

City Council Minutes – April 22, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, April 22, 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, Nave, Haynes, Duffy, Stubbs, Preisner and Price -9. Mayor Felker presided -1.

AFTER THE MEETING was called to order, prayer was offered by Reverend John A. DeVeaux, St. John AME Church.

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

THE CONSENT AGENDA was presented as follows:

Councilmember Alcalá requested to pull item C, Applications for separate discussion.

APPLICATION for Alarm Company License from Magnum Home Security to operate an Alarm Installation and Service Company within the city limits of Topeka, Kansas, was presented.

Minutes of the regular meeting of April 15, 2003 were presented.

Councilmember Pomeroy moved to approve the remainder of the Consent Agenda. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

APPLICATIONS for Open After Mid-Night License bearing the approval of the Chief of Police and City Inspectors for the following, were presented:

AMF Meadow Lanes
3118 SW Topeka Boulevard

McDonald's
1640 SW Wanamaker

Azteca
1201 SE 6th Street

Scoreboard
2107 California

Applebee's Neighborhood Gill & Bar
5928 SW 6th Street

Scottie's
901 Fairlawn

The Boobie Trap
1417 SW 6th Street

Shooters
4310 SW 21st Street

Chasers Billiards
5217 SW 28th Court

Skinny's Sports Bar & Grill
4016 SW Huntoon

Des Place
917 N. Kansas Avenue

Spanky's Bar & Grille
3100 SW Gage Boulevard

Easy Times Lounge
501 W. Lyman Road

Stingers
2335 NW Clay

Heart Attack Jacks
555 SW 39th Street

Terry's Bar & Grill
522 W. 6th Street

Jeremiah Bullfrogs Live
4115 SW Huntoon

Tucker's Bar & Grill
805 S. Kansas Avenue 2nd Floor

McDonald's
1201 Gage Boulevard

Walgreens #03069
1001 SW Topeka Boulevard

McDonald's
2001 NW Topeka Boulevard

Walgreens #02846
2915 SW Gage Boulevard

McDonald's
2880 SE California

Wild Cherry
520 NW Elm Roe

Councilmember Alcalá inquired on the homicide at the Wild Cherry and asked if the matter had been resolved.

In response, Ed Klumpp, Chief of Police gave a brief overview of the details surrounding the case and explained why he recommended approval of the license.

Councilmember Alcalá moved to approve the applications. The motion seconded by Councilmember Preisner 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, April 22, 2003, at 7:00 P.M., to consider the advisability of Main and Lateral Sanitary Sewer District No. 40906, located at approximately SE 45th Street from approximately Maryland Avenue to 500 feet east of California.

A PUBLIC IMPROVEMENT PETITION, and RESOLUTION NO. 7334

introduced by Mayor Harry Felker authorizing Main and Lateral Sanitary Sewer District No. 40906, located at approximately SE 45th Street from approximately Maryland Avenue to 500 feet east of California, as more specifically described herein was presented.

Neil Dobler, Public Works Director gave the staff report.

Henry McClure, Zoning and Platting Committee appeared to answer questions.

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

Councilmember Price moved to close the public hearing, approve the petition and adopt the resolution. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$1,852,860 and ORDINANCE NO. 17994 introduced by Mayor Harry Felker, authorizing Water Main Project No. 28490-01, which provides for the transmission main installation from Oakley Avenue and SW 5th Street west and south to Yorkshire Road and SW 6th Avenue as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading April 15, 2003 was again presented.

Neil Dobler gave the staff report.

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

Councilmember Price moved to approve 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, Alcalá, Lane, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

ORDINANCE NO. 17995 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 April 15, 2003 was again presented.

Neil Dobler gave the staff report.

Areas of concern that were discussed by several Councilmembers included; what services to be provided, cost of each service, would those services only apply to the annexed areas, emergency call coverage, cost of services absorbed by city residents compared to county residents, how current water customers outside city limits will be affected, and the relationship between the Topeka Police Department and the Shawnee County Sheriff's Department.

Neil Dobler explained that the services that would be provided to the annexed areas include police, fire and water, however, the actual cost and coverage area is something that would have to be looked at very closely upon completion of annexation to ensure that the areas can be adequately serviced. He continued to explain that any resident that is outside city limits and is currently using the city water service will not be affected by this ordinance.

Ed Klumpp stated that the working relationship between the Topeka Police Department and Shawnee County Sheriff Department is good. He explained the dispatching program and how the new areas are incorporated into the system to ensure, emergency service coverage in a timely manner.

