

## City Council Minutes – February 22, 2005

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, February 22, 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, Haynes, Stubbs, Preisner and Muller -8. Mayor James A. McClinton presided -1. Councilmembers absent: Nave -1.

AFTER THE MEETING was called to order, Mayor McClinton asked for a moment of silent meditation.

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

Councilmember Preisner moved to suspend the Council Rules to add an ordinance to the agenda under First readings, item 6A, authorizing the St. Patrick's Day Street Fair on March 17, 2005. The motion seconded by Councilmember Muller carried unanimously. (8-0-0)

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

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of February 15, 2005 were presented.

An Open After Mid-Night License application bearing the approval of the Chief of Police and City Inspectors for Doc Holliday's Restaurant & Club, 425 SW 30th was presented.

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

RESOLUTION NO. 7581 introduced by Mayor James A. McClinton in accordance with Section 48-4.02(c)(2) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a yard waste composting facility on property currently zoned "R-1" Single Family Dwelling District and located east of the City of Topeka Forestry disposal site (600 NW Winter

Street) in the City of Topeka, Kansas was presented. (CU04/6)

Councilmember Preisner gave the committee report and stated that the Public, Health and Safety Committee recommended “Do Pass” by a vote of 3-0-0 on February 21, 2005. He explained that approval of the Conditional Use Permit would establish a yard waste composting facility to serve the citizens of Topeka Shawnee County.

Councilmember Haynes moved to approve the resolution. The motion was seconded by Councilmember Stubbs.

Shawn Leisinger, Shawnee County Attorney appeared for questions.

Councilmember Duffy stated that there is a tentative agreement between the City and the County for operation of the facility.

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

A PROJECT BUDGET in the amount of \$115,000 and AN ORDINANCE introduced by Mayor James A. McClinton, authorizing Improvement Project No. 86257-00, which provides for the installation of a chain link fence surrounding the Topeka Public Golf Course as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka placed on first reading December 7, 2005 was again presented.

Councilmember Preisner gave the committee report and stated that it was removed from the Public, Health and Safety Committee “Without Recommendation” by a vote of 3-0-0 on February 21, 2005. He suggested that they remand the project back to committee. He stated that there are a multitude of issues that need to be resolved, including the possibility of a private management company operating the golf course.

Councilmember Preisner moved to remand the project budget and ordinance back to the Public, Health and Safety Committee. The motion was seconded by Councilmember Alcalá.

Councilmember Alcala urged the Council to vote down the request. He stated that he believes it would decrease the value of the homes surrounding the golf course. He also stated that he has received numerous telephone calls and emails from area residents in opposition of the project.

Councilmember Chancler stated that she agrees that the project should be remanded back to committee because area residents have not had the opportunity to voice their opinions regarding the issue.

Councilmember Stubbs suggested that they vote down the request and bring back a new proposal at a later date.

Councilmember Nave entered the room.

The motion to remand back to the Public, Health and Safety Committee carried.

Councilmembers Pomeroy, Alcala, Haynes and Stubbs voted "no". (5-4-0)

ORDINANCE NO. 18397 introduced by Mayor James A. McClinton relating to municipal court procedures, repealing City of Topeka Code Section 50-91, amending City of Topeka Code Sections 50-52, 50-54, 50-55, 50-58, 50-61, 50-73, 50-75, 50-78, 50-79, 50-80, 50-100, and 50-101 and specifically repealing said original sections placed on first reading November 23, 2005 was again presented.

Brenden Long, City Attorney stated that the ordinance was originally brought forward by the Legal Department due to problems related to court procedures that have recently been resolved. He suggested that they amend Sections 8, 9 and 10 and delete the remaining sections.

The suggested amendments were as follows:

- Amend line 140 of Section 8 regarding response time to motions - change “five days” to “fourteen days”
- Amend line 147 of Section 9 – delete the words “except as set out in section 50-91 and amendments thereto.”

