

City Council Minutes – May 13, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 13, 2003. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Lane, Alcalá, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price -9. Mayor Felker presided -1.

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

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber. Councilmember Preisner requested that item D be pulled from the Consent Agenda for separate discussion.

Councilmember Stubbs requested that items A, B, and C, be pulled from the Consent Agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Croco Plaza Subdivision on property located at the northwest corner of SE 29th Street and SE Croco Road in the City of Topeka, Kansas, was presented. (P01/45)

Councilmember Lane moved to approve the final plat. The motion was seconded by Councilmember Price

Councilmember Stubbs asked if the driveway entrance agreement had been settled between the applicant and Shawnee County.

David Thurbon, Planning Director explained that an agreement has been met between both parties.

The motion to approve carried unanimously. (9-0-0)

A FINAL PLAT for Arlington Heights Subdivision No. 4 on property located at 325 SW Frazier Street in the City of Topeka, Kansas, was presented. (P02/26)

Councilmember Stubbs asked for an explanation of why staff recommended disapproval.

David Thurbon stated that Lot 2 does not have platted access to SW Frazier Street, which was introduced in the original proposed final plat. The applicant suggested providing for an ingress/egress easement to provide Lot 2 with street access, however, this is only permitted within an approved "PUD" Planned Unit Development. The Planning Department recommending moving the lot line to accommodate Lot 2 and the applicant felt that is was too costly, therefore, staff recommended disapproval.

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

A FINAL PLAT for Solid States Subdivision No. 2 on property located approximately 400-feet south of NW Lower Silver Lake Road and 800-feet west of NW Gage Boulevard, in the City of Topeka, Kansas, was presented. (P03/22)

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

CLAIM APPEAL by Lila Williams, claiming that on April 18, 2002, her home and property were damaged as a result of a sewer back up at 5130 SW 25th Street, Topeka, Kansas, was presented.

Councilmember Preisner moved to pay for the cleanup costs in the amount of \$7,214. The motion was seconded by Councilmember Alcalá.

Kathleen Williams, daughter-in-law of the applicant appeared and explained the claim and stated that the insurance company paid \$5,000 for cleanup and repair.

Todd Williams appeared to answer questions.

Hans Heinemann appeared in support of payment of the claim.

Several Councilmembers raised the issue of the claim settlement process.

The motion to pay the claim in the amount of \$7,214 carried. Councilmembers Pomeroy, Duffy, Stubbs and Price voted "no". (5-4-0)

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

Josey's Bar & Grill
2008 SW Gage Boulevard

Jul's Cocktail Club
4117 SW Huntoon

The Vintage
1301 SW Gage Boulevard

Minutes of the regular meeting of May 6, 2003 were presented.

Councilmember Lane moved to approve the remainder of the Consent Agenda.

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, May 13, 2003, at 7:00 P.M., in conjunction with vacation request V03A/1 by Topeka Bible Church, owners, to vacate a portion of an alley right-of-way located at 1101 SW Mulvane Street to construct a new fire escape meeting code requirements was presented.

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 15-foot wide public alley right-of-way on property located at 1101 SW Mulvane Street, as dedicated by the plat of Stilson and Bartholomew's Addition, City of Topeka, Shawnee County, Kansas, placed on first reading May 6, 2003 was again presented.

Barry Beagle, Planning Department gave the staff report.

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

Several Councilmembers asked questions regarding the purpose of alleys and suggested extending the vacation to the south end of the parking lot.

Barry Beagle stated that this would require a new ordinance.

Councilmember Duffy moved to defer for one week. The motion seconded by Councilmember Price 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, May 13, 2003, at 7:00 P.M., in conjunction with vacation request V03E/1 by James F. Bryan, owner, to vacate a 5-foot utility easement located at 1906 SW Belle Avenue in The Village Subdivision 'A' was presented.

ORDINANCE NO. 18003 introduced by Mayor Harry Felker relating to the vacation of a 5-foot wide public utility easement on property located at 1906 SW Belle Avenue, as dedicated by the plat of The Village Subdivision 'A', City of Topeka, Shawnee County, Kansas, placed on first reading May 6, 2003 was again presented.

Barry Beagle gave the staff report.

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

Councilmember Price moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

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

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, May 13, 2003, at 7:00 P.M., in conjunction with vacation request V03SB/1 by Charmaine D. Myles, owner, to vacate a portion of the 30-foot platted building setback line along SE 23rd Street located at 2244 SE Jefferson Street was presented.

ORDINANCE NO. 18004 by Mayor Harry Felker relating to the vacation of a portion of a 30-foot wide platted building setback line along SE 23rd Street as dedicated by Jefferson Square Subdivision No. 2 for property located at 2244 SE Jefferson Street, City of Topeka, Shawnee County, Kansas, place on first reading May 6, 2003 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 close the public hearing and adopt the ordinance.

The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

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

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, May 13, 2003, at 7:00 P.M., in conjunction with vacation request V03SB/4 by Jessie M. Sloan, owner, to vacate a portion of the 30-foot platted building setback line along SW Randolph Avenue located at 2540 SW Randolph Avenue was presented.

