

## City Council Minutes – May 4, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, May 4, 2004. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, 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 Councilmember Haynes.

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

Councilmember Duffy moved to suspend the Council Rules to add an ordinance relating to the Downtown Live Oldies Dance, and a resolution granting Donna Brohaugh an exception to the City of Topeka noise provisions. The motion seconded by Councilmember Pomeroy carried unanimously. (9-0-0)

Councilmember Duffy moved to reinstate the Council Rules. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

Mayor McClinton withdrew Item 5A, a zoning petition and ordinance relating to zoning case Z04/1 by International Centers Worldwide, Inc.

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of April 27, 2004 were presented.

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

## 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, May 4, 2004, at 7:00 P.M. for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Trafficway Improvement Project No. 70193-H, Phase 1.

ORDINANCE NO. 18230 introduced by Mayor James A. McClinton, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Trafficway Improvement Project No. 70193-H, Phase 1 with pavement, curb and gutter, and all other contingencies needed to complete Trafficway Improvement Project No. 70193-H, Phase 1 as defined and described in Resolution No. 7123, adopted and approved January 24, 2001, placed on first reading April 27, 2004 was again presented.

Neil Dobler, Public Works Director gave the staff report and stated that the project was approved three years ago and the traffic signal equipment was purchased at that time. Since then, the developer has cancelled the project and therefore, the cost of the equipment should be assessed to the property owner so it will be ready for future development.

Councilmember Chanler questioned why the assessment costs are being placed on the developer.

Bill McCarter, Engineering Department stated that the developer would absorb most of the assessment costs because they are the majority property owners.

Councilmember Duffy moved to closed the public hearing and adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Haynes voted "no".

(8-1-0)

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

A REVISED PROJECT BUDGET in the amount of \$422,752 and RESOLUTION NO. 7465 introduced by Mayor James A. McClinton authorizing the expenditure of Zoo Improvement Reserve Funds for the purpose of constructing an outdoor orangutan exhibit, pursuant to City of Topeka Code Section 2-328, and repealing City of Topeka Resolution No. 7315 was presented.

Mike Coker, Zoo Director gave the staff report and explained that they need additional funding to pay for the project because it exceeded the project budget.

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

RESOLUTION NO. 7466 introduced by Mayor James A. McClinton authorizing initiation of condemnation proceedings for Trafficway Improvement Project No. 70192-02 was presented.

Neil Dobler gave the staff report and explained that there are six remaining parcels out of twenty that have not been purchased.

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

RESOLUTION NO. 7467 introduced by Mayor James A. McClinton authorizing an expenditure not to exceed \$58,000 from the parkland acquisition and development fund for the purpose of installing a gymnasium floor at Crestview Community Center, pursuant to City of Topeka Code Section 2-326 was presented.

Rogers Brazier, Parks and Recreation Director gave the staff report and stated that the Legal Department is pursuing a claim for reimbursement of the damages and any money that is recovered will be returned to the parkland acquisition and development fund.

Councilmember Stubbs asked if they keep a list of contractors who do not perform satisfactorily.

Brenden Long, City Attorney stated that the claim is close to being settled and they do have a list of unsatisfactory contractors for reference when considering bids.

AN APPLICATION for an Open After Mid-Night Permit for Shooters located at 4310 SW 21<sup>st</sup> Street was presented.

Councilmember Haynes moved to approve the application with the understanding that Chief Klumpp report back to the Council at the end of sixty days regarding the effectiveness of the owner's proposed safeguards to avoid incidents inside and outside the premises such as have occurred recently. The motion was seconded by Councilmember Nave.

Councilmember Stubbs stated that a plan has been presented by the owner, addressing in detail, the issues that have cause for concern. She noted that he plans to handle the problems and work with the City to make sure it is a safe environment for those who are there as well as people in the area.

Councilmember Duffy stated that he would not support the motion and would reconsider after a cooling down period of sixty days in which the owners can prove that they can stay open after mid-night without any problems. He also stated that Chief Klumpp just received the plan and has not had the opportunity to review the details.

Councilmember Duffy made a substitute motion to deny the application. The motion died due to lack of a second.

The motion to approve the application carried. Councilmembers Alcala and Duffy voted "no". (8-2-0)

RESOLUTION NO. 7468 introduced by Councilmember Clark Duffy granting Donna Brohaugh an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions and rescinding City of Topeka Resolution No. 7361 was presented.

Councilmember Price moved to approve the resolution. The motion seconded by Councilmember Nave carried. Councilmember Duffy voted "no". (8-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the interference with city officers and employees, amending City of Topeka Code Section 54-73 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to the wearing of gas masks, bulletproof vests, improvised body armor or masks or devices to conceal one's identity during unlawful activities and amending City of Topeka Code Chapter 54, Article IV and repealing the original section was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to correctional placement residences, amending City of Topeka Code Chapter 48, Article XXXV and Sections 48-9.02, 48-12.02, 48-13.02, 48-14.02, 48-17.02, 48-18.02, 48-20.00, 48-20.02, 48-21.02, 48-23a.04, 48-23.02, and 48-26.01 and specifically repealing said original sections was presented for first reading. (ACZR04/5)

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 located on the east side of SE California Avenue and SE 27<sup>th</sup> Street, extended, in the City of Topeka, Kansas from "C-4"

Commercial District TO “PUD” Planned Unit Development District was presented for first reading. (*PUD04/2*)

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 on the west side of SW Ashworth Place, the centerline of which is approximately 400-feet north of SW 21<sup>st</sup> Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “C-4” Commercial District was presented for first reading. (*Z87/62*)

