

## City Council Minutes – April 20, 2004

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

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

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

THE CONSENT AGENDA was presented as follows:

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

Open After Mid-Night 2004-2005 renewal applications bearing the approval of the Chief of Police and City Inspectors for the following were presented:

<u>Business Name</u>	<u>Address</u>
The Celtic Fox	0118 SW 8 <sup>th</sup> Street
Fergies Clubhouse Bar	1414 SW Lane
The Goose One	3203 SW 10 <sup>th</sup> Street
The Goose Two	5630 SW 29 <sup>th</sup> Street
Terry's Bar & Grill	0522 SW 6 <sup>th</sup> Street

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

### 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, April 20, 2004, at 7:00 P.M. in conjunction with vacation request V04A/2 by Sisters of Charity of Leavenworth Health Services Corporation to vacate a north/south alley right-of-way and a portion of an east/west alley right-of-way located north of SW 7<sup>th</sup> Street between SW Jewell Avenue and extending east to SW College Drive.

ORDINANCE NO. 18224 introduced by Mayor James A. McClinton relating to the vacation of a 15-foot wide public north/south alley right-of-way located north of SW 7<sup>th</sup> Street between SW College Avenue and SW Jewell Avenue and the vacation of a portion of a 15-foot wide public east/west alley located to the west of SW College Avenue right-of-way located approximately 145 feet south of SW 6<sup>th</sup> Avenue as dedicated by the plat of Melrose Subdivision, City of Topeka, Shawnee County, Kansas, placed on first reading April 13, 2004 was again presented. (V04A/2)

Mike Engler, Bartlett & West Engineers appeared for questions.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

The ordinance was adopted on roll call votes as follows: Ayes: Alcalá, Chancler, Nave, Haynes, Duffy, Stubbs, Preisner, and Price -8. Absent: Pomeroy -1.

#### 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, April 20, 2004, at 7:00 P.M. in conjunction with vacation request V04E/2 by the First Presbyterian Church to vacate a portion of an east/west utility easement and a portion of a north/south utility and public access easement on property located at 817 SW Harrison Street.

ORDINANCE NO. 18225 introduced by Mayor James A. McClinton relating to the vacation of a portion of an east/west utility easement and a portion of a north/south utility and public access easement of property located at 817 SW Harrison Street, as dedicated by the plat of Original Town, City of Topeka, Shawnee County, Kansas, placed on first reading April 13, 2004 was again presented. (V04E/2)

Bill Fiander, Planning Department gave the staff report.

David Price spoke in opposition of the vacation request.

Councilmember Duffy moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

The ordinance was adopted on roll call votes as follows: Ayes: Alcalá, Chancler, Nave, Haynes, Duffy, Stubbs, Preisner, and Price -8. Absent: Pomeroy -1.

#### 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, April 20, 2004, at 7:00 P.M. in conjunction with vacation request V04A/3 by Sisters of Charity of Leavenworth Health Services Corporation to vacate an east/west alley located between SW College Avenue and SW Mulvane Avenue about 134 feet south of SW 6<sup>th</sup> Avenue.

ORDINANCE NO. 18226 introduced by Mayor James A. McClinton relating to the vacation of a 16-foot wide public east/west alley located between SW College Avenue and SW Mulvane Avenue about 134 feet south of SW 6<sup>th</sup> Avenue as dedicated by the plat of Martin Place Addition, City of Topeka, Shawnee County, Kansas placed on first reading April 13, 2004 was again presented. (V04A/3)

Mike Engler, Bartlett & West Engineers appeared for questions.

David Price spoke in opposition of the vacation request.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Duffy carried unanimously. (8-0-0)

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

A RESOLUTION introduced by Councilmembers Clark Duffy, Lover Chancler and John Nave relating to the use of the proceeds from the proposed increase in franchise fees on electrical, natural gas and transported gas within the City of Topeka was presented.

Councilmember Nave explained the resolution and stated that the intention of the document is to educate the community on long-term property tax cuts and how they hope to avoid an increase in the mill levy.

Councilmember Duffy explained the committee report and stated that they are saving taxpayers a significant amount of money by allowing the City's right-of-way to be leased. He continued to explain that 36% of the property owners do not pay property tax and by raising the franchise fees, the debt-service is reduced by broadening the taxpayer base. He also clarified that the Kansas Corporation Commission regulates the utility rates within city limits, not the City of Topeka.

