

City Council Minutes – December 9, 2003

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 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, Nave, Haynes, Duffy, Stubbs, Preisner and Price -8. Deputy Mayor Duane Pomeroy Presided -1.

AFTER THE MEETING was called to order, prayer was offered by Dave Fulton, 190th Wing Chaplain.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION from Deputy Mayor Duane F. Pomeroy recommending the appointment of Ann Adams to fill the un-expired term of Dale Briman on the Downtown Business Improvement District Advisory Board for a term that expires June 30, 2004, was presented.

A COMMUNICATION from Deputy Mayor Duane F. Pomeroy recommending the appointments of Pete Tavares, Jr., Scott Poor and Larry Mack, Sr. to the Topeka Planning Commission, was presented.

A COMMUNICATION from Deputy Mayor Duane F. Pomeroy recommending the appointments of Ned Nusebaum as Chair, William Sheahan, Jan Pratt, Jack Crocker, Ron Browning (USD 501 Rep.), and Carol Foreman (State of Kansas Administration Rep.) to the Topeka Public Building Commission, was presented.

A FINAL PLAT for Kanza Business and Technology Park Subdivision on property located immediately west of the State Printing Plant along south alignment of I-70, the centerline

of which is approximately 1,000 feet west of SW MacVicar Road in the City of Topeka, Kansas, was presented. (P00/40)

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

APPLICATIONS for Cereal Malt Beverage Licenses bearing the approval of the Chief of Police and City Inspectors were presented from the following:

Phillips 66	2524 SW 29 th Street
Brass Rail Tavern	401 NE Emmett
Godfather's Pizza	1835 N. Topeka Boulevard
Godfather's Pizza	2911 SW 29 th Street
Godfather's Pizza	1707 SE 29 th Street
Grover's Smokehouse	1217 SW Gage Boulevard
Lynn's Place	2212 Sardou
Ichabod Laundra Bar	1501 W. 21 st Street
Porubsky's	508 Sardou
Sasnak North	1834 N. Topeka
Taco Tico	2102 N. Topeka Boulevard
Topeka Public Golf Course	2533 Urish Road
Town & Country Bar	3738 SW Topeka

APPLICATIONS for Dance Hall Licenses bearing the approval of the Chief of Police and City Inspectors were presented from the following:

The Den	1116 NW Lower Silver Lake Road
Heart Attack Jacks	555 SW 39 th Street
Jeremiah Bullfrog's Bar & Grill II	4115 SW Huntoon
Jul's Cocktail Club	4117 SW Huntoon
Sasnak North	1834 N. Topeka
Stoney's Bar and Grill	1914 N. Topeka Boulevard
Town and Country Bar	3738 SW Topeka Boulevard
Wild Cherry	520 NW Elm Row Avenue
Joletta's	600 NW Paramore Street

APPLICATION for an Open After Mid-night Permit for TJ's Cocktail and Billards located at 1909 NE Seward bearing the approval of the Chief of Police was presented.

Councilmember Haynes asked to separate the minutes from the consent agenda.

Councilmember Preisner moved to approve the remainder of the consent agenda.

The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

Councilmember Haynes distributed language regarding discussion of the resolution to grant the Topeka Housing Authority eminent domain authority, and moved that the minutes be amended to include that language. The motion seconded by Councilmember Duffy carried unanimously. (9-0-0)

Councilmember Price moved to approve the minutes as amended. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, December 9, 2003, at 7:00 P.M., in conjunction with vacation request V03A/1 by Topeka Bible Church to vacate a portion of an alley right-of-way located at 1101 SW Mulvane Street.

ORDINANCE NO. 18138 introduced by Deputy Mayor Duane F. Pomeroy relating to the vacation of a 15-foot wide public alley right-of-way on property located at 1101 SW Mulvane Street, as dedicated by the plat of Stilson and Bartholomew's Addition, City of Topeka, Shawnee County, Kansas placed on first reading December 2, 2003, was again presented. (V03A/1)

Bill Fiander, Planning Department gave the staff report.

No one appeared to speak.

Councilmember Preisner moved to close the public hearing 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, Alcalá, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price –9.

