

City Council Minutes – June 1, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 1, 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 Duffy.

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

Councilmember Preisner moved to add an ordinance relating to Sunday liquor sales within city limits to the agenda. The motion was seconded by Councilmember Price.

Councilmember Alcalá questioned a Councilmember's ability to add an item to the agenda without suspending the rules.

Councilmember Preisner stated that per the Legal Department it was not necessary to suspend the rules to add an item to the agenda.

Councilmember Alcalá asked if the parliamentarian would read the rule that allows it.

Following the reading, the parliamentarian ruled that they must suspend the rules to add an item to the agenda.

Councilmember Preisner moved to suspend the Council Rules to add an ordinance relating to Sunday liquor sales within Topeka city limits to the agenda. The motion seconded by Councilmember Price carried. Councilmembers Alcalá and Stubbs voted "no". (7-2-0)

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

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of May 25, 2004 were presented.

An application for Open After Mid-Night License bearing the approval of the Chief of Police and City Inspectors for Topeka Performing Arts Center, 214 SE 8th Street, was presented.

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

ORDINANCE NO. 18255 introduced by Mayor James A. McClinton, relating to landscape regulations, amending City of Topeka Code Sections 48-38.01, 48-38.02, 48-38.04, 48-38.05, 48-38.06, 48-38.07, 48-38.08, 48-38.09, 48-38.11, and 48-38.12 and specifically repealing said original sections placed on first reading May 25, 2004 was again presented.
(ACZR04/02)

David Thurbon, Planning Director gave the staff report.

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

ORDINANCE NO. 18256 introduced by Councilmember Clark Duffy authorizing Downtown Topeka, Inc., to serve cereal malt beverages at a special Downtown After Hours event hosted by Topeka Ice, Inc., on June 10, 2004 placed on first reading May 25, 2004 was again presented.

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

AN ORDINANCE introduced by Mayor James A. McClinton relating to Housing and Neighborhood Development, repealing City of Topeka Section 42-8, amending City of Topeka Code Sections 42-1, 42-2, 42-3, 42-4, 42-5, 42-6, 42-7, 42-8, 42-9, 42-10, 42-11, 42-12, 42-61, 42-62, 42-63, 42-64, 42-65, and 42-66 and specifically repealing said original sections placed on

first reading March 16, 2004 was again presented.

Councilmember Preisner gave the committee report and explained that they have held a total of three committee meetings and have discussed the proposed changes presented by the Housing and Neighborhood Department (HND) in length. The committee approved the changes by a 3-0-0 vote on May 14, 2004. He also stated that HND has held sixteen Neighborhood Improvement Association (NIA) meetings and all NIA Presidents were present except one.

Councilmember Preisner moved to accept the committee report. The motion seconded by Councilmember Duffy carried. Councilmember Alcalá voted "no". (8-1-0)

Councilmember Chancler moved to amend the ordinance to replace the words "City of Topeka" with "Shawnee County" wherever it appears in the ordinance. The motion was seconded by Councilmember Preisner.

Councilmember Pomeroy stated that he opposes the amendment because of the resolution that has been passed regarding the requirement that department heads must live within city limits.

The motion to amend carried. Councilmembers Pomeroy, Alcalá, Haynes and Duffy voted "no". (5-4-0)

Councilmember Chancler stated that because people were confused about the "final reading" date she would like to defer the ordinance for one week to give everyone an opportunity to speak on the issue. The motion was seconded by Councilmember Stubbs.

Councilmember Stubbs stated that due to the confusion surrounding the "final reading" date, it should be deferred one week to allow the neighborhoods the opportunity to speak on the issue. She also stated that an extra week would give the Council more time to review the HND report in detail.

Councilmember Price stated that he would like to know where the miscommunication came from because there are several people that are ready to speak on the issue.

Councilmember Chancler explained that she had stated at one NIA meeting that “final reading” would be presented on June 8, 2004, however, since then HND staff as contacted all of the NIAs’ to inform them that “final reading” would take place at the June 1, 2004 meeting.

Councilmember Pomeroy moved to make a substitute motion to defer one week provided that the people who can not come back on June 8, 2004 to speak would be allowed to speak tonight. The motion was seconded by Councilmember Alcalá.

Councilmember Chancler stated that they cannot restrict people from speaking to the issue twice, and believes they should make a decision tonight to eliminate further confusion.

Mayor McClinton noted that Council Rule 5.7 states, “Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.”

