

City Council Minutes – August 3, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 3, 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 Price -8. Mayor James A. McClinton presided -1. Absent: Councilmember Preisner -1.

AFTER THE MEETING was called to order, prayer was offered by Councilmember Nave.

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

Councilmember Price moved to pull item 3B, a communication regarding the Community Advisory Council for separate discussion. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the re-appointment of Ed Rolfs to the Topeka Metropolitan Transit Authority for a term that would expire June 30, 2008 was presented.

RESOLUTION NO. 7499 introduced by Mayor James A. McClinton granting Downtown Topeka, Inc., an exception to the provisions of the City of Topeka Code Section 54-148 concerning noise prohibitions during its Downtown Live Outdoor Concert and Bike Show was presented.

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

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

A COMMUNICATION recommending the appointment of Arthur Alcalá, Jocelyn Lyons and Woodrow Carter to the Community Advisory Council for an interim term that would expire

December 31, 2004 was presented.

Councilmember Price asked if they could vote on each individual appointment separately.

Councilmember Pomeroy moved to refer the communication to the Policy and Finance Committee. The motion was seconded by Councilmember Duffy.

Councilmember Chancler stated that she understands the concerns relating to the communication, however, it is very important that they do not prolong the process because the board needs to be completely staffed to fully utilize the purpose of the Community Advisory Council.

The motion to refer failed. Councilmembers Chancler, Nave, Haynes and Price voted "no". (4-4-0)

Hi Stockwell stated that Woodrow Carter is currently delinquent on his rental house property taxes and asked City Council if there is a criteria that is followed when selecting people to serve on community boards.

Kathy Scott expressed concern relating to the properties owned by Woodrow Carter in her neighborhood. She stated that he has delinquent property taxes, his rental houses are in desperate need of repair, and the neighborhood residents live in fear of the tenants.

Councilmember Duffy stated that it is unfortunate that they could not discuss this matter in committee to address the issues in detail. He also stated that he has a different opinion of Mr. and Mrs. Carter and believe that they have had a positive impact on the community. He also asked Kathy Scott if the properties have been reported to code compliance.

In response, Kathy Scott stated that the properties have been reported to code compliance numerous times with no response. She also stated that she believes that they should implement a Landlord Licensing Policy to help eliminate "slum lords" throughout the City of Topeka.

Councilmember Chancler stated that Mr. Carter is willing to rent to “special needs” rental clients and she believes that this type of experience is needed to serve on the Community Advisory Council (CAC) Board.

Mayor McClinton stated that Woodrow Carter fits the criteria set by the City Council. He also stated that by allowing the appointment of Woodrow Carter to the CAC Board it would allow both parties involved the opportunity to assist one another in drafting proposed legislation to change the laws and regulations.

Councilmember Pomeroy stated that he believes the main concern of the neighborhood is public safety and the concerns expressed should be discussed in committee to allow Mr. Carter the opportunity to defend the allegations. He also stated that he would not support the appointment without speaking with Mr. Carter first.

Councilmember Price stated that he agrees with Councilmember Pomeroy and believes that the issues should be discussed in committee.

Councilmember Price moved to refer the appointment of Woodrow Carter to the Policy and Finance Committee and approve the appointment of Arthur Alcala and Jocelyn Lyons to the Community Advisory Council Board. The motion was seconded by Councilmember Stubbs.

Councilmember Nave stated that there is a combination of several things that need to be done to help solve the problems and everyone involved must work together as a whole community.

Councilmember Stubbs stated that she received two emails from Kathy Scott explaining her concerns with the appointment of Woodrow Carter to the CAC Board. She stated that it is unfortunate that this issue could not be discussed in committee to allow Mr. Carter an opportunity to respond to the allegations. She also stated that she cannot support the

appointment due to the issues that have been raised, and because Mr. Carter has not had the opportunity to respond.

