

City Council Minutes – October 28, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 28, 2003. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Lane, Alcalá, Nave, Haynes, Duffy, Stubbs, Preisner and Price -8. Deputy Mayor Pomeroy Presided -1.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Stubbs.

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

Minutes of the Regular Meeting of October 21, 2003 were presented.

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

Councilmember Lane moved to defer item 4J, an ordinance relating to the issuance of merchant guard licenses and identification cards until November 18, 2003. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

Deputy Mayor Pomeroy noted that there would be a work session relating to the Shiloh Baptist Church sewer back claim issues held on November 4, 2003 at 5:00 p.m. in the Executive Conference Room.

A PROJECT BUDGET in the amount of \$102,400 and ORDINANCE NO. 18104 introduced by Mayor Harry Felker, authorizing Improvement Project No. 14113-00, which provides for new traffic signal controllers and communication devices as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka placed on first reading October 21, 2003 was again presented.

Neil Dobler, Public Works Director 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 \$2,500,000 and ORDINANCE NO. 18105 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Drainage Improvement Project No. 15055-02 which provides for the construction of certain stormwater collection improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 2003 was again presented.

Neil Dobler gave the staff report.

Mark Green, Water Pollution Control Superintendent appeared for questions.

Councilmember Alcala moved to approve the project budget 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.

A PROJECT BUDGET in the amount of \$500,000 and ORDINANCE NO. 18106 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Stormwater

Improvement Project No. 15059-00 which provides for the construction of certain stormwater collection improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Preisner moved to approve the project budget 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, Alcalá, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price -9.

A PROJECT BUDGET in the amount of \$2,275,000 and ORDINANCE NO. 18107 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Water Main Project No. 28531-00 which provides for the construction of certain water main improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Preisner 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 \$1,966,200 and ORDINANCE NO. 18108 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Water Main Project No. 28537-00 which provides for the construction of certain water main improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Haynes moved to approve the project budget and adopt 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.

A PROJECT BUDGET in the amount of \$2,400,000 and ORDINANCE NO. 18109 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Sanitary Sewer Improvement Project No. 29096-02 which provides for the construction of certain stormwater collection improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of

Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 2003 was again presented.

Neil Dobler gave the staff report.

Councilmember Alcalá asked if this project would improve odor control in the area.

Mark Green stated that they are currently installing a new odor control system and the increase in odor is due to the bypassing of the ground metal screens that help eliminate the odor. The metal screens have to be bypassed until replacement of the screens is complete, once this process is finished the odor should decrease significantly.

Councilmember Alcalá 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, Alcalá, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price -9.

A PROJECT BUDGET in the amount of \$1,500,000 and ORDINANCE NO. 18110 introduced by Mayor Harry Felker relating to improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, approving cost estimates of the proposed improvements, authorizing Sanitary Sewer Improvement Project No. 29102-00 which provides for the construction of certain stormwater collection improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 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 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.

ORDINANCE NO. 18111 introduced by Mayor Harry Felker approving cost estimates of the proposed improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, by constructing and otherwise completing certain stormwater collection improvements and doing all other things necessary and incidental thereto, and authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to make such improvements and to issue and sell revenue bonds of said City to pay part of the cost thereof placed on first reading October 21, 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.

A PROJECT BUDGET in the amount of \$175,000 and ORDINANCE NO. 18112 introduced by Mayor Harry Felker, authorizing Improvement Project No. 30202-02, which provides for the repairs to Lakewood Shelter House to meet ADA standards as more specifically described herein, all pursuant to Charter Ordinance No. 89 of the Code of the City of Topeka placed on first reading October 21, 2003 was again presented.

Terry Bertels, Parks and Recreation Department Superintendent gave the staff report.

Councilmember Duffy expressed concern with the proposed addition to the shelter house because of the limited use of the park by the community.

Terry Bertels explained that the addition is very small and is required to comply with ADA regulations.

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

RESOLUTION NO. 7402 introduced by Deputy Mayor Duane F. Pomeroy canceling the Council meeting of November 11, 2003 was presented.

Councilmember Price moved to approve the resolution. The motion was seconded by Councilmember Duffy.

Councilmember Alcalá stated that he would not support the resolution because there are other options available.

The motion to approve the resolution carried. Councilmember Alcalá voted "no". (8-1-0)

RESOLUTION NO. 7403 introduced by Councilmember Lisa Stubbs, Gary Price, Jeff Preisner, and John Nave amending Topeka City Council Rules and Procedures, specifically 2.12, and rescinding said original sections was presented.

Councilmember Duffy briefly highlighted City Council Rules 5.6 and 5.7 relating to public comment and citizen input, and stated that the same rules apply to the Councilmembers.

John Etzel, Frank Kirtdoll, Margaret Bradshaw, Joseph Ledbetter, John Cooney, Michael Bell, Bob Sherburne, David Price, Jason Oesterreich, LaZone Grays and Fred Sanders spoke in opposition of the resolution. Topics of concerns discussed included:

- Violation of the Freedom of Speech
- Budget constraints and taxpayer funding
- Complete elimination of televised meetings
- Military sacrifices that have been made concerning freedom of speech
- Discouraging public ideas and input
- Enforcing selective criticism by the City Council

- The break down of democracy communication
- The only verbatim record available for public review
- Eliminating the opportunity for the entire city to view the meeting
- Implementation of stricter public comment and communication rules

Councilmember Stubbs moved to approve the resolution. The motion was seconded by Councilmember Preisner.

