

City Council Minutes – September 2, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 2, 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, Councilmember Duffy asked for a moment of silent meditation.

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

PRESENTATION BY TUCK DUNCAN relating to a proposal for Development to the City of Topeka was presented.

Tuck Duncan, Topeka Housing Authority (THA) gave the Topeka Housing Authority's proposal for the Monroe/Brown Historic site. He distributed printed copies containing details of their proposal, including suggested funding of the project.

John Hamilton, representative for area business owners stated that they believe houses in the area should be owner occupied, not owned by THA. He explained the plan that was presented to the Planning Commission for the area and stated that they need to work together for a plan that brings together the diversity of the area; industrial, commercial and residential.

Larry Hill, Hill & Company distributed a summary that showed diagrams of a plan for their property and stated that as a small business they grow as their business dictates. He noted how many times his company has expanded over the years.

Bob Keeshan, attorney for Hill & Company appeared and explained how Hill & Company acquired the land in the area and cleared the lots.

Joseph Ledbetter appeared and stated that Section 8 Housing would not be a good fit in the area.

Jenny Prichard, Vice President of the Monroe NIA stated that she was not contacted about this proposal and several people in the area are opposed. The residents want to be a part of any plan for the area, and all persons should be allowed to come to the table.

Amy Rose Herrick stated that 29.6 million dollars is generated from taxes paid by businesses in the area, not from residential homes. The area residents want owner occupied properties, not rental property. She also stated that parking could become a problem if visitor expectation is realized.

Frank Kirtdoll stated that no one in the Monroe area as been contacted regarding Tuck Duncan's Plan.

John Reb, business owner in the area stated that he just found out about the plan and would like an opportunity to research the plan and provide input.

Frank Meade stated that this area needs ideas for development and this proposal should be considered, however, the NIA should have been included from the beginning.

Fred Sanders, President of the Monroe NIA stated that they are having trouble being recognized and would like the opportunity to allow their ideas to be incorporated into the plan.

Councilmember Pomeroy stated that hopefully a compromise could be reached. He also stated that the Federal Government should be putting more priority on this project because it was the most significant court case of the 1900's. He stated that the city should be doing everything possible to develop a site that shows what we have learned from the past.

Councilmember Duffy stated that he would like the JEDO Board to also make this project a priority.

Councilmember Alcalá moved to suspend the Council Rules to add an ordinance relating to the types of vehicles allowed to be driven in Riverside Motorcycle Park to the agenda under First Readings, Item F. The motion seconded by Councilmember Lane carried. Councilmember Duffy and Price voted "no". Councilmember Nave was out of the room. (6-3-0)

Councilmember Alcalá moved to reinstate the Council Rules. The motion seconded by Councilmember Lane carried. Councilmember Nave was out of the room. (8-1-0)

The Consent Agenda was presented as follows:

A FINAL PLAT for Morrison Court Subdivision No. 2 on property located at the northwest corner of SE 22nd Street and SE Indiana Avenue in the City of Topeka, Kansas was presented. (P03/32)

RESOLUTION NO. 7384 introduced by Councilmember Gary Price granting Richard Green and Carol Beier an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

Minutes of the Regular Meeting of August 26, 2003 were presented.

APPLICATION for a Cereal Malt Beverage License bearing the approval of the Chief of Police and City Inspectors for Godfather's Pizza #17014, 2911 SW 29th Street, was presented.

APPLICATIONS for Open After Mid-Night Licenses bearing the approval of the Chief of Police and City Inspectors were presented for the following:

The Celtic Fox
118 S.W. 8th Street

Champions, Inc.
1616 S.W. 17th Street

Fairlawn Hotel Partners, L.L.C.
DBA Holiday Inn Holidome
Michelle's
605 S.W. Fairlawn

Jefferson Street Hotel Partners, L.L.C.
DBA Ramada Inn Downtown
La Flambeau
420 S.E. 6th Street

Taco Bell
101 S.E. 29th Street
2013 N. Topeka Boulevard
1560 S.W. Wanamaker Road

Urban Expression
820 N. Kansas Avenue

Councilmember Price moved to approve the consent agenda. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá and Nave were out of the room.

(7-2-0)

A PROJECT BUDGET in the amount of \$500,000 and ORDINANCE NO. 18077 introduced by Mayor Harry Felker, authorizing Project No. 30127, Phase 10, which provides for the extension of the existing Shunga Trail system 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 26, 2003 was again presented.

