

City Council Minutes – September 9, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 9, 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, and Preisner -8. Mayor Felker presided -1. Absent: Price -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.

Minutes of the Regular Meeting of September 2, 2003 were presented.

Councilmember Alcalá moved to approve the Consent Agenda. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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, September 9, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit CU03/9 by Alfred P. and Lila C. Gooding to establish a vehicle surface parking lot located on the north side of SW 8th Avenue and centrally located between SW Tyler Street and SW Polk Street in the City of Topeka, Kansas.

A RESOLUTION introduced by Mayor Harry Felker in accordance with Section 48-9.02(c)(7) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a vehicle surface parking lot on property currently zoned “M-2” Multiple Family Dwelling District and located on the north side of SW 8th Avenue and centrally located between SW Tyler Street and SW Polk Street in the City of Topeka, Kansas was presented. (CU03/9)

Barry Beagle, Planning Department gave the staff report and explained that they have notified the State Historic Preservation Officer (SHPO), but have not received the final report from them. He continued to explain that The Old Town Neighborhood Plan, adopted as part of

the Comprehensive Metropolitan Plan designated this area as residential-medium density. He stated that parking lots for the Downtown district should not be located outside the Downtown land use designation and therefore, the Planning Staff recommends disapproval of this proposal.

Jered Prowler, representative for the applicant appeared and explained that the applicant has already been granted the alley vacation for the parking lot location and believes that this project should have been included in the Old Town Neighborhood Plan. He encouraged the Council to approve the request because the additional use recommendations of a new apartment complex or green space were highly discouraged by the Topeka Housing Authority and the Parks and Recreation Department.

In response, Barry Beagle clarified that the alley vacation was a separate issue from the conditional use permit for the parking lot. He stated that the vacation of alley was granted because it was decided that the alley was no longer needed regardless of the future land use.

Councilmember Nave stated that the applicant should have contacted the NIA or area residents for their input.

Councilmember Alcala stated that neighborhood plans are developed for a reason and should be followed.

Frank Kirtdoll stated that the surface parking lot would be a better use for the property than the deteriorating houses that were already there.

Hi Stockwell, President of the Old Town Neighborhood NIA appeared in opposition to the parking lot.

Nancy Sargent, representative for the Topeka Friends Meeting Church appeared in opposition of the project.

Michael Bradley, Chair of Enhancement Committee, Old Town Neighborhood urged the

Council to protect the integrity of the Old Town Neighborhood Plan and disapprove the permit for a parking lot. He continued to explain that the 8th Street corridor is an essential part of the plan for the neighborhood.

Councilmember Pomeroy moved to close the public hearing and concur with the Zoning and Platting Committee recommendation to disapprove. The motion was seconded by Councilmember Nave.

Each Councilmember declared their exparte communication including; emails, telephone calls, personal conversations and packet information.

The motion to disapprove carried. Councilmember Haynes was out of the room. (7-1-0)

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, September 9, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit CU03/12 by Florence Crittenton Service, Inc., to establish a Residential Care Facility, Type III on property located at 2649 SW Arrowhead Road in the City of Topeka, Kansas.

RESOLUTION NO. 7389 introduced by Mayor Harry Felker in accordance with Section 48-9.02(c)(9) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a Residential Care Facility Type III, on property currently zoned "M-2" Multiple Family Dwelling District and located at 2649 SW Arrowhead Road in the City of Topeka, Kansas was presented. (CU03/12)

Barry Beagle gave the staff report.

Karen Wakefield, Director of the Crittenton Residential Care Facility appeared for questions.

Frank Kirtdoll appeared and spoke in support of the conditional use permit.

Mayor Felker asked if there were any exparte communications. There was none

declared.

Councilmember Stubbs moved to close the public hearing and approve the resolution.

The motion seconded by Councilmember Lane carried. Councilmember Haynes was out of the room. (7-1-0)

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, September 9, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit CU03/13 by Allan W. and Leigh A. Alexander to establish a Group Residence, Limited, (Oxford House) on property located at 1600 SW College Avenue in the City of Topeka, Kansas.

RESOLUTION NO. 7390 introduced by Mayor Harry Felker in accordance with Section 48-4.02(c) of the Code of the City of Topeka, approving a Conditional User Permit to establish a Group Residence, Limited, on property currently zoned "R-1" Single Family Dwelling District and located at 1600 SW College Avenue in the City of Topeka, Kansas was presented.

(CU03/13)

Barry Beagle gave the staff report.

Vernon Jarboe representative of the applicant appeared and explained the request.

Alan Alexander, owner of the property appeared for questions.

Kathleen Thomas, representative for Friends of Recovery appeared and explained the purpose of the seven Oxford Houses in the Topeka area.

Councilmember Duffy discussed a statement he received and concerns that were raised regarding the ordinance relating to the Oxford Houses. He stated that he is in support of this facility at 1600 SW College Avenue but will oppose the other two located in the area because it would promote clustering.

Councilmember Duffy moved to close the public hearing and approve the resolution.