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, December 9, 2003, at 7:00 P.M., in

conjunction with vacation request V03S/4 by Robert R. and Barbara J. McDowell to vacate a portion of NE Laurent Street right-of-way.

ORDINANCE NO. 18139 introduced by Deputy Mayor Duane F. Pomeroy relating to the vacation of a portion of a street right-of-way along NE Laurent Street, as dedicated by the plat of Garden Park Addition, City of Topeka, Shawnee County, Kansas placed on first reading December 2, 2003, was again presented. (V03S/4)

Bill Fiander, Planning Department gave the staff report and stated that they are vacating only the portion of street right-of-way that the house is in.

No one appeared to speak.

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

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, December 9, 2003, at 7:00 P.M., in conjunction with vacation request V03SB/6 by Solomon Homes, L.L.C. to vacate one-foot of a 30-foot platted building setback line for three consecutive lots located along the south side of NE Aspen Lane approximately 235-feet east of NE Walnut Grove Road.

ORDINANCE NO. 18140 introduced by Deputy Mayor Duane F. Pomeroy relating to the vacation of one-foot of a 30-foot wide platted building setback as dedicated by Northland Subdivision 'B', City of Topeka, Shawnee County, Kansas, placed on first reading December 2, 2003, was again presented. (V03SB/6)

Bill Fiander gave the staff report and stated that in the process of constructing residential dwellings at 311, 315 and 319 NE Aspen Road, the applicant encroached to varying degrees into the front-yard zoning and platted building setbacks for each of the lots. He stated that the applicant requested a variance and that request was approved by the Board of Zoning Appeals.

Councilmember Price stated that they have not met the guidelines and probably should not be granted the variance. He believes the City is setting a dangerous precedent. He further stated that the City pays for right of way for construction of their projects and asked if the builder would be willing to compensate the City for right of way.

Greg Bramley and Todd Beavler, applicants explained that one of their employees went against their policy and staked out the property and they were well into the project when they realized the error. They stated that they immediately started the process to get a variance. They stated that they would rather not compensate the City, but they were open to discussion.

Councilmember Alcalá stated that he is glad to see development in the area.

Councilmember Alcalá moved to close the public hearing and adopt the ordinance.

Councilmember Stubbs asked if there were procedures in place to catch these types of errors.

Neil Dobler, Public Works Director stated that the project was probably staked by someone not qualified and it is usually done by a professional land surveyor. He stated that this is not something that is inspected by the City. He stated that the builder made a mistake and the City has to decide if it is something they can live with.

Deputy Mayor Pomeroy stated that he agrees with Councilmember Alcalá and he sees no detriment to the City if the variance is approved.

The motion carried. Councilmember Duffy voted “no”. (8-1-0)

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

A ZONING PETITION AND AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy 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 east side of SE Fremont Avenue, the centerline of which is approximately 1,100-feet south of SE 29th Street in City of Topeka, Kansas from “E” Multiple Family Dwelling District TO “R-1” Single Family Dwelling District placed on first reading December 2, 2003, was again presented. (Z03/60)

Notice is hereby given that there will be a special meeting of the Councilmembers of the City of Topeka, Shawnee County, Kansas, held Tuesday, December 9, 2003, at 7:00 P.M., in conjunction with CU03/17 by Robert A. Ellis requesting a Conditional Use Permit to establish a recreational field for survival games on property currently zoned “E” Multiple Family Dwelling District and “R-1” Single Family Dwelling District and located on the east side of SE Fremont Avenue, the centerline of which is approximately 1,100-feet south of SE 29th Street in the City of Topeka, Kansas.

A RESOLUTION introduced by Deputy Mayor Duane F. Pomeroy in accordance with Section 48-4.02(c)(8)(g) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a recreational field for survival games on property currently zoned “E” Multiple Family or Office District and “R-1” Single Family Dwelling District and located on the east side of SE Fremont Avenue, the centerline of which is approximately 1,100-feet south of SE 29th Street in the City of Topeka, Kansas, was presented. (CU03/17)

Bill Fiander, Planning Department gave the staff report and stated that staff did not recommend approval because the proposal is not consistent with the neighborhood plan. He stated that the plan recommended a high density residential and this proposal would compromise the infill development currently being pursued. He stated that this type of proposal is better suited in a rural setting away from urban development. He stated that the Planning Commission recommended disapproval as well. He also stated that they received some information from the Legal Department as to the legality of the use of paint ball guns in the City.

