

City Council Minutes – August 5, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 5, 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 Haynes.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

The Consent Agenda was presented as follows:

Minutes of the Regular Meeting of July 15, 2003 and July 22, 2003 were presented.

APPLICATIONS for Open After Mid-Night Licenses bearing the approval of the Chief of Police and City Inspectors for St. Gregory's, 635 SW Harrison, T & AW, 820 North Kansas, Tucker's Bar & Grill, 805 S. Kansas Avenue, and Victory Lane, 3701 SW Plaza Drive, were presented.

APPLICATION for a Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for Ken's Corner Store, 3830 SW 29th Street, was presented.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Duffy 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 Tuesday, August 5, 2003, at 7:00 P.M., in conjunction with vacation request V03A/2 by John I. Walker to vacate an adjoining north/south alley right-of-way located about the southwest corner of NW Paramore Street and NW Topeka Boulevard.

ORDINANCE NO. 18052 introduced by Mayor Harry Felker relating to the 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, placed on first reading July 15, 2003, was again presented. (V03A/2)

David Thurbon, Planning Director gave the staff report.

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

Councilmember Alcalá moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously.

The ordinance was adopted on roll call vote 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 Tuesday, August 5, 2003, at 7:00 P.M., for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds for the 2003 adopted budget.

Councilmember Lane moved to allow people from the audience to speak on the amended budget because the legal publication notice did not reference that the public would need to sign up to speak prior to the meeting. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

Councilmembers Lane and Pomeroy suggested that future legal notices of public hearings include the procedure for signing up to speak in the Clerk's office.

Councilmember Stubbs moved to hold everyone to the four-minute time limit allowed for public comment. The motion seconded by Councilmember Nave carried. Councilmembers Lane, Alcalá and Duffy voted “no”. (6-3-0)

Councilmember Duffy asked for clarification of the document under discussion.

Jim Langford, Budget Director explained that the amendment would allow the addition from the Transient Guest Tax generated by the 1.0 percent increase in the tax to support the Great Overland Station, and the addition in the Capital Project Planning fund generated by reimbursement revenue from the capital improvement project funds.

Mayor Felker asked if there was anyone present who wanted to comment on the amendment to the 2003 budget.

William Richards asked to be allowed to make his comments on the 2004 budget at this time due to a health concern.

Councilmember Stubbs moved to move Mr. Richards to number one on the 2004 budget discussion.

Councilmember Duffy made a substitute motion to allow Mr. Richards to make his remarks. The motion seconded by Councilmember Nave carried. Councilmembers Preisner and Price voted “no”. (7-2-0)

William Richards appeared in support of the Human Relations Department. Joe Ledbetter appeared and stated that he had no opposition to the proposed amendment.

Councilmember Alcalá moved to adopt the amendment and close the public hearing. 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 Tuesday, August 5, 2003, at 7:00 P.M., for the purpose of hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of tax to be levied for the 2004 proposed budget.

The following people appeared and urged the Council not to cut funding for their organizations:

Doug Shima	Meals On Wheels
Marie Landry	CASA
Annette Beck	YWCA
Dixie Link	Topeka Day Care
Debbie Lake	Pappan's Landing
Mike Donnelly	Big Brothers/Big Sisters
Bill Edwards	Parks & Recreation Advisory Board
Karen Wakefield	Florence Crittenton
Abbie Willis	Florence Crittenton
JoAnn Smelser	Family Resource Center
Patsy Congrove	Volunteer Center
Rev. Dave Fulton	Safe Streets
Susan Weidenbach	Let's Help
Al Goodwin	East Topeka Senior Center
Cheryl Logan	Arts Council
Chris Robbins	TPAC
Brett Turner	Topeka AIDS & Youth Project
Maria Russo	Jayhawk Area on Aging
Mike Horan	Breakthrough House
Marilyn Ward	ERC, Resource and Referral
Becky Garcia	ECR, Resource and Referral
Lazone Grays	IBSA and Topeka Youth Project
Richard Fisher	Boy Scouts
Ludy Sapp	Topeka AIDS
Nancy Perry	United Way
Lee Geary	Housing & Credit Counseling
Ty Christian	Fire Department
Roy Hall	Marian Clinic
John Farr	Boys & Girls Club
Katie Stucky	Topeka Common Ground
Susan Elmborg	Topeka Common Ground
Debbie Guilbault	East Topeka Senior Center
Melly Schmidt	HRC

John Etzel, Leo Hasner, Betty Phillips, Hans Heinemann, Joe Ledbetter, Michael Bradley, Charles Criqui, Bob Sherbourne and David Owen also appeared with suggestions on how to cut the budget to avoid raising taxes.

Councilmember Stubbs moved to close the public hearing. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Alcalá moved to advance First Readings to the next item on the agenda and end the meeting at 11:30 P.M. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Duffy, Stubbs and Price voted “no”. Councilmember Preisner was out of the room. (4-5-0)

Councilmember Alcalá moved to extend the meeting to finish the agenda. The motion seconded by Councilmember Haynes carried. Councilmember Duffy voted “no”. Councilmember Preisner was out of the room. (7-2-0)

A PROJECT BUDGET in the amount of \$100,000 and ORDINANCE NO. 18053 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, placed on first reading July 15, 2003, was again presented.