ORDINANCE NO. 18005 introduced by Mayor Harry Felker relating to the vacation of a portion of a 30-foot platted building setback line along SW Randolph Avenue as dedicated by Crestwood Addition for property located at 2540 SW Randolph

Avenue, City of Topeka, Shawnee County, Kansas, placed on first reading May 6, 2003 was again presented.

Barry Beagle gave the staff report.

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

Councilmember Duffy moved to close the public hearing and adopt the ordinance.

The motion seconded by Councilmember Price carried unanimously. (9-0-0)

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

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, May 13, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit (CU03/3) by City of Topeka, to establish a public use facility structure (sanitary sewer pump station) on property zoned "I-2" Heavy Industrial District located at 1439 NE Atchison Avenue in the City of Topeka, Kansas was presented.

RESOLUTION NO. 7342 introduced by Mayor Harry Felker in accordance with Section 48-21.01 of the Code of the City of Topeka, approving Conditional Use Permit to establish a public use facility structure (sanitary sewer pump station) on property zoned "I-2" Industrial District and located at 1439 NE Atchison Avenue in the City of Topeka, Kansas, was presented.

Barry Beagle gave the staff report.

Councilmember Alcalá expressed the need for the sanitary sewer pump station.

Jesus Campos expressed concern on how city workers are handling the clean up of properties and stated that there are antiques missing from a house in the area.

Councilmember Alcalá moved to close the public hearing and adopt the resolution. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

A ZONING PETITION by Larry D. Allen and ORDINANCE NO. 18006 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 on the west side of SE California Avenue, the centerline which is approximately 260-feet north of SE 21st Street in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "C-2" Commercial District placed on first reading May 6, 2003 was again presented. (Z03/13)

Barry Beagle gave the staff report.

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

Councilmember Duffy moved to approve the zoning petition and adopt the committee recommendation for C2. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

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

A ZONING PETITION by Kent Lindemuth and 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 125 SW Gage Boulevard in the City of Topeka, Kansas from "C-2" Commercial District TO "C-4" Commercial District placed on May 6, 2003 was again presented. (Z03/15)

Barry Beagle gave the staff report.

Councilmember Stubbs asked why staff recommended disapproval.

Barry Beagle explained that the higher intensity commercial zoning is not compatible with the projected land use of the area. The addition of “C-4” uses also has the potential to erode the character of this section of Gage Boulevard, which serves as an entrance into the community from I-70, and the proposal does not appear to be in conformance with the Comprehensive Plan, therefore, staff recommended disapproval.

Councilmember Price asked if it was possible to allow the higher intensity commercial zoning for the applicant to utilize the property as needed and limit it to “C-2” zoning upon sale of the property.

Brenden Long, City Attorney explained that zoning runs with the land regardless of owner and the parcel would have to be zoned for “PUD” Planned Unit Development to implement conditional zoning.

Councilmember Duffy stated that it is difficult to support this proposal because of the impact that past decisions concerning gateway issues have had on the appearance of the City of Topeka. This section is important in determining how we want the gateway off of I-70 to look.

Ben Swinnen, representative for applicant explained the request for zoning.

A brief question and answer period ensued concerning the possibility of granting the applicant “PUD” District Zoning. In response to the questions raised several Councilmembers agreed that the proposal is not about allowing the applicant to move the large trucks, it is about what is permissible in a “C-4” District Zoning and how it will affect the appearance of the area.

Councilmember Preisner stated that he believes that the large trucks would cause a safety issue in the area.

Mayor Felker asked if there was any additional exparte communications besides Councilmember Haynes. There was none declared.

Councilmember Duffy moved to approve the recommendation of the Zoning and Platting Committee. The motion seconded by Councilmember Lane failed.

Councilmembers Pomeroy, Nave, Haynes, Duffy, Stubbs and Preisner voted “no”.

(3-6-0)

The ordinance was not adopted on roll call votes as follows: Ayes: Lane, Alcala and Price -3. Noes: Councilmembers Pomeroy, Nave, Haynes, Duffy, Stubbs and Preisner -6.

A ZONING PETITION by Vincent and Lana G. Meier and ORDINANCE NO. 18007 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 on the south side of NW Broad Street, the centerline of which is approximately 540-feet west of NW Topeka Boulevard in the City of Topeka, Kansas from “R-1” Single Family Dwelling District and “C-4” Commercial District ALL TO “PUD” Planned Unit Development District placed first reading on May 6, 2003 was again presented. (Z03/19)

Barry Beagle gave the staff report.

Councilmembers Alcala and Pomeroy commended staff on the project and the utilization of the land.

Mayor Felker asked if there was any additional ex parte communications besides Councilmember Alcalá. There was none declared.

Councilmember Alcalá moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

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

A PROJECT BUDGET in the amount of \$131,314.51 (city share) and ORDINANCE NO. 18008 introduced by Mayor Harry Felker, authorizing Improvement Project No. 14107-01, which provides for the installation of a traffic signal with left turn lanes on SW 17th Street and SW Belle Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading May 6, 2003 was again presented.

Neil Dobler, Public Works Director gave the staff report.