Councilmember Stubbs stated that the intent of the resolution is a huge step in the right direction and believes that this issue should be addressed at budget time so the public knows exactly where the money is being spent. She also stated that they have been very slow to pass on the increasing cost of utilities in the past several years and will try to maintain that status quo.

Councilmember Chancler stated that it is important to look at the financial aspects of the increase as a whole. She also stated that they should address this issue at budget time so the citizens of Topeka will better understand where the money is used, and make the community understand that in order to receive more services they will have to generate revenue somewhere.

Councilmember Haynes stated that he opposes the resolution because he believes it is premature at this point until they know what the budget is going to be in 2005.

Councilmember Nave thanked all of the Councilmembers for their input and agreed that the issue should be addressed at budget time. He stated that all citizens in the City of Topeka must step up and support the City because everyone wants quality service and costs continue to

rise starting at the national level. He also stated that this resolution would require everyone to contribute to the rising cost of utilities.

Councilmember Duffy moved to refer the resolution to the Committee of the Whole. The motion was seconded by Councilmember Preisner.

Councilmember Alcalá stated that he questioned the accuracy of the percent of property owners that pay property taxes, and asked for an explanation of the term “one time savings” on line 57 of the resolution.

Randy Bailes, Financial Director explained that the “one time savings” came from the refinancing of two bond issues in 2002. He stated that the savings from these two bonds were carried over into the 2003 and 2004 operating budgets, a savings that will not present itself again in 2005.

Councilmember Alcalá stated that he would not support the resolution. He reviewed the projected utility rate increases through the year 2007 and stated that he believes they do not need to increase the franchise fee. He stated that there should be money available through future utility rate increases. He also stated that they should optimize spending and find other ways to generate revenue.

Councilmember Preisner clarified that Councilmember Duffy’s intent is to refer items 5A, 5B, 5C and 5D to the Committee of the Whole.

Councilmember Stubbs stated that she would like to inform the public that the funds are primarily being contributed to infrastructure improvement.

Neil Dobler, Public Works Director gave a brief report on where the funds are being distributed. These projects include; the Oakland Wastewater Treatment Plant infrastructure, the Water Treatment Plant, several major pump stations throughout the City, and the red water issue.

Councilmember Price stated that he would support the resolution if they could “earmark” certain funds to help fight the crime issues that the City of Topeka is currently facing.

The motion to refer to the Committee of the Whole carried. Councilmember Alcalá voted "no". (7-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton, granting to Westar Energy, Inc., its successors and assigns, and electric energy franchise in the City of Topeka, Kansas, prescribing the terms thereof and relating thereto, and repealing Ordinance No. 15667 placed on first reading February 2, 2004 was again presented.

Councilmember Preisner moved to refer the ordinance to the Committee of the Whole. The motion seconded by Councilmember Nave carried. Councilmember Alcalá voted "no". (7-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton, pertaining to the transportation, distribution, and sale of natural gas or other energy through pipelines or distribution systems in the City of Topeka, requiring a franchise placed on first reading March 9, 2004 was again presented.

Councilmember Preisner moved to refer the ordinance to the Committee of the Whole. The motion seconded by Councilmember Nave carried. Councilmember Alcalá voted "no". (7-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton, granting to Kansas Gas Service a division of ONEOK, Inc., its successors and assigns, a natural gas franchise in the City of Topeka, Kansas, prescribing the terms thereof and relating thereto, and repealing portions of Ordinance No. 15667 placed on first reading March 9, 2004 was again presented.

Councilmember Preisner moved to refer the ordinance to the Committee of the Whole. The motion seconded by Councilmember Nave carried. Councilmember Alcala voted "no".

(7-1-0)

ORDINANCE NO. 18227 introduced by Mayor James A. McClinton establishing City of Topeka Code Section 130-11 concerning the procedures for changing street names and designating memorial streets placed on first reading March 13, 2004 was again presented.

Brenden Long, City Attorney explained that the ordinance was introduced following a citizen request and the procedure outlined in the document is mirrored after numerous ordinances from other cities.

Councilmember Price inquired on how each memorial designation or street name change would be funded.

Councilmember Alcala asked if they anticipated any legal fall-out resulting from this policy, and why a person has to be deceased in order to be honored by a street memorial designation.

In response, Brenden Long stated that he believes there would not be any legal issues involved in this procedure because prior to any changes the residents and businesses involved are contacted. He stated that the cost is approved by City Council. He also recommended making amendments to the ordinance to reflect the suggested changes.