Councilmember Price moved to approve the appointments of Jocelyn Lyons and Arthur Alcala, and refer the appointment of Woodrow Carter to committee. The motion seconded by Councilmember Stubbs failed. Councilmembers Chancler, Nave and Duffy voted “no”. Councilmember Haynes abstained. (4-3-1)

Councilmember Chancler called the question.

Councilmember Stubbs made a request to divide the question.

Councilmember Alcala moved to approve the appointment of Arthur Alcala to the Community Advisory Council Board. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

Councilmember Alcala moved to approve the appointment of Jocelyn Lyons to the Community Advisory Council Board. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

Councilmember Chancler moved to approve the appointment of Woodrow Carter to the Community Advisory Council Board. The motion seconded by Councilmember Nave failed. Councilmembers Alcala, Stubbs and Price voted "no". Councilmember Haynes abstained. (4-3-1)

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, August 3, 2004, at 7:00 P.M. regarding a proposed loan in an amount not to exceed \$1,248,000 to be taken by the City from the Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment.

RESOLUTION NO. 7500 introduced by Mayor James A. McClinton authorizing filing of necessary documents with the Kansas Department of Health and Environment (KDHE), for loans under the Kansas Public Water Supply Loan Fund (K.S.A. 65-3321 through 65-3329) was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Price moved to close the public hearing and approve resolution. The motion seconded by Councilmember Nave 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, August 3, 2004, at 7:00 P.M. regarding a proposed loan in an amount not to exceed \$2,310,000 to be taken by the City from Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment.

RESOLUTION NO. 7501 introduced by Mayor James A. McClinton authorizing filing of necessary documents with the Kansas Department of Health and Environment (KDHE), for loans under the Kansas Public Water Supply Loan Fund (K.S.A. 65-3321 through 65-3329) was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Price moved to close the public hearing and approve resolution. The motion seconded by Councilmember Nave 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, August 3, 2004, at 7:00 P.M. regarding a proposed loan in an amount not to exceed \$6,042,500 to be taken by the City from the Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment.

RESOLUTION NO. 7502 introduced by Mayor James A. McClinton authorizing filing of necessary documents with the Kansas Department of Health and Environment (KDHE), for loans under the Kansas Public Water Supply Loan Fund (K.S.A. 65-3321 through 65-3329) was presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Price moved to close the public hearing and approve resolution. The motion seconded by Councilmember Stubbs carried unanimously. (8-0-0)

A REVISED PROJECT BUDGET in the amount of \$4,378,620 and 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 place on first reading July 27, 2004 was again presented.

Neil Dobler gave the staff report and explained that the amended project budget accounts for additional right-of-way and relocation costs. He continued to explain that due to Federal Benefit Relocation guidelines and court decisions regarding condemnation, the actual costs were higher than the initial budgeted amount.

Councilmember Haynes suggested that they defer the proposal until the budget has been finalized so they know exactly how much money would be needed to fund the project.

Neil Dobler stated that there has been a verbal agreement made on the cost of the project.

Councilmember Pomeroy inquired on the current cost of the project compared to past project proposals, and asked if it would be possible to use sales tax revenues to fund the project. He also stated that he does not agree with the project funding and it was not his intention for the taxpayers to pay the total cost of the project.

Councilmember Duffy asked if Resolution No. 7409 would fund the project as stated in the November 4, 2003 City Council Minutes.

Brenden Long, City Attorney stated that Resolution No. 7409 was presented as an interlocal agreement and the County did not take action on the resolution.

Discussion continued by several Councilmembers regarding the funding source of the project. Several Councilmembers stated that they disagree and believe that the County did take action on the agreement. Lastly, the Council decided that City staff should convey with County staff to find out what their intentions are regarding funding of the project before they make a decision.

Councilmember Price stated that he believes it is a question of ethical value, and as public officials they should put the needs of the community ahead of personal gain.

Bob Sherburne spoke in opposition of the proposal and stated that he believes that taxpayers should not have to fund the project.

Ted Mize spoke in support of the proposal and stated that he believes the project would be a great tourist attraction.

