

## City Council Minutes – August 19, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 19, 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.

Mayor Felker withdrew item 5C, a resolution adopting the 2004-2005 Capital Budget and a resolution adopting the 2004-2010 Capital Budget for two weeks.

The Consent Agenda was presented as follows:

Minutes of the Regular Meeting of August 12, 2003 were presented.

APPLICATION for Open After Mid-Night License bearing the approval of the Chief of Police and City Inspectors for J.W.'s Bar & Lounge, 601 NW Highway 24, was presented.

Councilmember Price moved to approve the consent agenda. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Lane moved to suspend the Council Rules to add a resolution under New Business, item H., relating to the parking signage at the intersection of Sixth and Lake Streets. The motion seconded by Councilmember Alcalá carried. Councilmember Duffy voted "no". (8-1-0)

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

Councilmember Haynes moved to place item 5G, a resolution relating to the increase of the City's Mill levy for 2004 to the top of New Business. The motion was seconded by Councilmember Lane.

Councilmember Alcalá made a friendly amendment to also move 5F, a resolution relating the General Fund Education/Travel expenditure account to the top of New Business.

Councilmember Duffy moved to divide the question. The motion was seconded by Councilmember Alcalá.

The motion to move item 5G to the top of New Business carried. Councilmembers Pomeroy, Nave, Stubbs and Price voted "no". (5-4-0)

The motion to move item 5F to the top of New Business failed. Councilmembers Pomeroy, Nave, Duffy, Stubbs and Price voted "no". (4-5-0)

RESOLUTION NO. 7383 introduced by Councilmembers Clark Duffy, John Alcalá, 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. This was deferred from the meeting of July 15, 2003.

Councilmember Duffy explained the resolution and stated that if it is adopted it would help speed deliberation of the budget process.

Councilmember Pomeroy and Stubbs stated that they would not support the resolution because they believe it is not necessary.

Joseph Ledbetter, Susan Ewert and David Price spoke in support of the resolution.

Councilmember Haynes moved to approve the resolution. The motion was seconded by Councilmember Alcalá.

Councilmember Price stated that he would not support the resolution because he believes it is a political tactic.

Councilmember Nave stated that the City is in difficult financial times and the decisions that have to be made will be complex and everyone, County wide as well as City, need to be held accountable for their spending.

The motion to approve carried. Councilmembers Nave, Stubbs and Price voted “no”.  
(6-3-0)

APPROPRIATION ORDINANCE NO. 18068 introduced by Mayor Harry Felker amending the adopted operating budget for the City of Topeka, for the year 2003, and appropriating the amounts for the purpose as set forth therein was presented for first and final reading.

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

APPROPRIATION ORDINANCE NO. 18069 introduced by Mayor Felker approving and adopting the operating budget for the City of Topeka, for the year 2004, and appropriating the amounts of the purpose as set forth therein was presented for first and final reading.

Councilmember Price commended staff on their hard work and time spent on resolving the difficult financial issues that they faced with the 2004 Budget. The amendment takes the total mill levy increase down to 1.66 instead of the 4.49 that was proposed in the Mayor’s budget.

Councilmember Price moved to amend the budget as proposed in his handout. (See Budget Amendment 8.19.03 attached.) The motion was seconded by Councilmember Duffy.

Councilmember Price explained the amendments.

Councilmember Haynes stated that he believes the proposed amendments prove that the necessary funds needed to provide services to the taxpayers can be provided without an increase in the mill levy. He also stated that the amendment should reflect the carryover funds from the 2003 budget to cover the costs of hiring more patrol officers and new police vehicles. He continued to explain that does not want to eliminate Team Topeka Youth Employment Program and also believes that there could be additional savings in the 2003 budget with better management of funds.

Councilmember Pomeroy suggested that the Council vote on the proposed amendment and then add any additional budget adjustments later.

Discussion continued regarding the necessity of new police vehicles, patrol officers, 3-mile extra territorial zone inspectors, and the age and condition of the Fleet Operations vehicles.

Councilmember Duffy stated that he agrees the amendment should be voted on as an entire package. He also stated that the Mayor's budget does not fund the incentive program for Downtown Topeka and the JEDO Board should keep that in mind when allocating the one-quarter cent sales tax.

Discussion continued on closing one company in the Fire Department verses cutting vehicles and additional officers in the Police Department.