Neil Dobler, Public Works Director gave the staff report.

Bill Riphahn, Parks and Recreation Department gave the staff presentation and appeared for questions on items 5A, 5B, 5C and 5D, under Unfinished Business.

Councilmember Duffy asked why these particular projects cost so much more than the remaining projects in the overall Master Trail Plan.

Bill Riphahn explained that the trails that are involved in these projects would receive a substantial amount of pedestrian traffic that will require concrete trails, opposed to lime screening that can be used on the majority of the remaining projects.

Neil Dobler also explained that they are researching the use of recycled material on trails along levies and dikes.

Councilmember Haynes moved to approve the project budget 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.

A PROJECT BUDGET in the amount of \$750,000 and ORDINANCE NO. 18078 introduced by Mayor Harry Felker, authorizing Project No. 30238-00, which provides for the construction of a multipurpose trail beginning at SE 15th Street 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 26, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Lane inquired on the necessity of using concrete on this trail.

Bill Riphahn explained that using concrete on this particular trail would accommodate the high volume of pedestrian traffic and provide an excellent gateway to future parks in the area.

Fred Sanders, President of the Monroe NIA appeared in support of the project and stated that they would like to see how it fits into the Monroe Comprehensive Plan for the entire area.

Councilmember Duffy moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Haynes 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 PROJECT BUDGET in the amount of \$400,000 and ORDINANCE NO. 18079 introduced by Mayor Harry Felker, authorizing Project No. 30239-00, which provides for the construction of a multipurpose trail beginning at the Golden Avenue Bridge 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 26, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Haynes moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Pomeroy voted "no". (8-1-0)

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

A PROJECT BUDGET in the amount of \$700,000 and ORDINANCE NO. 18080 introduced by Mayor Harry Felker, authorizing Project No. 30240-00, which provides for the construction of a multipurpose trail beginning at Garfield Park as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka placed on final reading August 26, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Alcala moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Lane 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 PROJECT BUDGET in the amount of \$702,500 and ORDINANCE NO. 18081 introduced by Mayor Harry Felker, authorizing Street Improvement Project No. 60594, which provides for the improvement to the infrastructure in the vicinity of the Monroe School as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the City of Topeka placed on first reading August 26, 2003 was again presented.

Neil Dobler gave the staff report.

Steve Adams, representative for Brown vs. Board of Education National Historic Society expressed concern with visitor safety and parking in the area. He also stated that there is no place for buses to park and many curbs in the area are in need of repair.

Councilmember Duffy asked if the federal government has a plan implemented for managing the high volume of foot traffic and bus traffic due to the visitors in the area.

Steve Adams explained that because they are open almost 365 days a year it makes it easier to accommodate foot traffic.

Rogers Brazier, Parks and Recreation Director stated that they are currently working on a lease agreement for parking on the east side of the building until they are able to generate funding for a permanent parking lot to accommodate the bus traffic.

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

A PROJECT BUDGET in the amount of \$908,000 and ORDINANCE NO. 18082 introduced by Mayor Harry Felker, authorizing Improvement Project No. 86235-03, which provides for the lighting improvements to the Washburn/Lane Parkway as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka placed on the first reading August 26, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Lane asked how the illumination of the lights would be paid for.

Councilmember Alcalá expressed concern with the City spending such a large sum of money on this project and not using it to provide lighting for intensive care neighborhoods.

Dave Graversen, Chief Administrative Officer stated that the 2004 Operating Budget includes the electrical cost of the Washburn/Lane Parkway Project and in the past there has not been enough money set aside to cover the electrical cost of lighting projects.

Several Councilmembers stated that they would like to see system wide improvement concerning repair and replacement of street lights.

Deborah Swank, Chair of the Turn Around Team spoke in support of the project.

Tom Ellis, representative for Washburn University spoke in support of the project.

Councilmember Duffy commended Washburn University on their commitment to community improvements.

Councilmember Duffy moved to amend that the Washburn/Lane portion of lights along 15th Street to 17th Street be moved to the Lane portion of lights along 12th Street to 15th Street. The motion was seconded by Councilmember Lane.

Tom Ellis explained that the amendment would have to go back to the Washburn Board of Regents because the \$100,000 they approved was for the east side of the campus and the money was specifically set aside for improvement into the neighborhood.

Councilmember Duffy stated that he would rather have the \$200,000 to use as an incentive to a developer.

