

## City Council Minutes – March 2, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, March 2, 2004. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Alcalá, Pomeroy, Chancler, Nave, Haynes, Duffy, Stubbs Preisner and Price -9. Mayor James A. McClinton presided -1.

AFTER THE MEETING was called to order, prayer was offered by Janae Stovall.

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

Councilmember Alcalá asked to pull item 3A, a denial of claim appeal by Thomas Lessman for separate discussion.

Mayor McClinton stated that item 3A would become item 4C, under Unfinished Business.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 7450 introduced by Mayor James A. McClinton and Councilmembers Lover Chancler and John Nave relating to housing tax credits for family rental housing by LATH, L.L.C. was presented.

Minutes of the Regular Meeting of February 24, 2004 were presented.

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Stubbs carried unanimously. (9-0-0)

ORDINANCE NO. 18181 introduced by Mayor James A. McClinton, relating to the licensing of alarm businesses and amending City of Topeka Code Chapter 30 and Chapter 30, Article II, Division 2 and specifically repealing said original sections placed on first reading December 30, 2003 was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Lane, Alcalá, Pomeroy,

Nave, Haynes, Duffy, Stubbs, Preisner and Price -9.

ORDINANCE NO. 18182 introduced by Mayor James A. McClinton relating to the zoo, amending City of Topeka Code Sections 2-328, 102-304, 102-305, 102-306, 102-307, and 102-308 and specifically repealing said original sections placed on first reading February 24, 2004 was again presented.

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

DENIAL OF CLAIM APPEAL by Thomas Lessman seeking damages in the amount of \$1,312.50 for attorney fees incurred while defending a charge that was later dropped, was presented.

Thomas Lessman appeared and stated that he is only seeking attorney fees and asked that the claim be approved.

Councilmember Stubbs moved to deny the claim. The motion seconded by Councilmember Price carried unanimously. (9-0-0)

CONTRACT NO. 34031 between the City of Topeka and General Security Services Corporation providing for a house arrest program for the City of Topeka in accordance with state statute and City ordinance requirements was presented.

David Price spoke in opposition of the contract with General Security Services.

Councilmember Alcalá asked how many prisoners were in the Shawnee County jail, and how many would qualify for the house arrest program.

Elsbeth Schafer, Administrative Municipal Court Judge stated that most generally a suspended drivers license justifies house arrest, however, other cases based on background of the individual and circumstances can also qualify for house arrest.

Councilmember Alcala expressed a public safety concern in relation to the house arrest program.

Councilmember Alcala moved to defer the contract one week to determine what offenses constitute house arrest. The motion was seconded by Councilmember Chancler.

Councilmember Haynes made a substitute motion to refer to the Committee of the Whole. The motion was seconded by Councilmember Nave.

Councilmember Duffy asked Judge Schafer if the current ordinances give guidance when sentencing individuals.

Judge Schafer explained the sentencing guidelines and when house arrest would be appropriate.

Councilmember Duffy stated the he opposes the substitute motion and will support the contract.

Councilmember Pomeroy asked if there were any other companies within Shawnee County that could provide this service.

Judge Schafer stated that she is not aware of any at this time.

The substitute motion to refer the contract to the Committee of the Whole failed. Councilmembers Pomeroy, Duffy, Stubbs, Preisner and Price voted "no". (4-5-0)

The motion to defer for one week failed. Councilmembers Pomeroy, Duffy, Stubbs, Preisner and Price voted "no". (4-5-0)

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

Brenden Long, City Attorney stated if there is a question that the house arrest program is being used inappropriately, he would suggest changing the ordinance so that it places limitations

on the sentencing Judge.

Councilmember Stubbs requested a list of types of offenses where house arrest was used on a monthly basis.

Councilmember Haynes stated that he opposes the contract because he believes it would cause inconsistency in sentencing the same offense.

Councilmember Alcalá stated that he would also oppose the contract because of inconsistency in sentencing and the possibility of creating a liability of favoritism.

Councilmember Chanler stated that she would support the contract because she believes that the house arrest program serves as a benefit to the individual and the community and believes that the Judges will make fair decisions concerning the program.

The motion to approve carried. Councilmembers Alcalá and Haynes voted "no". (7-2-0)

RESOLUTION NO. 7451 introduced by Mayor McClinton establishing a date for a public hearing concerning amendments to a plan pursuant to the Neighborhood Revitalization Act, K.S.A. 12-17, 114 *et seq.*, was presented.

