

## City Council Minutes – February 15, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 15, 2005. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Duffy, Chancler, Nave, Haynes, Stubbs, Preisner and Muller -9. Mayor James A. McClinton presided -1.

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

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

THE CONSENT AGENDA was presented as follows:

A FINAL PLAT for Shawnee Woods located on the east side of SE Croco Road, the centerline of which is approximately 740-feet south of SE 30<sup>th</sup> Terrace in the City of Topeka, Kansas, was presented. (P04/29)

Minutes of the Regular Meeting of February 8, 2005 were presented.

A Dance Hall License application bearing the approval of the Chief of Police and City Inspectors for Joletta's, 600 NW Parmore was presented.

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

### 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, February 15, 2005, at 7:00 P.M. for the purpose of hearing and considering written or oral objections that may be made as to the validity and fairness of the assessments on file in the office of the City Clerk, on all lots, parcels and pieces of ground liable for the cost of Lateral Sanitary Sewer Improvement Project No. 40595-03.

ORDINANCE NO. 18392 introduced by Mayor James A. McClinton, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District No. 40595-03 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40595-03 as defined and described in Resolution No. 7371, adopted and approved August 5, 2003 placed on first reading February 8, 2005 was again presented.

Mike McGee, Assistant Public Works Director gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Chancler 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.

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ORDINANCE NO. 18393 introduced by Mayor James A. McClinton, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Lateral Sanitary Sewer District No. 40886-02 with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer District No. 40886-02 as defined and described in Resolution No. 7259, adopted and approved September 3, 2002 placed on first reading February 8, 2005 was again presented.

Mike McGee gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the 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.

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ORDINANCE NO. 18394 introduced by Mayor James A. McClinton, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60427-02 with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60427-02 as defined and described in Resolution No. 7321, adopted and approved March 11, 2003 placed on first reading February 8, 2005 was again presented.

Mike McGee gave the staff report.

Carole McFarland area property owner expressed concern with the City's assessment policy.

Councilmember Preisner moved to close the public hearing and adopt the 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.

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ORDINANCE NO. 18395 introduced by Mayor James A. McClinton, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Street Improvement Project No. 60561-02 with pavement, curb and gutter, and all other contingencies needed to complete Street Improvement Project No. 60561-02 as defined and described in Resolution No. 7260, adopted and approved September 3, 2002 placed on first reading February 8, 2005 was again presented.

Mike McGee gave the staff report.

Councilmember Preisner moved to close the public hearing and adopt the ordinance. The motion seconded by Councilmember Nave 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. 18396 introduced by Mayor James A. McClinton assessing the costs of sidewalk repair to real properties, more specifically described hereinafter, all pursuant to the authority found in Topeka City Code Sections 126-96 through 126-102, inclusive and 130-373 through 130-378 placed on first reading December 7, 2004 was again presented.

Councilmember Muller gave the committee report and stated that the Economic and Community Development Committee recommended "Do Pass" by a vote of 3-0-0 on January 18, 2005. She explained that the addresses listed in the ordinance are correct regarding collection of payment on the sidewalk repairs.

Councilmember Alcala asked how the assessment is calculated when the property owner is deceased.

Mike McGee stated that they would pursue the property estate for collection of payment.

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

A PROJECT BUDGET in the amount of \$166,520 and AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 30252-00, which provides for improvements to the Discovering Apes building and the Tropical Rain Forest as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading February 8, 2005 was again presented.

Mike Coker, Zoo Director gave the staff report.

Councilmember Alcala asked what the cost difference is between repairing the boiler replacing the boiler.

Councilmember Chancler asked why the cost of a new boiler was not included in the 2005 Operating Budget.

Councilmember Haynes asked how old the boiler was and what the average life span of a boiler is.

In response, Mike Coker stated that the repair cost would exceed the cost of a new boiler. He explained that at the time they prepared the 2005 budget the boiler only showed small signs of needed repair and was not a problem. He stated that they did not anticipate that the boiler would become completely dysfunctional and have to be replaced. He also stated that the average boiler should last approximately fifteen years and the boiler that needs replaced is twelve years old.

Jim Langford, Budget Director stated that \$140,000 of the project budget is already included in the 2005-2006 Capital Improvement Budget and only the remaining \$26,000 needs approval.

Councilmember Duffy asked if the building was included in the energy saving building audit.

Mike McGee stated that the Tropical Rain Forest building is not included in the current energy audit. He explained that Chevron would be submitting their final report regarding City Hall, the Law Enforcement Center, the Fire Academy and Fire Station No. 3 on February 24, 2005. He stated that the City has the ability to amend the current contract to include the Tropical Rain Forest building in the audit. He stated that it would cost 7 cents a square foot and they would receive a final report in approximately 45 to 60 days.

Councilmember Duffy asked if it is an emergency to replace the boiler.

Mike Coker stated that it is not an emergency and they would have to use propane space heaters to maintain the building temperature.