Deputy Chief Dan Neil gave the staff report.

Councilmember Preisner moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Duffy carried. Councilmembers Lane and Pomeroy voted “no”. (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Alcalá, Nave, Haynes, Duffy, Stubbs, Preisner and Price –7. Noes: Lane and Pomeroy –2.

A PROJECT BUDGET in the amount of \$150,000 and 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, placed on first reading July 15, 2003, was again presented.

Deputy Chief Dan Neil gave the staff report.

Councilmember Lane moved to approve the roof only. The motion was seconded by Councilmember Pomeroy.

Councilmember Stubbs made a substitute motion to defer action for one week for additional information. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

ORDINANCE NO. 18054 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. (*The Public, Health and Safety Committee recommended "Do Pass" by a vote of 3-0-0 on July 21, 2003.*)

Councilmember Stubbs gave the committee report and stated that the committee endorsed the intent of the ordinance.

Councilmember Nave commented that it puts the responsibility back on the individual.

Following discussion regarding lienholders on impounded vehicles, Councilmember Duffy moved to amend the ordinance by adding a requirement that the lienholder be notified at the time the vehicle is impounded. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Jack Alexander appeared and expressed his concerns that if several vehicles are jointly owned by a spouse and the spouse is convicted under this ordinance, all of the vehicles would be immobilized.

The City Attorney stated that the Judge would have discretion in deciding if the vehicle would be impounded or immobilized, and could take into consideration the hardship the action would place on a person's ability to work and various other considerations.

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

ORDINANCE NO. 18055 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, placed on first reading June 3, 2003, was again presented. (*The Public, Health and Safety Committee recommended "Do Pass" by a vote of 2-1-0 on July 21, 2003.*)

Councilmember Stubbs gave the committee report.

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price –7. Noes: Lane and Alcala –2.

ORDINANCE NO. 18056 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, placed on first reading July 15, 2003, was again presented.

Councilmember Haynes moved to amend the ordinance by increasing the amount to \$20,000 on lines 57 and 58. The motion was seconded by Councilmember Alcalá.

Following discussion regarding the timing of the increase and Chief Phillips' verbal agreement with Menningers, Councilmember Haynes withdrew his motion.

Councilmember Alcalá moved to amend the ordinance by increasing the amount to \$20,000 on lines 57 and 58. The motion seconded by Councilmember Lane carried.

Councilmember Preisner voted "no". (8-1-0)

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

ORDINANCE NO. 18057 introduced by Mayor Harry Felker annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, 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, placed on first reading July 15, 2003, was again presented. (A03/5)

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

ORDINANCE NO. 18058 introduced by Mayor Harry Felker relating to the vacation of a certain 12-foot wide public utility easement as dedicated by Clarion Wood Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas; and is located at 3805 SW Clarion Park Drive and specifically repealing City of Topeka Ordinance No. 17211, placed on first reading July 15, 2003, was again presented. (V97E/5)

David Thurbon, Planning Director stated that this ordinance is presented to correct the legal description.

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

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. (*Referred to the Public, Health and Safety Committee on June 3, 2003.*)

Councilmember Pomeory gave the committee report.

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

Councilmember Duffy moved to amend the resolution by adding a new section 5 to read: “The City of Topeka shall not financially participate in any projects outside the City of Topeka limits.” The motion seconded by Councilmember Price carried. Councilmembers Alcala, Stubbs, Preisner and Lane voted “no”. (5-4-0)

The motion to approve the resolution as amended carried. Councilmembers Alcala, Pomeroy, Stubbs and Preisner voted “no”. (5-4-0)

A PROJECT BUDGET in the amount of \$19,635 and A RESOLUTION introduced by Mayor Felker authorizing Sidewalk Improvement Project No. 24112-B which provides for construction of concrete sidewalks and authorizing the same, was presented.

Mike McGee, Deputy Public Works Director gave the staff report.

Councilmember Nave moved to approve the project budget and resolution. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá moved to defer action for one week to get some questions about eligibility of CDBG funds answered. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

RESOLUTION NO. 7370 introduced by Mayor Felker authorizing initiation of condemnation proceedings for Water System Improvement Project No. 28489-00, was presented.

Councilmember Price moved to approve the resolution. The motion seconded by Councilmember Alcalá carried. Councilmember Preisner voted “no”. (8-1-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$94,500 and RESOLUTION NO. 7371 introduced by Mayor Harry Felker authorizing Improvement Project No. 40595-03 H, as more specifically described herein, was presented.

Councilmember Haynes moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$226,800 and RESOLUTION NO. 7372 introduced by Mayor Harry Felker authorizing Improvement Project No. 60206-02 H, as more specifically described herein, was presented.

Councilmember Haynes moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$222,455 and RESOLUTION NO. 7373 introduced by Mayor Harry Felker authorizing Street Improvement Project No. 60591-01 as more specifically described herein, was presented.