The motion was seconded by Councilmember Haynes.

Frank Kirtdoll appeared in support of the Oxford House.

Mayor Felker asked if there were any additional exparte communications besides Councilmember Duffy. There was none declared.

The motion to close the public hearing and approve the resolution carried unanimously.

(8-0-0)

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, September 9, 2003, at 7:00 P.M., in conjunction with Conditional Use Permit CU03/15 by Donald P. and Patsy J. Hanrahan to establish a Group Residential, General (Oxford House) on property located at 1531 SW Topeka Boulevard in the City of Topeka, Kansas.

RESOLUTION NO. 7391 introduced by Mayor Harry Felker in accordance with Section 48-4.02(c) of the Code of the City of Topeka, approving Conditional Use Permit to establish a Group Residence, General, on property currently zoned "M-3" Multiple Family Dwelling District and located at 1531 SW Topeka Boulevard in the City of Topeka, Kansas. (CU03/15)

Barry Beagle gave the staff report.

Kathleen Thomas appeared to answer questions.

Mayor Felker asked if there were any exparte communications. There were none declared.

Councilmember Haynes moved to close the public hearing and approve the resolution.

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

A PROJECT BUDGET in the amount of \$250,000 and ORDINANCE NO. 18084 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 placed on first reading September 2, 2003 was again presented.

Ron Cathey, Parks and Recreation Department gave the staff report.

Frank Kirtdoll appeared and spoke in support of the project.

Councilmember Pomeroy moved to approve the project budget and adopt the ordinance.

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

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

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA
ORDINANCE NO. 18085 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 placed on first reading September 2, 2003 was again presented. (ACZR03/2)

Barry Beagle gave the staff report.

Frank Kirtdoll asked what the difference is between the provisions of this ordinance and a “PUD” Planned Unit Development District.

In response to the question, Barry Beagle explained that “PUD” is a zoning district within itself.

Mayor Felker asked if there were any ex parte communications. There were none declared.

Councilmember Lane moved to approve the zoning petition and adopt the ordinance.

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

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

A ZONING PETITION and ORDINANCE NO. 18086 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 placed on first reading September 2, 2003 was again presented. (Z03/33)

Barry Beagle gave the staff report.

John Strowski appeared for questions.

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

Mayor Felker asked if there were any exparte communications. There were none declared.

Councilmember Lane moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18087 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 placed on first

reading September 2, 2003 was again presented.

Barry Beagle gave the staff report.

Shane Sawyer, appeared to answer questions and explained that they would restore the home for their family residence.

Several Councilmembers commended the Sawyer Family for their efforts in restoring the home.

Frank Kirtdoll spoke in support of the project.

Mayor Felker asked if there were any exparte communications. There were none declared.

Councilmember Lane moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Pomeroy carried unanimously. (8-0-0)

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

A ZONING PETITION and ORDINANCE NO. 18088 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 placed on first reading September 2, 2003 was again presented. (Z03/36)

Barry Beagle gave the staff report.

Frank Kirtdoll appeared in support and stated that he concurs with the Planning Commission.

Mayor Felker asked if there were any exparte communications. There were none

declared.

Councilmember Nave moved to approve the zoning petition and adopt the ordinance.

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

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

A PROJECT BUDGET in the amount of \$330,000 and ORDINANCE NO. 18089 introduced by Mayor Harry Felker, authorizing Trafficway Project No. 70200-01, which provides for the preliminary design and engineering work for reconstruction and widening of the existing Wanamaker Road from SW 37th Street to SW 41st 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. This was deferred from the meeting of August 26, 2003.

Neil Dobler, Public Works Director gave the staff report and stated that the project consists of three separate parts and explained the City's financial responsibility for each. He continued to explain that each project is funded through different sources ranging from Federal, County and Township, and City-at-large funds. These projects include:

41 st and Wanamaker	a local match of \$345,000
Wanamaker from 39 th to 41 st	fund design, ROW, and contingencies \$238,592
Wanamaker from 37 th to 39 th	pass Phase 1 Project Budget for \$583,592

Lastly, he explained that the project budget only covers design and ROW acquisition and an amendment is needed to increase the project budget to \$583,592 to fund the entire project.

Councilmember Stubbs clarified that the reason for the requested increase in the project budget is to give the County the City's share of funding for the entire project enabling the County to move forward with the project.

Tom Flanagan, Shawnee County Public Works appeared for questions concerning the County's part of the project.

Councilmember Duffy discussed the need for the project and how it would be financed. He stated that he is troubled that this is a general obligation bond project, and would like to research alternative financing.

Councilmember Duffy moved to amend the project budget to finance the \$583,592 from various sources of the City of Topeka including general obligation bonds. The motion was seconded by Councilmember Stubbs.

Councilmember Haynes made a substitute motion to fund \$330,000 from general obligation bonds and defer the remaining \$253,592 to the Economic Development Committee for further consideration. The motion died due to lack of a second.

Frank Kirtdoll appeared in support of the project but opposes the amendment because people do not have the opportunity to speak on the issue.