Brenden Long, City Attorney stated that discharge of paint ball guns in the City would be in violation of current city ordinance. He stated that even if this proposal is approved the activity could not take place without a change in the ordinance.

Councilmember Stubbs asked why this proposal was allowed to get this far along in the process and take up staff time if it is an illegal activity.

Brenden Long stated that he believes paint ball guns are allowed in some cities and it was just brought to his attention when it was put on the agenda.

Councilmember Preisner called the question.

Deputy Mayor Pomeroy ruled the call out of order because he stated that this is also a public hearing and they need to hear from the applicant.

Joe Ledbetter appeared in opposition to the petition and stated that the Hi Crest area is also opposed. He distributed a letter and petition from Sara LaClair in opposition to the petition and conditional use permit for a paint ball park. He also distributed a letter from Betty Phillips in opposition to the petition.

Councilmember Lane moved to close the public hearing and concur with the Planning Commission's recommendation to disapprove the petition and conditional use permit. The motion was seconded by Councilmember Price.

Each Councilmember stated that they did not have any exparte communication.

The motion carried. Councilmember Duffy voted "no" (8-1-0)

A ZONING PETITION AND ORDINANCE NO. 18141 introduced by Deputy Mayor Duane F. Pomeroy 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 between SE Massachusetts Avenue and SE Pennsylvania

Avenue and north of SE 21st Street; and, located between SE Adams Street and SE Massachusetts Avenue, the centerline of which is approximately 230-feet north of SE 21st Street in the City of Topeka, Kansas from “M-2” Multiple Family Dwelling District TO “PUD” Planned Unit Development District placed on first reading December 2, 2003, was again presented. (Z03/46)

Bill Fiander, Planning Department gave the staff report and stated that the zoning is staying the same and they are just incorporating a Planned Unit Development District (PUD).

Councilmember Lane moved to approve the petition 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.

A ZONING PETITION AND ORDINANCE NO. 18142 introduced by Deputy Mayor Duane F. Pomeroy 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 east side of SE California Avenue and SE 27th Street, extended, in the City of Topeka, Kansas from “C-4” Commercial District TO “PUD” Planned Unit Development District placed on first reading December 2, 2003, was again presented. (Z03/59)

Bill Fiander, Planning Department gave the staff report and stated that the PUD only allows a mini storage unit and a drive-thru facility for a Papa John’s Restaurant. He stated that the Planning Commission recommended approval with two conditions: an additional 20-feet of landscaping to be placed along SE California Avenue within the requirements of the Landscape Ordinance, and signage limited to one monument sign for the Mini Storage and one pole sign for

Papa John's Restaurant. He noted a correction on the vote of the Planning Commission and stated that the correct vote was 5-3-0.

Sam Malinowsky, Kaw Valley Engineering representing the applicant appeared and stated that they agreed with the Planning Commission's recommendations.

Each Councilmember stated that they did not have any ex parte communication regarding the petition.

Councilmember Haynes moved to approve the petition and adopt the ordinance. The motion seconded by Councilmember Alcala 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 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 on the east side of NW Rochester Road, the centerline of which is approximately 810-feet north of U.S. Highway 24 in the City of Topeka, Kansas from "R-1" Single Family Dwelling District and "C-4" Commercial District all to "C-4" Commercial District placed on first reading December 2, 2003, was again presented. (Z03/37)

Councilmember Stubbs gave the committee report and stated that the Public Health and Safety Committee met and three representatives from Wal-Mart were present. She stated that the C-4 is wide open and does not provide for infrastructure improvements that would be needed for with this project. She stated that the committee recommended "do not pass" and to return the petition for consideration of a Planned Unit Development District.

