

City Council Minutes – January 11, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, January 11, 2005. 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 Muller -9. Mayor James A. McClinton presided -1.

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

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

Councilmember Stubbs requested to pull item 3a, a resolution relating the recent tsunami disaster in Southern Asia, India and Africa for separate discussion.

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of December 21, 2004, were presented.

A Cereal Malt Beverage License application bearing the approval of the Chief of Police and City Inspectors for Ameri Gas, 4601 SW Topeka Boulevard, was presented.

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

RESOLUTION NO. 7565 introduced by Councilmembers Lisa Stubbs, Bill Haynes, Lover Chancler, John Alcalá, Clark Duffy, Duane Pomeroy, Tiffany Muller, Jeff Preisner, and John Nave initiating the Topeka Care Project monetary donation challenge administered and tracked through the American Red Cross in an effort to gather donations for the victims of the recent tsunami disaster in Southern Asia, India and Africa, was presented.

Jill Bronaugh and Monica Brede appeared in support of the Topeka Care Project. Jill Bronaugh explained that they have been working directly with Councilmember Stubbs in

organizing a family event to be held on January 29, 2005, from 10:00 a.m. to 4:00 p.m. at the Agricultural Hall. She encouraged local businesses, churches and schools to support the efforts of the Topeka Care Project and help them obtain their goal of \$250,000 to be donated to the victims of the tsunami disaster.

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

A PROJECT BUDGET in the amount of \$124,575 and ORDINANCE NO. 18366 introduced by Mayor James A. McClinton, authorizing Improvement Project No. 13144-01, which provides for improvements to the Law Enforcement Center as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 21, 2004, was again presented.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Preisner moved to approve the project budget and adopt ordinance. The motion seconded by Councilmember Muller carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Pomeroy, Alcalá, Chancler, Nave, Haynes, Duffy, Stubbs, Preisner and Muller -9.

ORDINANCE NO. 18367 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 on the North side of SW 43rd Street approximately 2800' east of SW Gage Boulevard 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 December 21, 2004 was again presented. (A04/11)

David Thurbon, Planning 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 Muller -9.

AN ORDINANCE introduced by Mayor James A. McClinton relating to sign regulations, repealing City of Topeka Code Sections 118-277 and 118-280, and amending City of Topeka Code Section 48-31.01, 48-31.02, 48-31.03, 118-1, 118-2, 118-58, 118-59, 118-179, and 118-276, and repealing the original sections placed on first reading August 24, 2004 was again presented. (ACZR04/4)

Councilmember Duffy stated that the item has been in committee sixty days and was placed on the agenda per Council Rule 7.6(b).

Councilmember Stubbs moved to refer the ordinance to the Economic and Community Development Committee. The motion was seconded by Councilmember Duffy.

Councilmember Stubbs announced that there would be an Economic and Community Development Committee meeting held on February 1, 2005 at 12:00 p.m. in the City Council Office to discuss the matter. She stated that she would encourage the public to choose three main speakers to give their testimony at the committee meeting to avoid redundancy and to utilize the one-hour time limit wisely.

Councilmember Duffy suggested that all proposed amendments by Councilmembers be presented at the committee meeting.

Councilmember Haynes asked for direction from the legal department to ensure that the new ordinance would be constitutional.

Brenden Long, City Attorney stated that he would prefer to discuss the matter in conjunction with the proposed amendments at the committee meeting. He also stated that a memorandum was distributed briefly explaining the legal departments concerns. The concerns

included: possible violation of the freedom of speech act, and regulation and amortization of portable signs.

Councilmember Chancler expressed concern with considering only certain parts of the sign ordinance. She stated that she believes they should consider the document in its entirety to help alleviate future problems.

Councilmember Chancler made a substitute motion to pull the ordinance and look at it comprehensively. The motion was seconded by Councilmember Haynes.

Brenden Long clarified that procedurally the vote should be whether or not it goes into committee. He stated that the Council could not withdraw an ordinance that has already been presented to the governing body.

Councilmember Duffy expressed concern with the amount of staff time that has already been spent trying to resolve the issue. He stated that if the ordinance is considered in a comprehensive manner than the direction of staff would change drastically.

Councilmember Chancler stated that she would prefer to modify the ordinance when the entire sign code can be considered.

Councilmember Haynes stated that he does not understand why they are pushing to move forward with the ordinance when the issue has been pending for over two years. He stated that he believes that it is unfair to the public to implement the regulations when there are numerous sign issues pending. He also stated that he would oppose the ordinance.

Councilmember Nave asked if they currently have the staffing resources to rewrite the ordinance.

David Thurbon stated that at this time they do not have the staffing resources to rewrite the entire signage code. He explained that he believes the sign code consists of three distinct

portions; permanent, temporary and portable. He stated that he does not see a problem with addressing each type of signage separately as many cities do across the nation. He stated that they are currently starting the process of a complete rewrite of the subdivision code and the zoning code, a process that could take up to two years. He noted that the Planning Commission stated that they would not incorporate the sign code with the unified development code because there are too many issues regarding subdivision and zoning codes that need to be addressed.

Councilmember Stubbs stated that due to the amount of staff time that has already been spent on this issue she believes the ordinance should be referred to committee so that the significant issues can be resolved.

Councilmember Nave expressed concern with how the regulations would affect small businesses. He requested that the small business owners bring their suggestions to the committee meeting to help reach a compromise.

Councilmember Muller stated that she believes they should refer the ordinance to committee so that small businesses owners have the opportunity to voice their concerns.

