

City Council Minutes – July 15, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 15, 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 Nave.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber. Councilmember Alcalá moved to suspend the Council Rules to add five resolutions to the agenda, under New Business relating to the establishment of June 22 as Harry W. Colmery Day in Topeka, Kansas; requesting the Board of Shawnee County Commissioners not to approve Sunday liquor sales by liquor stores in Shawnee County, Kansas; no increase in the City's mill levy for 2004; to conduct an operational assessment and study of selected City departments; and to limit expenditures of the General Fund Education/Travel expenditure account to \$100,000. The motion seconded by Councilmember Lane carried. Councilmember Duffy voted "no". (8-1-0)

Councilmember Alcalá moved to reinstate the Council Rules. The motion seconded by Councilmember Price carried.

A PRESENTATION of the Gage Park Master Plan by Bill Riphan, Parks and Recreation Department was presented.

A PRESENTATION of the Helen Hocker Theatre by Rogers Brazier, Parks and Recreation Director and Bill Midgley, Hansen Midgley Niemackl Architects, Inc., was presented.

Art Glassman spoke in support of the proposal.

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Kwik Shop Subdivision No. 2 on property located on the southeast corner of SW Topeka Boulevard and SE 45th Street in the City of Topeka, Kansas, was presented. (P03/28)

Minutes of the regular meeting of July 1, 2003 were presented.

APPLICATION for Open After Mid-Night License bearing the approval of the Chief of Police and City Inspectors for New York Sports, L.L.C., 914 SE Madison was presented.

Councilmember Preisner 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, July 15, 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.

ORDINANCE NO. 18046 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 24, 2003, was again presented. This was deferred from the June 24, 2003 meeting.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Duffy inquired on the agreement that was established between the developers and Eric Dinkel, to share the cost of the project.

Brenden Long, City Attorney stated that the issue was whether the benefit district boundaries could be expanded to include Mr. Dinkel's property, and state law does not allow the expansion of a benefit district once the boundaries have already been established.

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 vote as follows: Ayes: Lane, Alcala, 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, July 15, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit request CU03/7 by U-Market, Inc., to construct a telecommunications tower on property currently zoned "C-2" Commercial District and located at 931 SE 21st Street in the City of Topeka, Kansas.

RESOLUTION NO. 7366 introduced by Mayor Harry Felker in accordance with Section 48-16.02(c)(1) of the Code of the City of Topeka, approving a Conditional Use Permit to construct a telecommunications tower on property currently zoned "C-2" Commercial District and located at 931 SE 21st Street in the City of Topeka, Kansas, was presented. (CU03/7)

Barry Beagle, Planning Department gave the staff report.

Concerns expressed by the Councilmembers included; alternative locations located in or outside of city limits, what options are available to help blend the

communication tower into the surrounding area, and if the project could be deferred for thirty days.

Barry Beagle explained that the reason this tower and others are located inside city limits is because the towers have a very limited range. The alternatives presented by the Planning Department included; the Hillcrest Park on 21st Street, the Marines Reserve Center on 21st Street and Indiana as well as the U-Market Grocery Store, which are all located on commercial or industrial sites. He continued to explain that the area around the base of the tower will be landscaped and the tree line along the south side of the property will not be disrupted to help the tower blend in with the surrounding area.

Bob Hurley, Selective Sites representative for AT&T explained that the site was chosen because it fell within the half-mile radius limitation and is located near a row of utility poles. He continued to explain that the company has spent almost six months trying to find a location that would work, and they would appreciate a decision as soon as possible.

Councilmember Preisner moved to close the public hearing and approve the resolution. The motion seconded by Councilmember Lane carried. Councilmember Nave voted “no”. (8-1-0)

ORDINANCE NO. 18045 introduced by Mayor Harry Felker authorizing the issuance of \$25,370,000 aggregate principal amount of General Obligation Refunding Bonds, Series 2003-B, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, and K.S.A. 10-427 et seq., all as amended placed on first reading July 1, 2003 was again presented.

RESOLUTION NO. 7365 introduced by Mayor Harry Felker prescribing the form

and details of the General Obligation Refunding Bonds, Series 2003-B of the City of Topeka, Kansas, in the aggregate principal amount of \$25,370,000 the issuance of which was authorized by the City pursuant to its ordinance adopted and approved July 15, 2003; and authorizing certain other documents and actions in connection with the issuance of the bonds was presented.