Councilmember Haynes stated that he only voted yes to ensure that the County received the \$330,000 needed to move forward with the project.

Councilmember Alcalá stated that he objects to using general obligation bonds and State Transportation Project funds for the project when there may be other funding sources available.

The motion to amend the project budget carried. Councilmember Alcalá voted "no".
(7-1-0)

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 June 3, 2003 was again presented. This was deferred from the meeting of

July 15, 2003.

Councilmember Stubbs gave the committee report and stated that the committee recommended disapproval by a voted of 2-0-0.

Councilmember Preisner called the question.

Councilmember Preisner moved to disapprove the ordinance. The motion seconded by Councilmember Stubbs carried. Councilmember Alcalá voted “no”. Councilmember Pomeroy was out of the room. (6-2-0)

The ordinance was not adopted on roll call vote as follows: Ayes: Lane, Nave, Haynes, Duffy, Stubbs and Preisner -6. Noes: Alcalá and Pomeroy -2. Absent: Price -1.

ORDINANCE NO. 18090 introduced by Councilmember John Alcalá 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 placed on first reading September 2, 2003 was again presented.

Councilmember Alcalá explained the ordinance and stated that the biggest concern that needs to be addressed is that the entrance to the park needs to be relocated because they speed down North Street before entering the park causing safety issues.

Randy Price appeared in support of the ordinance.

Frank Kirtdoll stated that the ordinance is not approved by the City Attorney.

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

A FINAL PLAT for Emerson Business Park Subdivision on property located on the south side of NW 25th Street approximately 830 feet west of NW Brickyard Road and north of the US 24 and US 75 Highway Interchange within unincorporated Shawnee County, Kansas was

presented. (P03/39)

Barry Beagle gave the staff report and stated that the applicant has granted consent to annexation.

Mike Engler, Bartlett & West Engineers appeared for questions.

Councilmember Alcalá moved to approve the final plat. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

APPLICATION by Jerry L. Penner, Sr., to operate a salvage yard on a 1.41-acre parcel located at 417 SE 13th Street in the City of Topeka, Kansas was presented.

Barry Beagle gave the staff report.

Jerry Penner, applicant stated that he has complied with City code requirements and stated that he does not understand why the process has taken so long.

Fred Sanders, property owner stated that he rented the property to Mr. Penner knowing that the zoning is already in place and that he had met all requirements needed to run a salvage yard. He continued to explain that Mr. Penner put up a privacy fence as requested and the salvage yard would not be located within the Monroe NIA.

Frank Kirtdoll appeared in support and stated that the community needs a salvage yard and the zoning is already in place.

William Schroeder, representing area residents appeared in opposition to having salvage yards in their neighborhood.

Councilmember Lane discussed the report from the Fire Department and distributed pictures that were taken of the establishment on September 5, 2003. The pictures displayed weeds and vegetation that need to be cut down and several stacks of tires both of which are in violation of environmental codes.

Councilmember Lane moved to disapprove the application per the Planning Department's recommendation. The motion seconded by Councilmember Alcalá carried. Councilmember Duffy voted "no". (7-1-0)

RESOLUTION NO. 7392 introduced by Mayor Felker concerning the designation of Bleeding Kansas Heritage Area as a National Heritage Area was presented.

Mayor Felker explained the resolution and stated that there was a time constraint on the project.

Frank Kirtdoll appeared in support of the resolution and spoke about Topeka's rich history.

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

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 12-foot wide public utility easement and 12-foot wide adjoining temporary construction easement on property located at 412 NE Aspen Lane, as dedicated by the plat of Northland Subdivision 'B', City of Topeka, Shawnee County, Kansas was presented for first reading. (V03E/2)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that there would be an Economic and Development Committee meeting held on September 12, 2003 at 11:30 a.m. in the City Council Office.

Councilmember Pomeroy announced that there would be a Committee of the Whole meeting held on September 16, 2003 at 5:30 p.m. in the Executive Conference Room.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Nave requested that Housing and Neighborhood Department Housing Codes be reviewed and brought up to date.

Councilmember Duffy requested to add the annexation of Emerson Business Park under pending requests on the Committee Sheet. He also submitted a request to place four ordinances relating to the Economic Development fund on a future agenda.

Councilmember Alcalá submitted a resolution relating to the removal of a sycamore tree for a future agenda. He also recapped the events of September 16, 2003, Mexican Independence Day.

Councilmember Pomeroy requested that the claim concerning Shiloh Baptist Church be investigated as soon as possible.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Frank Kirtdoll appeared to speak under public comment.

Mayor Felker stated that it was 11:00 p.m. and asked if there was a motion to extend the meeting.

Councilmember Alcalá moved to extend the meeting to finish public comments. The motion seconded by Councilmember Lane failed. Councilmembers Nave, Haynes and Stubbs voted "no". Councilmember Duffy was out of the room. (4-4-0)

The meeting was adjourned at 11:00 p.m.

Iris Walker
City Clerk