Councilmember Alcalá made a substitute motion to postpone the issue indefinitely. The motion was seconded by Councilmember Haynes.

Pat Barnes spoke in opposition to the ordinance and stated that most business owners as a whole are in massive opposition to the ordinance.

Councilmember Alcalá withdrew his substitute motion.

Councilmember Alacla moved to postpone the issue for six months. The motion was seconded by Councilmember Chancler.

Councilmember Preisner called the question.

The motion to postpone the issue for six months failed. Councilmembers Pomeroy, Duffy, Stubbs, Preisner and Muller voted "no". (4-5-0)

Councilmember Preisner called the question on the original motion.

The motion to refer the ordinance to the Economic and Community Development Committee carried. Councilmembers Alcalá, Chancler, Nave and Haynes voted "no". (5-4-0)

AN ORDINANCE introduced by Councilmember Lover Chancler amending City of Topeka, Kansas, Code Section 142-187 concerning speed limits on roadways in the City of Topeka, and repealing the original of said code section placed on August 17, 2004 was again presented.

Councilmember Preisner gave the committee report and stated that the Public, Health and Safety Committee recommended "Do Not Pass" by a vote of 2-0-0 on December 20, 2004.

Councilmember Preisner moved to adopt the committee report. The motion was seconded by Councilmember Muller.

Councilmember Chancler explained that she would not support the ordinance because it could not be implemented based on information received from the legal department regarding state statutes.

The motion to adopt the committee report carried unanimously. (9-0-0)

The ordinance failed to be adopted on roll call vote as follows: Noes: Pomeroy, Alcalá, Chancler, Duffy, Nave, Haynes, Stubbs, Preisner and Muller –9.

A PROJECT BUDGET in the amount of \$2,400,000 and RESOLUTION NO. 7566 introduced by Mayor James A. McClinton, relating to City of Topeka Waterworks Project No. 28539-00 which provides for water line replacement and authorizing an amendment to the

original project budget and specifically rescinding City of Topeka Resolution No. 7430 was presented.

Neil Dobler gave the staff report and explained that the project is part of the “red water” replacement program.

Councilmember Preisner moved to approve the project budget and resolution. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the Capital City Downtown Business Improvement District, establishing the method of raising revenue, amending City of Topeka Code Section 42-38 and specifically repealing said 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. 12-520c, as amended, generally located at the northwest corner of the SE 45th Street and SE Croco Road within unincorporated Shawnee County, Kansas and said land being annexed for all City purposes was presented for first reading. (A04/6)

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 2135 SW Gage Boulevard in the City of Topeka, Kansas from “M-3” Multiple Family Dwelling District and “O&I-2” Office and Institutional District ALL TO “PUD” Planned Unit Development (“O&I-1” & “C-1” use groups) was presented for first reading. (PUD04/10)

AN ORDINANCE introduced by Mayor James A. McClinton relating to the vacation of a 10-foot wide east/west utility easement located at Lot 1 North of SW Summerfield Drive at

Fieldcrest Court extended as dedicated by the plat Summerfield Subdivision, in the City of Topeka, Shawnee County, Kansas was presented for first reading. (V05E/1)

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 SE Croco Road approximately 740 feet south of SE 30th Terrace in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District was presented for first reading. (Z04/60)

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 201 NE Highway 24 in the City of Topeka, Kansas from "C-4" Commercial District with Resolution of Intent for "I-1" Light Industrial District TO "C-4" Commercial District was presented for first reading. (Z04/65)

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 directly south of 201 NE Highway 24 in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with Resolution of Intent for "I-1" Light Industrial District TO "R-1" Single Family Dwelling District was presented for first reading. (Z04/66)

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 6266 SW

Huntoon Street in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with Resolution of Intent to “PUD” Planned Unit Development District TO “O&I-1” Office and Institutional District was presented for first reading. (Z04/67)

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 29th Street between SW Lincolnshire Road and SW Villa West Drive in the City of Topeka, Kansas from “PUD” Planned Unit Development District TO “O&I-2” Office and Institutional District was presented for first reading. (Z04/68)

AN ORDINANCE introduced by Mayor James A. McClinton authorizing the issuance of \$5,635,000 aggregate principal amount of General Obligation Bonds, Series 2005-A, of the City of Topeka, Kansas, under the authority K.S.A. 10-101 to 125, inclusive, the Home Rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City, all as amended was presented for first reading.

REPORTS OF COMMITTEES AND OFFICERS, were presented.

Councilmember Pomeroy requested a status report on the North Topeka Business Improvement District. He also announced that there would be a Form of Government Transition Committee meeting on January 12, 2005 at 4:00 p.m. in the City Council Office.

Councilmember Stubbs announced that there would be an Economic and Community Development Committee meeting held on January 18, 2005 at 12:00 p.m. in the City Council Office.

Councilmember Alcalá requested a list of funds that are owed to Downtown Topeka, Inc.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, was presented.

Councilmember Preisner submitted a resolution requesting that the funds allocated for Project No. 12051-00 (1996 Rehab Kansas Avenue Bridge Deck) be used to fund the costs associated with the transition to the Council-Manager form of government to be placed on a future agenda, as soon as possible.

Councilmember Alcalá requested an update on the status of the tenants that currently occupy the EBA Building.

Councilmember Duffy asked when they would receive a report from the Community Advisory Council regarding private investment of funds in the City's economic development.

Councilmember Pomeroy asked what the status is on the contract regarding the purchase of Sumner Elementary School.

David Thurbon stated that they are waiting for a response from the district's attorney.

Joseph Ledbetter appeared to speak under public comment.

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

Iris Walker
City Clerk