Mike Engler, Chairman of the Topeka Development Standards Committee spoke in support of the ordinance and how it will contribute to city growth.

Joseph Ledbetter spoke in support of annexation and suggested possible amendments to the ordinance.

Arlene Clayton spoke in support of Earth Day, April 22, 2003.

J.B. King spoke in support of the ordinance and asked if an amendment could be included in the ordinance that stated annexation will be contingent upon sale of property.

In response, Brenden Long stated that he believes that Mr. King's request would be included in the development contract and encouraged Council not to permit many provisions so that the ordinance is easy to administer.

Councilmember Haynes moved to table the ordinance twenty-eight days to allow for consideration of the suggested amendment by Mr. King. The motion was seconded by Councilmember Lane.

Councilmember Price asked how future water main projects would be affected if the ordinance is tabled.

Neil Dobler explained that the current water system would remain the same until the water main projects are approved, however, there are several projects that would significantly be delayed.

Councilmember Haynes withdrew the motion.

Councilmember Stubbs moved to 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, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

A PROJECT BUDGET in the amount of \$549,100 and ORDINANCE NO. 17996 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 29th Street South to Southwest 33rd Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading April 15, 2003 was again presented.

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

Joseph Ledbetter expressed concern on the amount of homes that will be built outside city limits if the ordinance is passed.

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

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

ORDINANCE NO. 17997 introduced by Councilmember Duane Pomeroy authorizing Downtown Topeka, Inc. to hold “Downtown Live – Meet Me Downtown” events at certain times in 2003 placed on first reading April 15, 2003 was again presented.

Devin Sutherland, Downtown Topeka, Inc., appeared to answer questions.

Councilmember Haynes moved to 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, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

ORDINANCE NO. 17998 introduced by Mayor Harry Felker relating to the process for granting exceptions from noise prohibitions, amending City of Topeka Code

Section 54-148, prohibition generally, and specifically repealing said original section placed on first reading April 15, 2003 was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Nave, Haynes, Stubbs, Preisner, Price -8. Councilmember Duffy out of the room -1.

ORDINANCE NO. 17999 introduced by Mayor Harry Felker annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located west of SW Indian Hills Road and south of SW 21st Street and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading April 15, 2003 was again presented.

David Thurbon, Planning Director gave the staff report.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

ORDINANCE NO. 18000 introduced by Mayor Harry Felker annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located on the North side of SW 45th Street approximately 2800' east of SW Gage Boulevard in Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading April 15, 2003 was again presented.

David Thurbon gave the staff report.

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcalá, Lane, Nave, Haynes, Duffy, Stubbs, Preisner, Price -9.

AN ORDINANCE introduced by Councilmember Harold Lane regarding building codes, specifically repealing the extension of the City of Topeka building codes and permit process in the three (3) mile area adjacent to the City of Topeka boundaries and repealing City of Topeka Ordinance No. 17951 in its entirety placed on first reading April 15, 2003 was again presented.

Councilmember Lane explained the ordinance and why he introduced it.

Some areas of concern expressed by Councilmembers included; time already spent by the Council and City staff concerning the implementation of Ordinance No. 17951, the importance of addressing concerns of the entities involved, the need for county-wide building codes and the inconsistency in demands by home builders and developers.

After substantial discussion regarding the problems of the ordinance a majority of the Councilmembers stated that they would not support the ordinance.

Councilmember Haynes moved to defer to the Committee of the Whole for a period not to exceed twenty-eight days. Motion died due to lack of second.

Councilmember Alcalá stated that he supports the ordinance and believes that it would help address the homebuilders concerns.

Joseph Ledbetter spoke in opposition of the ordinance.

Dustin Hocks and Jerry Wittman expressed concern with the lack of county wide building codes and the implementation of increased building permit fees without having the opportunity to voice their opinion.

In response, Councilmember Duffy stated that nine meetings were held concerning this issue, all of which were publicized.

The ordinance was not adopted on roll call vote as follows: Ayes:
Councilmembers Alcala and Lane -2. Noes: Councilmembers Pomeroy, Nave, Haynes,
Duffy, Stubbs, Preisner, and Price -7.

APPOINTMENT of Kimberly Kearse Lane to the Topeka/Shawnee County
Public Library Board of Directors for a four-year term that will expire April 30, 2007,
was presented.