- Amend Section 10 by striking lines 151 through 155 relating to the Trial, Time and Continuance Section

Councilmember Duffy moved to accept the suggested amendments made by the City Attorney. 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.

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. He distributed a revised ordinance that included the suggested changes made by the City Council at the February 15, 2005 City Council meeting.

Councilmember Duffy moved to include the changes suggested by the Planning Commission. The motion was seconded by Councilmember Pomeroy.

Brenden Long explained each amendment as follows:

- Amend line 159 by striking the words “however, members shall serve until their successor has been appointed” and replace it with “No member shall serve beyond the end of his or her appointed term. Upon expiration of a term, the position shall remain vacant until a successor is appointed.”
- Delete lines 353 through 355
- Add the phrase “guidelines shall not apply to the interior of commercial structures. Further, the district,” after the word “preservation” on line 436
- Amend line 657 to read “Concurrent use of Topeka Landmarks Commission by the county commission.”
- Add five subsections regarding a concurrent clause beginning on line 659 and ending on line 674.

Christy Caldwell, Greater Topeka Chamber of Commerce expressed opposition to certain changes being considered by the Planning Commission. She distributed the following suggested amendments:

Twenty days prior to a historic resource listing determination by the Topeka Planning Landmarks Commission, the following procedures shall be initiated and administered by the preservations staff:

- a. Property owners of those sites and structures which are considered for nomination as historic resources shall be notified of a pending decision to list their property as historic resources.
- b. Property owners of nominated historic resources shall be provided the opportunity to “agree”, or “not agree,” with the inclusion of their property in the listing.
- c. If the owner agrees to the historic resource listing the property shall be filed with the register of deeds and recorded as an official notice subject to subsequent property owners. If the owner does not agree to the historic resource listing the property shall not be listed as a historic resource.

In conclusion, she stated that the majority of business owners across the city support the suggested amendments.

Councilmember Chancler moved to amend the ordinance to include the suggested changes distributed by Christy Caldwell. The motion was seconded by Councilmember Haynes.

Brenden Long stated that the amendments distributed by the Topeka Chamber of Commerce amends the Planning Commission’s suggested amendments. He recommended that they withdraw each motion to amend to eliminate confusion and allow them the opportunity to make changes to each amendment separately.

Councilmember Chancler withdrew the motion to amend.

Councilmember Duffy withdrew the motion to amend.

Discussion continued by several Councilmembers regarding the process of historical

designations verses districts, the required 90-day waiting period before demolishing a structure, and incorporating an “opt out” clause for new property owners in the ordinance.

Frank Kirtdoll stated that he believes the City should not make decisions regarding historical designations or districts without the input of State and County representatives.

Joseph Ledbetter expressed concern with the notification process. He also stated that he believes the Landmarks Commission members should live inside city limits.

Phil Morse stated that he believes that this is an economic development issue and would enhance the quality of life in Topeka.

Doug Jones stated that he supports the Landmarks Commission and believes that it would have a positive affect on the community.

Following public comment, discussion continued regarding the current process and how the proposed amendments would change the process.

Councilmember Duffy moved to amend the ordinance to include the Planning Commission’s recommendations. The motion was seconded by Councilmember Preisner.

Councilmember Haynes made a substitute motion to also include the recommendations made by the Topeka Chamber of Commerce. The motion was seconded by Councilmember Alcala.

Councilmember Duffy stated that because the amendments presented by the Topeka Chamber of Commerce directly conflict with the Planning Commission’s recommendations, he would withdraw his motion to amend.

Councilmember Haynes withdrew the motion to amend.

Councilmember Chancler moved to refer the ordinance to the Economic and Community Development Committee. The motion seconded by Councilmember Haynes carried.

Councilmembers Pomeroy and Stubbs voted "no". Councilmember Nave was out of the room.

