

**City Council Minutes – May 20, 2003**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 20, 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, Councilmember Alcalá asked for a moment of silent meditation in honor of Jesus Campos.

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

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Topeka Crossing Subdivision No. 3 on property located at SW Westport Drive, and SW 17<sup>th</sup> Street in the City of Topeka, Kansas, was presented.

Minutes of the regular meeting of May 13, 2003 were presented.

APPLICATION for Open After Mid-Night License bearing the approval of the Chief of Police and City Inspectors for Topeka Truck Plaza, 1235 SW Wanamaker Road, was presented.

APPLICATION for Dance Hall License bearing the approval of the Chief of Police and City Inspectors for Par Three Club, 3720 SW 45<sup>th</sup> Street, was presented.

APPLICATIONS for Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for the following was presented:

B&B Fuel Centers of Topeka, Inc.  
3830 SW 29<sup>th</sup> Street

B&B Fuel Centers of Kansas, Inc.  
1000 SW Wanamaker Road

Berkshire Country Club  
3720 SW 45<sup>th</sup> Street

Casey's General Store #2312  
4441 SE California Ave

Dillon's #28  
300 W 29<sup>th</sup> Street

Dillon's #54  
800 NW 25<sup>th</sup> Street

Dillon's #64  
5720 SW 21<sup>st</sup> Street

The Dock  
2838 SE 29<sup>th</sup> Street

Eakes & Steinbock Thriftway  
1401 Seward

Fairlawn South 66 #27760  
2836 Fairlawn Road

Falley's Market #4  
3712 SW Burlingame Road

Falley's Market #6  
3110 SE 6<sup>th</sup> Street

Falley's Market #2  
1945 SW Gage Blvd

Food 4 Less #3  
2021 SE 29<sup>th</sup> Street

Herman's Beef & Sausage House  
823 W Gordon

KWIK Shop #789  
746 NE Wabash Avenue

KWIK Shop #757  
2619 SW 21<sup>st</sup> Street

California Amoco  
2740 California

Casey's General Store #2261  
600 SE Rice Road

Dillon's #47  
2815 W 29<sup>th</sup> Street

Dillon's #58  
1400 Huntoon

Dillon's #67  
2010 SE Topeka

Downtown Amoco  
600 SE Quincy

Fairlawn South 66 #27755  
600 Fairlawn Road

Falley's Market #27  
1920 SW 10<sup>th</sup> Street

Falley's Market #4  
3712 SW Burlingame Road

Falley's Market #1  
3000 N Topeka Blvd

Food 4 Less #50  
5311 SW 22<sup>nd</sup> Place

Food 4 Less #12  
2210 N Tyler

Kelly Express  
1001 SW Wanamaker Road

KWIK Shop #788  
1414 SW 17<sup>th</sup> Street

KWIK Shop #743  
5633 SW 21<sup>st</sup> Street

KWIK Shop #740  
2277 SW 10<sup>th</sup> Street

KWIK Shop #737  
801 SW Topeka Blvd

KWIK Shop #732  
5954 SW 29<sup>th</sup> Street

KWIK Shop #729  
1700 Topeka Blvd

KWIK Shop #720  
102 SW 37<sup>th</sup> Street

KWIK Shop #705  
1114 NW Topeka Blvd

Kum & Go #322  
3335 Gage Blvd

Lakeview Amoco  
3000 SE Croco Road

Larry's Shortstop  
3834 S Topeka

Lucy's Fourth Market  
401 SE Lake Street

Mike IGA  
2620 NE Sardou

Oakmart Amoco  
2518 NE Seward Ave

OSCO Drug Store #5189  
2835 SW Wanamaker

Phillips 66  
2525 SW 29<sup>th</sup>

Pick N Move  
706 SW Fairlawn Road

Prize Package  
1420 SE 6<sup>th</sup> Street

Quality Gas & Shop, Inc.  
1900 N Topeka

Rex's Texaco  
2855 SW Wanamaker Road

South Gage 66 #29136  
3300 Gage Blvd

Tiltons Westside  
100 W 6<sup>th</sup> Street

Tiltons Oakland Market  
1905 Seward

Topeka Truck Plaza, Inc.  
Topeka Travel Plaza, Inc.  
1235 SW Wanamaker Road

U Market  
935 SE 21<sup>st</sup> Street

Wal-Mart Supercenter #1802  
1501 SW Wanamaker Road

Wal-Mart Supercenter #2131  
1301 SW 37<sup>th</sup> Street

Charles R. Wood Oil Co., Inc.  
101 NE Hwy 24

Charles R. Wood Oil Co., Inc.  
4601 A SW Topeka Blvd

Charles R. Wood Oil Co., Inc.  
1320 SW 6<sup>th</sup> Street

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

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

A FINAL PLAT for Fleming Place Subdivision No. 4 on property located at the southwest corner of SW 10<sup>th</sup> Avenue and SW Gage Boulevard in the City of Topeka, Kansas, was presented.