Randy Bailes, Financial Director gave the staff report and distributed a summary of the bid results. He explained that the sale totaled \$24,905,000 and they received four bids with the lowest True Interest Cost bid by Wachovia Securities at 3.1012 percent. He further explained that the sale generated in excess of \$2 million in present value savings over the life of the bonds, with a total present value savings of 8.29 percent.

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

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

AN ORDINANCE introduced by Mayor Harry Felker concerning the impoundment or immobilization of motor vehicles driven by intoxicated persons, amending Standard Traffic Ordinance Section 30 and repealing the original Section placed on first reading July 1, 2003 was again presented.

Brenden Long explained that the intention of the ordinance is to allow the City's DUI enforcement laws to run in conjunction with State Law.

Areas of discussion by several Councilmembers included; the need to analysis the costs concerning impoundment fees, who is financially responsible if there is a lien on

the impounded vehicle, the possibility of the innocent be caught up in the system, and the severity of the punishment for first time offenders.

Councilmember Haynes moved to defer the ordinance. The motion was seconded by Councilmember Lane.

Councilmember Duffy made a substitute motion to refer the ordinance to the Public, Health and Safety Committee. The was motion seconded by Councilmember Price.

Councilmember Stubbs asked that they keep mind that when a family member is lost because of a drunk driver the punishment may not seem too severe.

The motion to refer the ordinance to the Public, Health and Safety Committee carried unanimously. (9-0-0)

ORDINANCE NO. 18047 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 901 SW Lane Street in the City of Topeka, from "M-1" Two-Family Dwelling District to "O&I-2" Office and Institutional District placed on first reading July 1, 2003 was again presented. (Z79/7)

Barry Beagle gave the staff report.

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

ORDINANCE NO. 18048 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 2109 NE Meriden Road in the City of Topeka, from “R-1” Single-Family Dwelling District to “I-1” Light Industrial District placed on first reading July 1, 2003 was again presented. (Z80/55)

Barry Beagle gave the staff report.

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

ORDINANCE NO. 18049 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 1225 and 1215 SW Executive Drive in the City of Topeka, from “R-1” Single-Family Dwelling District to “O&I-2” Office and Institutional District placed on first reading July 1, 2003 was again presented. (Z87/60)

Barry Beagle gave the staff report.

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

ORDINANCE NO. 18050 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 6800 Block of SW 21st Street south of SW Broadview Drive east of SW Urish Road north of SW 23rd Street in the City of Topeka, from “R-1” Single-Family Dwelling District to “O&I-2” Office and Institutional District presented for first reading July 1, 2003 was again presented. (Z89/42)

Barry Beagle gave the staff report.

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

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Felker relating to sign regulations and specifically amending City of Topeka Code Section 48-31.01, 48-23a.02, 48-23a.02, 48-23a.03, 48-23a.04. and 48-23a.06 and specifically repealing said original sections placed on first reading July 1, 2003 was again presented.

Bill Fiander, Planning Department explained the ordinance.

Councilmember Pomeroy stated that he believes this ordinance will have a negative effect on many businesses.

Councilmember Pomeroy moved to refer the ordinance to the Public, Health and Safety Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Price stated that the original ordinance did not address the depth of the problem and only addressed signs placed in the city right-of-way and the staff's ability to enforce it.

The motion to refer to the Public, Health and Safety Committee carried unanimously. (9-0-0)

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE NO. 18051 introduced by Mayor Felker pertaining to an amendment to the text and map of the Topeka-Shawnee County Comprehensive Metropolitan Plan placed on first reading July 1, 2003 was again presented.

Bill Fiander gave the staff report and explained that the Hi-Crest west area is considered the most critical area of need. He discussed in detail the major provisions of

the plan including; the neighborhood profile, vision and goals, land use plan, revitalization strategy and implementation.

Councilmember Haynes stated that he supports the plan and asked if the private developer plans to pay for Phase 1 of the project.

Councilmember Stubbs commended staff on the proposal and how the breakdown helps clarify the plan.

Councilmember Nave stated that he supports the plan, cleanup of the neighborhood, and believes the landlords should be held accountable.

Councilmember Lane stated that he supports the plan and looks forward to the improvement of Fremont Hill.

Councilmember Lane moved to adopt the ordinance. The motion was seconded by Councilmember Alcalá.

