

City Council Minutes – October 14, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 14, 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, Price and Preisner -9. Mayor Felker presided -1.

AFTER THE MEETING was called to order, prayer was offered by John Duncan, Washburn Rural Young Life Youth Christian Organization.

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

Mayor Felker announced that the Council would not entertain comments regarding the statue at Washburn University. He stated that any person who is interested in speaking on this issue is welcome to attend the Washburn University Board of Regents meeting held on October 8, 2003, at 4:00 p.m. in the Kansas Room Student Union.

A FINAL PLAT for Shawnee Hills Village Subdivision No. 7 on property located at the southeast corner of SW Huntoon Street and SW Ashworth Place in the City of Topeka was presented. (P03/41)

Minutes of the Regular Meeting of October 7, 2003 were presented.

APPLICATION for a Dance Hall License bearing the approval of the Chief of Police and City Inspectors for The Tool Shed, 921 S. Kansas Avenue, was presented.

Councilmember Haynes moved to approve the Consent Agenda. The motion seconded by Councilmember Lane 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, October 14, 2003, at 7:00 P.M., in conjunction with vacation request V03E/3 by Bailey and Bailey, Inc., to vacate land taken for right-of-way located at 1640 NW Taylor Street.

ORDINANCE NO. 18098 introduced by Mayor Harry Felker relating to the vacation of land taken for right-of-way for levees and borrow pits in an area known as the North Topeka Flood Control Ring Dike and located at 1640 NW Taylor Street, as dedicated by the plat of Gibson's Subdivision, City of Topeka, Shawnee County, Kansas placed on first reading October 7, 2003 was again presented. (V03E/3)

Barry Beagle, Planning Department gave the staff report.

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

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

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

NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, October 14, 2003, at 7:00 P.M., in conjunction with vacation request V03S/3 by Lenore Smith, Trustee, to vacate a 60-foot wide strip of SW Reeder Street right-of-way extending west of SW Chatham Place.

ORDINANCE NO. 18099 introduced by Mayor Harry Felker relating to the vacation of a 60-foot wide unimproved street right-of-way on property located west of SW Chatham Place approximately 470-feet south of SW 10th Avenue, as dedicated by the plat of Area Vocational-Technical School Subdivision No. 2, City of Topeka, Shawnee County, Kansas placed on first reading October 7, 2003 was again presented. (V03S/3)

Barry Beagle gave the staff report.

Tuck Duncan, representative for U.S.D. #501 appeared for questions.

Craig McKinney, representative for the applicant appeared for questions.

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

Councilmember Price moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Stubbs 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 JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE introduced by Mayor Felker relating to X Mixed Use District regulations and specifically amending City of Topeka Code Section 48-31.01, 48-23a.02, 48-23a.03, 48-23a.04, and 48-23a.06 and specifically repealing said original sections placed on first reading October 7, 2003 was again presented. (ACZR03/01)

Councilmember Stubbs stated that the document has been changed significantly and would like the opportunity to discuss the changes with the individuals that will be impacted.

Councilmember Stubbs moved to refer the Joint Shawnee County Resolution and City of Topeka Ordinance to the Public, Health and Safety Committee. The motion seconded by Councilmember Duffy carried. Councilmembers Lane and Alcala voted "no". (7-2-0)

Councilmember Duffy requested that notices be sent to the residents and business owners that will be affected by the new regulations.

A ZONING PETITION and ORDINANCE NO. 18100 introduced by Mayor Harry Felker designating real property more specifically described herein as a historic landmark and presently zoned "R-2" Single Family Dwelling District and located at 807 Western Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 placed on first reading October 7, 2003 was again presented. (HL03/3)

Barry Beagle gave the staff report.

Michael Bradley, owner of the residence appeared and thanked staff for their work in designating the home as a historic landmark.

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

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

A ZONING PETITION and ORDINANCE NO. 18101 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 on the south side of SW 41st Street, the centerline of which is approximately 984-feet west of SW Wanamaker Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "M-1" Two Family Dwelling District placed on first reading October 7, 2003 was again presented. (Z03/17)

Barry Beagle gave the staff report.

Bryan Smith, representative for the applicant 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 Haynes moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Alcalá carried. Councilmembers Duffy, Stubbs, Preisner and Price voted "no". (5-4-0)

The ordinance was adopted on roll call vote as follows: Ayes: Lane, Alcala, Pomeroy, Nave and Haynes -5. Noes: Duffy, Stubbs, Preisner and Price -4.

A ZONING PETITION and ORDINANCE NO. 18102 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 east of SE Scorpio Drive, extended, the centerline of which is approximately 1,250-feet north of SE 29th in the City of Topeka, Kansas from "R-1" Single Family Dwelling District and "R-1" Single Family Dwelling District with Resolution of intent to "M-2" Multiple Family Dwelling District ALL TO "M-1" Two Family Dwelling District placed on first reading October 7, 2003 was again presented. (Z03/35)

Barry Beagle gave the staff report.

Shane Hack, Shawnee County, LLC appeared for questions.