Councilmember Price asked why the final plat has been presented again, what are the Council's options in approving it, and can there be stipulations put on it.

Brenden Long, City Attorney explained that this item was originally brought before the City Council for "PUD" Planned Unit Development District Zoning approval, and this is a separate issue concerning acceptance of public dedication due to changes in the easements brought on by the zoning change.

David Thurbon, Planning Director stated that approval of the final plat would allow the applicant more financial alternatives concerning sale or financing of the property.

Angela Sharp, Professional Engineering Consultants and representative for the owners appeared to answer questions. She explained that the intention of the final plat is to allow the applicant the opportunity to lease a portion of the property and clean up the property lines. She also stated that the Fleming House is under contract to be moved off site and used as a residence.

Councilmember Price suggested putting a requirement on the final plat stating that the Fleming House would be moved, and not demolished as a condition for approval of the final plat.

Councilmember Price moved to defer one week. The motion was seconded by Councilmember Stubbs.

Councilmember Alacla asked if there would be any liability placed on the City if they defer the final plat for one week.

In response, Brenden Long stated that the question that needs to be addressed is if the moving of the building, compared to demolition is a legal requirement for final plat approval by the City, and the City is allowed thirty days to take make a decision according to the State Statue.

Councilmember Lane requested that a copy of the Fleming House relocation contract be sent to the City Council.

The motion to defer one week carried. Councilmember Alcalá voted “no”. Councilmember Haynes abstained. (7-1-1)

#### 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, May 20, 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. This was deferred one week from the meeting of May 13, 2003.

David Thurbon, Planning Director gave the staff report and explained that the alley could be vacated in its entirety, however, it would require notifying the owners of the surrounding area and newspaper publications.

Councilmember Duffy moved to disapprove the vacation request with the direction to ask the applicant to return with a new vacation request that includes the entire alley. The motion was seconded by Councilmember Price.

Jane Jackson, representative for the applicant appeared for questions.

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

ORDINANCE NO. 18011 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 placed on first reading May 13, 2003 was again presented. (Z74/4)

David Thurbon gave the staff report.

The City Council discussed options of approving zoning changes that are under resolution of intent.

Following the discussion Councilmember Alcala suggested contacting the owners of each case to see if they still want the zoning change.

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

ORDINANCE NO. 18012 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 placed on first reading May 13, 2003 was again presented. (Z77/30)

David Thurbon gave the staff report.

Councilmember Stubbs requested that the planning department include maps in the Council Packets that display the land use around the area in question.

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

ORDINANCE NO. 18013 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 placed on first reading May 13, 2003 was again presented. (Z81/26)

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

ORDINANCE NO. 18014 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 placed on first reading May 13, 2003 was again presented. (Z87/38)

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

ORDINANCE NO. 18015 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 placed on first reading May 13, 2003 was again presented. (Z88/9)

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

ORDINANCE NO. 18016 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 placed on first reading May 13, 2003 was again presented.

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 \$45,000 and A RESOLUTION introduced by Mayor Harry Felker, describing Improvement Project No. 60587-00, which provides for the design phase services for improvements along North and South Kansas Avenue as more specifically described herein and authorizing the same was presented.

Mike McGee, Assistant Public Works Director gave the staff report and explained that the design phase would take approximately six months to complete and it includes North and South Kansas Avenue.

Councilmember Price inquired on spending the money before a ruling is made.



Councilmember Duffy suggested that the funds should be spent on other smaller projects instead of the entire amount on Kansas Avenue. He stated that he would prefer not to address the South Kansas Avenue area until they have reviewed the CIP, and asked if the project could be split.

Mike McGee stated that the project could be split and suggested deferring the item one week so that they have the opportunity to work on how the projects should be split.

Councilmember Duffy moved to defer for one week. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

A COMMUNICATION submitting a request by Jerry Penner, Sr. requesting that the Council reconsider his application for a salvage yard license at 417 SE 13<sup>th</sup> Street that was previously denied was presented.

