

City Council Minutes - June 3, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 3, 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 Lane.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber. Councilmember Pomeroy moved to suspend the Council Rules to add an application to the agenda for an Open After Mid-Night License for RP's Night Club to item 6A, under New Business. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

Councilmember Pomeroy moved to reinstate the Council Rules. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:
APPLICATION for Heartland Security Services to operate a Security Company within the Topeka City limits was presented.

Minutes of the regular meeting of May 27, 2003 were presented.
APPLICATIONS for Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for the following, were presented:

KWIK Stop
738 SW Gage

Sunny & Sons, Inc.
2201 SW 6th Street

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

California Amoco
2740 California Avenue

Fairlawn Plaza
2101 SW Fairlawn Road

Holiday Square
2901 Topeka

Quality Gas & Shop
1900 N. Topeka Boulevard

Councilmember Lane moved to approve the Consent Agenda. 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, June 3, 2003, at 7:00 P.M., in conjunction with vacation request V03SB/5 by Dennis and Virginia Ary, owners, to vacate a portion of the 40-foot platted building setback along SW 29th Street for property located at 2900 SW Lincolnshire Road was presented.

ORDINANCE NO. 18024 introduced by Mayor Harry Felker relating to the vacation of a portion of a 40-foot wide platted building setback along SW 29th Street as dedicated by Mission Center Subdivision for property located at 2900 SW Lincolnshire Road, City of Topeka, Shawnee County, Kansas, placed on first reading May 27, 2003, was again presented. (V03SB/5)

Barry Beagle, Planning Department gave the staff report.

Dennis and Virginia Ary appeared and explained why they needed the vacation and stated that they were unaware of the encroachment until they tried to sell their property.

Councilmember Stubbs inquired on the City's inspection process.

Councilmember Price stated that this situation is a perfect example of why City Building Codes should be enforced within the 3-mile area surrounding City limits.

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

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

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

A REPORT regarding Home Invasion on Fillmore Street was presented.

Councilmember Pomeroy explained why he requested the report and wanted to pin point why an individual can continue to commit crimes when they have been charged and convicted of numerous crimes.

Ed Klumpp, Chief of Police gave the staff report. He explained the individual's case history and the outcome of each charge. He also stressed the importance of getting the cases adjudicated as soon as possible at the Municipal Court level.

Discussion followed on how the City of Topeka can better address these types of cases before the crimes escalate and become more serious and how the individual needs to be held accountable at the Municipal Court level.

Councilmember Pomeroy stated that he would like to have the Crime Summit Committee review several of these case reports and make recommendations.

Councilmember Nave noted that there is not enough system funding available for treatment of these individuals.

A PROJECT BUDGET in the amount of \$1,485,000 and ORDINANCE NO. 18025 introduced by Mayor Harry Felker, authorizing Improvement Project No. 29098, which provides for the construction services for the improvements to the Roosevelt Interceptor sewer, as more specifically described herein, all pursuant to Section A12-1 of the City of Topeka placed on first reading May 27, 2003 was again presented.

Neil Dobler, Public Works Department 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 vote as follows: Ayes: Lane, Alcala, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price -9.

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 23rd Street Terrace and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading May 27, 2003 was again presented. This item was deferred one week from the meeting of May 27, 2003.

A FINAL PLAT for Woodglen Subdivision on property located on the east side of SE Croco Road, 150-feet north of SE 23rd Street Terrace within unincorporated Shawnee County, Kansas, was presented. This item was deferred one week from the meeting of May 27, 2003. (P03/6)

Barry Beagle, Planning Department gave the staff report.

Ben Kramer, Kramer Engineering representative for the applicant explained the request and stated that the owner did not consent to annexation.

Several Councilmembers questioned what the requirements are concerning annexation in relation to water and sewer services provided by the City.

Councilmember Price moved to defer the ordinance and the final plat for one week. The motion was seconded by Councilmember Stubbs.

Councilmember Stubbs expressed the importance of obtaining a consent to annex

prior to the development of an area.

Councilmember Duffy stated that there is not a park or open space area on the final plat proposal and inquired on the developer's intent to comply with the requirement.

Brenden Long, City Attorney noted that Ordinance No. 17910 requires consent to annexation to connect to sewer and these items should not be before the City Council without consent to annexation.

The motion to defer for one week carried unanimously. (9-0-0)

APPLICATIONS for Dance Hall License and Open After Mid-Night License for RP's Night Club, 5243 SW 28th Court, Topeka, Kansas was presented.

Ed Klumpp, Chief of Police gave the staff report and explained why he recommended denial of the Dance Hall and Open After Mid-Night License.

Rob Paletta, owner of RP's Night Club explained the measures he has taken to create a secure environment to control the underage drinkers and asked for a chance to do things differently. These measures included: no one under the age of 21 is allowed into the club, male patrons must be 25 years of age or older and female patrons must be 21 years of age or older, implementation of a dress code, and improved lighting in and around the building.

Councilmember Stubbs moved to uphold the Chief of Police recommendation to deny. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 7345 introduced by Mayor Felker and Councilmember John Nave relating to a housing project through Accessible Space, Inc., was presented.

