moved to approve the communication. The motion seconded by Councilmember Dunn carried unanimously. (9-0-0)

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:00 p.m.

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Iris Walker  
City Clerk