

## City Council Minutes – June 15, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, June 15, 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, Duffy, Nave, Haynes, Stubbs and Preisner-8. Absent: Councilmember Price –1. 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 Duffy raised a point of order relating to two ordinances that have exceeded the 60 day limit of being in committee. He stated that the ordinance relating to water service and connection fees, and the ordinance relating to sewer fees should have been placed on tonight's agenda in accordance with Council rules.

Councilmember Duffy moved to add the ordinances to the agenda and refer them to the Public Health and Safety Committee for an additional week to allow them to be placed on the same agenda as the ordinance relating to Trafficway impact fees currently in committee. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

Councilmember Preisner stated that the Public Health and Safety Committee would meet on June 21, 2004 to consider the ordinance relating to Trafficway impact fees, and they have already met on the other two ordinances.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the reappointment of Blanche Parks to the Washburn University Board of Regents for another four-year term that would expire June 30, 2008, was presented.

Minutes of the Regular Meeting of June 8, 2004 were presented.

Applications for Cereal Malt Beverage Limited License Renewals bearing the approval of the Chief of Police and City Inspectors for the following, were presented:

<u>Business Name</u>	<u>Address</u>
Casey's General Store	4441 SE California
Casey's General Store	0600 SE Rice Road

Councilmember Pomeroy moved to approve the consent agenda. The motion seconded by Councilmember Preisner 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, June 15, 2004, at 7:00 P.M. in conjunction with vacation request V04S/2 by Betty B. Vail, owner, to vacate a 60-foot wide public street right-of-way and a 30-foot wide platted setback located on the east side of SW Topeka Boulevard, the centerline of which is approximately 570-feet south of SW 37<sup>th</sup> Street.

ORDINANCE NO. 18265 introduced by Mayor James A. McClinton relating to the vacation of a 60-foot wide public street right-of-way and a 30-foot wide platted setback located on the east side of SW Topeka Boulevard, the centerline of which is approximately 570-feet south of SW 37<sup>th</sup> Street as dedicated by the plat of Trail Inn Subdivision, City of Topeka, Shawnee County, Kansas placed on first reading June 8, 2004, was again presented. (V04S/2)

Bill Fiander, Planning Department gave the staff report. He stated that the Planning Department recommends approval with the stipulation that all of the lots in the subdivision must be under one ownership. He stated that individual lots cannot be sold to create a landlock situation without a replat of the entire site.

Councilmember Stubbs asked if that stipulation was included in the document.

Bill Fiander replied that it was already in the document.

Mayor McClinton stated that no one signed up to speak on the street vacation.

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

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

ORDINANCE NO. 18266 introduced by Mayor James A. McClinton relating to subdivisions, amending City of Topeka Code Chapter 134 and Sections 134-96, 134-99, 134-141, 134-142, and 134-166, and repealing the original sections placed on first reading June 8, 2004, was again presented.

David Thurbon, Planning Director gave the staff report.

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

ORDINANCE NO. 18237 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(c), 48-10.02(c), 48-11.02(a), 48-11.02(c), 48-12.02(c), 48-13.02(c), 48-14.02(c), 48-17.02(a), 48-17.02(c), 48-18.02(a), 48-18.02(c), 48-20.00, 48-20.02(a), 48-20.02(b), 48-20.02(c), 48-21.02(a), 48-21.02(c), 48-23a.04(2), 48-23.02(c), 48-23.02(d), 48-26.00(g), 48-26.00(n), 48-26.00(u), and 48-26.00(v) and specifically repealing said original sections placed on first reading June 8, 2004, was again presented.

Bill Fiander, Planning Department gave the staff report and explained that the ordinance was previously approved but had not been published due to its size and the cost to publish it. He stated that they are asking that the Council rescind previous action taken on the ordinance on May 11, 2004, and approve the amended version of the ordinance that would cost less to publish.

Councilmember Haynes moved to rescind prior action taken on the ordinance and reconsider the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

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

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

A ZONING PETITION and 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 29<sup>th</sup> 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 placed on first reading June 1, 2004, was again presented. (Z04/37)

Bill Fiander, Planning Department gave the staff report and stated that approval would eliminate a Resolution of Intent for "M-2" Two Family Dwelling District from 1971 and a Resolution of Intent for "M-2" Multiple Family Dwelling District from 1974, and the proposed reclassification would be in keeping with the surrounding area of single-family residential. He explained that the Planning Commission recommended approval of all areas except lots served by SE Albert Court, the three lots immediately west of SE Albert Court that have frontage on SE 27<sup>th</sup> Street, and the four lots fronting SE Sagittarius Drive.

Councilmember Nave stated that he received emails and phone calls from neighbors who want to keep the area all R-1 residential.

Councilmember Duffy moved to adopt the recommendation of the Planning Commission. The motion was seconded by Councilmember Preisner.

Michael Francis, representing the owner appeared in support of the Planning Commission recommendation.

Sharon Copeland and Carrie Gilliland appeared and requested that all of the property be zoned R-1 as originally planned. They stated that they have substantial financial investments in their homes and a zoning change to M-1 could diminish the value of their homes. They also commented that private deed restrictions for property in that area would prohibit certain development.

Councilmember Chancellor questioned what would happen if zoning approved by the City would be contrary to restrictions placed on the deed.

Bill Fiander stated that it would be between the individual property owners and the City would not be involved in the case.

Councilmember Duffy and Nave declared their exparte communications.