Dave Graversen explained that at this time he is not aware of any developers interested in this particular area.

Councilmember Duffy withdrew his motion. The second concurred.

Councilmember Haynes moved to approve the project budget and adopt the ordinance. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcala and Lane voted "no". (7-2-0)

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

ORDINANCE NO. 18083 introduced by Duane Pomeroy, Jeff Preisner, Bill Haynes, Clark Duffy, Gary Price, Lisa Stubbs, Harold Lane, John Nave, and John Alcala authorizing Downtown Topeka, Inc. to hold the Celebration of Mexican Independence Day on September 16, 2003, placed on first reading August 26, 2003 was again presented.

Councilmember Alcala moved to amend line 26 of the ordinance, to change the cut off time to 9:30 p.m. The motion seconded by Councilmember Haynes 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.

RESOLUTION NO. 7385 introduced by Mayor Felker, adopting the 2004-2005 Capital Budget for the City of Topeka, Kansas was presented. This was deferred for two weeks from the meeting of August 19, 2003.

A RESOLUTION introduced by Mayor Felker authorizing and adopting the 2004-2010 Capital Improvement Program for the City of Topeka, Kansas was presented. This was deferred two weeks from the meeting of August 19, 2003.

Jim Langford, Budget Director and Capital Projects Coordinator gave the staff report.

Joseph Ledbetter requested that \$200,000 from the CIP be implemented for park improvements in the Hi-Crest area.

Councilmember Haynes moved that \$200,000 of General Obligation Bonds be made available for the 2004 park improvements.

Councilmember Haynes withdrew his motion.

Councilmember Lane moved to extend the meeting through the end of the agenda. The motion seconded by Councilmember Haynes carried. Councilmembers Duffy, Stubbs, Preisner and Price voted “no”. (5-4-0)

Diane Alpert and Josh Sheldon, discussed the proposal concerning the infrastructure cost improvements of SE 31st Street and Fremont in the Hi-Crest area in reference to the 2005-2006 Capital Budget.

Hans Heinemann appeared and offered suggestions on how to build streets and place workers in parks and save funds.

Councilmember Duffy moved to amend the Capital Budget for 2004 and 2005 in accordance with the Mayor’s recommendation for Public Works Water Pollution Control, Stormwater and Water projects. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

Councilmember Pomeroy moved to amend the Capital Budget to put the N. Capital Area Parking Garage in 2005. The motion was seconded by Councilmember Price.

Councilmember Stubbs made a substitute motion to put both the Parking Garage Security Upgrades and the N. Capital Area Parking Garage in 2004. The motion seconded by Councilmember Price carried. Alcalá voted “no”. (8-1-0)

Councilmember Duffy moved to adopt the Mayor’s recommendation on Page 2 starting with Housing & Neighborhood Development, Affordable Housing Projects through Public Works Bridge Project for Willow Street over Ward Creek. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

Councilmember Duffy moved to adopt the Mayor’s recommendation for Fire Department projects. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

Councilmember Lane moved to approve remainder of projects listed on Page 3 under Current Approved 2004 and 2005, starting with Parks & Recreation projects through Community Projects, Washburn-Lane Parkway. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

Councilmember Haynes moved to increase Neighborhood Infrastructure under Public Works/Transportation from \$710,000 to \$910,000 on Page 4 and apply the \$200,000 for improvements to Hi-Crest Park.

Dave Graversen suggested making a separate line item for Hi-Crest Park under Parks & Recreation and identify the funding source.

Councilmember Haynes amended his motion to create a separate line item for Hi-Crest Park under Parks & Recreation and fund it with \$200,000 General Obligation Bonds, \$85,000 Parkland Acquisition funds and available HND funds. The motion was seconded by Councilmember Nave.

Councilmember Price made a substitute motion to move the project to 2005. The motion died for lack of a second.

The motion made by Councilmember Haynes carried. Councilmember Duffy and Price voted "no". (7-2-0)

Councilmember Haynes moved to defer the Van Buren Pedestrian Mall until they have a plan. The motion was seconded by Councilmember Alcala.