David Lots, Continental Consulting Engineers representing the applicant appeared and stated that following the December 1, 2003 committee meeting they recognized that off site improvements were needed and they could address that in a developer agreement and “PUD”. He stated that they have also sought to address the traffic and truck turn around on the north side of the building. He stated that they have prepared a traffic analysis and determined that 25th Street and Rochester is the appropriate place for a traffic signal. He stated that both City staff and KDOT have reviewed and approved in theory the geometric design.

Discussion continued regarding the level of service at the intersections around the Wal-Mart at 37th and Topeka.

Councilmember Haynes asked if infrastructure improvements were required for this project and who would pay for them.

Neil Dobler stated that the developer usually would be required to pay for infrastructure improvements that their project impacts unless it is something they already have in the Capital Program in the next year or two.

Councilmember Haynes asked if this ordinance is approved, when would it be determined how the infrastructure will be funded.

Brenden Long stated that it is up in the air right now because there is no obligation on the part of the developer to pay for infrastructure improvements as of now.

Councilmember Haynes asked if it would be appropriate to defer this request for a reasonable period of time to determine how the infrastructure improvements would be funded.

Councilmember Alcalá stated that he does not want to pass the burden of these improvements onto taxpayers, and he does not want the project to get too far down the line before infrastructure improvements have been worked out in a developer agreement.

Councilmember Alcalá moved to disapprove the ordinance based on the Planning Department's recommendation. The motion was seconded by Councilmember Lane.

Councilmember Stubbs asked the Planning Director to address if a PUD was the way to proceed with this request.

David Thurbon, Planning Director stated that the proper way to address the concerns expressed is a PUD because they cannot put conditions on a C-4 zoning change.

Councilmembers Alcalá, Pomeroy, Nave, Duffy, Stubbs, Preisner and Price declared their exparte communications.

The motion carried unanimously. (9-0-0)

ORDINANCE NO. 18143 introduced by Deputy Mayor Duane F. Pomeroy, relating to building codes for one and two family dwellings, repealing City of Topeka Code Sections 26-281, 26-282, 26-283, 26-296, 26-297, 26-298, 26-299, 26-300, 26-301, 26-302, 26-303, 26-304, 26-305, 26-306, 26-307, 26-308, 26-309, 26-310, 26-311, 26-312, 26-313, 26-314, 26-315, 26-316, 26-317, and 26-318, amending City of Topeka Code Chapter 26, Article VI, Division 1 and Chapter 26, Article VI, Division 2 and repealing said original sections placed on first reading November 25, 2003, was again presented.

Neil Dobler, Public Works Director stated that they responded to questions raised by Mr. DeLapp last week. He distributed two amendments that they recommend and stated that one of the amendments would address a concern expressed by Mr. DeLapp. He stated that they were down to three issues and would continue to work with Mr. DeLapp.

Councilmember Lane moved to amend the ordinance on page 22 by adding to Section 31, a number 11 to read as follows: "Ordinary repairs that are nonstructural and do not include the addition to or alteration of the existing construction. This only applies to building construction,

any work done to the plumbing, mechanical or electrical areas are covered by their appropriate codes”, and on page 34, Section 52 remove the words “from and” and add the words “sixty (60) days” after the word “force” on line 716. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Lane carried unanimously.

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

A COMMUNICATION recommending the appointment of Ed Ramirez and the re-appointment of Jerry Lonergan to three-year terms on the Metropolitan Topeka Airport Authority, both expiring on November 30, 2006, was presented. This was deferred from the meeting of November 25, 2003.

Councilmember Duffy moved to approve the appointments. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá stated that he would not support the appointment of Ed Ramirez because his legal address is in the county.

Councilmember Alcalá requested an inspection of Mr. Ramirez’ property at 1010 No. Kansas to make sure it was up to code.

Deputy Mayor Pomeroy stated that he believed that was a punitive request and therefore inappropriate.

Councilmember Lane stated that he would also oppose the appointment because Mr. Ramirez does not live in the City and he believes this is circumventing the process.

Councilmember Alcalá requested that the question be divided.

The Deputy Mayor asked for a vote on the re-appointment of Jerry Lonergan.

The motion carried unanimously. (9-0-0)

The Deputy Mayor asked for a vote on the appointment of Ed Ramirez. The motion carried. Councilmembers Lane and Alcala voted “no”. (7-2-0)

A COMMUNICATION requesting approval to allocate \$5,000 from the Transient Guest Tax fund in 2003 to finance the activities of the Topeka Sesquicentennial Committee, was presented.