Neil Dobler gave the staff report.

Councilmember Nave stated that he supports the proposal.

Councilmember Alcala expressed concerns about the City losing general fund dollars.

Councilmember Duffy suggested that Go Topeka should consider these requests.

Councilmember Stubbs stated that it is difficult to make a decision on these requests without criteria to follow and suggested that staff develop policy guidelines.

Councilmember Duffy stated that this is a small donation to accommodate such a large development in the City, however, there does need to be a policy in place for future requests.

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

RESOLUTION NO. 7346 introduced by Councilmember Duane Pomeroy relating to a housing project through AMO Housing I, L. P., was presented.

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

A RESOLUTION introduced by Mayor Felker setting forth the City of Topeka's policy regarding the undertaking of street improvement projects and repealing City of Topeka Resolution No. 6846 was presented.

Neil Dobler gave the staff report and suggested discussing the policy in committee.

Discussion followed on what areas would be included in the proposed policy.

Councilmember Price moved to refer the resolution to the Public, Health and Safety Committee. The motion seconded by Councilmember Duffy carried. Councilmembers Alcala and Nave voted "no". (7-2-0)

AN ORDINANCE introduced by Councilmember Harold Lane amending the City of Topeka Code Section 30-31 concerning the refunding of business license fees and repealing said original section was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to auctions held in a residential neighborhood, the number of auctions that can be held in a 12-month period and parking and traffic control in force during the occurrence of an auction, amending City of Topeka Code Section 114-36 and 114-38 and specifically repealing said original Sections was presented for first reading.

Councilmember Duffy moved to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Haynes carried. Councilmember Alcalá and Preisner voted “no”. (7-2-0)

AN ORDINANCE introduced by Councilmember Clark Duffy and Lisa Stubbs, amending Section 134-143 of the Code of the City of Topeka relating to dedication, reservation and acquisition of public sites and open spaces, and specifically repealing said original section was presented for first reading.

Councilmember Duffy moved to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Councilmember Pomeroy moved to reconsider the action taken to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Pomeroy moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Price carried unanimously.

(9-0-0)

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 at the southwest corner of SW 15th Street and SW Fairlawn Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District to "O&I-1" Office and Institutional District was presented for first reading. (Z78/59)

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 Powell Street and SE 25th Street 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. (Z80/38)

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 1815 SW Fairlawn Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District to "O&I-1" Office and Institutional District was presented for first reading. (Z86/10)

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 at 5252 SW 19th Street in the City of Topeka, Kansas from "R-1" Single Family

Dwelling District to "O&I-1" Office and Institutional District was presented for first reading. (Z88/14)

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 3330 SW 29th Street in the City of Topeka, Kansas from "M-2" Multi-Family Dwelling District and "C-2" Commercial District ALL TO "PUD" Planned Unit Development District (commercial and multi-family use groups) was presented for first reading. (Z03/18)

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 515 SW Horne Street in the City of Topeka, Kansas from "M-3" Multi-Family Dwelling District to "O&I-2" Office and Institutional District was presented for first reading.. (Z03/21)

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 45th Street, the centerline of which is approximately 990-feet east of SW Topeka Boulevard in the City of Topeka, Kansas from "I-1" Light Industrial District to "OS-1" Open Space District was presented for first reading. (Z03/22)

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 at the southwest corner of SE 45th Street and SE Mercier Street in the City of Topeka, Kansas from "I-1" Light Industrial District to "OS-1" Open Space District was presented for first reading. (Z03/23)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA 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 at the northwest corner of SW Wanamaker Road and SW 6th Avenue in the City of Topeka, Kansas from "RR-1" Residential Reserve District and "C-4" Commercial District all to "PUD" Planned Unit Development District ("C-2" use group) was presented for first reading. (Z03/26)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be an Economic and Community Development Committee meeting at 11:30 a.m. on June 13, 2003 in the City Council Office.

Councilmember Pomeroy announced that the time for the Policy and Finance Committee meeting has changed to 5:00 p.m. on June 10, 2003.

Councilmember Stubbs announced that there would be a Public, Health and Safety Committee meeting at 4:00 p.m. on June 16, 2003 in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lane stated that he received a petition from Mr. Young at 1825 SE Massachusetts concerning power outages in the 1800 block of Massachusetts and

asked if this problem could be addressed as soon as possible. He also stated that he has received several calls from constituents concerning the condition of the trailer park at the corner of SE 21st Street and Massachusetts.

Henry McClure, representative for the landowner of the trailer park explained future development plans for the area.

Councilmember Alcalá submitted a request for a Joint City of Topeka Resolution and Shawnee County Resolution concerning the consolidation of the City of Topeka and Shawnee County Parks and Recreation Departments to be placed on a future agenda.

Councilmember Pomeroy requested that the City Council review all City Boards and Commissions and appoint members where needed.

Mayor Felker noted that he would send a list of all City Boards and Commissions to the City Council.

Councilmember Duffy stated that the City of Topeka has received a \$750,000 infrastructure grant for economic development and inquired on how it would be spent.

Henry McClure explained the stipulations of the infrastructure grant.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 10:23 p.m.

Iris Walker
City Clerk