Councilmember Alcala moved to approve the revised project budget and adopt the ordinance. The motion was seconded by Councilmember Stubbs.

Councilmember Alcala withdrew his motion.

Councilmember Pomeroy moved to defer the revised project budget and ordinance until September 14, 2004. The motion seconded by Councilmember Price carried. Councilmembers Duffy and Price were out of the room. (6-2-0)

Councilmember Duffy moved to suspend the Council Rules to allow Woodrow Carter to respond to the allegations made previously in the meeting. The motion seconded by Councilmember Chancellor carried unanimously. (8-0-0)

Councilmember Duffy, Stubbs, and Alcala stated that it is unfortunate that this issue was discussed in a business meeting.

Woodrow Carter stated that he does not personally know Kathy Scott and he is disappointed that she did not confront him personally to discuss the matter. He explained that as a landlord he does not always know the people the tenants are associated with, however, he works very hard to rent to quality people. He stated that he is a one-man operation and he does the best that he can. He also stated that it is his goal to provide each neighborhood with clean quality homes.

Councilmember Duffy moved to reinstate the Council Rules. The motion seconded by Councilmember Price carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$447,000 and RESOLUTION NO. 7503 introduced by Mayor James A. McClinton describing Improvement Project No. 28524-00 which provides for the construction of a roadway from Gage Boulevard to the Water Treatment Plant as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

RESOLUTION NO. 7504 introduced by Mayor James A. McClinton amending the adopted 2003-2004 Capital Budget for the City of Topeka, Kansas, and rescinding City of Topeka Resolution No. 7413 was presented.

Jim Langford, Budget Director suggested that the resolution be deferred until the Kansas Avenue Fly-off Project is approved.

Councilmember Price moved to withdraw the resolution until the Kansas Fly-off Project is approved. The motion was seconded by Councilmember Alcala.

Councilmember Stubbs made a substitute motion to approve the 34th Street and Belle Avenue Project only. The motion seconded by Councilmember Price carried unanimously.

(8-0-0)

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, generally located at the southwest corner of the intersection of SW 41st Street and SW Wanamaker Road in Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City Purposes was presented for first reading. (A04/5)

AN ORDINANCE introduced by Mayor James A. McClinton annexing land to the City of Topeka, Kansas, accordance with K.S.A. 12-520, as amended, generally located between SW Marlboro Road and SW Shenandoah Road and between SW 43rd Terrace and SW 46th Street within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes was presented for first reading. (A04/7)

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 713 SW

Topeka Boulevard in the City of Topeka, Kansas from “E” Multiple Family Dwelling District TO “C-3” Commercial District was presented for first reading. (Z04/34)

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 Clay Street, the centerline of which is approximately 250-feet south of SW 5th Street in the City of Topeka, Kansas from “C-2” Commercial District TO “M-1a” Limited Multiple Family Dwelling District was presented for first reading. (Z04/42)

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 1132 SW Lane Street in the City of Topeka, Kansas from “D” Multiple Family Dwelling District with Resolution of Intent for “E” Multiple Family Dwelling District ALL TO “M-2” Multiple Family Dwelling District was presented for first reading. (Z04/43)

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 4525 and 4535 SW 21st Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with Resolution of Intent for “D&O” Multiple Family Dwelling and Office District ALL TO “O&I-1” Office and Institutional District was presented for first reading. (Z04/45)

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy asked if they have received a consent to annex from former Fire Chief Dennis Phillips.

Councilmember Stubbs stated that she received a call from the owner of a local liquor store expressing concern with the \$120 increase in licensing fees. She also stated that she believes that the fee increases are a much needed revenue source.

Councilmember Duffy suggested that they use the financial table provided by Jim Langford to help explain the increase in occupational fees to business owners.

Councilmember Nave stated that they have given business owners plenty of opportunities to oppose the increase in occupational fees.

Ted Mize and Shawn Smith appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:30 p.m.

Iris Walker
City Clerk