Jim Langford, Budget Director gave the staff report.

Councilmember Preisner moved to approve the allocation. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A FINAL PLAT for Linwood Subdivision No. 3 on property located at the northeast corner of NW Green Hills Road and NW 50th Street in unincorporated Shawnee County, Kansas, was presented. (P03/48)

Bill Fiander, Planning Department gave the staff report.

Councilmember Alcala moved to accept the public dedication. The motion was seconded by Councilmember Lane.

Councilmember Haynes asked where the traffic would flow from this project.

Bill Fiander stated that it would flow onto NW 50th Street.

Councilmember Duffy asked if this would be considered urban or rural development.

Bill Fiander stated that it would be urbanized development.

Councilmember Duffy asked if this area fits into the future growth boundaries for the City.

Neil Dobler, Public Works Director stated that this development is outside that area.

Rick Schmidt, Schmidt Engineering appeared for questions.

The motion failed. Councilmembers Pomeroy, Nave, Haynes, Duffy, Stubbs and Price voted “no”. (3-6-0)

RESOLUTION NO. 7421 introduced by Deputy Mayor Pomeroy regarding rezoning of resolutions of intent within the City of Topeka pursuant to City of Topeka Code 48-33.01(b)(1), was presented.

Bill Fiander, Planning Department gave the staff report and stated that this would give staff the ability to bring back recommendations on the resolutions of intent that are still pending.

Councilmember Stubbs moved to approve the resolution. The motion seconded by Councilmember Price carried. Councilmember Preisner was out of the room. (8-1-0)

RESOLUTION NO. 7422 introduced by Deputy Mayor Duane F. Pomeroy establishing a date and time for conducting interviews of applicants for the vacant position of Mayor of the City of Topeka, as provided by City of Topeka Code Section 2-34 of the Code of the City of Topeka, was presented.

DISCUSSION of interview ground rules for the vacant position of Mayor, was presented.

Councilmember Pomeroy moved to adopt the ground rules. The motion was seconded by Councilmember Preisner.

Councilmember Preisner moved to amend the ground rules to state that interviews will begin at 3:00 P.M. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Bob Sherbourne appeared and suggested that candidates be allowed to pick a question at random out of the group of questions that they would like to answer.

Councilmember Stubbs suggested that the applicants provide written responses to the questions in advance and allow them to use their time the way they choose.

Brenden Long, City Attorney explained that the interview process is questions and answers.

Councilmember Preisner moved to amend the rules to allow each applicant fifteen minutes for an opening statement, to answer each question submitted by Councilmembers, and to make a closing statement. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

The motion to approve the resolution and ground rules as amended carried unanimously. (9-0-0)

RESOLUTION NO. 7423 introduced by Deputy Mayor Duane F. Pomeroy authorizing a budget adjustment in the amount of two hundred fifty-five thousand seven hundred dollars (\$255,700) to provide necessary finances for the City of Topeka Planning Department, was presented.

Jim Langford, Budget Director gave the staff report and stated that this would result in fund balances going from 90% to 80.6%.

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

Councilmember Alcalá moved to amend the amount to \$532,000 to restore the Company closed at the Fire Department. The motion seconded by Councilmember Lane failed.

Councilmembers Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted “no”. (3-6-0)

The motion to approve carried. Councilmembers Lane and Alcalá voted “no”. (7-2-0)

RESOLUTION NO. 7424 introduced by Councilmembers Lisa Stubbs and Jeff Preisner relating to changing the form of government, was presented.

Councilmember Haynes raised an objection to consideration of the resolution. He stated that it was contrary to Council Rules of Procedures because this subject was acted on at a previous meeting and does not meet the six-month requirement. He also stated that this is a serious matter and needs serious consideration, and the Council does not have all of the information available to them. He stated that there was no plan before them.

Brenden Long stated that the rules require an immediate vote on the objection.

Deputy Mayor Pomeroy asked for a vote on the objection to consideration of the resolution.

