

City Council Minutes – February 11, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 11, 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. Absent: Mayor Felker -1.

Mayor Felker was absent due to a previous engagement.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Hill.

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 February 4, 2003, were presented.

APPLICATION for Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for KWIK Shop, 738 SW Gage, was presented.

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

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, February 11, 2003, at 7:00 P.M., to consider the advisability of Street Improvement Project No. 60444-02 to extend SW 20th Park from SW Westport Drive westerly approximately 260 lineal feet to the existing pavement.

A PROJECT BUDGET in the amount of \$133,974 (City's share) and RESOLUTION NO. 7316 introduced by Mayor Harry Felker authorizing Street Improvement Project No. 60444-02 was presented.

ORDINANCE NO. 17958 introduced by Mayor Harry Felker designating and establishing SW 20th Park as a trafficway connection in the City of Topeka, Kansas under the authority of K.S.A. 12-685, *et. seq.* and designating and establishing SW 20th Park as a collector street under City of Topeka Resolution No. 6846 placed on first reading February 4, 2003, was again presented.

Neil Dobler, Public Works Director gave the staff report and stated that there have been several meetings with Rod Lewis, owner of Lewis Toyota, Steve Cain, general manager, and the Public Works staff concerning alternatives to the proposal. He explained the option suggested by Lewis Toyota, and why Public Works opposed it.

Councilmembers discussed several topics of concern; if the cost of the building was negotiable; if the original plat included the street plan; if the project would enhance development of the vacant property; and would Lewis Toyota agree to having their main access on SW 20th Park.

In response to the Councilmembers concerns, Neil Dobler explained that it was his understanding that if the road would be built as promised the cost of the building is negotiable. He continued to explain that the plat originated in the late 1980's and did not include the road plans. Currently, the vacant area is land locked and this project would allow for new development. An agreement by Lewis Toyota concerning the SW 20th Park access, has not yet been confirmed

John Hamilton, representative for Mr. Gilbert appeared in support of Option One, where the City would build the street, pay owners for right-of-way and Lewis Toyota for the cost of their building, and set up an assessment district for 70% of the cost.

Steven Cain, general manager, Lewis Toyota appeared in support of Option Two with no assessment district, property owners donate right-of-way and City bears cost of project in the amount of \$204,000.

Alan Towle, Executive Vice President, Fidelity Bank appeared in support of the project, and Option One.

Several Councilmembers discussed the difference in cost to modify the options presented by changing the curve of the street allowing the building to remain in the current location.

Neil Dobler explained that this option would lower the cost of the project because it would eliminate the cost of moving the building, however, Lewis Toyota does not support this option because it would still divide the property significantly.

Councilmember Duffy moved to close the public hearing, approve the project budget, adopt the resolution and ordinance. The motion seconded by Councilmember Lane 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 \$3,781,820 and ORDINANCE NO. 17959 introduced by Mayor Felker designating a portion of SW 6th Street as a main trafficway and designating and establishing Trafficway Improvement Project No. 70192-00 of the City of Topeka and authorizing the improvement of said trafficway located at SW 6th Street from approximately Oakley Street to MacVicar Avenue thereafter known as Trafficway Improvement Project No. 70192-00 all under the authority of K.S.A. 12-685 *et seq.*, placed on first February 4, 2003, was again presented.

Neil Dobler gave the staff report and explained that they have contacted both properties to the north concerning the donation of the construction of the sidewalk. He stated that they have received a confirmation from MRV to pay their share of the project. U.S.D. No. 501 has recently approved the final phase of the landscaping package for their district Sports Park, and the plan includes a paved walking trail that they believe can serve as the sidewalk.

Councilmember Duffy expressed his disappointment that U.S.D. No. 501 is not building a sidewalk.

Councilmember Lane moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Hill carried. Councilmembers Hecht and Duffy voted "no". (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Dunn, Stubbs, Hill and Price -7. Noes: Councilmembers Hecht and Duffy -2.

ORDINANCE NO. 17960 introduced by Mayor Harry Felker relating to the Capital City Downtown Business Improvement District, establishing the method of raising revenue, amending City of Topeka Code Section 42-38 and specifically repealing said original section placed on first reading February 4, 2003, was again presented.