(6-3-0)

A PROJECT BUDGET in the amount of \$34,000 and RESOLUTION NO. 7582 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28565-00 which provides for the design and right-of-way acquisition to install a new 12” water main across Highway 24 near old Meriden Road as more specifically described herein was presented.

Councilmember Nave left the meeting.

Neil Dobler, Public Works Director gave the staff report.

Councilmember Alcalá moved to approve the project budget and resolution. The motion seconded by Councilmember Chancler carried. Councilmember Duffy was out of the room.

(7-1-0)

A PROJECT BUDGET in the amount of \$184,000 and RESOLUTION NO. 7583 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28566-00 which provides for design and right-of-way acquisition to install a new 42” water transmission main near the intersection of 21<sup>st</sup> Street and Oakley as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$157,000 and RESOLUTION NO. 7584 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28567-00 which provides for design and right-of-way acquisition to install a new 12” water main north from Turnpike Avenue to Powell Street to 29<sup>th</sup> Street and then east along 29<sup>th</sup> Street to Granger as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$131,500 and RESOLUTION NO. 7585 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28569-00 which provides for the design and right-of-way acquisition to install a new 12” water main on Huntoon Street from Urish Road to Executive Drive and on Urish Road from 17<sup>th</sup> Street to Red Oaks Place as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$152,000 and RESOLUTION NO. 7586 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28577-00 which provides for the design and right-of-way acquisition to install a new 18” – 24” transmission main on 12<sup>th</sup> Street from Western Avenue to 13<sup>th</sup> Street and Monroe as more specifically described herein was presented.

Neil Dobler gave the staff report.



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

A PROJECT BUDGET in the amount of \$182,500 and RESOLUTION NO. 7587 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28578-00 which provides for the design and right-of-way acquisition to install a new 16” – 18” transmission main along 37<sup>th</sup> Street from California Avenue to Adams Street and south and west along Adams Street to the elevated water tank at 40<sup>th</sup> Street to the elevated water tank at 40<sup>th</sup> Street and Quincy as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$170,500 and RESOLUTION NO. 7588 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28579 which provides for the design and right-of-way acquisition to install a new 18” transmission main along Indian Hills Road from 33<sup>rd</sup> Street to 41<sup>st</sup> Street and east on 41<sup>st</sup> Street to Royal Lane as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$241,000 and RESOLUTION NO. 7589 introduced by Mayor James A. McClinton describing and authorizing Improvement Project No. 28580-00 which provides for the design and right-of-way acquisition to install a new 24” water transmission main along Highway 75 from the north end of the Westgate Bridge north to Lower

Silver Lake Road, then east to Austin Avenue as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

A PROJECT BUDGET in the amount of \$31,165 and RESOLUTION NO. 7590 introduced by Mayor James A. McClinton describing and authorizing Waterworks Project No. 28585-01 which provides for a waterline extension as more specifically described herein was presented.

Neil Dobler gave the staff report.

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

AN ORDINANCE introduced by Councilmembers Jeff Preisner, John Nave, John Alcala, Lisa Stubbs, Clark Duffy, Bill Haynes, Duane Pomeroy, Lover Chancler and Tiffany Muller authorizing the St. Patrick's Day Committee to hold the St. Patrick's Day Street Fair on March 17, 2005 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 April 11, 2005 at 12:00 noon in the City Council Office.

Councilmember Stubbs announced that there would be an Economic and Community Development Committee held on March 8, 2005 at 12:00 noon in the City Council Office.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Chancler submitted a resolution for a future agenda regarding the Kansas Black Expo.

Councilmember Alcalá submitted a resolution for a future agenda relating to the Topeka Zoological Park.

Councilmember Pomeroy stated that the historical districts that are outlined in various neighborhood plans were created to accommodate neighborhoods as a whole.

Shirley Phelps-Roper, Joseph Ledbetter, Margie Phelps and Larry Cobler appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:20 p.m.

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Iris Walker  
City Clerk