Councilmember Haynes moved to approve the petition, project budget and resolution. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

RESOLUTION NO. 7374 introduced by Councilmember Gary Price relating to the hiring of a Consultant or Consultants to perform an operational assessment and study of selected City departments and divisions to optimize and improve City services, was presented. (*The Economic and Community Development Committee recommended “Do Pass” by a vote of 2-1-0 on July 29, 2003*)

Councilmember Duffy moved to adopt the committee report and approve the resolution. The motion was seconded by Councilmember Stubbs.

Councilmember Haynes made a substitute motion to replace the resolution introduced by Councilmember Price with the one he distributed. He stated that his version does not have a provision for establishment of an Oversight Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Price stated that in his opinion, an Oversight Committee would take the process out of the political arena.

The motion failed. Councilmembers Alcalá, Pomeroy, Nave, Duffy, Stubbs and Price voted “no”. (6-3-0)

The motion to adopt the committee report and approve the resolution carried. Councilmembers Lane, Alcalá and Haynes voted “no”. (6-3-0)

RESOLUTION NO. 7375 introduced by Councilmember Duane Pomeroy stating the City Council’s support of the placement of a proposed ice rink in downtown Topeka and its intent to facilitate the placement of the ice rink in downtown Topeka, was presented.

Michael Eichton appeared in support of the resolution and stated that 8th Street and Madison is the site they are interested in for location of the ice rink.

Councilmember Duffy moved to amend the resolution by inserting the following language: “Be it further resolved that the Mayor is hereby authorized to enter into negotiations to secure the City-owned property at 8th and Madison for placement of the proposed ice rink, subject to final City Council approval”. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

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

A FINAL PLAT for Jackson Heights Subdivision No. 7 on property located on the east side of NE Meriden Road approximately 1600’ north of NE Collier Road within unincorporated Shawnee County, Kansas, was presented. (P03/14)

David Thurbon, Planning Director gave the staff report.

Rick Schmidt, Engineer appeared to answer questions regarding the septic systems and lagoon that serviced the area.

Councilmember Duffy expressed his concern that acceptance of the plat does not promote orderly growth of the City, and noted that the Comprehensive Plan identifies this area as agricultural land.

Councilmember Duffy moved to reject the public dedication. The motion was seconded by Councilmember Price.

Councilmember Alcalá made a substitute motion to approve the final plat and accept the public dedication. The motion seconded by Councilmember Lane carried. Councilmembers Duffy and Price voted “no”. (7-2-0)

A FINAL PLAT for Soldier Plats on property located at 3746 NW 25th Street within unincorporated Shawnee County, Kansas, was presented. (P03/24)

David Thurbon, Planning Director gave the staff report.

Councilmember Alcala moved to approve the final plat and accept the public dedication.

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

Councilmember Duffy moved to reconsider the action taken on Item 5H, 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.

The motion seconded by Councilmember Price carried. Councilmember Preisner voted "no". Councilmember Stubbs was out of the room. (7-2-0)

Councilmember Duffy moved to refer the resolution to the Public Health & Safety Committee.

Councilmember Pomeroy made a substitute motion to refer the resolution to the Economic Development Committee. The motion seconded by Councilmember Duffy carried. Councilmembers Lane and Nave voted "no". (7-2-0)

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, located at 3746 NW 25th Street and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes, was presented for first reading. (A03/6)

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, and located on the south side of SW 41st Street, approximately 985-feet west of SW Wanamaker Road, and adjacent to 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. (A03/07)

AN ORDINANCE introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned “R-1” Single Family Dwelling District and located at 400 SW Greenwood Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4, was presented for first reading. (*HL03/2*)

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 20-foot wide public alley right-of-way located in the 800 block of SE Adams Street as dedicated by the plat of C.K. Holliday’s Addition, City of Topeka, Shawnee County, Kansas, was presented for first reading. (*V03A/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 517 and 525 SE 37th Street in the City of Topeka, Kansas from “PUD” Planned Unit Development (“C-4” use group) TO “C-2” Commercial District, was presented for first reading. (*Z03/30*)

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 southeast corner of SW 33rd Street and SW Belle Avenue in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (“M-2” use group), was presented for first reading. (*Z03/31*)

AN ORDINANCE introduced by Mayor Harry Felker relating to the parkland development fee, amending Topeka City Code Section 134-143, and repealing said original section, was presented for first reading. (*SR01/1*)

AN ORDINANCE introduced by Mayor Harry Felker annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-521, as amended, 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, Kansas, was presented for first reading.

A CHARTER ORDINANCE introduced by Councilmember Jeff Preisner, exempting the City for the provisions of K.S.A. 41-712 and providing 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.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed a DBE Report for January 1, 2003 – May 27, 2003 from the Program Review Committee.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy requested that annexation of Jackson Heights Subdivision No. 7 be placed on the Council pending request list pursuant to Council Rule 5.3.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Charles Criqui appeared for public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 1:50 a.m.

Iris Walker
City Clerk