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

AN ORDINANCE introduced by Councilmember Clark Duffy relating to parking meter zones and amending Topeka City Code Sections 142-376 and 142-426 and specifically appealing said original section was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to the vacation of a .57-foot wide street right-of-way the length of property located at 112 E. 8<sup>th</sup> Street and a 1.22 by 5-foot street right-of-way located on same property legally described as Lot 112 E. 8<sup>th</sup> Street, Original Town Subdivision, City of Topeka, Shawnee County, Kansas, and specifically repealing

City of Topeka Ordinance 18155 and Ordinance No. 13707 was presented for first reading.  
(V98S/5)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the vacation of a 12-foot wide utility easement and a temporary construction easement on property located at 2040 SW Briarwood Drive, as dedicated by the plat of Replat No. 1, Briarwood Subdivision, City of Topeka, Shawnee County, Kansas, was presented for first reading. (V04E/1)

AN ORDINANCE introduced by Mayor James A. McClinton 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 north side of SE 29<sup>th</sup> Street, the centerline of which is approximately 2,530-feet west of SE Croco Road in the City of Topeka, Kansas from "R-1" Single Family Dwelling District, "R-1" Single Family Dwelling District with Resolution of Intent for "C-2" Commercial District ALL TO "PUD" Planned Unit Development District ("O&I-2", "C-2" and "R-1" use groups.) was presented for first reading. (Z02/23)

AN ORDINANCE introduced by Mayor James A. McClinton 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 either side of SW Woodbridge Drive, the centerline of which is approximately 385-feet north of SW 10<sup>th</sup> Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District TO "M-1" Two Family Dwelling District and "M-2" Multiple Family Dwelling District was presented for first reading. (Z03/61)

AN ORDINANCE introduced by Mayor James A. McClinton 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 west side of SE Truman Avenue, the centerline of which is approximately 610-feet north of SE 45<sup>th</sup> Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “R-3” Single Family Dwelling District was presented for first reading. (Z04/2)

AN ORDINANCE introduced by Mayor James A. McClinton 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 the southwest corner of SW Sena Drive and SW Mission Avenue in the City of Topeka from “R-1” Single Family Dwelling District with Resolution of Intent for “M-3” Multiple Family Dwelling District or “O&I-2” Office and Institutional District TO “R-1” Single Family Dwelling District was presented for first reading. (Z04/8)

AN ORDINANCE introduced by Mayor James A. McClinton 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 1200 and 1212 SW Lane Street in the City of Topeka, Kansas from “M-1” Two Family Dwelling District with Resolution of Intent for “M-2” Multiple Family Dwelling District TO “M-1” Two Family Dwelling District was presented for first reading. (Z04/9)

AN ORDINANCE introduced by Mayor James A. McClinton 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 3745 through 3771 SW Wood Valley Drive in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with Resolution of Intent for “D&O” Multiple Family Dwelling and Office District TO “R-1” Single Family Dwelling District was presented for first reading. (Z04/10)

AN ORDINANCE introduced by Mayor James A. McClinton 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 1168 SW Mission Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "D&O" Multiple Family Dwelling and Office District TO "R-1" Single Family Dwelling District was presented for first reading. (Z04/11)

AN ORDINANCE introduced by Mayor James A. McClinton, pertaining to an amendment to the text and map of the Topeka Comprehensive Metropolitan Plan was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton 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 in the neighborhood commonly known as Oakland, in the City of Topeka, Kansas from "M-1" Two Family Dwelling District, "M-2" Multiple Family Dwelling District, "I-1" Light Industrial District, "I-2" Heavy Industrial District, "C-2" Commercial District, "C-4" Commercial District and "E" Multiple Family Dwelling District ALL TO "R-2" Single Family Dwelling District, inclusive to all Special Permits was presented for first reading. (Z04/12)

AN ORDINANCE introduced by Mayor James A. McClinton 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 in the neighborhood commonly know as Oakland, in the City of Topeka, Kansas from "C-2" Commercial District and "C-4" Commercial District ALL TO "X-1" Mixed Use District was presented for first reading. (Z04/13)

AN ORDINANCE introduced by Mayor James A. McClinton 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 in the neighborhood commonly known as Oakland, in the City of Topeka, Kansas from "C-4" Commercial District TO "C-2" Commercial District was presented for first reading. (Z04/14)

AN ORDINANCE introduced by Mayor James A. McClinton 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 in the neighborhood commonly known as Oakland, in the City of Topeka, Kansas from "C-2" Commercial District TO "C-1" Commercial District was presented for first reading. (Z04/15)

AN ORDINANCE introduced by Mayor James A. McClinton 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 in the neighborhood commonly known as Oakland, in the City of Topeka, Kansas from "R-1" Single Family Dwelling District, "R-2" Single Family Dwelling District, "M-1" Two Family Dwelling District and "M-2" Multiple Family Dwelling District ALL TO "OS-1" Open Space District was presented for first reading. (Z04/16)

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Duffy distributed a document that lists the financial incentives available to new or existing small businesses within the City of Topeka, and stated that is available to the public through the City Council Office.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative report.



Mayor McClinton suggested that they hold a reception with the Shawnee County delegation. He stated that if the Council was agreeable he would get something scheduled so they could have an opportunity to visit with them on legislative issues that are of interest to the City.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy stated that he was disappointed that Go Topeka and the City's Economic Development Specialist did not prepare the list of financial incentives available to small businesses.

Councilmember Haynes moved to adjourn into executive session for a period not to exceed ten minutes to discuss pending litigation. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Following the ten-minute time period the Council reconvened into open session and Mayor McClinton stated that no action had been taken.

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

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Iris Walker  
City Clerk