Councilmember Alcalá stated that he would support the motion because as Councilmembers, they are here to listen to the people and they should be allowed to speak on an issue twice if they want to.

The substitute motion failed. Councilmembers Chancler, Nave, Duffy, Preisner and Price voted "no". (4-5-0)

The motion to defer one week carried. Councilmembers Pomeroy, Nave, Duffy and Price voted "no". (5-4-0)

A RESOLUTION introduced by Councilmember John Alcalá requesting funding in the amount of \$4,000 and other assistance associated with the “Kansas Black Expo”.

Curtis Pitts explained that the “Kansas Black Expo” is a program designed to create

economic, educational, and social development in the City of Topeka creating a link between majority and minority businesses. This event will attempt to bring in thousands of minority business owners to show them the quality infrastructure and business opportunities within the City of Topeka. The program also will attempt to improve race relations throughout the State and City, generate hope and provide educational opportunity for our youth.

Councilmember Preisner asked if there are confirmed contracts with Texas College and Lincoln University and if so, he would like to see them before he votes. He also asked if they have set a date for the golf tournament, and if they plan to use the Topeka Public Golf Course.

Curtis Pitts stated that they have already received a contract with Texas College and a letter of acceptance from Lincoln University. He also stated that they are currently working on a date for the golf tournament and plan to use the Topeka Public Golf Course facilities.

Curtis Pitts distributed the Texas College contract for the Council to review.

Curtis Pitts stated that they have not requested USD No. 501 to waive the fees because they are asking them to do other things.

Councilmember Duffy stated that is all fairness they should support all of the organizations that have submitted requests for funding from the City or support none of them. He also stated that within the last year the requests totaled \$109,000.

Councilmember Stubbs asked if this is a new event and how do they plan to advertise it.

In response, Curtis Pitts stated that a 10,000-piece mailing would be distributed throughout the United States, as well as radio and television advertisement.

Councilmember Stubbs commended Curtis Pitts for the program and stated that she would like him to complete a form identifying the economic benefits that the City would receive before she votes.

Councilmember Haynes asked where the funds would come from.

Dave Graversen, Chief Administrative Officer stated that no funds were identified and there are no access funds available that he is aware of.

Mayor McClinton stated he supports this program, as well as the other five organizations that have been rejected for City funding. He also stated that if the Council grants \$4,000 to the “Kansas Black Expo” then they would have to reconsider the other requests to protect their creditability.

Councilmember Chanler stated that this event would be a good opportunity to showcase the City of Topeka. She also asked how much money they have raised for the event and how many people are expected to attend.

Curtis Pitts stated that they are expecting up to 15,000 people to attend the event and have raised \$18,000 of the \$46,000 needed run the event. He also stated that he would like to clarify that \$3,500 would go towards the leasing of the sports complex and the remaining \$500 would be used for advertising.

Councilmember Preisner questioned why the athletic director did not sign the Texas College contract and suggested that they postpone their request one week to allow the Council the opportunity to make an informed decision.

Councilmember Stubbs asked if all other avenues of funding have been exhausted.

Councilmember Duffy stated that he would also like more time to collect information regarding the event, and suggested that the City write a letter to USD No. 501 and request that they waive the sports complex usage fees.

Curtis Pitts stated that even if City funding were not available they would continue to raise funds for the event.

Councilmember Stubbs moved to defer for two weeks. The motion was seconded by Councilmember Price.

Councilmember Price questioned the verbiage in the contract relating to transportation, lodging and gate costs.

Councilmember Stubbs asked for a copy of the letter from the City to Mr. Pitts regarding the event.

Councilmember Haynes stated that it is clear there are no funds available, and the Mayor has already turned others down. He accepts what the Mayor has said regarding no funding available for this or any other organization.

Councilmember Preisner made a substitute motion to approve the resolution. The motion was seconded by Councilmember Alcalá.

Councilmember Chancler asked if it would be possible to ask USD No. 501 to wait until next year following the budget process to get their funding. She also stated that she does not understand why they cannot make a decision on \$4,000 in comparison to the amount of revenue the event would bring into the city.

Mayor McClinton stated that if the Council is not willing to increase taxes to cover these types of requests, then there are absolutely no funds available to distribute.

The motion to approve failed. Councilmembers Pomeroy, Haynes, Stubbs, Preisner and Price voted “no”. (4-5-0)

Councilmember Stubbs questioned the legality of the substitute motion.