Ed Klumpp, Police Chief stated that the positions are not additional, they are positions left vacant this year that will be filled in 2004.

Dennis Phillips, Fire Chief stated the closing of a company would increase response time.

Councilmember Haynes made a substitute motion to include \$66,377,750 from the 2003 adopted budget and \$470,000 from increased valuation of property to fund the 2004 operating budget. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy stated that he opposes the motion because this would set a dollar limit and let administration decide priorities.

Councilmember Stubbs stated that she agrees with Councilmember Pomeroy because it would take policy setting away from the Council.

Jim Langford, Budgets and Capital Improvements Director explained that the substitute motion would still require an increase in the mill levy.

Councilmember Preisner called the question.

Councilmember Alcala challenged the question.

Mayor Felker asked the Council to vote on if the questioned shall be called.

The motion to call the question carried. Councilmembers Lane, Alcala and Duffy voted "no". (6-3-0)

The substitute motion failed. Councilmembers Alcala, Lane, Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted "no". (1-8-0)

The motion to approve the amendment as proposed by Councilmember Price carried. Councilmember Haynes voted "no". (8-1-0)

Councilmember Duffy moved to amend the document to increase the street, water, wastewater, stormwater, and parking fund administrative fees by 2.5% . The motion was seconded by Councilmember Pomeroy.

Neil Dobler, Public Works Director explained the percentages they were currently getting in those five funds. He stated that he did not have the current figures for the street funds and the figures only include administrative costs and not the PILOT costs.

Brenden Long, City Attorney stated that an increase could possibly violate the regulations of the bond covenant.

Neil Dobler stated that they would be presenting stormwater fund rate increases for the next four years, later this year.

Councilmember Pomeroy called the question.

Councilmember Duffy's motion to amend carried. Councilmembers Nave, Haynes, Stubbs and Price voted "no". (5-4-0)

Councilmember Stubbs moved to add \$42,777 to the Parks and Recreation Department revenue fund and out property tax by that same amount. The motion seconded by Councilmember Price carried. Councilmembers Lane, Alcalá and Haynes voted "no". (6-3-0)

Councilmember Stubbs moved to add \$15,000 to the street light fund, for street lights. The motion seconded by Councilmember Price carried. Councilmembers Lane, Alcalá, Pomeroy and Haynes voted "no". (5-4-0)

Councilmember Stubbs moved to reduce the budget by the amount budgeted for Council and Committee meals. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Stubbs moved to reduce the budget by \$15,000, cutting coffee expenditures City wide. The motion seconded by Councilmember Preisner carried. Councilmembers Pomeroy and Haynes voted "no". (7-2-0)

Councilmember Stubbs asked Neil Dobler to explain where the suggested \$100,000 for annexation would be generated from.

In response to Councilmember Stubb's request, Neil Dobler explained the following proposal to generate \$100,000: \$16,000 from the General Fund, \$46,000 from the Water Utilities and Water Pollution Control Fund, \$6,000 from the Stormwater Fund, \$6,000 from the Street Fund and \$6,000 from the Parking Fund.

Councilmember Stubbs moved to add \$100,000 for annexation purposes to the budget, \$16,000 from the general fund and \$84,000 from enterprise funds. The motion seconded by Councilmember Duffy carried. Councilmembers Lane, Alcala, and Haynes voted "no". (6-3-0)

Councilmember Duffy moved to add \$100,000 from the Water Utility Fund for Boat Chutes for the Kansas River. The motion was seconded by Councilmember Price.

Councilmember Stubbs inquired on the necessity of including this item into the 2004 budget.

Councilmember Duffy withdrew his motion. The second concurred.

Councilmember Alcala moved to decrease the Police Department budget by \$373,102, funds that was allocated for new Police vehicles and increase the Fire Department budget by the same amount. The motion was seconded by Councilmember Lane.

Councilmember Pomeroy made a substitute motion to add \$373,102 back into the budget and deduct \$100,000 from the Police Department fund and \$273,102 from the general fund and increase the Fire Department fund by \$373,102. The motion seconded by Councilmember Haynes failed. Councilmembers Lane, Alcala, Nave, Haynes, Duffy, Stubbs, Preisner and Price voted "no". (1-8-0).

Councilmember Alcalá made a substitute motion to deduct \$100,000 from the Police vehicle fund and \$273,102 for thirteen new Police Officers and add both amounts to the Fire Department Fund. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted “no”.