Brenden Long explained the action that the City Council could take and stated that there needs to be a motion to rescind the previous action in order to reconsider.

Councilmember Alcalá moved to deny the original application.

The parliamentarian ruled that the motion is out of order until the motion to rescind the previous action is acted on.

Councilmember Alcalá withdrew the motion to deny.

Discussion continued on the application process and the implementation of guidelines to eliminate similar problems in the future.

No action was taken. Item died due to lack of a motion to reconsider.

A CHARTER ORDINANCE introduced by Mayor Felker amending Charter Ordinance No. 68, as codified in City of Topeka Code Section A12-1 of the City of

Topeka which exempted the City from the provisions of K.S.A. 13-1024a and provided substitute and additional provisions on the same subject in accordance with the provisions of Article 12, Section 5 of the Constitution of the State of Kansas was presented for first reading.

A CHARTER ORDINANCE introduced by Mayor Felker amending Charter Ordinance No. 72, as amended and as codified in Topeka City Code Section A2-19, which allows the City Council to establish redistricting Commission procedures and membership requirements by ordinary ordinance and repealing original said section and provided substitute and additional provisions on the same subject in accordance with the provisions of Article 12, Section 5 of the Constitution of the State of Kansas was presented for first reading.

A CHARTER ORDINANCE introduced by Mayor Harry Felker, amending Charter Ordinance No. 75, as codified in Topeka City Code Section A2-16, allowing councilmembers who lose their residency status due to redistricting to complete their elected terms, and provided substitute and additional provisions on the same subject in accordance with the provisions of Article 12, Section 5 of the Constitution of the State of Kansas was presented for first reading.

Councilmember Pomeroy moved to refer the Charter Ordinance to the Policy Committee. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

AN ORDINANCE 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 east side of SE Croco Road, 150 feet north of SE 23<sup>rd</sup> Street Terrace and adjacent to

the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading. (A03/3)

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 SW 45<sup>th</sup> Street and SW Gage Boulevard in the City of Topeka from "R-1" Single Family Dwelling District to "C-4" Commercial District was presented for first reading. (Z87/39)

Items 7F and 7G, zoning ordinances for Zoning Petition Z87/40 and Z87/41 were withdrawn from the agenda.

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 about the northwest corner of SW 45<sup>th</sup> Street and SW Moundview Drive in the City of Topeka, from "R-1" Single-Family Dwelling District to "O&I-1" Office and Institutional District. (Z87/43)

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 SE 11<sup>th</sup> Street and SE California Avenue in the City of Topeka, Kansas, from "E" Multiple Family Dwelling District to "C-4" Commercial District was presented for first reading. (Z88/10)

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 SE Croco Road between SE 29<sup>th</sup> Street and SE 30<sup>th</sup> Terrace in the City of Topeka from "R-1" Single Family Dwelling District to "C-2" Commercial District was presented for first reading. (Z89/5)

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 south side of SE 30<sup>th</sup> Terrace, the centerline of which is approximately 170-feet west of SE Peck Road in the City of Topeka, Kansas, from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District, was presented for first reading. (Z89/6)

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 30182, which provides for the construction of the education and administration building, elephant exhibit, and the jungle cat exhibit at the Topeka Zoo, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

Councilmember Duffy requested an interpretation of the Master Plan in relation to Improvement Project No. 30182 be presented at the May 27, 2003 City Council meeting.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Project No. 30236-00, which provides for the purchase of a tub grinder, high loader and loader buckets to be used at the forestry disposal site, as more specifically described herein, all

pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative Report.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Stubbs stated that the Public, Health and Safety Committee reviewed the maintenance code issues and discussion concerning this matter would continue on June 16, 2003 at 4:00 p.m. in the City Council Conference Room.

Councilmember Duffy announced that there would be an Economic Development Committee meeting on May 23, 2003 at 11:30 a.m. in the City Council Conference Room.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lane asked if the city would consider donating the land at 19<sup>th</sup> and Western for the Junior Ice Hockey Team.

Councilmember Alcalá commented on the Veteran's Memorial in North Topeka and encouraged everyone to remember the Veterans there this Memorial Day.

Councilmember Pomeroy requested that a formal request be placed on a future agenda asking the County to assist the City with the Kansas Avenue Bridge Flyover Project. He announced that there would be a Policy Committee meeting on May 27, 2003 at 4:00 p.m. in the City Council Office and inquired on the 6<sup>th</sup> Street and Orchard construction area.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 9:00 p.m.

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Iris Walker  
City Clerk