AN ORDINANCE introduced by Mayor James A. McClinton amending the Master PUD Plan of Century Plaza Village by providing for multiple family dwellings on property located on the north side of SE 28<sup>th</sup> Street, the centerline of which is approximately 1,530 feet east of SE California in the City of Topeka, Kansas, was presented for first reading. (*Z92/16B*)

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 located between SE 28<sup>th</sup> and SE 29<sup>th</sup> Streets from the west side of SE Greenfield Court to 245-feet east of SE Golden Avenue in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with Resolution of Intent for “M-2” Multiple Family Dwelling District ALL TO “R-2” Single Family Dwelling District was presented for first reading. (*Z04/28*)

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 NE Seward Avenue between NE Wilson Avenue and NE Scotland Avenue and on the

northwest and northeast corners of NE Scotland Avenue and NE Seward Avenue within the Oakland Neighborhood in the City of Topeka, Kansas from “C-2” Commercial District ALL TO “X-1” Mixed Use District was presented for first reading. (Z04/29)

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 northeast, southeast and southwest corner of NE Atchison Avenue and NE Lake Street within the Oakland Neighborhood in the City of Topeka, Kansas from “C-2” Commercial District ALL TO “R-2” Single Family Dwelling District was presented for first reading. (Z04/32)

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 SW 7<sup>th</sup> Street between College Avenue and Jewell Avenue, property located at the northeast corner of SW 7<sup>th</sup> Street and SW College Avenue and property located on the south side of SW 6<sup>th</sup> Avenue between SW College Avenue and SW Mulvane Street in the City of Topeka, Kansas from “R-2” Single Family Dwelling District, “M-1” Two Family Dwelling District, “M-2” Multiple Family Dwelling District ALL TO “R-1” Single Family Dwelling District was presented for first reading. (Z04/30)

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 3158 SE 10<sup>th</sup> Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District and “M-2”

Multiple Family Dwelling District ALL TO “R-1” Single Family Dwelling District was presented for first reading. (Z04/31)

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 441 SE Winfield Avenue in the City of Topeka, Kansas from “M-1” Multiple Family Dwelling District with Resolution of Intent for “D&O” Multiple Family Dwelling and Office District TO “M-1” Multiple Family Dwelling District 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 441 SE Winfield Avenue in the City of Topeka, Kansas from “M-1” Multiple Family Dwelling District with Resolution of Intent for “D&O” Multiple Family Dwelling and Office District TO “M-1” Multiple Family Dwelling District was presented for first reading. (Z04/33)

AN ORDINANCE introduced by Mayor James A. McClinton authorizing the City of Topeka, Kansas, to issue its Housing and Health Care Refunding and Improvement Revenue Bonds, Series 2004, (Brewster Place Project) in the aggregate principal amount of \$12,000,000 for the purpose of financing the costs of constructing, equipping and improving certain residential and health care facilities located on the Brewster Place Campus in the city; refunding two outstanding revenue bond issues of the City; authorizing the execution of a third supplemental lease by and between the City and the Congregational Home, a Kansas not-for-profit corporation; and authorizing and approving certain additional documents and actions in connection with the issuance of said bonds was presented for first reading.

AN ORDINANCE introduced by Councilmember Duane Pomeroy authorizing Downtown Topeka, Inc., to hold the NHRA Downtown Hot Rod Party was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to fees and specifically amending City of Topeka Code Sections 26-58, 26-123, 26-139.1.5, 26-204, 26-251, 26-255, 26-446, 26-454, 26-463, 26-521, 30-53, 30-62, 30-67, 30-71, 66-103, and 118-59 and specifically repealing said original sections was presented for first reading.

Councilmember Duffy moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by Councilmember Clark Duffy establishing a licensing fee for mobile restaurants, mobile food service units or push carts in the City of Topeka, amending City of Topeka Code Sections 30-302, 30-304, and 30-306, and specifically repealing said original sections was presented for first reading.

Councilmember Duffy moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by Councilmember Clark Duffy, concerning business and occupation license and permit fees, repealing Topeka City Code Sections 142-701, 142-702, 142-703, and 142-704, and amending Topeka City Code Sections 14-162, 30-52, 30-54, 30-55, 30-56, 30-60, 30-63, 30-65, 30-68, 30-70, 30-71, 30-72, 30-73, 30-74, 30-75, 30-76, 30-77, 30-78, 30-79, 30-158, 30-304, 70-57, 114-154, and 130-72, and specifically repealing said original section was presented for first reading.

Councilmember Duffy moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by Councilmember Duane Pomeroy authorizing Downtown Topeka, Inc. to hold the Downtown Live Oldies Dance was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Preisner announced that there would be a Public Health & Safety Committee meeting on May 14, 2004 at 12:00 p.m. in the Executive Conference Room.

Councilmember Stubbs announced that the Economic Development Committee would meet regularly on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month at 12:00 noon in the Council office. She stated that the first meeting is scheduled for May 18, 2004.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the weekly Legislative report.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Preisner distributed an ordinance relating to a city-wide curfew for minors and asked to have it placed on the agenda within the next 28 days.

Councilmember Alcalá requested the status of the funds that are available for assistance with water bills. He was told that there are no more funds available. He also distributed a resolution requesting funding and other assistance associated with the “Kansas Black Expo” and asked to have it placed on the agenda within the next 28 days.

Charles Criqui appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:03 p.m.

---

Iris Walker  
City Clerk