Councilmember Duffy moved to defer for 60 days. The motion seconded by Councilmember Nave carried unanimously. (9-0-0)

AN ORDINANCE introduced by Councilmember Clark Duffy relating to historical preservation, specifically creating a City of Topeka Code Chapter 80 and Sections 80-1, 80-2, 80-3, 80-4, 80-5, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-12, 80-13, 80-14, 80-15, 80-16, and 80-17 and repealing the original sections placed on first reading February 8, 2005 was again presented.

David Thurbon, Planning Director gave the staff report and stated that the suggested amendments would create a City-only Landmarks Commission and allow commercial property

to be included in Historic Districts. He explained that the Planning Commission recommended approval by a vote of 9-3-0 on January 24, 2005 with the following additional recommendations:

- (1) Allow the Landmarks Commission to remain as a City-County Commission.
- (2) Provide provisions that would ensure that previous actions taken by the Landmarks Commission would remain valid.
- (3) Strike lines 351 through 353, eliminating the Historic Resource concurrence provision.
- (4) Exclude the interiors of commercial buildings from the design guidelines of historic districts.

Councilmember Haynes asked if the proposed ordinance provides an option for new property owners to “opt out” of the historic district if they choose.

David Thurbon stated that is not an option in the proposed ordinance.

Councilmember Haynes moved to amend the ordinance to include an option for new property owners to “opt out” if they choose. The motion died due to lack of a second.

Councilmember Duffy stated that he agrees with the Planning Department’s recommendations and would like the Landmarks Commission to remain as one City-County Commission. He also stated that he would like the Landmarks Commission to consider the entire City of Topeka and Shawnee County without being directive towards the Shawnee County Governing Body, while maintaining an advisory role only. He suggested amending the ordinance to include the Planning Commissions recommendations.

Brenden Long stated that they would need some time to review the suggested changes and bring forth a separate ordinance that would include the amendments.

Councilmember Duffy moved to defer one week. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

A RESOLUTION introduced by Councilmember John Alcala requesting the City of Topeka to allow the Kansas Medical Clinic (east location) an additional 120 days in which to relocate to a new downtown site was presented.

Mayor McClinton stated that the request has been withdrawn.

RESOLUTION NO. 7579 introduced by Mayor James A. McClinton establishing terms for the conveyance of the shelter facility located at 2625 NW Rochester Road from the City of Topeka to Helping Hands Humane Society, Inc., was presented.

Brenden Long explained the resolution and stated that the resolution is not the actual agreement and only provides general framework for negotiations.

Councilmember Alcala moved to amend lines 38 and 42 of the resolution, to change the length of the contract term from “three-years” to “eight-years”. The motion was seconded by Councilmember Chancler.

Councilmember Stubbs made a substitute motion to amend lines 38 and 42, to strike the words “three-years” and replace it with a time range specified by the Council. The motion was seconded by Councilmember Chancler.

Brenden Long stated that he would prefer that a specific term be set by the Council.

Councilmember Stubbs withdrew the substitute motion.

Councilmember Alcala’s motion to amend the contract terms carried. Councilmembers Pomeroy and Duffy voted "no". (7-2-0)

Councilmember Alcala moved to approve the resolution as amended. The motion seconded by Councilmember Chancler carried. Councilmembers Pomeroy and Duffy voted "no". (7-2-0)



CONTRACT NO. 34975 an agreement between the City of Topeka and Keller Farms in the amount of \$12, 297.87 for the lease of approximately 117 acres of land located near NW 17<sup>th</sup> and Landon Road for agricultural purposes was presented.

Mike McGee gave the staff report.

Councilmember Duffy moved to approve the contract. The motion seconded by Councilmember Preisner carried unanimously. (9-0-0)

RESOLUTION NO. 7580 introduced by Councilmembers Lover Chancler and John Alcala, relating to the distribution of money and financial assistance administered through the City of Topeka and rescinding Resolution 7306 was presented.

Councilmember Alcala moved to approve the resolution. The motion was seconded by Councilmember Chancler.

Councilmember Chancler stated that the resolution would give homeowners the opportunity to receive funds allocated by Housing and Urban Development (HUD) programs.

Randy Speaker, Housing and Neighborhood Director stated that the amendment would specifically identify the HUD programs that are available for use by homeowners.

Brenden Long clarified that the amended resolution develops a format for granting low-income homeowners a waiver regarding policy requirements.

The motion to approve carried unanimously. (9-0-0)

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Preisner announced that there would be a Public, Health and Safety Committee meeting held on February 21, 2005 at 12:00 noon in the City Council Office.

REPORT FROM THE CHIEF ADMINISTRATIVE OFFICER, was presented.

Dave Graversen distributed the Weekly Legislative Report. He also stated that House Bill 2229 regarding the annexation process would be presented to the State Legislature next week.

Councilmember Haynes moved to adjourn into executive session for a period not to exceed thirty minutes to discuss employer-employee negotiations. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Following a fifteen-minute time period Councilmember Haynes moved to extend the executive session fifteen-minutes to discuss personnel matters not involving elected officials. The motion seconded by Councilmember Alcalá carried unanimously. (9-0-0)

Following a thirty-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 8:40 p.m.

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Iris Walker  
City Clerk