

## City Council Minutes – August 10, 2004

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 10, 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, Stubbs and Preisner -7. Mayor James A. McClinton presided -1. Absent: Councilmember Duffy and Price -2.

AFTER THE MEETING was called to order, prayer was offered by Sister Travis, El Shaddai Ministries Church of God in Christ.

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

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Hillside Subdivision located on the east side of SW Fairlawn Road, the centerline of which is approximately 520-feet south of SW 34<sup>th</sup> Street in the City of Topeka, Kansas, was presented. (P04/12)

A FINAL PLAT for Mulligan Subdivision No. 3 located at 3001 NW US Highway 24 in the City of Topeka, Kansas, was presented. (P04/17)

A FINAL PLAT for Brookfield West Subdivision No. 6 located at 2100 SW Urish Road in the City of Topeka, Kansas, was presented. (P04/18)

Minutes of the regular meeting of August 3, 2004 were presented.

Councilmember Haynes requested that the minutes be corrected to reflect that he abstained on the communication relating to the appointments to the Community Advisory Council instead of Councilmember Duffy.

Councilmember Preisner moved to approve the consent agenda. The motion seconded by Councilmember Nave carried unanimously. (7-0-0)

## 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 10, 2004, at 7:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the proposed 2005 budget.

The following individuals appeared and explained the services their organization provides to the community and requested continued funding for their organization:

<u>Name</u>	<u>Agency</u>
Debbie Guilbault	Topeka Council on Aging
Judy Thompson	Sunshine Connection
Millie Schmidt	Topeka Center Senior
Deb Payne	Sunshine Connection
Shirley Martin	Parks and Recreation Advisory Board
Charles Davis	Chosen Voice Gospel Music Ministry
Marilyn Wilson	Chosen Voice Gospel Music Ministry
Joseph Ledbetter	Hi-Crest Neighborhood Improvement Assoc. President
Marcy Rhoe	Sunshine Connection
Kelly Carr	Shawnee County Medical Society Health Access
Raymond Irwin	Heartland Parks
Reverend Dave Fulton	Safe Streets Coalition
Neil Fisher	Topeka Youth Project
Jessica Ressac	Topeka Youth Council
John Moyer	East Topeka North Neighborhood Improvement Assoc.
Charles Criqui	Concern Citizen – Meals on Wheels
Susan Weidenbach	Let's Help
Ryan Schuman	Sunshine Connection
Mike Wilson	U.S.D. 501 Association Superintendent
Nancy Perry	United Way of Topeka
Josephine Salehar	LuLac Senior Center
Bea King	Sunshine Connection
Richard Fisher	United Way and Jayhawk Council of Boy Scouts
Chris Meinhardt	Friends of Free State Capital
Julie Reed	Shawnee County Family Resource Center
Lowell Manis	Topeka Cemetery
Sabra Shirrell	Success by Six
Nancy Daniels	Success by Six

Following public comment Mayor McClinton stated that the proposed 2005 Budget allocated \$500,000 to assist Social Services. The 2005 Social Service requests totaled \$750,000 making the allocation of money a very difficult decision because all of the organizations play a

vital role in the community. He also stated that he understands the need for funding, however, if as citizens they do not want their taxes increased than funding has to be cut.

Councilmember Chancler suggested that they somehow let the agencies know what their allocation will be for more than one year at a time so they know where they are financially.

Councilmember Chancler moved to close the public hearing. The motion seconded by Councilmember Nave carried. Councilmembers Stubbs and Preisner were out of the room.

(5-2-0)

### 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 10, 2004, at 7:00 P.M. for the purpose of hearing and answering objections of taxpayers relating to the 2005 Consolidated Plan.

The following individuals appeared in support of the Consolidated Plan regarding allocation of funds for Neighborhood Improvements and Infilling Housing:

<u>Name</u>	<u>Agency</u>
JoAnn Peaveler	Concerned Citizen – Hi-Crest Neighborhood
John Moyer	East Topeka North Neighborhood Improvement Association
Hi Stockwell	Old Town Neighborhood Improvement Association
James Bolden	Concerned Citizen

Councilmember Preisner moved to close the public hearing. The motion was seconded by Councilmember Nave.

Councilmember Pomeroy asked for a report regarding the house owned by Topeka City Homes that is scheduled to be demolished. He stated that he would like the report to include the address of the home and if it was purchased by the City.

