

## City Council Minutes – July 6, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 6, 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, Preisner and Price -9. Mayor James A. McClinton presided -1.

AFTER THE MEETING was called to order, prayer was offered by Daniel Kaufman, Washburn Rural Choir.

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

Councilmember Duffy asked that item 3A, approval of worker's compensation claim for John Weinkauff be removed from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

COMMUNICATION recommending the appointment of Calinda Burnett and the re-appointment of Nancy Perry and Carol Ramirez Albott to the Juvenile Corrections Advisory Board for 3-year terms that will expire June 30, 2007 was presented.

COMMUNICATION recommending the appointment of Doris Walker, Mike Bell and Garry Cushinberry and the re-appointment of Bob Keckeisen to the Convention and Visitors Bureau Board of Directors for 3-year terms that will expire June 30, 2007 was presented.

Minutes of the Regular Meeting of June 22, 2004 were presented.

An application for a Cereal Malt Beverage License Renewal bearing the approval of the Chief of Police for KWIK Stop, 738 SW Gage, was presented.

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

APPROVAL OF WORKERS' COMPENSATION CLAIM for John Weinkauff in the

amount of \$44,900 was presented.

Councilmember Price moved to approve the workers' compensation claim. The motion seconded by Councilmember Preisner carried. Councilmembers Alcalá and Duffy voted "no".

(6-2-0)

PRESENTATION OF THE MAYOR'S PROPOSED BUDGET, was presented. Mayor McClinton stated that the primary focus of the 2005 Proposed Budget is sound fiscal management, maintaining city operations and supplying necessary services while keeping City bond ratings strong. He also stated that he understands that measures to enhance revenue are under consideration, but he did not feel it was prudent to incorporate those measures into the budget. As a result, the \$153.8 million budget presented requires a property tax increase of 4.5 mills primarily to pay the debt on money borrowed for capital improvements in past years. He stated that the city must meet its debt obligations.

Key points mentioned include:

- Reducing 6 Full Time Equivalent positions
- Bringing the General Fund ending balance to 10 percent
- Adding \$150,000 for downtown redevelopment grants through DTI
- Adding \$200,000 to continue installation of Wayfinding Signs in Topeka
- Adding \$450,000 for the rehabilitation and repair of existing City facilities
- Adding \$600,00 from the General Fund for required contribution to the KP&F Retirement System
- Restore \$112,000 for bridge maintenance that was cut from the 2004 budget
- Provide a 1.5 percent across-the-board salary increase for all employees
- Add \$39,000 for a new Zoning Inspector position
- Factor in gasoline price volatility, at least a 20 percent increase is expected
- Hold the 2005 contribution for health insurance costs flat

He further recommended that the Council approve the increases in franchise fees on electric and natural gas utilities, development service fees and business fees that are under consideration. He noted that these new sources would generate approximately \$4.0 million over 2004 and 2005, which would eliminate the 4.5 mill property tax increase, and additional tax

burden on the property tax payer.

ORDINANCE NO. 18274 introduced by Mayor James A. McClinton, authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Waterline Improvement Project No. 28537-00, in the area of South Topeka Boulevard from the Kirklawn Tower south to SE 45<sup>th</sup> Street placed on first reading June 22, 2004 was again presented.

Mike McGee, Assistant Public Works 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. 18275 introduced by Mayor James A. McClinton, relating to the ability of the fire chief to permit pyrotechnical displays, amending city of Topeka Code Section 70-57 and specifically repealing said original section placed on first reading June 22, 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 fire fighting services and providing for a contract between the City of Topeka, Kansas and the Goodyear Tire and Rubber Company Plant for the purpose of furnishing all fire department services for the Goodyear Tire and Rubber Company Plant placed on first reading April 27, 2004 was again presented.

Councilmember Preisner moved to remand the ordinance back to the Public, Health and Safety Committee for further review. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

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 placed on first reading May 4, 2004 was again presented.

Councilmember Nave gave the committee report and explained that the ordinance was removed from the Policy and Finance Committee “Without Recommendation” on June 29, 2004.

Councilmember Duffy requested that items 5D, 5E and 5F, ordinances relating to the increase of various public service fees be deferred until July 20, 2004 to be considered during budget proceedings.

Councilmember Stubbs moved to defer the ordinance until July 20, 2004. The motion seconded by Councilmember Chancler 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 placed on first reading May 4, 2004 was again presented.

Councilmember Duffy moved to defer the ordinance until July 20, 2004. The motion seconded by Councilmember Stubbs 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 placed on first reading May 4, 2004 was again presented.

Councilmember Duffy moved to defer the ordinance until July 20, 2004. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A RESOLUTION introduced by Councilmember Bill Haynes relating to a Balanced Budget and Surplus Policy for the City of Topeka, was presented.

Jim Langford, Budget Director gave the staff report.

Councilmember Duffy suggested that they address this issue on July 20, 2004 during budget proceedings.

Councilmember Duffy moved to defer the resolution until July 20, 2004. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$447,998.15 and RESOLUTION NO. 7484 introduced by Mayor James A. McClinton authorizing Improvement Project No. 60605-00 H as more specifically described herein was presented.

Mike McGee gave the staff report.

Councilmember Preisner moved to approve the public improvement petition, project budget, and resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

A PUBLIC IMPROVEMENT PETITION, PROJECT BUDGET in the amount of \$211,383.79 and RESOLUTION NO. 7485 introduced by Mayor James A. McClinton authorizing Improvement Project No. 40925-00 as more specifically described herein was presented was presented.

Mike McGee gave the staff report.