Councilmember Preisner moved to amend line 12 of the resolution following “Public Communications and Comments” adding, “report from the Chief Administrative Officer and presentations by members of the Council”. The motion seconded by Councilmember Price carried. Councilmembers Lane, Alcalá and Haynes voted "no". (6-3-0)

Councilmember Haynes made a substitute motion to amend the resolution to include the statement “Public Communications and Comments will be televised every fourth Tuesday of the month and shall adjourn by 10:00 p.m.” The substitute motion died due to lack of a second.

Councilmember Lane stated that he would not support the resolution because he has received several calls from elderly constituents that are not able to attend the meetings and they would like public comments to remain televised.

Councilmember Alcalá stated that he would not support the resolution because it places a hardship on the people that are unable to attend.

Councilmember Pomeroy stated that several constituents have expressed the desire to speak under public comment but have chosen not too because it is televised.

Councilmember Nave stated that he received four emails and zero telephone calls concerning the matter and he also conducted a personal poll and the general consensus of the City is that they are tired of listening to people project a negative image of the city.

Councilmember Duffy stated that he would like to clarify that all city business would be televised giving people the opportunity to speak on each item heightening deliberations.

Councilmember Stubbs stated that this resolution would be a contributing factor in running a more professional business meeting and in no way limits what can be said during public comment.

Councilmember Price stated that the passage of this resolution should increase public input because it eliminates the intimidation factor of being televised.

The motion to approve the resolution carried. Councilmembers Alcala, Lane and Haynes voted "no". (6-3-0)

PROJECT BUDGET in the amount of \$71,820, A PUBLIC IMPROVEMENT PETITION, and RESOLUTION NO. 7404 introduced by Deputy Mayor Duane Pomeroy authorizing Lateral Sanitary Sewer District No. 40596-04, located at approximately SE 44th Street and SE Oakview Lane, as more specifically described herein was presented.

Neil Dobler gave the staff report.

Councilmember Price moved to approve the project budget, public improvement petition and resolution. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A PROJECT BUDGET in the amount of \$163,800, A PUBLIC IMPROVEMENT PETITION, and RESOLUTION NO. 7405 introduced by Deputy Mayor Duane Pomeroy authorizing Street Improvement Project No. 60389-03H, located at approximately SE 44th Street and SE Oakview Lane, as more specifically described herein was presented.

Neil Dobler gave the staff report.

Councilmember Preisner moved to approve the project budget, public improvement petition and resolution. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

APPROVAL of Worker's Compensation settlement claim in the amount \$17,500 for Carol Longstaff was presented.

Councilmember Haynes moved to approve the Worker's Compensation settlement claim. The motion seconded by Councilmember Duffy failed. Councilmembers Lane, Alcala, Nave, Duffy, Stubbs, Preisner and Price voted "no". (2-7-0)

APPROVAL of Worker's Compensation settlement claim in the amount of \$19,000 for John Murphy was presented.

Councilmember Preisner moved to approve the Worker's Compensation settlement claim. The motion seconded by Councilmember Haynes carried. Councilmembers Lane, Alcala, Nave and Duffy voted "no". (5-4-0)

APPROVAL of Worker's Compensation settlement claim in the amount of \$1,500 for James R. Wilson was presented.

Councilmember Price moved to approve the Worker's Compensation settlement claim. The motion seconded by Councilmember Haynes carried. Councilmembers Lane, Alcala, and Duffy voted "no". (6-3-0)

A COMMUNICATION regarding the appointments of citizens to Boards and Commissions was presented.

Deputy Mayor Pomeroy explained the communication and stated that he would distribute a list of board and commission vacancies to the Council at a later date. He also stated that he would like to present certain stipulations concerning the appointment of new members.

There was no action taken on the communication.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy authorizing the issuance of \$11,225,000 aggregate principal amount of General Obligation Bonds, Series 2003-

C, of the City of Topeka, Kansas, under the authority of K.S.A. 10-101 to 125, inclusive, K.S.A. 12-110c, K.S.A. 12-685 et seq., K.S.A. 12-6a01 et seq., the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, Home Rule Ordinance No. 17733 of the City and Charter Ordinances Nos. 68 and 89 of the City, all as amended was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy, authorizing Improvement Project No. 30247-01, which provides for the design and construction of nine new tennis courts at the Kossover Tennis 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.

REPORTS FROM COMMITTEES AND OFFICERS, were presented.

Councilmember Stubbs announced that there would be a Public, Health and Safety Committee meeting held on November 3, 2003 at 3:00 p.m. in the Executive Conference Room.

Deputy Mayor Pomeroy announced that there would be a Policy and Finance Committee meeting held on November 6, 2003 at 3:00 p.m. in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy submitted a request to place a resolution authorizing a study of improvements to certain public buildings on a future agenda.

Councilmember Alcalá requested a financial break down of city employee procurement card purchases for the last two months.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

John Cooney, David Owen, Michael Bell and LaZone Grays appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent
at 10:09 p.m.

Iris Walker
City Clerk