(3-6-0)

Councilmember Duffy made a substitute motion to adopt the appropriation ordinance as amended and include the reduction in the enterprise funds. The motion was seconded by Councilmember Stubbs.

Councilmember Nave stated that he would like to maintain the Topeka Youth Employment Program.

The motion to adopt the appropriation ordinance as amended carried. Councilmember Haynes voted “no”. (8-1-0)

APPROVAL of the FY2004 Consolidated Plan was presented.

Councilmember Nave expressed concern with enough funding for demolition.

Councilmember Duffy inquired on the \$80,000 College Hill Brick Street project and asked what options are available for local match of \$186,000.

Neil Dobler suggested that the street fund could fund part of the project and they will try to come up with other sources such as CIP, next week.

Councilmember Alcalá moved to amend the plan by adding amounts as follows:

Topeka LULAC Senior Center	\$2,375
East Topeka Council on Aging, Inc.	1,884
Papans Landing Recreation	3,238
Papans Landing Home Delivered Meals	70
Papans Landing Home Visiting/Telephone Reassurance	364



for a total amount of \$7,931, and reduce Community Action Latino Family Development by that same amount so their allocation would be \$12,069. He stated that he would also like to reduce Community Action Latino Family Development by \$12,069 and add that amount to El Centro. The motion was seconded by Councilmember Lane.

Councilmember Price stated that he opposed the motion because representatives were not present to defend their programs.

Councilmember Price made a substitute motion to use \$9,855 of FY2004 Anticipated funds and FY2003 Reprogrammed funds to cover the \$7,931 in Councilmember Alcalá's motion with the remainder of \$1,924 added to El Centro. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Alcalá moved to approve the plan as amended. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Lane moved to extend the meeting through the end of the agenda. The motion was seconded by Councilmember Duffy.

Councilmember Preisner made a substitute motion to extend the meeting through First Readings. The motion seconded by Councilmember Stubbs carried. Councilmembers Lane, Alcalá and Pomeroy voted "no". (6-3-0)

Councilmember Duffy suggested that the bridge maintenance fund be reduced by \$150,000 and that amount allocated for the Topeka Youth Employment Program.

Councilmember Duffy moved to reconsider the previous action on the adoption of the budget. The motion was seconded by Councilmember Price.

Councilmember Alcalá asked how the reduction would affect future bridge projects.

Neil Dobler explained that at this point almost all of the bridges are in good shape and a cut in funding would not have a huge affect on the program.

The motion to reconsider the previous action on the adoption of the budget carried. Councilmembers Pomeroy and Preisner voted "no". (7-2-0)

Councilmember Nave moved to delete \$112,815 from the Public Works General Fund and add it to the Parks and Recreation Fund for the Topeka Youth Employment Program. The motion was seconded by Councilmember Duffy.

Councilmember Stubbs made a substitute motion to increase the mill levy to fund the Topeka Youth Employment Program. The motion seconded by Councilmember Price failed. Councilmembers Lane, Alcalá, Pomeroy, Nave, Haynes, Duffy and Preisner voted "no". (2-7-0)

Councilmembers Nave's motion to reduce the Public Works General Fund carried. Councilmembers Lane, Stubbs and Preisner voted "no". (6-3-0)

Councilmember Duffy moved to adopt the 2004 budget appropriation ordinance as amended. The motion seconded by Councilmember Price carried. Councilmembers Lane and Haynes voted "no". (7-2-0)

RESOLUTION NO. 7382 introduced by Mayor Harry Felker and Councilmember John Alcalá, expressing support for the Gardens at Soldier Creek Development Project was presented.

Councilmember Alcalá noted that following the August 12, 2003 meeting Mr. Freeman contacted the appropriate groups in north Topeka that were involved in the project. He explained that a presentation would not be necessary because he would make a presentation at the next NIA meeting.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Pomeroy.

Councilmember Lane moved to make a friendly amendment to ensure that all taxes are paid within sixty days. The motion died due to lack of second.

Councilmember Price stated that the tax issue is not an applicable discussion to the resolution.

The motion to approve the resolution carried unanimously. (9-0-0)

FINAL PLAT for Monarch Meadow Subdivision located on the south side of SW 41<sup>st</sup> Street, approximately 985-feet west of SW Wanamaker Road within unincorporated Shawnee County, Kansas was presented. (P03/12)

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 41<sup>st</sup> 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 placed on first reading August 5, 2003 was again presented. This was deferred from the August 12, 2003 meeting. (A03/07)

Barry Beagle, Planning Department gave the staff report.

