

City Council Minutes – July 27, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 27, 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. Mayor James A. McClinton presided -1. Absent: Councilmember Price -1.

AFTER THE MEETING was called to order, prayer was offered by Chris Dorsey.

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

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Ivan Weichert to the Topeka Planning Commission for a term that will expire December 31, 2005, was presented.

Minutes of the Regular Meeting of July 20, 2004 were presented.

Councilmember Haynes noted a correction to the minutes on page 299. He stated that the motion should state, "Councilmember Haynes made a substitute motion to override the Planning Commission's recommendations and approve the proposal with the stipulation that the applicant must comply with staff recommendations."

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

A PROJECT BUDGET in the amount of \$43,575 and ORDINANCE NO. 18298 introduced by Mayor James A. McClinton, authorizing Improvement Project No. 13087-03, which provides for the removal and reinstallation of existing granite pavers at the north plaza entry to City Hall as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading July 20, 2004 was again presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Preisner requested information regarding the application of the flamed abrasive coating.

Councilmember Stubbs asked how old the pavers are.

Neil Dobler stated that he believes that the pavers are approximately ten years old and he will send the information requested by Councilmember Preisner to him as soon as possible.

Councilmember Preisner moved to approve the project budget 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, Alcalá, Chancler, Nave, Haynes, Duffy, Stubbs and Preisner -8. Absent: Price -1.

ORDINANCE NO. 18299 introduced by Councilmembers Bill Haynes, Duane Pomeroy, Jeff Preisner, Gary Price, and Lisa Stubbs calling an election to be held on the 2nd day of November, 2004, for the purpose of voting on Charter Ordinance No. 94 placed on first reading July 20, 2004 was again presented.

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Haynes, Stubbs and Preisner -5. Noes: Chancler, Nave and Duffy -3. Absent: Price -1.

ORDINANCE NO. 18300 introduced by Councilmember Duane Pomeroy authorizing Downtown Topeka, Inc., to sell and dispense cereal malt beverages during the Downtown Live Outdoor Concert and Bike Show on Thursday, August 5, 2004 placed on first reading July 20, 2004 was again presented.

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

A PROJECT BUDGET in the amount of \$650,000 and RESOLUTION NO. 7497 introduced by Mayor James A. McClinton describing Improvement Project No. 15059 which

provides for the expansion of the current Belle Avenue Stormwater Detention/Wetland Pond and amendment to the project budget as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

RESOLUTION NO. 7498 introduced by Councilmember John Nave granting an exemption from the annexation requirements of City of Topeka Code Section 146-37, as amended, for the provision of water to certain specified property located in Shawnee County, Kansas, was presented.

Councilmember Nave gave the committee report and stated that the Policy and Finance Committee recommended “Do Pass” by a vote of 2-0-0 on June 26, 2004.

Councilmember Nave moved to accept the committee report. The motion seconded by Councilmember Pomeroy carried unanimously. (8-0-0)

Councilmember Nave moved to approve the resolution. The motion was seconded by Councilmember Pomeroy.

Councilmember Duffy stated that he supports the resolution due to the personal circumstances surrounding the request, however, because the lot has a septic tank located on it he is concerned that this exemption will set the precedence for similar requests in the future.

Councilmember Nave stated that the applicant installed a very expensive septic system knowing that they are located in an area marked for future expansion and annexation.

Brenden Long, City Attorney stated that each request would be examined separately and evaluated.

Councilmember Stubbs asked if the applicant filed a complaint against the real estate

agent with the Better Business Bureau. She stated that she believes it is the realtor's responsibility to be aware of all of the land use regulations and services available within the City of Topeka and Shawnee County. She also asked if the applicant plans to subdivide the property and if they would sign consent to annex.

Russell Dyke, property owner stated that they have no plans to subdivide because the house sets in the middle of the property, and they have already agreed to annexation. He also stated, that it is his understanding that the agent they dealt with no longer lives in the country.

Neil Dobler stated that the property would receive only one water meter even if it were subdivided.

The motion to approve the resolution carried unanimously. (8-0-0)

A COMMUNICATION authorizing publication of the Notice of Public Hearing on the 2005 proposed budget for the City of Topeka, was presented.

Mayor McClinton suggested adopting a budget with no mill levy increase due to the adoption of franchise fee increases.

Jim Langford, Finance Director gave the staff report.

Councilmember Haynes asked why there would be an increase in debt service for 2005.

Jim Langford explained that it is due in part because they used \$1.1 million of the ending balance to finance debt service in 2004, and they also lost some expected revenue.

Councilmember Duffy moved to amend the communication to adopt the recommendations of the Mayor. The motion was seconded by Councilmember Stubbs.

Jim Olson, Community Resources Council distributed a summary of and explained the Youth & Social Services fund cuts.

The motion to amend the communication carried unanimously. (8-0-0)

Councilmember Nave moved to transfer \$450,000 from the General Improvement Fund to the General Fund. The motion was seconded by Councilmember Duffy.

Councilmember Chancler asked if moving the money would jeopardize planned projects.

Councilmember Haynes stated that he opposes the motion because the City will go back to funding projects in the Capital Improvement Program with General Obligation Bonds.

Councilmember Preisner called the question.

The motion to transfer \$450,000 carried. Councilmembers Alcalá, Chancler and Nave voted "no". (5-3-0)

Councilmember Duffy moved to approve the communication as amended. The motion seconded by Councilmember Preisner carried. Councilmember Haynes voted "no". (7-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton, authorizing an amendment to the project budget for Project No. 12062-00, which provides for the construction of a Kansas Avenue fly-off ramp: west alignment which will require the construction of a bridge and ramp adjoining the Kansas Avenue Bridge as well as the improvement of the trafficway from Kansas Avenue to Curtis Street as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka and K.S.A. 12-685, *et seq.* and repealing City of Topeka Ordinance No. 18041 was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Preisner announced that the Public, Health and Safety Committee meeting scheduled for August 2, 2004 has been moved to August 16, 2004 at 12 noon in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy requested copies of minutes that dealt with the Kansas Avenue

Fly-off Project. He also asked for a report relating to the responsibility of the JEDO Board if the ½ cent sales tax is implemented. He stated that he received an update on the consent to annex map and asked that they make sure that all department heads that do not live in the city limits have consent to annex on file.

Councilmember Duffy asked for the total cost of right-of-way for the Kansas Avenue Fly-off Project. He also requested information on how the streets that are scheduled for repair were selected, and if the street repairs would be paid for by the implementation of the ¼ cent sales tax money. He noted that he received a call from Floyd's Donut Shop located adjacent to Spangles Restaurant regarding the legality of their sign. He also distributed a resolution concerning the levying of ad valorem taxes by Shawnee County for placement on a future agenda.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:10 p.m.

Iris Walker
City Clerk