

City Council Minutes – January 20, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 20, 2004. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcalá, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price -8. Mayor James A. McClinton presided -1.

AFTER THE MEETING was called to order, prayer was offered by Reverend Cecil Washington, New Beginnings Baptist Church.

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

THE CONSENT AGENDA was presented as follows:

A communication requesting approval to designate The Topeka Metro News as the official city newspaper and award the contract for publication of legal notices to Hall Publications, was presented.

Minutes of the Regular Meeting of January 13, 2004 were presented.

Councilmember Stubbs requested that #3A be removed from the consent agenda for separate discussion.

Councilmember Alcalá moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

Mayor McClinton stated that #3A would be considered at the end of Unfinished Business.

ORDINANCE NO. 18163 introduced by Mayor James A. McClinton authorizing the issuance of \$46,180,000 aggregate principal amount of Combined Utility Improvement and Refunding Revenue Bonds, Series 2004-A, of the City of Topeka, Kansas, under the authority of

K.S.A. 10-116A, K.S.A. 10-1201 et seq., and all amendments thereto, placed on first reading January 13, 2004, was again presented.

Randy Bailes, Finance Director explained the outcome of the three bids received. He stated that the low bid with a true interest cost of 4.4225%, was received from a syndicate led by RBC Dain Rauscher. He stated that the syndicate included five other underwriting firms. He explained that most of the proceeds from the bonds would be used to finance current projects at the Water Treatment Plant, Wastewater Treatment Plant and the Stormwater system. He further explained that approximately \$8,000,000 of bonds sold would be used to refinance existing debt that had an average coupon of approximately 4.5%, and over the remaining life of the existing bonds the City will save just over \$508,000, or 6.33% of bonds refunded. He stated that this exceeds their target of three percent.

Kevin Wickliffe, Columbia Capital Management was present to answer questions.

Councilmember Haynes moved to accept the bid of RBC Dain Rauscher, and adopt the ordinance. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

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

RESOLUTION NO. 7435 introduced by Mayor James A. McClinton prescribing the form and details of the Combined Utility Improvement and Refunding Revenue Bonds, Series 2004-A of the City of Topeka, Kansas, in the aggregate principal amount of \$46,180,000 the issuance of which was authorized by the City pursuant to its Ordinance No. 18163 passed and approved January 20, 2004; and authorizing certain other documents and actions in connection with the issuance of the bonds, was presented.

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

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, placed on first reading December 9, 2003, was again presented.

Neil Dober, Public Works Director stated that staff does not support this ordinance and asked that it be disapproved. He explained that it was created in an attempt to reach a compromise with a single developer, but subsequently they did find a way to meet staff's needs and desires.

Councilmember Stubbs gave the committee report and stated that the committee recommended "do not pass".

Councilmember Stubbs moved to adopt the ordinance. The motion seconded by Councilmember Preisner failed.

The ordinance failed to be adopted on roll call vote as follows: Noes: Alcala, Pomeroy, Nave, Haynes, Duffy, Stubbs, Preisner and Price –8.

ORDINANCE NO. 18164 introduced by Deputy Mayor Duane F. Pomeroy relating to X Mixed Use District regulations and specifically amending City of Topeka Code §§ 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)

Brenden Long, City Attorney explained that the first document that he distributed is the correct document that should have been included in the packets they received on Friday. He distributed a new document and explained that it contained language agreed upon with Mr.

Barnes, the attorney representing Jerry Boyles. He stated that a concern was raised two weeks ago regarding the use of portable signs in the X-Mixed Use District and the amendment clarifies that language. He stated that one amendment is on page 1, line 16 as follows: “Unless specifically restricted or prohibited herein, these regulations do not preclude the erection or placement of signs otherwise regulated by Chapter 118 of the Code of the City of Topeka.” He stated that the other amendment was made on page 5, lines 116-118 as follows: “Properties are permitted one double-faced ground sign, which shall include portable signs, not to exceed 40 square feet per sign face, nor seven feet in height above grade.” He stated that these were the primary amendments made and they did not address the fences.