Councilmember Chancler stated that they should look at other organizations that manage properties as well, and not single out any one organization.

Councilmember Pomeroy and Councilmember Chancler inquired on the blank pages

relating to the Topeka Housing Authority in the Consolidated Plan document.

In response, Donna Hill, Housing and Neighborhood Department stated that the blank pages are attachments that need to be completed and sent to the Housing and Urban Development Department following and Environmental Review public comment period and the completion of the 2005 Budget.

Councilmember Pomeroy asked if the City Council's recommendations have been sent to the Topeka Housing Authority to be incorporated in the plan.

Mayor McClinton confirmed that the Council's recommendations have been forwarded to the Topeka Housing Authority.

The motion to close the public hearing carried unanimously. (7-0-0)

#### 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 10, 2004, at 7:00 P.M. in conjunction with vacation request V04E/5 by the Estate of William A. Miller, Jr., to vacate a north/south 10-foot wide utility easement on property located at 4204 SW Holly Lane.

ORDINANCE NO. 18301 introduced by Mayor James A. McClinton relating to the vacation of a 10-foot wide utility easement on property located at 4204 SW Holly Lane, as dedicated by the plat of McAlister Heights, City of Topeka, Shawnee County, Kansas, placed on first reading August 3, 2004 was again presented. (V04E/5)

Bill Fiander, Planning Department gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Haynes carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Chancler, Nave, Haynes, Stubbs and Preisner -7. Absent: Duffy and Price -2.

ORDINANCE NO. 18302 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 41<sup>st</sup> 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 placed on first reading August 3, 2004 was again presented. (A04/5)

David Thurbon, Planning Director gave the staff report.

Councilmember Chancler asked if a portion of the project would be funded by sales tax.

Neil Dobler, Public Works Director stated that a portion of the project would be funded by sales tax, however, he is unsure of the exact amount because there are several government entities contributing money to the project.

Councilmember Haynes clarified that the ordinance only relates to the right-of-way of the project.

Mike Engler, Bartlett & West Engineers appeared in support of the annexation.

Councilmember Haynes inquired on how much the project would increase the City's total bonded indebtedness.

Following further discussion regarding financing of the 41<sup>st</sup> Street project, the ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcala, Nave, Stubbs and Preisner -5. No: Chancler and Haynes -2. Absent: Duffy and Price -2.

ORDINANCE NO. 18303 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 43<sup>rd</sup> Terrace and SW 46<sup>th</sup> Street within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes placed on first reading August 3, 2004 was again presented. (A04/7)

David Thurbon gave the staff report.

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Nave, Haynes, Duffy, Stubbs and Preisner -6. Noes: Chancler -1. Absent: Duffy and Price -2.

Councilmember Chancler explained that she voted "no" on both ordinances relating to annexation because she believes she does not have enough information relating to the funding of the project.

A ZONING PETITION and ORDINANCE NO. 18304 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 placed on first reading August 3, 2004 was again presented. (Z04/34)

Bill Fiander gave the staff report.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion was seconded by Councilmember Alcalá.

Neil Dobler explained the City's commitment is to rebuild the alley.

Hi Stockwell, representative for the neighborhood stated that the residents support the parking lot and are thankful that the drainage problem has been addressed.

Eric Dinkel, applicant stated that he would prefer that the drainage problems be corrected prior to the construction of the parking lot to avoid further damage.

Mayor McClinton asked if there were any additional exparte communications besides Councilmembers Pomeroy, Alcalá and Chancler. There were none declared.

The motion to approve the zoning petition and adopt the ordinance carried unanimously.

(7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Chancler, Nave, Haynes, Stubbs, Preisner -7. Absent: Duffy and Price -2.

A ZONING PETITION and ORDINANCE NO. 18305 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 gave the staff report and stated the zoning case was remanded back to the Topeka Planning Commission and they recommended that the entire tract of land be changed to "R-1" Single Family Dwelling District.

Carrie Gilliland and Sharon Copeland spoke in support of the zoning change.

Mayor McClinton asked if there was any ex parte communications besides Councilmember Nave. There was none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Chancler, Nave, Haynes, Stubbs, Preisner -7. Absent: Duffy and Price -2.

A ZONING PETITION and ORDINANCE NO. 18306 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 5<sup>th</sup> Street in the City of Topeka, Kansas from “C-2” Commercial District TO “M-1a” Limited Multiple Family Dwelling District placed on first reading August 3, 2004 was again presented. (Z04/42)

Bill Fiander gave the staff report.