Councilmember Pomeroy stated that he supports the plan and commended staff on their efforts. He asked for a cost comparison to other neighborhood plans.

Betty Dunn, Betty Phillips, and Joseph Ledbetter appeared and spoke in support of the plan.

Diane Alpert, developer thanked the Planning staff for their hard work and cooperation in developing the Hi-Crest Plan.

Josh Sheldon, Architect for the developer explained the intended design of the single-family dwelling units and rental units.

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

AN ORDINANCE introduced by Councilmembers Bill Haynes and Harold Lane,

relating to the issuance of merchant guard licenses and identification cards, amending City of Topeka Code Section 30-66 and 30-424, and specifically repealing said original sections placed on first reading July 1, 2003 was again presented.

Councilmember Lane explained the ordinance.

Several Councilmembers expressed concern with the implementation of an annual background and firearm check and the impact of loss of revenue.

Councilmember Lane 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 Councilmembers 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 placed on first reading July 1, 2003 was again presented.

Councilmember Stubbs gave the committee report and explained why they recommended disapproval.

Councilmember Duffy moved to defer until September 9, 2003. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

RESOLUTION NO. 7367 introduced by Councilmembers Clark Duffy, Gary Price, and Duane Pomeroy amending the adopted 2003 – 2004 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7329 was presented. This was deferred from the July 1, 2003 meeting.

Dave Graversen, Chief Administrative Officer gave the staff report and distributed a copy of Attachment A, which incorporates the Monroe area improvements

into the Capital Budget, and also includes the project for Van Buren, 8th Street, and money for the Wayfinding signs study. He explained that these projects do not add any additional cost to the current adopted Capital Budget for 2003-2004 and would be substituted for non-specified dollar amounts in the current Capital Budget.

Councilmember Alcalá moved to vote on the projects separately. The motion was seconded by Councilmember Lane.

Several Councilmembers expressed concern with the lack of prioritizing neighborhood infrastructure funds and using those funds where they are needed the most. They also expressed concern about outstanding city debt and the possibility of seeking federal assistance to help fund the project.

Councilmember Alcalá withdrew the motion to vote on the project separately.

Extensive discussion continued by the Council on the importance of creating a downtown link as well as maintaining the downtown area, and the importance of incorporating this project into the 2004 opening of the National Park.

Councilmember Alcalá stated that there are several neighborhoods that are in great need of the infrastructure funds, and he will not support the resolution.

Councilmember Lane moved to amend to add Attachment A to the resolution that the Chief Administrative Officer distributed. The motion was seconded by Councilmember Alcalá.

Tim Green, Engineering Department gave a brief presentation on the Monroe Area Project.

Following the presentation several questions were raised by the Council concerning, validity, financial implications and necessity of the project.

Councilmember Pomeroy moved to continue the meeting through the end of the agenda. The motion seconded by Councilmember Haynes carried. Councilmember Alcala voted “no”. (8-1-0)

Devin Sutherland, Downtown Topeka, Inc., spoke in support of the proposal and stated that the businesses involved have been contacted.

Joseph Ledbetter, Betty Phillips, Hi Stockwell, JoAnn Peavler, John Alejos, Melody McConnell and Arlene Clayton spoke in opposition of the resolution.

Tuck Duncan and Michael Bradley spoke in support of the resolution.

Councilmember Lane withdrew the motion to amend the resolution. The second concurred.

Councilmember Price moved to approve the resolution. The motion seconded by Councilmember Duffy carried. Councilmembers Lane, Alcala and Haynes voted “no”. (6-3-0)

A PRESENTATION of the Topeka Ice Business Plan by Mike Eichten was presented.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Deborah Edwards appeared to speak under public comment.

AN ORDINANCE introduced by Councilmember Harold Lane relating to the allowance of some types of temporary signs without requiring a permit was presented for first reading.