Devin Sutherland, DTI appeared to answer questions.

Councilmember Alcalá moved to 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, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs, Hill and Price -9.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA
ORDINANCE NO. 17961 introduced by Mayor Felker pertaining to an amendment to
the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan
placed on first reading February 4, 2003 was again presented.

Bill Fiander, Planning Department gave the staff report and explained the goals of
the Old Town Plan concerning land use, neighborhood character, and housing and public
safety. He stated that the NIA's revitalization themes included; promotion of the new Old
Town; impact of the project; organizing and thinking outside of the City's financial block;
housing and livability; and institutional partners.

Donald Rice, Peter Hancock, Michael Byington, Doug Jones, Hi Stockwell, Jack
Alexander, and Michael Bradley spoke in support of the plan and commended the
Planning staff for their work on it.

Councilmember Duffy inquired on the anticipated priorities of the project based
on the financial aspect and expressed disappointment that the plan did not address the
crime issues in the area.

Councilmember Pomeroy stressed the importance of neighborhood revitalization.

Deputy Mayor Dunn asked if there was any additional exparte, besides
Councilmember Pomeroy. There was none declared.

Councilmember Pomeroy moved to adopt the ordinance. The motion seconded
by Councilmember Dunn 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 ZONING PETITION (Z03/4) by City of Topeka requesting to amend the District Zoning Classification of the Old Town Neighborhood from "M-1" Two-Family Dwelling District, "M-2" Multiple Family Dwelling District and "M-3" Multiple Family Dwelling District ALL TO "R-2" Single Family Dwelling District, inclusive of Special Permits located at 920 SW Buchanan, 802 SW Buchanan, 1015 SW 9th Street, 815 SW Fillmore, 824 SW Fillmore, and 828 SW Fillmore, was presented.

ORDINANCE NO. 17962 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 within the Old Town Neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from "M-1" Two-Family Dwelling District ALL TO "R-2" Single-Family Dwelling District, inclusive of Special Permits located at 920 SW Buchanan, 802 SW Buchanan, 1015 SW 9th Street, 815 SW Fillmore, 824 SW Fillmore, and 828 SW Fillmore, placed on first reading February 4, 2003, was again presented.

Bill Fiander gave the staff report.

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

Deputy Mayor Dunn asked if there were any exparte, besides Councilmember Pomeroy. There was none declared.

Councilmember Pomeroy moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Dunn 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 ZONING PETITION (Z03/5) by the City of Topeka requesting to amend the District Zoning Classification of the Old Town Neighborhood from "M-2" Multi-Family Dwelling District to "M-1a" Limited Multiple Family Dwelling District to more appropriately reflect the existing and future development of the neighborhood was presented.

ORDINANCE NO. 17963 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 within the Old Town Neighborhood of the City of Topeka, Kansas requesting to amend the District Zoning Classification from "M-2" Multiple Family Dwelling District to "M-1a" Limited Multiple Family Dwelling District placed on first reading February 4, 2003, was again presented.

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

Deputy Mayor Dunn asked if there were any exparte, besides Councilmember Pomeroy. There was none declared.

Councilmember Pomeroy moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Dunn 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 ZONING PETITION (HL02/16) by Max Movsovitz requesting to amend the District Zoning Classification by granting "HL" Historic Landmark Overlay District to

property currently zoned "R-2" Single Family Dwelling District and located at 2844 SE Maryland Avenue in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17964 introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "R-2" Single Family Dwelling District and located at 2844 SE Maryland Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading February 4, 2003, was again presented.

Barry Beagle, Planning Department gave the staff report.

Max Movsovitiz appeared for questions.

Deputy Mayor Dunn asked if there were any exparte. There was none declared.

Councilmember Lane moved to approve the zoning petition 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 ZONING PETITION (Z03/01) by Roman Catholic Archdiocese of Kansas City in Kansas, a non-profit corporation requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District to "O&I-1" Office and Institutional District and "O&I-2" Office and Institutional District on property located south of SW Drury Lane, the centerline of which is approximately 470-feet west of SW Cheyenne Hills Road in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17965 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 south of SW Drury Lane, the centerline of which is approximately 470-feet west of SW Cheyenne Hills Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "O&I-1" Office & Institutional District and "O&I-2" Office & Institutional District placed on first reading February 4, 2003, was again presented.