Councilmember Stubbs moved to refer the final plat and ordinance to the Public, Health and Safety Committee. The motion was seconded by Councilmember Nave.

Councilmember Alcalá asked how the delay would impact the development, and if the City would be financially liable for extra costs incurred from the delay.

Brian Smith, representative for the applicant stated that they have tried to implement the project for over a year and would appreciate a decision as soon as possible.

Brenden Long, City Attorney stated that there is always a small amount of liability involved with each case.

Councilmember Haynes made a substitute motion to refer the final plat and ordinance to the Economic Development Committee. The motion died due to lack of second.

Councilmember Alcalá made a substitute motion to approve the final plat and adopt the ordinance. The motion seconded by Councilmember Lane failed. Councilmembers Nave, Haynes, Stubbs, Preisner and Price voted "no". (4-5-0)

The motion to refer the Public, Health and Safety Committee carried. Councilmembers Lane, Alcalá and Pomeroy voted "no". (6-3-0)

A PROJECT BUDGET in the amount of \$500,000 and ORDINANCE NO. 18070 introduced by Mayor Harry Felker, authorizing Street Repair Project No. 84309, which provides for the construction of curb cuts and sidewalk ramps to provide accessibility to disabled individuals as required by the Americans with Disabilities Act as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka placed on first reading August 12, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Lane moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember 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.

ORDINANCE NO. 18071 introduced by Mayor Felker authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Water

System Improvement Project No. 28489-00, in the Burnetts Mound area placed on first reading August 12, 2003 was again presented.

Neil Dobler 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. 18072 introduced by Councilmembers Duane Pomeroy, Lisa Stubbs and Harold Lane establishing a process for the filling of vacancies in the offices of mayor or councilmember placed on first reading August 12, 2003 was again presented.

Councilmember Pomeroy moved to amend line 17 of the ordinance, "The application deadline for office of mayor would change from two weeks to four weeks." The motion was seconded by Councilmember Stubbs.

Councilmember Haynes made a substitute motion to amend paragraph VI. to include "The two applicants receiving the highest number of votes remain, until one receives five votes."

The motion was seconded by Councilmember Lane.

Councilmember Stubbs stated that she supports the original document that was presented.

Councilmember Haynes withdrew his substitute motion.

Councilmember Stubbs made a substitute motion to approve the original language.

Councilmember Stubbs withdrew her motion.

Councilmember Pomeroy's motion to amend carried unanimously. (9-0-0)

Councilmember Pomeroy moved to delete section V, VI, and VII. The motion was seconded by Councilmember Preisner.

The motion to delete section V, VI and VII carried. Councilmember Lane voted "no".  
(8-1-0)

Councilmember Stubbs moved to adopt the ordinance as amended. The motion seconded by Councilmember Price carried. Councilmember Lane voted "no". (8-1-0)

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

A RESOLUTION introduced by Councilmember John Alcalá 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. This was deferred from the meeting of July 15, 2003.

Councilmember Alcalá withdrew the resolution.

A RESOLUTION introduced by Councilmembers Harold Lane and John Alcalá relating to the parking signage at the intersection of Sixth and Lake Streets was presented.

Councilmember Lane withdrew the resolution.

AN ORDINANCE introduced by Mayor Felker, attesting to the increase in taxes levied for budget year 2004 necessary to finance public services for the City of Topeka was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Stormwater Project No. 50218-00, which provides for the construction of two detention basins that will detain stormwater during large rain events and serve as community green space 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 Felker, instituting a real estate lien upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the cost for sewage collection and

treatment where such payments to the City have not been made due to neglect, failure or refusal to pay, pursuant to K.S.A. 12-631K was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker, authorizing Improvement Project No. 30182-00, which provides for the construction of the education and administration building, elephant exhibit, hippo 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, and specifically repealing City of Topeka Ordinance No. 18022 was presented for first reading.

A CHARTER ORDINANCE introduced by the City Council Policy and Finance Committee amending Charter Ordinance No. 90, as amended and as codified in the Topeka City Code § A2-18, concerning the establishment of council district boundaries, repealing original said section and provide 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.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 12:03 a.m.

---

Iris Walker  
City Clerk

**Budget Amendment 8.19.03 is available for review in  
the City Clerk's Office.**