Mayor McClinton ruled that the motion to approve failed.

Councilmember Stubbs challenged the ruling.

Mayor McClinton asked to vote on if the ruling of the Chair should be sustained.

The motion to sustain carried. Councilmembers Alcalá, Chancler, and Stubbs voted "no".
(6-3-0)

RESOLUTION NO. 7477 introduced by Councilmember John Alcalá granting Fiesta Mexicana an exception to the provisions of the City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

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

RESOLUTION NO. 7478 introduced by Councilmember John Alcalá granting Fiesta Mexicana an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions during its parade and street dance scheduled for July 9, 2004 was presented.

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

RESOLUTION NO. 7479 introduced by Lisa Stubbs concerning the approval of airgun discharge permit regulations pursuant to City of Topeka Ordinance No. 18253 was presented.

Ted Mize stated that he supports the ordinance and suggested changing some of the verbiage in the resolution.

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

RESOLUTION NO. 7480 introduced by Mayor James A. McClinton authorizing initiation of condemnation proceedings for Waterline Improvement Project No. 28537-00 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. (9-0-0)

AN ORDINANCE introduced by Councilmember John Alcala authorizing Fiesta Mexicana to sell and dispense cereal malt beverages during the Fiesta, at specified locations and times was presented for first reading.

AN ORDINANCE introduced by Councilmember John Alcala authorizing Fiesta Mexicana to sell and dispense cereal malt beverages during the Fiesta parade and street dance, at specified locations and times was presented for first reading.

Councilmember Alcala noted that the event would begin at 5:00 p.m. instead of 5:30 p.m.

AN ORDINANCE introduced by Mayor James A. McClinton designating real property more specifically described herein as a historic landmark and presently zoned "C-4" Commercial District and located at 3400 SW Topeka Boulevard in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4 was presented for first reading. (HL04/1)

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 northeast corner of SW 57th Street and US 75 Highway in the City of Topeka, Kansas from "I-1" Light Industrial District TO "PUD" Planned Unit Development District ("I-1" and "C-2" use groups) was presented for first reading. (PUD04/1)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the vacation of a portion of an east/west utility easement on property located approximately 425-feet east of SW Burlingame Road and approximately 150-feet south of SW 36th Street, as dedicated by the plat of Burlingame Subdivision No. 2, City of Topeka, Shawnee County, Kansas was presented for first reading. (V04E/4)

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 35th Street and SW Plass Avenue, extended, in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "M-3" Multiple Family Dwelling District or "O&I-1" Office and Institutional District ALL TO "O&I-1" Office and Institutional District was presented for first reading. (Z04/35)

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 southwest corner of SW 36th Street and SW Plass Avenue in the City of Topeka, Kansas 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 ALL TO "O&I-2" Office and Institutional District was presented for first reading. (Z04/36)

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 between SE Scorpio Avenue and SE Sagittarius Drive, the centerline of which is approximately 1,150-feet north of SE 29th Street in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "M-2" Multiple Family Dwelling District TO "R-1" Single Family Dwelling District was presented for first reading. (Z04/37)

AN ORDINANCE introduced by Councilmember Jeff Preisner establishing the permitted days and hours for the retail sale of alcoholic liquor, amending City of Topeka Code Section 10-

117, and repealing said original section was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Preisner announced that there would be a Public, Health and Safety Committee meeting held on June 7, 2004 at 12:00 noon in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Alcalá announced that the German Fest would be held on June 5, 2004 at the Sacred Heart Church and encouraged everyone to attend.

Councilmember Pomeroy stated that he is concerned about writing USD No. 501 about a college football game when the middle school football program has been eliminated.

Councilmember Stubbs clarified that the list of people that were signed up to speak about the HND Code Update ordinance would be carried over to speak at the June 8, 2004 Council meeting.

Councilmember Duffy stated that according to the latest media release, the City Council rescinded the recently adopted Comprehensive Plan, Capital Improvement Program, ordinances that relate to city services outside city limits, and appropriated \$150,000,000 of city taxpayers funds of the next six City Councils, at the last Council meeting. He requested a copy of all documentation, including public participation and minutes of the action taken at the meeting.

JoAnn Peavler, Betty Phillips, Hi Stockwell, Michael Bradley, David Owen, Sandy Swartz, Jason Chaika, Tiffany Muller, Carey Ross-Stone and Susan Willis appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:20 p.m.

Iris Walker
City Clerk