Councilmember Alcala moved to approve the appointment. The motion seconded
by Councilmember Nave carried unanimously. (9-0-0)

A COMMUNICATION stating the proposed allocation of the 2003 Tourism
Opportunity Grant Funds in the amount of \$49,250 was presented.

Jim Langford, Budget Director gave the staff report.

Rogers Brazier, Parks and Recreation Director appeared to answer questions.

Councilmember Duffy moved that the Mayor pursue opportunities to fund the
\$4,000 needed to for the Topeka Capitals through extra funds or the Topeka Convention
and Visitors Bureau fund. The motion seconded by Councilmember Alcala carried
unanimously. (9-0-0)

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

RESOLUTION NO. 7335 introduced by Councilmember Duane Pomeroy
adopting Rule 2.13 of the City Council Rules and Procedures concerning the order of
City Councilmember seating during City Council meetings was presented.

Councilmember Pomeroy moved to adopt the resolution. The motion seconded
by Councilmember Price carried. Councilmember Haynes abstained. (8-0-1)

RESOLUTION NO. 7336 introduced by Mayor Harry Felker, concerning the City of Topeka's participation in the State of Kansas Municipal Investment Pool and rescinding City of Topeka Resolution No. 6819 was presented.

Mayor Felker noted that there is \$3,296,174.05 in the Municipal Investment Pool Fund.

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

RESOLUTION NO. 7337 introduced by Councilmember Gary Price amending City Council Rules and Procedures 8.1 concerning the procedure for persons desiring to address the City Council during City Council meetings was presented.

Councilmember Price explained the resolution.

Councilmember Stubbs made a motion to amend line 13, changing the time from 3:00 p.m. to 5:00 p.m. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Alcalá moved to amend line 13, changing the time from 5:00 p.m. to 8:00 p.m. The motion seconded by Councilmember Lane failed.

Councilmembers Pomeroy, Nave, Duffy, Stubbs, Preisner, and Price voted "no". (3-6-0)

Joe Ledbetter spoke in opposition of the resolution and stated that he believes that it violates the freedom of speech act.

Bob Sherburne spoke in opposition of the resolution.

Councilmember Pomeroy moved to amend line 14 by inserting the word "published" so that it would read "on a specific matter on the published meeting agenda",

and add “This limitation shall not apply to items added during the course of the meeting” to line 15. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Stubbs moved to adopt the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá and Lane voted “no”. (7-2-0)

APPLICATION for Open After Mid-Night license for Twillighter County Club, 816 N. Kansas, was presented.

Ed Klumpp, Chief of Police gave the staff report and explained why he recommended denial of the license.

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

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

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Park Improvement Project No. 30205, which provides for the design and construction of the Gage Park Greenhouse 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 an amendment to the project budget for Storm Sewer Project No. 50006-06, Phase 2, 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 and repealing City of Topeka Ordinance 17882 was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Street Repair Project No. 84309, which provides for the construction of curb cuts and sidewalk ramps

to provide accessibility to disabled individuals as required by the Americans with Disabilities Act as more specifically described herein was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative Report and the Office of the Arts Report.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be an Economic Development Committee meeting at 7:30 a.m. on April 25, 2003 in the City Council Conference Room.

Neil Dobler, Public Works Director explained the changes that are being made to ease the congestion at the Fairlawn and I-470, and 29th and Wanamaker intersections. He stated that a right turn green arrow would be placed in the northbound lane on Wanamaker Road, signal timing changes will be implemented at 29th and Wanamaker Road and 29th and Arrowhead Road, and “Closed to Through Traffic” sign placement will be placed at 29th and Wanamaker Road facing west, and 34th and Fairlawn Road facing south.

Councilmember Stubbs expressed her appreciation to the Public Works Department for their prompt attention to the traffic problems concerning the Fairlawn and Wanamaker construction projects.

Councilmember Alcala suggested that more consideration be given to road accessibility for businesses involved in major construction area projects and requested that a traffic study be done at the intersection of Lower Silver Lake Road and Vail.

Councilmember Lane requested that a traffic study be done in the 1300 and 1400 block of Kansas Avenue.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcalá clarified some of the issues concerning S&J Trailer Park that were discussed at the April 15, 2003 City Council Meeting.

Councilmember Price stated that he attended the Topeka Youth Project Awards and expressed his appreciation for the program.

Councilmember Lane stated that there is graffiti on some of the buildings located in the 1700 and 1800 blocks of Kansas Avenue that needs to be cleaned up.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:08 p.m.

Iris Walker
City Clerk