Councilmember Stubbs moved to refer the ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Price carried. Alcala, Pomeroy and Haynes voted “no”. (6-3-0)

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement

Project No. 13136-00, which provides for the sidewalk and other improvements to Fire Station No. 9 as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 13136-01, which provides for the improvement of Fire Station No. 3, 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 annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-250, as amended, and located at 6424 SW Huntoon Street and the City boundary, and said land being annexed for all City purposes, is hereby assigned to a specific City Council District in accordance with Section A2-18 of the Code of the City of Topeka was presented for first reading. (A03/5)

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a certain 12-foot wide utility easement as dedicated by Clarion Park Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas; and located at 3805 SW Clarion Park Drive and specifically repealing City of Topeka Ordinance 17211 was presented for first reading. (V97E/5)

AN ORDINANCE introduced by Mayor Harry Felker relating to vacation of a portion of a 20-foot wide public alley right-of-way generally located about the southwest corner of NW Paramore Street and NW Topeka Boulevard as dedicated by the plat of Park's Addition, City of Topeka, Shawnee County, Kansas was presented for first reading. (V03/A/2)

AN ORDINANCE introduced by Mayor Felker relating to the fighting of fires

and providing for a contractual ordinance between the City of Topeka, Kansas and the Menninger Foundation, 5800 and 6025 SW 6th Street, Topeka, Kansas, providing for the furnishing by the City of Topeka of a fire fighting service for the Menninger Foundation, and repealing City of Topeka Ordinance No. 17867 was presented for first reading.

RESOLUTION NO. 7368 introduced by Mayor Harry Felker recognizing Harry W. Colmery and establishing June 22 as Harry W. Colmery Day in Topeka, Kansas was presented.

Councilmember Pomeroy moved to approve the resolution. The motion seconded by Councilmember Alcala carried. Councilmember Duffy was out of the room. (8-0-0)

RESOLUTION 7369 introduced by Deputy Mayor Duane Pomeroy requesting the Board of Shawnee County Commissioners not approve Sunday sales by liquor stores in Shawnee County or postpone their decision in the matter until the City Council approves or disapproves of Sunday sales by liquor stores within the City limits was presented.

Councilmember Pomeroy explained the resolution and stated that he believed the sale of liquor on Sunday in the County would have a negative financial impact on the liquor stores inside City limits.

Councilmember Preisner stated that he believes that this resolution is an unfair request by the City and he will not support the resolution.

Councilmember Pomeroy moved to approve the resolution. The motion seconded by Councilmember Alcala carried. Councilmembers Lane, Alcala, Haynes and Preisner voted “no”. (5-4-0)

A RESOLUTION introduced by Councilmembers Clark Duffy, John Alcala,

Harold Lane and Bill Haynes expressing the intent of the City Council to adopt a budget for the City of Topeka that requires no increase in the City's mill levy for 2004 was presented.

Councilmember Pomeroy moved to make an amendment to the resolution following line 15, "This will not be accomplished by reducing the ending balances, refinancing with a balloon payment that will negatively impact a future year, or delaying necessary equipment purchases." The motion was seconded by Councilmember Haynes.

Several Councilmembers discussed the pros and cons of raising the mill levy.

Dave Graversen, Chief Administrative Officer suggested that a decision not be made until all of the budget presentations have been heard.

Councilmember Nave made a substitute motion to defer until all of the department budget presentations have been presented to the Council. The motion seconded by Councilmember Stubbs carried. Councilmember Lane, Alcalá and Haynes voted "no". (6-3-0)

A RESOLUTION introduced by Councilmember Gary Price relating to the hiring of a Consultant to perform an operational assessment and study of selected City departments and divisions to optimize and improve City services was presented.

Councilmember Price explained the resolution.

Councilmember Alcalá stated that he would not support the resolution because the City has too many budget constraints, and he believes that the City has qualified staff that could provide the study in-house.

Councilmember Lane stated that he agrees with Councilmember Alcalá and the service should be provided in-house to cut costs.

Councilmember Stubbs stated that this would be a great opportunity to obtain an outside view on what needs to be done and a committee to implement it.

Councilmember Nave stated that he believes that an outside consultant is vital in establishing a non-bias opinion.

Councilmember Haynes moved to refer the resolution to the Economic and Development Committee. The motion seconded by Councilmember Lane carried. Councilmembers Pomeroy, Preisner and Price. (6-3-0)

A RESOLUTION introduced by Councilmember John Alcala stating the City Council's intent to limit expenditures to no more than \$100,000 for FY2004 for certain combined line items in the General Fund Education/Travel expenditure account was presented.

Councilmember Alcala moved to approve the resolution. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy made a substitute motion to defer until August 19, 2003 until action has been taken on the budget. The motion seconded by Councilmember Price carried. Councilmembers Alcala and Haynes voted "no". (7-2-0)

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 1:20 a.m.

Iris Walker
City Clerk