The objection was overruled. Councilmembers Lane, Alcalá and Haynes voted “no” (6-3-0)

Councilmember Haynes moved to refer the resolution to the Committee of the Whole. The motion seconded by Councilmember Lane failed. Councilmembers Lane, Alcalá, Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted “no”. (1-8-0)

Bob Sherbourne appeared and expressed his concerns about the need to have a functional government.

Joe Ledbetter appeared in support of the resolution and stated that the present form of government has some deficiencies.

Councilmember Lane stated that he is not sure what they have now would not work with some changes.

Councilmember Preisner stated that this gives them an opportunity to look at options.

Councilmember Alcalá moved to amend the resolution beginning on line 8 after “City of

Topeka” delete the language that follows as well as lines 9 and 10. The motion seconded by Councilmember Lane failed. Councilmembers Pomeroy, Nave, Duffy, Stubbs, Preisner and Price voted “no”. (3-6-0)

Councilmember Stubbs moved to approve the resolution. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá and Lane voted “no”. (7-2-0)

A JOINT CITY OF TOPEKA RESOLUTION AND SHAWNEE COUNTY RESOLUTION introduced by Councilmember John Alcalá, expressing the Topeka City Council and Shawnee County Board of Commissioners’ intention to consolidate the City of Topeka Parks and Recreation Department with the Shawnee County Parks and Recreation Department into a single County agency, was presented.

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA RESOLUTION NO. 7425 introduced by Councilmember Lisa Stubbs encouraging the Kansas State Legislature to approve legislation that would authorize the creation of a park district for Shawnee County, was presented.

Councilmember Alcalá stated that this resolution would allow them to develop a plan to consolidate the City Parks and Recreation Department with the County Parks and Recreation Department by March 1, 2004 and implementation by January 1, 2005. He stated that Topekans are being taxed twice, once by the city and once by the county and this would eliminate that and duplication of services.

Joe Ledbetter appeared and stated that this would provide for better equity in taxes for the City and County residents. He stated that he supports the resolution but would suggest that the question be put on the ballot in November of 2004. He also suggested that at the same time the

County Commissioners be changed from three members to five and this would also set the stage for other consolidation down the road.

Jason Oesterrich stated that consolidation would save taxpayers money and improve the relationship between the City and the County.

Vic Miller, Shawnee County Commissioner appeared and distributed information comparing the mill levy inside the City with the mill levy for outside of the City and discussed how to eliminate the disparity. He stated as an example by consolidating Parks and Recreation into a single county agency the City's mill levy would go from 13 mills to 5.3 mills. He stated that taxes should not be higher inside the city than they are outside the city.

Councilmember Stubbs distributed a resolution that would create a park district and stated that she believed that was an option that should be explored. She stated that a park district would also save city taxpayers money. She asked Mr. Miller what efficiencies he hoped to gain by consolidation.

Commissioner Miller stated that if the County took over operation of a consolidated Parks and Recreation Department they do not intend to close Recreation Centers or make program changes. He stated that he believed that there are a number of management positions that could be eliminated, but the main purpose is for tax equity and the other changes would come down the road.

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

Councilmember Lane made a substitute motion to approve and amend by changing the date on line 17 from "March 1, 2004" to "July 1, 2004". The motion was seconded by Councilmember Alcalá.

Councilmember Stubbs asked if she could make another substitute motion.

Deputy Mayor Pomeroy ruled that another substitute motion was out of order.

Brenden Long, City Attorney stated that Councilmember Lane's motion could be considered an amendment or a substitute motion and it is appropriate as well as another substitute motion after that one.

Deputy Mayor Pomeroy stated that he did not agree with that and his ruling is that another substitute motion or amendment in addition to Councilmember Lane's would be out of order.

Councilmember Haynes challenged the ruling of the Chair.

Deputy Mayor Pomeroy asked for a vote on if the ruling of the Chair should be upheld.

The ruling was upheld. Councilmember Haynes voted "no". (8-1-0)

Councilmember Lane's substitute motion failed. Councilmembers Pomeroy, Duffy, Stubbs, Preisner and Price voted "no". (4-5-0)

Councilmember Stubbs moved to substitute and approve a Shawnee County Park District instead of a Shawnee County agency. The motion was seconded by Councilmember Price.

