

## City Council Minutes - June 24, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 24, 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.

THE CONSENT AGENDA was presented as follows:

Councilmember Alcalá requested that item 3D, applications for firework pyrotechnic displays be pulled off the Consent Agenda for separate discussion.

A FINAL PLAT for Bullseye Business Park Subdivision on property located at the northwest corner of SW 49<sup>th</sup> Street and SW Topeka Boulevard in the City of Topeka, Kansas, was presented. (P02/35)

REAPPOINTMENT of Karen Lee to the Washburn University Board of Regents was presented.

APPOINTMENT of Yogesh Karia, Sandra Abrahams, and Jeff Preisner to the Convention and Visitors Bureau was presented.

Minutes of the regular meeting of June 17, 2003 were presented.

APPLICATION for a Dance Hall License bearing the approval of the Chief of Police and City Inspectors for Jeremiah Bullfrog's Bar and Grille, 4115 SW Huntoon, was presented.

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

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

APPLICATION for approval to grant permission for firework pyrotechnic displays at Topeka Country Club, 2700 SW Buchanan, Shawnee Country Club, 913 SE 29<sup>th</sup> Street and Greg Taylor, 420 NE Aspen Lane, was presented.

Councilmember Alcalá stated that he had some constituents that wanted to express their concern about the pyrotechnic display at 420 NE Aspen Lane.

Pat and Julie O'Brien appeared in opposition to the proposed fireworks display at 420 NE Aspen Lane, and expressed their concerns about safety and the noise disturbing pets and older people in the neighborhood.

Councilmember Alcalá moved to approve the applications for firework pyrotechnic displays for Topeka Country Club and Shawnee Country Club, but not for 420 NE Aspen Lane. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Nave moved to move Item 6A for consideration next on the agenda because of a time factor. The motion seconded by Councilmember Pomeroy carried. Councilmember Duffy voted "no". (8-1-0)

RESOLUTION NO. 7356 introduced by Councilmember Clark Duffy concerning the City of Topeka's application of U.S. Department of Housing and Urban Development Economic Development Initiative Grant Funds was presented.

Councilmember Duffy explained that the City of Topeka received a grant to further an economic development project located partially in the City limits and partially in rural Shawnee County south of Frito Lay down through and south of the Target Distribution Center. He stated that there are two developers, co-developers, one a private

sector within the city limits and the other a government entity utilizing one-quarter cent sales tax in rural Shawnee County. He further stated that he brought the resolution before the Council to determine which location of four the council would prefer to approve for development of infrastructure using HUD Economic Development Initiative grant funds. He stated that options being proposed are SW Wenger Drive, 49<sup>th</sup> Street west, 49<sup>th</sup> Street east, and 43<sup>rd</sup> Street extended from the north, and the resolution would support one of the four projects.

Gant Glenn, representing Planet Kansas and Henry McClure appeared in support of improvement of 49<sup>th</sup> Street. They commented that improvement of 49<sup>th</sup> Street, going east and west would give two developers an opportunity for growth in the City.

Chris Robbins, Chair of GO Topeka and Doug Kinsinger, President,/CEO of GO Topeka and the Greater Topeka Chamber of Commerce explained their involvement in the City obtaining the grant and in facilitating economic development. They stated they there were interested in development that would create jobs. They also stated that the GO Topeka Board, after much discussion and consultation with Cook, Flatt & Strobel recommended that the grant be used for improvement to Wenger Drive.

Mel Chapman, Cook, Flatt & Strobel and Glenn Leroy, subconsultant to Cook Flatt & Strobel appeared and clarified why they recommended the extension of Wenger Drive.

Gould Evans and Joseph Ledbetter appeared in support of developing 49<sup>th</sup> Street for private and commercial development.

Councilmember Duffy made closing statements on who controls the land and how it affects the Economic Development Plan.

Councilmember Stubbs stated that she believes the one-quarter cent sales tax applies to jobs and GO Topeka's ultimate goal is to get high paying jobs in the City and that is what they are doing.

Councilmember Pomeroy moved to approve the resolution with an amendment on lines 17 and 18 by striking "49<sup>th</sup> Street between Burlingame Road and SW Topeka Boulevard" and replacing it with "a Street within the City limits". The motion was seconded by Councilmember Duffy.

Councilmember Alcalá stated that he appreciates the one-quarter cent sales tax and that it is providing development that is bringing jobs into the community. He believes that following the Economic Development Plan is important, however, plans occasionally must be altered to best benefit the community and therefore, he cannot support the resolution.

Councilmember Price stated that he supports the extension of Wenger Drive and moving forward with the Target project.

Councilmember Haynes made a substitute motion to amend the resolution on line 17 to use the funds for the improvement of Wenger Drive. The motion was seconded by Councilmember Nave.

Following further discussion, Councilmember Haynes called for the question.

Hearing no challenge, the Mayor asked for a vote on the motion.

The substitute motion carried. Councilmembers Lane, Alcalá, Pomeroy and Duffy voted "no". (5-4-0)

Councilmember Price moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried. Councilmembers Lane, Alcalá and Duffy

voted “no”. (6-3-0)

Councilmember Nave left the meeting.

#### 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 24, 2003, at 7:00 P.M., for the purpose of hearing any and all complaints as to the validity and fairness of the assessments on file in the office of the Clerk for Lateral Sanitary Sewer District No. 40887-H.

ORDINANCE NO. 18039 introduced by Mayor Harry Felker, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Cloverleaf Subdivision with piping, manholes, engineering, and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40887-H, as defined and described in Resolution No. 7085, adopted and approved September 12, 2000 placed of first reading June 17, 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 close the public hearing and adopt the ordinance.