Barry Beagle gave the staff report.

Mike Engler, Bartlett & West Engineering appeared to answer questions.

Deputy Mayor Dunn asked if there were any exparte. There was none declared.

Councilmember Hill moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Lane 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 ZONING PETITION (Z03/02) by Dream Properties, Inc., requesting to amend the District Zoning Classification from "C-2" Commercial District to "C-3" Commercial District on property located at 2071 S. Kansas Avenue in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17966 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 2071 S. Kansas Avenue in the City of Topeka, Kansas from, "C-2" Commercial District TO "C-3" Commercial District placed on first reading February 4, 2003, was again presented.

Barry Beagle gave the staff report.

Mark Martinek appeared to answer questions.

Deputy Mayor Dunn asked if there were any exparte. There was none declared.

Councilmember Lane moved to approve the zoning petition 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 ZONING PETITION (Z03/3) by Unified School District No. 501 requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District to "M-1" Two-Family Dwelling District for property east of SW Mifflin Road, the centerline of which is approximately 300-feet south of SW 7th Street in the City of Topeka, Kansas, was presented.

ORDINANCE NO. 17967 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 east of SW Mifflin Road, the centerline of which is approximately 300-feet south of SW 7th Street in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "M-1" Two Family Dwelling District placed on first reading February 4, 2003, was again presented.

Barry Beagle gave the staff report.

Mike Engler appeared to answer questions.

Deputy Mayor Dunn asked if there were any exparte. There was none declared.

Councilmember Price moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Alcala 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 (P02/45) by U.S.D. #437 for Mikay Height Subdivision No. 2 on property located approximately at SW 58th Street and SW Westport Drive within unincorporated Shawnee County, Kansas, was presented.

Barry Beagle gave the staff report.

Councilmember Stubbs moved to approve the final plat. The motion seconded by Councilmember Alcala carried. Councilmember Hecht was out of the room. (8-1-0)

APPLICATION for a Dance Hall License bearing the approval of City Inspectors for El Azteca Club, 1201 SE 6th Street, was presented.

Councilmember Lane explained that the NIA involved in this area endorsed the license and expressed the need for additional lighting in the parking lot to improve safety.

Ed Klumpp, Chief of Police explained that he did not sign the application because of the high number of calls they have received concerning the club. He stated that the owners of the club have agreed to meet with him in the next couple of weeks. Together they will come up with a feasible resolution. Because of their increased interest and efforts to resolve the problems he will cautiously recommend approval of the application.

Ben Swinnen, attorney for the applicant stated that Raul Munoz, owner has made a firm commitment to work with the Police Department to resolve the problems.

Councilmember Lane moved to approve the application. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Harry Felker authorizing the issuance of \$6,205,000 aggregate principal amount of general obligation refunding bonds, Series 2003-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, and K.S.A. 10-427 *et seq.*, all as amended was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Park Improvement Project No. 30234-00, which provides for the improvement of existing park facilities 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 Harry Felker, authorizing Park Improvement Project No. 30235-00, which provides for the improvement of existing park facilities 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 Councilmember Gary Price relating to the grounds for mandatory denial of a building permit was presented for first reading.

Councilmember Price moved to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Hecht carried. Councilmember Dunn voted "no". (8-1-0)

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative Report.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be a Public, Health and Safety Committee meeting on February 14, 2003 at 7:30 a.m. in the City Council Conference Room.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Hill expressed concern because the Human Relations Commission did not meet in the month of January or February due to lack of quorum.

Councilmember Lane stated that he has received several complaints from the NIA officer's concerning the cutback of community officers in the Oakland and east areas of Topeka, and requested a report from Chief Klumpp explaining the cutbacks.

Councilmember Alcala stated that on the SW corner of Morse where the old KWIK Shop was located there are several potholes that need to be fixed.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:00 p.m.

Iris Walker
City Clerk