Councilmember Duffy moved to approve the public improvement petition, project budget, and resolution. The motion seconded by Councilmember Haynes carried unanimously. (9-0-0)

RESOLUTION NO. 7486 introduced by Mayor James A. McClinton authorizing an expenditure from the Softball/Sports Facilities Reserve Fund for the purpose of completing the remaining enhancements and for future ongoing maintenance at the Rueger Park Softball Complex, pursuant to City of Topeka Ordinance No. 16269 was presented.

Rogers Brazier, Parks and Recreation Director gave the staff report.

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

AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 30244-00, which provides for the asphalt mill and overlay and striping of the existing parking lot at Felker Park as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to city owned vehicles, amending City of Topeka Code Section 2-450 and specifically repealing said original section was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton relating to block parties, amending City of Topeka Code Section 130-1 and repealing the original section was presented for first reading.

AN ORDINANCE introduced by Mayor James A. McClinton annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property located at 5800 SW 6<sup>th</sup> Avenue and adjacent to the City of Topeka corporate limits, and said land being annexed

for all City purposes was presented for first reading. (A04/4)

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 east side of NW Rochester Road, the centerline of which is approximately 810-feet north of U.S. Highway 24 in the City of Topeka, Kansas from "R-1" Single Family Dwelling District and "C-4" Commercial District ALL TO "PUD" Planned Unit Development District was presented for first reading. (PUD04/3)

Mayor McClinton stated that the ordinance would be deferred until July 20, 2004 so that all Councilmembers would be present to vote on the issue.

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 1235 SW Wanamaker Road in the City of Topeka, Kansas from "C-4" Commercial District TO "PUD" Planned Unit Development District ("C-4" use group) was presented for first reading. (PUD04/4)

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 south side of SW Huntoon Street, the centerline of which is approximately 1,200 feet west of SW Arvonnia Place in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "PUD" Planned Unit Development District ("M-1a" use group) was presented for first reading. (PUD04/5)

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 on property enclosed by SW 13<sup>th</sup> Street on the south, SW Taylor street on the west, SW 10<sup>th</sup> Avenue on the north and SW Topeka Boulevard on the east in the City of Topeka, Kansas from "M-2" Multiple Family Dwelling District "M-3" Multiple Family Dwelling District, and "O&I-2" Office and Institutional District ALL TO "PUD" Planned Unit Development District ("O&I-1", "O&I-2" and "O&I-3" use groups) was presented for first reading. (*PUD04/6*)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the vacation of a portion of a public street right-of-way located at the northwest corner of SW 21<sup>st</sup> Street and SW Gage Boulevard as dedicated by the plat of Seabrook Subdivision No. 3, City of Topeka, Shawnee County, Kansas was presented for first reading. (*V04S/3*)

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 1,530-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 "M-2" Multiple Family Dwelling District and "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 the north side of SW 36<sup>th</sup> 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-2” Office and Institutional District ALL TO “M-1a” Limited Multiple Family Dwelling 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 at 5840 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. (Z04/39)

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 northeast corner of SE 8<sup>th</sup> Avenue and SE Madison Street in the City of Topeka, Kansas from “M-2” Multiple Family Dwelling District and “C-4” Commercial District ALL TO “D-1” Downtown District was presented for first reading. (Z04/40)

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 east side of SW Fairlawn Road, about 175-feet south of SW 34<sup>th</sup> Street, extended in the City of Topeka, Kansas from “R-1” Single Family Dwelling District TO “O&I-1” Office and Institutional District was presented for first reading. (Z04/41)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the Board of

Zoning Appeals, amending City of Topeka Code, Chapter 48, Article XXXIV and Sections 2-192, 48-34.00, 48-34.01, 48-34.02, 48-34.03, 48-34.04, 48-34.05, 48-34.06, 48-34.07, 48-34.08, 48-34.09, 48-34.10, and 48-34.11 and specifically repealing said original sections was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS were presented.

Councilmember Preisner congratulated Iris Walker, City Clerk for receiving her re-certification as a Municipal Clerk.

PRESENTATIONS BY MEMBERS OF THE COUNCIL were presented.

Councilmember Stubbs asked who responds to complaints regarding fireworks and how is it handled.

Chief Klumpp stated that the Police Department responds to calls regarding fireworks unless there is a fire. He stated that the ordinance that is in place makes it difficult to enforce the regulations because in most cases it is illegal to use certain fireworks, however, it is not illegal to own them. He also stated that he is going to meet with the Fire Chief so they can construct a plan that would help better control and regulate the 4<sup>th</sup> of July activities next year.

Councilmember Chancler stated that the Police and Fire Departments should also meet with County Officials to discuss the types of fireworks that can be purchased in the County compared to the City and how they should be regulated.

Councilmember Haynes thanked Chief Klumpp for the memorandum updating the Council on Shooter's Sports Bar, and asked if all of the requirements relating to increased security measures have been meet.

Chief Klumpp stated that the owners have taken most of the steps that were required and are in the process of installing security cameras.

Councilmember Duffy noted that the Chief's initial recommendation regarding the issuance of the Open-After Mid-Night license for Shooter's Sports Bar was to close the establishment for 60-days with the stipulation that the owners must comply with all of the required security measures prior to reopening. He also encouraged the Council to be very active regarding upcoming legislative matters.

Councilmember Alcalá complimented the Fire Department and the Police Department on their quick response to an emergency call on the Sardou Bridge. He also stated that he believes the Council should support each other in the decisions that they make. He also asked the City Attorney if there is a parking waiver in effect that covers parking requirements for major events.

Brenden Long stated that there is not a parking waiver in place, and it would require an ordinance to amend the current ordinance.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:20 p.m.

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Iris Walker  
City Clerk