Mayor McClinton gave an opportunity for anyone present to speak. No one appeared.

Mayor McClinton asked if there was any exparte communications besides Councilmember Pomeroy. There was none declared.

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance. The motion seconded by Councilmember Nave carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Chancler, Nave, Haynes, Stubbs, Preisner -7. Absent: Duffy and Price -2.

A ZONING PETITION and ORDINANCE NO. 18307 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 placed on first reading August 3, 2004 was again presented. (Z04/43)

Bill Fiander gave the staff report.

Mayor McClinton gave an opportunity for anyone present to speak. No one appeared.

Mayor McClinton asked if there was any exparte communications. There was none



declared.

Councilmember Pomeroy moved to approve the zoning petition and adopt the ordinance.

The motion seconded by Councilmember Preisner carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcala, Chancler, Nave, Haynes, Stubbs, Preisner -7. Absent: Duffy and Price -2.

A ZONING PETITION and ORDINANCE 18308 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 21<sup>st</sup> 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 placed on first reading August 3, 2004 was again presented. (Z04/45)

Bill Fiander gave the staff report.

Mayor McClinton gave an opportunity for anyone present to speak. No one appeared.

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

Councilmember Preisner moved to approve the zoning petition and adopt the ordinance.

The motion seconded by Councilmember Stubbs carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcala, Chancler, Nave, Haynes, Stubbs, Preisner -7. Absent: Duffy and Price -2.

RESOLUTION NO. 7505 introduced by Mayor James A. McClinton, pursuant to City of Topeka Code Section 130-377 concerning sidewalk repairs at locations more specifically described herein was presented.

Neil Dobler gave the staff report.

Councilmember Alcalá stated that the property owner at 206 NE Scotland has been proactive in trying to remove a very large tree that is located in the public easement that is causing damage to the sidewalk. He also stated that the City refused to remove the tree.

Councilmember Alcalá moved to remove the property at 206 NE Scotland from the list pending implementation of a resolution of the tree removal. The motion seconded by Councilmember Chancler carried unanimously. (7-0-0)

Councilmember Preisner move to approve the resolution as amended. The motion seconded by Councilmember Haynes carried unanimously. (7-0-0)

AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 13137-00, which provides for the construction of a parking garage in the 700 block of South Kansas Avenue as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

Councilmember Haynes moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Chancler carried. Councilmember Pomeroy voted "no". (6-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton relating to parking ticket fines and garage rates, amending City of Topeka Code Sections 142-301 and 142-452 and repealing the original section was presented for first reading.

Councilmember Haynes moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Chancler carried. Councilmember Pomeroy voted "no". (6-1-0)

AN ORDINANCE introduced by Mayor James A. McClinton relating to surcharge rates,

amending City of Topeka Code Section 146-12, and repealing the 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 August 16, 2004 at 12 noon in the City Council Office to discuss citywide curfew and Goodyear Tire and Rubber Company Plant fire fighting services.

Councilmember Stubbs announced that there would be an Economic and Community Development Committee meeting held August 17, 2004 at 12 noon in the City Council Office to discuss the new parking garages located in the 700 block of Kansas Avenue.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Chanler requested that all funding information pertaining to projects that were approved by Council prior to her becoming a Councilmember be included in her weekly council packet. She also stated that new Councilmembers should also receive the additional information so they can make informed decisions.

Councilmember Haynes requested that all information regarding funding by General Obligation Bonds be included in the weekly council packets.

Councilmember Alcala submitted an ordinance for a future agenda relating to the implementation of a utility franchise refund.

Councilmember Preisner thanked Dave Graversen and Rogers Brazier for their help with the work session on the golf course.

Councilmember Pomeroy stated that the property located at 1243 Western is in very poor condition and requested that the problem be addressed as soon as possible.

L.S. Wheeler, III., JoAnn Peavler and Bonnie Gish appeared to speak under public comment.

Councilmember Nave moved to adjourn into executive session for a period not to exceed twenty minutes to discuss a real estate matter. The motion seconded by Councilmember Preisner carried unanimously. (6-0-0)

Following a ten-minute time period the Council reconvened into open session and Mayor McClinton stated that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 11:00 p.m.

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Iris Walker  
City Clerk