The motion seconded by Councilmember Presiner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Lane, Alcala, Haynes, Duffy, Stubbs, Preisner and Price –8. Absent: Nave –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, June 24, 2003, at 7:00 P.M., for the purpose of hearing any and all complaints as to the validity and fairness of the assessments on file in the office of the Clerk for Street Improvement Project No. 60560-H.

ORDINANCE NO. 18040 introduced by Mayor Harry Felker, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60560-H with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60560-H as defined and described in Resolution No. 7086, adopted and approved September 12, 2000 placed on first reading June 17, 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 close the public hearing and adopt the ordinance.

The motion seconded by Councilmember Presiner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Lane, Alcalá, Haynes, Duffy, Stubbs, Preisner and Price –8. Absent: Nave –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, June 24, 2003, at 7:00 P.M., for the purpose of hearing any and all complaints as to the validity and fairness of the assessments on file in the office of the Clerk for Street Improvement Project No. 60563-H.

AN ORDINANCE introduced by Mayor Harry Felker, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60563-H, Phase 1 with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60563-H, Phase 1 as defined and described in Resolution No.

7097, adopted and approved November 7, 2000 placed on first reading June 17, 2003 was again presented.

Councilmember Duffy moved to defer for two weeks. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$3,878,700 and ORDINANCE NO. 18041 introduced by Mayor Felker, authorizing Project No. 12062-00, which provides for the construction of a Kansas Avenue fly-off ramp: west alignment which will require the construction of a bridge and ramp adjoining the Kansas Avenue to Curtis Street at more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka and K.S.A. 12-685, placed on first reading on June 17, 2003 was again presented.

Neil Dobler, Public Works Director gave the staff report.

Discussion continued on how the one-quarter cent sales tax, county responsibility compared to city's responsibility. Several Councilmembers supported joint funding.

Councilmember Alcalá moved to approve the project budget and resolution. The motion was seconded by Councilmember Lane.

Bob St. John and Mike Welch appeared in support of the project.

Councilmember Alcalá moved to extend the meeting through First Readings. The motion seconded by Councilmember Lane carried. Councilmember Duffy voted "no". (7-1-0)

Wendy Wells, Jack Alexander, Beth Fager and Joseph Ledbetter appeared in support of the project.

Bob Sherburne appeared in opposition to the project.

Neil Dobler clarified the proposal and the street alignment.

Vic Miller, Shawnee County Commissioner appeared to answer questions and confirmed that the county has agreed to pay for 50% of the project as stated in the Interlocal Agreement.

Councilmember Price called the question.

Councilmember Pomeroy challenged the call. The call prevailed.

Councilmembers Haynes, Duffy and Pomeroy voted “no”. (5-3-0)

Councilmember Haynes moved to amend the ordinance on line 52 by inserting the following language after Shawnee County: “It is the intent of the Council that the excess sales tax and other sources of funds be utilized prior to the issuance of general obligation bonds for this project”. The motion seconded by Councilmember Alcalá carried.

Councilmember Duffy voted “no”. (7-1-0)

Councilmember Haynes moved to approve the project budget and adopt the ordinance as amended. The motion seconded by Councilmember Alcalá carried.

Councilmember Duffy voted “no”. (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Lane, Alcalá, Pomeroy, Haynes, Stubbs, Preisner and Price -7. Noes: Duffy -1. Absent: Nave -1.

RESOLUTION NO. 7357 introduced by Mayor Harry Felker and Councilmember Harold Lane, expressing support for the Pioneer Adams Homes Development Project was presented.

John Myers gave the staff report.

Councilmember Lane moved to approve the resolution. The motion seconded by Councilmember Price carried unanimously. (8-0-0)



A FINAL PLAT for Sherwood Park Subdivision No. 7 on property located on the west side of SW Indian Hills Road approximately 1, 320-feet north of SW 29<sup>th</sup> Street within unincorporated Shawnee County, Kansas, was presented. (P03/27)

Councilmember Duffy moved to accept the public dedication. The motion seconded by Councilmember Alcala carried. Councilmember Stubbs was out of the room. (7-1-0)

RESOLUTION NO. 7358 introduced by Mayor Harry Felker authorizing the expenditure of Zoo Improvement Reserve Funds for the purpose of constructing hippopotamus exhibit enhancements, new enclosures for bald and golden eagles, renovating barn and habitat for hoofed animals, upgrading graphics and signage, and purchasing a shortcrete concrete machine, pursuant to City of Topeka Code Section 2-328 was presented.

Mike Coker, Zoo Director gave the staff report.

Councilmember Price moved to approve the resolution. The motion seconded by Councilmember Lane carried. Councilmember Duffy was out of the room. (7-1-0)

AN ORDINANCE introduced by Councilmember John Alcala relating to the types of vehicles allowed to be driven in Riverside Motorcycle Park, amending Topeka City Code Section 142-181, Motorcycle area, and repealing said original section was presented for first reading.

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 4461 SW Colly Creek Drive in the City of Topeka, from "R-1" Single Family

Dwelling District to the “M-2” Multiple Family Dwelling District was presented for first reading. (Z89/21)

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 at 4460 SW Colly Creek Drive in the City of Topeka, from “R-1” Single-Family Dwelling District to “M-2” Multiple Family Dwelling District was presented for first reading. (Z89/22)

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 30237-00, which provides for the improvements and/or replacement of the existing heating, ventilation, and air conditioning system to the Central Park Community Center as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:55 P.M.

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Iris Walker  
City Clerk