Councilmember Alcala moved to strike lines 19 and 20 of the ordinance. The motion died due to a lack of second.

Councilmember Stubbs commended staff for implementing a process, however, she stated that she would like to clarify that this process does not guarantee anyone a street name change or memorial designation.

Councilmember Chancler suggested replacing the word “memorial” with the word “dedication” where applicable in the ordinance.

Councilmember Preisner called the question.

Deputy Mayor Clark Duffy asked for a vote on if the question should be called.

Councilmember Duffy voted "no". (7-1-0)

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

AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 30251-00, which provides for the construction of a new building for the Helen Hocker Theater as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading March 13, 2004 was again presented.

Rogers Brazier, Parks and Recreation Director gave the staff report and explained several aspects of the new Helen Hocker Theater proposal beginning with the history of the theater, class attendance, cost of classes offered, volunteer work, theater facilities, workshops, outreach programs, community involvement, fund raisers, and community benefits.

Following the presentation, discussion continued by several Councilmembers concerning; the cost of a production compared to the revenue generated, the number of class participants compared to the spaced needed to conduct the classes, the financial feasibility of merging with the Topeka Civic Theatre, and the importance of fund raising.

Jo Huseman, Director of Helen Hocker Theater responded to the questions. She explained that the revenue generated outweighs the cost of production and the merging of private funds with public funds is very difficult. She continued to explain that class size is limited due to the small classrooms and limited space. She also stated that private contributions are minimal.



Several Councilmembers stated that they would prefer considering the project in conjunction with the 2005 Budget to ensure proper funding.

Councilmember Price stated that he supports the project and believes it is a small price to pay compared to the positive impact it would have on our children and community.

Councilmember Duffy moved to defer one week. The motion was seconded by Councilmember Price.

Councilmember Haynes made a substitute motion to defer until budget proceedings. The motion seconded by Councilmember Alcalá carried. Councilmembers Chancler, Duffy and Price voted "no". (5-3-0)

RESOLUTION NO. 7458 introduced by Councilmember Lisa Stubbs relating to the establishment of an unpaid volunteer position of Chaplain to the Mayor, City Council and City Staff was presented.

Councilmember Nave gave the committee report and stated that the committee recommended approval.

Councilmember Duffy moved to adopt the committee report. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

Councilmember Chancler stated that the committee's intention was to make this a volunteer service only, not mandatory.

Brenden Long, City Attorney stated legally that they could not make this a mandatory service, the intention of the resolution is to offer the service on a volunteer basis.

Councilmember Stubbs stated that this volunteer position was intended primarily for elected city officials.

Councilmember Duffy stated that he would not support the resolution because there needs to be a separation between church and state. He continued to explain that they should be able to choose the person for invocation, and lines 19 and 20 of the resolution eliminate that opportunity. He also stated that city employees can receive guidance and assistance through the “New Directions Employee Assistance Program”.

Councilmember Stubbs stated that she agrees that line 19 and 20 should be excluded from the document.

Councilmember Pomeroy entered the room.

Councilmember Haynes made a motion to amend the resolution to exclude the words “Mayor’s Office and City Staff” where applicable, the words “faith based” and strike lines 19 and 20. The motion seconded by Councilmember Haynes carried. Councilmember Duffy voted "no". (8-1-0)

Councilmember Preisner moved to approve the resolution as amended. The motion seconded by Councilmember Stubbs carried. Councilmembers Chancler and Duffy voted "no". (7-2-0)

RESOLUTION NO. 7459 introduced by Mayor James A. McClinton authorizing the expenditure of Golf Course Improvement Funds for the purpose of purchasing an irrigation pump, establishing a zoysia sod nursery and installing cart paths, pursuant to City of Topeka Code Section 2-333 was presented.

Dan Bartels, Golf Course Superintendent gave the staff report and explained the project.

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

Councilmember Chancler and Councilmember Stubbs commended staff on their good management of funds.

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 south side of SW 17<sup>th</sup> Street, extended, approximately 1,050-feet west of SW Arvon Place in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "M-2" Multiple Family Dwelling District was presented for first reading. (Z04/23)

AN ORDINANCE introduced by Councilmember Lisa Stubbs relating to site plan regulations, amending City of Topeka Code Sections 48-39.05 and 48-39.06 and specifically repealing said original sections was presented for first reading.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative Report.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Duffy announced that the new committee structures are available in the City Council Office for review and a new chair needs to be elected for each committee.

William Gomez appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:57 p.m.

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Iris Walker  
City Clerk