Councilmember Stubbs made a substitute motion to remand the petition back to the Planning Commission to consider new information received and with the recommendation the property be zoned all R-1. The motion seconded by Councilmember Haynes carried. (7-1-0) Councilmember Duffy voted “no”.

A ZONING PETITION and ORDINANCE NO. 18267 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 1251 SW Fillmore Street in the City of Topeka, Kansas from “M-2” Multiple Family Dwelling District with Resolution of Intent for “E” Multiple Family Dwelling District TO “M-2” Multiple Family Dwelling District placed on first reading June 8, 2004, was again presented. (Z04/38)

Bill Fiander gave the staff report.

Mayor McClinton asked if there were any exparte communications. There were none declared.

Councilmember Haynes moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

ORDINANCE NO. 18268 introduced by John Alcala, relating to the full accounting of all funds and City Property entrusted to him/her upon the retirement, resignation or discharge from City employment by a department or division head placed on first reading April 6, 2004, was again presented.

Councilmember Nave gave the committee report and stated that the committee recommended that the ordinance be approved.

Councilmember Stubbs asked if there was a legal definition of city property.

Following further discussion, Councilmember Stubbs moved to amend the ordinance on line 16 after the word “conducted” by adding “in accordance with polices adopted by the administration”. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

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

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

RESOLUTION NO. 7482 introduced by Mayor James A. McClinton authorizing the expenditure of Zoo Improvement Reserve Funds for the purpose of renovating barn and habitat for hoofed animals, and for the purchase and installation of an electric security gate, pursuant to City of Topeka Code Section 2-328, was presented.

Mike Coker, Zoo Director appeared for questions.

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

LEASE AGREEMENT NO. 34375 between the City of Topeka and Dennis Mohler to lease 117 acres located on the south side of NW 17<sup>th</sup> and NW Landon Road, was presented.

Neil Dobler gave the staff report and stated the property was being leased for agricultural purposes.

Councilmember Preisner moved to approve the lease agreement. The motion seconded by Councilmember Stubbs carried unanimously. (8-0-0)

A HOME RULE ORDINANCE introduced by Mayor James A. McClinton authorizing and providing for the issuance and public sale of taxable General Obligation Bonds, Series 2004-A (Pension Obligation Refunding) of the City of Topeka, Kansas, to fund certain obligations of the City to the Kansas Police and Fireman's retirement system for certain eligible employees of the City and pay the costs of issuing such bonds; setting forth the details of said sale; and providing for the giving of notice thereof was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 60587-00, which provides for the construction phase services for improvements along North Kansas Avenue as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 18254 was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS were presented.

Councilmember Preisner announced that the Public Health & Safety Committee would meet on Monday, June 21, 2004 at 12 noon to discuss the document relating to firefighting services at Goodyear and the Trafficway impact fees.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER was presented.

Dave Graversen, CAO stated that he and the Mayor met with representatives of Blue Cross Blue Shield and were given an update regarding their expansion project at 12<sup>th</sup> and Topeka. He stated that they are moving forward with their Industrial Revenue Bonds with the County because the City requires new jobs and they do not anticipate any new positions with their expansion, however they are interested in working with the City on future projects.

PRESENTATIONS BY MEMBERS OF THE COUNCIL were presented.

Mayor McClinton distributed a leaflet from the County Commissioners that was being placed on doors for the Council's information in case they would receive telephone calls.

Councilmember Chancler thanked Public Works and Planning Department staff for meeting with her and a constituent to respond to some questions.

Councilmember Pomeroy stated that he and Councilmember Nave are issuing a challenge to all Councilmembers to participate in the upcoming Sunflower games.



Councilmember Preisner thanked fellow Councilmembers for their vote last week for small businesses allowing them to sell liquor on Sundays.

Councilmember Chancler expressed her concerns about residents being charged for disposing of tree limbs destroyed by the recent storm. She stated that there should be some way that residents are not penalized for cleaning up their property after a storm.

Dave Graversen, CAO explained that Gage Park was hit hard as well as some other parts of the City. He stated that in the past if there was storm damage citywide, Forestry was opened for free, and at that time they could burn the limbs deposited with them. He stated that they lost the ability through the State to do that, and they purchased the tub grinder, so their costs have increased as well. He explained that the City does clean up damaged trees in City right-of-way.

Councilmember Nave stated that he received a call from a constituent who was upset because a neighbor was helping her clean up her yard and had to make several trips to Forestry that was expensive.

Councilmember Chancler stated that because it was a storm that caused the damage, the city should at least reduce fees to half the cost so there is not additional fees for people having to rent power saws and who may have other property damage.

Councilmember Haynes stated that he has received weekly calls from the owner of the Convenience Store at 29<sup>th</sup> and Fremont that the street project in that area is impacting his business. He asked when the project would be completed.

Neil Dobler, Public Works Director stated that he would get Mr. Haynes a projected date the project would be completed.

Councilmember Duffy read in part an email from a constituent regarding the Monroe area improvements. He also named 10 neighborhoods that are not part of a Neighborhood

Improvement Association, and asked Administration to make sure citizens in all areas of Topeka who are eligible for those funds, whether belonging to an NIA or not, be included in distribution of CDBG funds.

Councilmember Duffy distributed three resolutions and asked that they be placed on a future agenda within 28 days.

Councilmember Alcalá asked for an update on the 3-mile area surrounding the City.

David Owen appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:30 p.m.

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Iris Walker  
City Clerk