Steve LaCaffe, Bartlett & West Engineers 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 Pomeroy 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 ZONING PETITION and ORDINANCE NO. 18103 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 1271 SW Harrison Street in the City of Topeka, Kansas from “O&I-2” Office and Industrial District TO “R-2” Single Family Dwelling District placed on first reading October 7, 2003 was again presented. (Z03/44)

Barry Beagle gave the staff report.

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 Haynes moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave 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.

AN ORDINANCE introduced by Councilmembers Bill Haynes and Harold Lane, relating to the issuance of merchant guard licenses and identification cards, amending City of Topeka Code Section 30-66 and 30-424, and specifically repealing said original sections placed on first reading July 1, 2003 was again presented. This was deferred from the meeting of September 16, 2003.

Councilmember Lane stated that the Chief of Police, Ed Klumpp would present a new ordinance that incorporates all concerns voiced by the individuals involved with the merchant guard licenses in two weeks, and would like this ordinance presented at the same time.

Councilmember Lane moved to defer the ordinance for two weeks. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Mayor Felker noted that the four people that are signed up to speak on the item would have the opportunity to do so in two weeks.

A FINAL PLAT for The Ridge Subdivision on property located at the northeast corner of NW 46th Street and U.S. Highway 75 within unincorporated Shawnee County, Kansas was presented. (P03/9)

Barry Beagle gave the staff report.

Mike Engler, Bartlett & West Engineers appeared for questions.

Councilmember Duffy stated that he is not convinced that the development is needed because this would be an urban development in a rural setting and it would take away from the open space area.

Councilmember Haynes noted that there is already commercial development in the area.

Councilmember Stubbs stated that she would like the County to become more involved in helping control urbanized development in rural areas.

Mike Engler stated that the reason for the final plat is to reflect what was deemed necessary by KDOT to correct the drainage problem in the area.

Councilmember Lane moved to approve the final plat. The motion seconded by Councilmember Alcalá carried. Councilmembers Pomeroy and Duffy voted "no". (7-2-0)

A RESOLUTION introduced by Councilmembers Clark Duffy, Duane Pomeroy, and Gary Price relating to the issuance of economic development revenue bonds, and establishing an origination fee for all economic development bonds and rescinding City of Topeka Resolution No. 6876 was presented.

Councilmember Duffy stated that this resolution is a companion document to the ordinances listed under First Readings, items B, C, and D relating to the Office of the Arts Fund. He continued to explain that the original documents that began the process of implementing the

Office of the Arts Fund began in the year 2000, and the new documents would complete the process.

Councilmember Duffy moved to refer the resolution to a work session, October 28, 2003, at 5:00 p.m. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor Harry Felker amending the Master PUD Plan of Northland Shopping Center by providing for development of commercial land use and residential housing on property located at the southeast corner of NW Topeka Boulevard and NW Menninger Road in the City of Topeka, Kansas was presented for first reading. (Z69/44D)

AN ORDINANCE introduced by Councilmembers Clark Duffy, Duane Pomeroy, and Gary Price, sitting as the Economic Development Committee, relating to the arts, creating the Office of the Arts, the Arts Advisory Committee, the Arts Grant Program, the Art in Public Places Program and establishing fees to be deposited to the Topeka Arts Fund was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the arts fund, amending City of Topeka Code Section 138-86 and the addition of Section 138-96 and specifically repealing said original sections was presented for first reading.

AN ORDINANCE introduced by Councilmember Clark Duffy, Gary Price, and Duane Pomeroy, relating to the creation of the Economic Development Fund was presented for first reading.

Councilmember Duffy moved to refer items B, C and D to a work session, October 28, 2003, at 5:00 p.m. The motion seconded by Councilmember Lane carried unanimously. (9-0-0)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Pomeroy announced that there would be a Policy and Finance Committee meeting held on October 20, 2003 at 4:30 p.m. in the City Council Office.

Councilmember Stubbs announced that there would be a Public, Health and Safety Committee meeting held on October 20, 2003 at 3:00 p.m. in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Lane inquired on the annexation of the Dillons Store located on the corner of SW 29th Street and Urish Road.

Councilmember Alcalá requested information relating to the death of the animals at the Topeka Zoo within the last six months.

Councilmember Pomeroy inquired on the legal issues concerning the JEDO Board, the Shiloh Baptist Church sewer back-up claim, and the Trinity Lutheran Church sidewalk repair and new ramp construction request.

Councilmember Nave stated that he has received several emails concerning the condition of the trailer homes located at SE 21st and Minnesota and asked that this issue be taken care of as soon as possible. He also requested that a safety fence be placed around the area to help ease health and safety concerns of the area residents.

Councilmember Duffy commended the legal department on their timely response to his JEDO Board questions and concerns. He also submitted an ordinance relating to the Advantage Topeka Program for a future agenda.

Councilmember Stubbs thanked the Public Works Department for the completing the Fairlawn Road Sidewalk Project in a timely manner.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

Charles Criqui, Kirk Burhans, John Cooney, David Price, Ted Mize and Frank Kirtdoll
appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent
at 8:50 p.m.

Iris Walker
City Clerk