Councilmember Alcala made a substitute motion to delete the 8th Street Parkway and Van Buren Pedestrian Mall projects and reduce General Obligation Bonding by those amounts. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted "no". Councilmember Hayes abstained. (2-6-1)

Councilmember Duffy moved to approve the Mayor's recommendation for Public Works/Transportation projects for 2004 and 2005 plus the Hi-Crest Park project and change the 17th Extension to California, I-70 to 29th, Phase I. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

Councilmember Pomeroy moved to approve the Public Works Bridge projects on Page 4 under Mayor's recommendation for 2004 and 2005. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

Councilmember Pomeroy moved to approve the remainder of the Mayor's recommendation on projects for 2005. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Councilmember Pomeroy moved to approve the Capital Budget for 2004 and 2005 and adopt the resolution as amended. The motion seconded by Councilmember Price carried. Councilmember Alcalá voted "no". (8-1-0)

Councilmember Price moved to defer the 2005-2010 Capital Improvement Program for two weeks. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$283,939 and A RESOLUTION NO. 7386 introduced by Mayor Harry Felker authorizing Street Improvement Project No. 60468-05 as more specifically described herein was presented. This was deferred from the meeting of August 26, 2003.

Neil Dobler gave the staff report and explained that the city does have the \$15,000 needed to help fund the project from funds carried over from last year's Police Department Budget.

Councilmember Nave moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Lane carried. Councilmembers Alcalá, Duffy and Price voted "no". (6-3-0)

CLAIM APPEAL for Clifton Jones alleging on April 2, 2003, his vehicle was not properly reported as stolen and that he was not notified once the vehicle was discovered, was presented.

Clifton Jones explained his claim.

Councilmember Price stated that the car was not properly registered for two years and the finance company paid to get the car out of impoundment, therefore he cannot support the claim.

Brenden Long, City Attorney confirmed that the vehicle was not registered, tagged or insured properly and believes that Mr. Jones did not suffer any financial loss due to the incident.

Councilmember Duffy moved to sustain the recommendation of the City Attorney. The motion seconded by Councilmember Stubbs carried. Councilmember Lane abstained. (8-0-1)

RESOLUTION NO. 7387 introduced by Mayor Felker authorizing initiation of condemnation proceedings for Water System Improvement Project No. 28490-01, approximately located along SW 5th Street and SW 6th Street was presented.

Neil Dobler gave the staff report.

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

RESOLUTION NO. 7388 introduced by Mayor Felker authorizing initiation of condemnation proceedings for Water System Improvement Project No. 28493-00, approximately located on Wanamaker Road, from 10th Street to 17th Street was presented.

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

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.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Felker relating to zoning regulations and specifically amending City of Topeka Code Section 48-27.01, 48-33.01, 48-33.06 and specifically repealing said original sections was presented for first reading. (ACZR03/2)

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 511 W 15th Street and 1501 SW Topeka Boulevard in the City of Topeka, Kansas from "M-3" Multiple Family Dwelling District and "O&I-2" Office and Institutional District ALL TO "O&I-2" Office and Institutional District was presented for first reading. (Z03/33)

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 2601 SW Western Avenue in the City of Topeka, Kansas from "PUD" Planned Unit Development District TO "R-1" Single Family Dwelling District was presented for first reading. (Z03/34)

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 2729 SE Indiana Avenue in the City of Topeka, Kansas from "C-4" Commercial District to "R-1" Single Family Dwelling District was presented for first reading. (Z03/36)

AN ORDINANCE introduced by Councilmember John Alcala relating to the types of vehicles allowed to be driven in Riverside Motorcycle Park, pursuant to Section 142-181, Motorcycle area, and amending City of Topeka Ordinance No. 18042 and specifically repealing said original ordinance was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Stubbs announced that there would be a Public, Health and Safety Committee meeting held on September 8, 2003 at 3:00 p.m. in the City Council Office.

Councilmember Pomeroy announced that there would be a Committee of the Whole meeting held on September 8, 2003 at 6:00 p.m. in the Executive Conference Room concerning the P-Card issues and appointment of Councilmember Nave, Councilmember Stubbs and Councilmember Price to the Oversight Committee.

Councilmember Price stated that all the Councilmembers are welcome to attend the Oversight Committee meetings and he will notify them of dates and times as they become available.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcala inquired on the regulations of peddlers and transient merchant license and asked if a person is required to have a license to sell food.

Councilmember Haynes asked if it would be possible to have a preliminary agenda prepared two weeks in advance.

Mayor Felker noted that the three-month calendar could help serve as a preliminary document for planning purposes.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Jenny Prichard and Amy Rose Herrick appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 12:47 a.m.

Iris Walker
City Clerk