Councilmember Nave stated that he did receive a call regarding a property that had been burglarized and expressed a concern about the fencing requirement.

Bill Fiander, Planning Department explained that any fence over four-feet that would go beyond the front face of the structure on the adjoining property would have to be approved by the Planning Director or be decorative in nature, such as a wrought iron fence. He stated that up to an eight-foot fence would be allowed on the sides and in the rear of the property, but only four-feet in the front.

Councilmember Alcala asked how a business could protect their property if their storage was in the front of the business.

Bill Fiander stated that if the building next to them is further up than theirs, they can have a fence because it would not block a neighbor’s property.

Councilmember Price asked why the height of signs was raised from a five-foot to seven-foot limitation.

Brenden Long stated that was done to cover portable signs and address the concern that this ordinance was an attempt to regulate them.

David Thurbon, Planning Director stated that the greater height is allowed because the portable signs are considered temporary.

Councilmember Stubbs stated that the ordinance would apply to all new X Mixed Use Districts so in a new development people would know what to expect.

Councilmember Haynes asked if the purpose of the fence requirement was aesthetic.

Bill Fiander stated that it was to achieve a balance between residential and commercial properties.

Councilmember Stubbs moved to amend the ordinance to what was distributed by the City Attorney and dated January 20, 2004. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

Jerry Boyles appeared and reiterated how many individuals and small business use the portable signs.

Joe Ledbetter appeared and stated that he concurs with the amendments regarding portable signs. He stated that if a property needs a fence around it for security, and the fence requirement does not allow it, that could be considered a “taking” of property. He urged the Council to keep properties viable and to make this community business friendly.

Brenden Long stated that the current fences would be grand-fathered in, and this ordinance would pertain to new developments and would not be considered a “taking” of property.

Bonnie Gish, Mike’s Frame Shop stated that businesses in her area have problems with graffiti and burglaries, and additional requirements are expensive for small businesses.

Pat Barnes, Attorney representing Jerry Boyles appeared and stated that he appreciates the amendment regarding the portable signs and it takes care of their concerns.

Councilmember Price moved to amend the ordinance on line 339 by striking “Zoning and Platting Committee of the Topeka Shawnee County Metropolitan”, so it would read Topeka Planning Commission. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

Councilmember Preisner moved to adopt the ordinance as amended. The motion seconded by Councilmember Stubbs carried unanimously. (8-0-0)

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

A COMMUNICATION requesting approval to designate The Topeka Metro News as the official city newspaper and award the contract for publication of legal notices to Hall Publications, was presented.

Randy Bailes, Finance Director stated that this item was brought forth from Contracts and Procurement Division. He stated that their recommendation was based on bids per line as specified.

Councilmember Stubbs stated that she asked to have this pulled from the consent agenda because it was brought to her attention that the per line cost was not necessarily representative of the true cost of the item.

John Fish, Capital Journal Newspaper stated that he believed the Capital Journal would be the best choice for the city’s legal publications. He stated that they reach over 40,000 readers in the City and Shawnee County; their frequency is daily; their bid of \$.58 per line is cheaper because they use wider column width and smaller type so they are able to get more words in each

line; and they would create a searchable data base to allow individuals to search the city legal publications.

Denise Hall, Hall Publications stated that the column widths comparison provided as additional information is not accurate. She stated that the Capital Journal normally prints their legals in 6 pica width and 12 pica width was given, so they would need to double the figure that was given. She explained that they are locally owned, have professional staff and she believes they do a good job for the City. She stated that they have kept the prices down over the past several years.

Councilmember Haynes asked what percentage of their total revenue for legal advertising was from the City.

Denise Hall stated that without calculating those figures she was not sure of the numbers, but the City was a good contract for them.

Councilmember Duffy asked if the legal notices were on line and archived.

Denise Hall responded that they were.

Councilmember Nave asked how many subscribers they have.

Denise Hall stated that they estimate approximately 10,000 readers per issue.

Councilmember Stubbs asked the City Attorney to explain why the City published legal notices.