Several Councilmembers expressed the need for the traffic signal and stated that they felt it would ease the flow of traffic and hopefully help reduce the number of accidents in the area.

Councilmember Alcalá moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Pomeroy voted “no”. (8-1-0)

The ordinance was adopted on roll call votes as follows: Ayes: Lane, Alcalá, Nave, Haynes, Duffy, Stubbs, Preisner, and Price -8. Noes: Councilmember Pomeroy -1.

A PROJECT BUDGET in the amount of \$141,183.47 (city share) and ORDINANCE NO. 18009 introduced by Mayor Harry Felker, authorizing Improvement Project No. 70150-05, which provides for the installation of a traffic signal with left turn construction for northbound South Topeka Boulevard, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading May 6, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Haynes moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

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

A PROJECT BUDGET in the amount of \$250,000 and ORDINANCE NO. 18010 introduced by Mayor Harry Felker, authorizing Improvement Project No. 30228-00, which provides for design and development of plans, construction documents, a detailed cost estimate, and construction services for a new skate park as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading May 6, 2003 was again presented.

Bill Riphan, Parks and Recreation Department gave the staff report for the proposed skate park at Shunga Glen Park.

Several Councilmembers commended staff on the project and the effort to seek out other funding.

Julian Efird, Jennifer Kratochvil, Jeremy Kratochvil, Tyrell Johnsrud, Alex Sage and Brad Nolde spoke in support of the project.

Councilmember Stubbs moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

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

APPLICATION for a Dance Hall License for El Rodeo, 1601 SE Seward Avenue was presented. This was referred to the Policy Committee on March 11, 2003.

Brenden Long, City Attorney stated that he received a call from the attorney of the applicant stating that he was ill and requested that the item be tabled.

Councilmember Alcalá stated that the Council has been consistent with the recommendations of the Chief of Police and believes that the establishment has been a constant problem to the area. He stated that the applicant has had several opportunities to speak to the Council.

Councilmember Alcalá moved to deny the application. The motion was seconded by Councilmember Lane.

Brenden Long stated that in order to approve the application the Council must make a finding that the granting of the license will not be detrimental to the community in which it is proposed to be located.

Patti Elliott, neighborhood representative stated that she has been disturbed by noise, music and traffic from the club.

The motion to deny carried unanimously. (9-0-0)

A FINAL PLAT for Urban Hills Subdivision No. 17 on property located on the west side of NW Lana Court, approximately 325-feet north of NW 53rd Street Terrace within unincorporated Shawnee County, Kansas, was presented.

Barry Beagle gave the staff report.

Councilmember Stubbs asked if there is consent to annex included in the proposal.

Barry Beagle stated that the Planning Department stayed consistent with the original proposed final plat, which did not include consent to annexation.

Councilmember Duffy moved to refer to the Public, Health and Safety Committee. The motion was seconded by Councilmember Price.

Angela Sharp, Professional Engineering Consultants appeared for questions.

The motion to refer to the Public, Health and Safety Committee carried.

Councilmember Alcalá voted “no”. (8-1-0)

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 on the east side of NE New Meriden Road, the centerline of which is approximately 700-feet north of NE Calhoun Bluff Lane in the City of Topeka from “C-4” Commercial District to “I-1” Light Industrial District was presented for first reading.
(Z74/4)

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

generally located south of US 24 Highway and east of NE Meridan Road in the City of Topeka from “R-1” Single Family Dwelling District to “I-2” Heavy Industrial District was presented for first reading. (Z77/30)

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 southwest corner of SE Sycamore Drive and SE Croco Road in the City of Topeka from “R-1” Single Family Dwelling to “M-2” Multiple Family Dwelling District was presented for first reading. (Z81/26)

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 NW Broad Street and NW Topeka Boulevard in the City of Topeka from “R-1” Single Family Dwelling District to “C-4” Commercial District was presented for first reading. (Z87/38)

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 northeast corner of NE New Meriden Road and NE Calhoun Bluff Lane in the City of Topeka from “R-1” Single Family Dwelling District to “I-1” Light Industrial District was presented for first reading. (Z88/9)

AN ORDINANCE introduced by Mayor Harry Felker relating to a vacation of a 10-foot wide public utility easement segment as dedicated by County Club Place

Addition; and is a centrally located north/south easement at 807 SW Terrace Avenue was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Stubbs announced that there would be a Public, Health and Safety Committee meeting on May 19, 2003 at 4:00 p.m. in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcalá stated that he received a letter from Development Services stating that S&J Mobile Home Park is in compliance with the Conditional Use Permit. He announced that there would be a skateboarding event at 10:00 a.m. on May 17, 2003 at the Mouse Trap Skate Board Park. He requested that the horseshoes in Santa Fe Park be relocated and the locks on the women's restroom need adjusted in Garfield Park. He also inquired on the time-line for new water fountains and parking lot repair for Oakland and Garfield Parks.

Councilmember Lane inquired on the Ripley Park restroom restoration.

Councilmember Preisner asked if the County has contacted the City concerning the Parks and Recreation City/County Department Consolidation.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Hans Heinemann and James Bolden appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:30 p.m.

Iris Walker
City Clerk