Councilmember Alcalá stated that he would not support the resolution because it creates another government that is not needed.

Deputy Mayor Pomeroy stated that he would oppose the motion. He stated that he favors consolidation, but this would require enabling legislation. He stated that he did ask the Shawnee County Delegation to consider the idea.

Councilmember Lane stated that during a brief discussion while they were on break, the idea seemed to receive a lukewarm reception by the Shawnee County Delegation.

Councilmember Stubbs stated that this is a first step and would allow them to try something they have not tried.

Councilmember Haynes stated that he is opposed to the resolution because there is no plan and it would need enabling legislation.

The motion carried. Councilmembers Lane, Alcalá, Pomeroy Haynes voted “no”.
(5-4-0)

Deputy Mayor Pomeroy stated that #7A, an ordinance relating to Combined Utility Revenue Bonds has been withdrawn at the request of Administration.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy, exempting certain property, more specifically property owned by PTMW, Inc. from ad valorem taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at approximately 3501 NW Highway 24, Topeka, Shawnee County, Kansas, was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy, authorizing Improvement Project No. 14114-00, which provides for the installation of a new pedestrian actuated flasher at SE 21st Street and Hudson Boulevard as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy, authorizing Trafficway Improvement Project No. 70197-02, which provides for the street expansion of SW Wenger Drive into the new commerce park as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of

Topeka Improvement Project No. 12062-00, in the area of the Kansas Avenue Bridge, was presented for first reading.

Councilmember Duffy requested a copy of the concept plan.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy relating to the location of equipment, amending Topeka City Code § 130-693, and repealing said original section, was presented for first reading.

Councilmember Price moved to refer the ordinance to the Policy Committee. The motion was seconded by Councilmember Duffy.

Councilmember Pomeroy made a substitute motion to refer the ordinance to the Public Health and Safety Committee. The motion seconded by Councilmember Alcalá carried.

Councilmembers Alcalá, Nave and Preisner voted “no”. (6-3-0)

AN ORDINANCE introduced by Councilmember John Alcalá relating to the extension of water service outside the city limits and establishing criteria therefore, amending City of Topeka Code § 146-37 and specifically repealing said original section, was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy concerning the terms of city board and commission members, repealing City of Topeka Code §§ 2-182, 142-636, 142-637, 142-638, 142-639, 142-640, 142-641, 142-642, 142-643, 142-644, and 142-645 and amending City of Topeka Code §§ 2-185, 2-186, 2-187, 2-188, 2-189, 2-190, 2-191, 2-193, 2-194, 2-197, 26-67, 26-138, 26-221, 42-4, 42-39, 86-27, 102-54, 102-198, and 106-41 and specifically repealing said original sections, was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy relating to the waivers and variances from the stream buffer requirements, amending Topeka City Code § 66-158, and repealing said original section, was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy announced that the Economic Development Committee would at 7:10 a.m. on Friday, December 12, 2003 in the Council office conference room.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen stated that staff is working on the Crime Summit report and it should be distributed by the end of the week. He also stated that Jim Langford is working on financial information regarding the Office of the Arts. He assured the Council that the signage on the fire department truck would be addressed.

PRESENTATIONS BY MEMBERS OF THE COUNCIL were presented.

Councilmember Price asked for an update on consolidation of the environmental codes.

Brenden Long stated that they are working on it and it should be ready in January.

Councilmember Price also stated that he thought the email sent to all COT by the Fire Department regarding their safety walk was inappropriate use of the City's email.

Councilmember Duffy agreed with Councilmember Price's concern about the email and stated that it is about being an ethical organization, and those who work for the organization have a responsibility to abide by those ethics. He stated that those type of actions need to be addressed immediately.

Councilmember Alcala expressed his concern that too much was being made of the email and sign on the fire truck.

Councilmember Pomeroy moved to extend the meeting past 11:00 p.m. The motion seconded by Councilmember Price carried. Councilmembers Lane, Alcala, Nave and Haynes voted “no”. (5-4-0)

Loyd Schroeder appeared for public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 11:08 p.m.

Iris Walker
City Clerk