Brenden Long, City Attorney explained that it was a statutory requirement and the City is required to designate an official newspaper. He stated that having the most readers is not a statutory requirement, and both papers meet the requirement to publish the City's legal notices.

Councilmember Alcalá noted the difference in size of print of the Capital Journal with the larger print of the Metro News, and stated that reading small print is difficult for senior citizens.

He asked if there would be an additional cost if the print size were increased.

John Fish stated that the increase in cost would come from an increase in the number of lines.

Councilmember Alcalá moved to approve the communication. The motion seconded by Councilmember Haynes failed. Councilmembers Pomeroy, Duffy, Stubbs and Price vote “no”. (4-4-0)

Councilmember Stubbs moved to designate the Capital Journal as the City’s official newspaper. The motion seconded by Councilmember Price failed. Councilmembers Alcalá, Nave, Haynes and Preisner voted “no”. (4-4-0)

RESOLUTION NO. 7436 introduced by Mayor James A. McClinton authorizing initiation of condemnation proceedings for Street Improvement Project No. 60444-02, was presented.

Neil Dobler, Public Works Director gave the staff report.

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

AN ORDINANCE introduced by Mayor James A. McClinton annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at the NW Corner of SW 6th Avenue and SW Wanamaker Road and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes, was presented for first reading. (A04/1)

AN ORDINANCE introduced by Mayor James A. McClinton authorizing the City of Topeka, Kansas, to issue its taxable Industrial Revenue Bonds, Series A2004, (Tallgrass Project) in the maximum principal amount of \$17,890,000 for the purpose of purchasing, acquiring,

constructing, improving, equipping and installing certain facilities; authorizing execution of a Trust Indenture by and between the City and Commerce Bank & Trust, in the City of Topeka, Kansas, as Trustee; authorizing the City to lease said project to Tallgrass Prairie Holdings, L.L.C.; and authorizing execution of a lease by and between said City and Tallgrass Prairie Holdings, L.L.C., was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS were presented.

Councilmember Pomeroy stated that he wanted to remind the Council to turn in their questions for the District #3 Councilmember candidate by the end of business on Monday, January 26, 2004. He stated that they also needed to select a time for interviewing.

Following further discussion it was the consensus of the Council to have the interviews televised beginning at 5:00 p.m., Tuesday, January 27, 2004, and each interview would be a minimum of fifteen minutes. It was also the consensus that voting on the candidate would take place at the Council meeting on January 27, 2004 and the successful candidate would be sworn in the following Tuesday, February 3, 2004.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen, CAO distributed a legislative update from the City's lobbyists.

PRESENTATIONS BY MEMBERS of the Council, were presented.

Councilmember Alcalá distributed a document regarding Hersh Development and stated that they were in arrears on their taxes. He stated that he was bringing this to Administration's attention because normally permits are not issued if an applicant owes the City taxes.

Mayor McClinton informed the Council that Administration was changing some processes and agenda packets would be available on Thursday afternoons from now on. He stated that this would hopefully assist the Council in getting questions answered and reviewing

proposals prior to the Council meetings. He stated that he is also working with staff on setting the agendas and they will try to keep the meetings at two hours.

Councilmember Duffy stated that he was interested in the gaming issued being discussed at the legislature and the City's lobbyists should make sure the City does not get overlooked or not considered when the decision is made to locate the casino. He also stated that he received an email from Ryan Freed of the Kansas Corporation Commission regarding the solar vehicle event. He asked that someone respond to the email and try to do what they could to assist in keeping that event in Topeka.

Councilmember Price stated that he responded to the email and suggested they check into the possibility of holding the event at Forbes Field or Downtown to hold the cost down.

Councilmember Alcalá stated that he has viewed a plan that is in the beginning stages to locate a casino in North Topeka.

Councilmember Pomeroy stated that is a policy question that the Council should consider. He stated that if the Council decides they want a casino in Topeka, do they want the legislature to designate the location.

Mayor McClinton stated that the City needs to at least get to the table to discuss the possibility and they will also need to get with their constituents to see if there is interest in having one in the community.

Greg DeBacker appeared to speak under public comments.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:35 p.m.

Iris Walker
City Clerk