

Governing Body Minutes – June 11, 2019

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, June 11, 2019. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen and Lesser -9. Mayor De La Isla presided -1.

AFTER THE MEETING was called to order, Joseph Ledbetter provided the invocation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9118 introduced by City Manager Brent Trout, approving the issuance of a special event retailers’ permit for Hy-Vee, Inc., for the Country Stampede event at Heartland Motorsports Park was presented.

RESOLUTION NO. 9119 introduced by City Manager Brent Trout, authorizing the City Clerk to issue special event retailers’ permits for the Country Stampede event at Heartland Motorsports Park was presented.

MINUTES of the regular meeting of June 4, 2019, was presented.

APPROVAL of Cereal Malt Beverage License applications were presented for the following:

<u>Business Name</u>	<u>Address</u>
ALZ LLC	706 SW Fairlawn Road
Good Trip LLC	1320 SW 6 th Avenue
Seabrook Apple Market	2009 SW Gage Boulevard
Target Store T-0355	2120 SW Wanamaker Road
Tilton’s Oakland Market	1905 NE Seward Avenue

Councilmember Lesser moved to approve the consent agenda. The motion seconded by Councilmember Coen carried unanimously. (10-0-0)

ORDINANCE NO. 20185 introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka

Municipal Code, by providing for certain changes in zoning on property located at 2715 SE Indiana Avenue from “O&I-1” Office and Institutional District to “M-1” Two Family Dwelling District was presented. (Z19/3)

Bill Fiander, Planning and Development Director, stated the request to rezone the property conforms to the Central Highland Park Neighborhood Plan and provides for an appropriate transition from commercial to residential. He reported a Neighborhood Informational Meeting was conducted on April 29, 2019, and the Topeka Planning Commission and Planning Department recommend approval.

Councilmember Jensen moved to adopt the ordinance. The motion was seconded by Councilmember Lesser.

Mayor De La Isla stated prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered to indicate that even in light of having engaged in this communication they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record which includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

Ex parte communication was declared by Councilmember Ortiz.

The motion to adopt the ordinance carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -10.

PUBLIC HEARING NOTICE

A PUBLIC HEARING for the purpose of considering written or oral objections to the proposed assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground

liable for the cost of improvement, same being SW 49th Street and SW Wenger Road Street Improvement Project No. T-701027.00.

ORDINANCE NO. 20186 introduced by City Manager Brent Trout, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Street Project T-701027.00, authorized by Resolution of Advisability and Authorization No. 8958, adopted and approved October 17, 2017, was presented.

Brent Trout, City Manager, stated approval would levy a special assessment within the improvement district to pay for street improvements along SW 49th Street and SW Wenger Road to the BNSF Railroad right-of-way crossing. He reported the cost of the project would be paid 100% by the Improvement District over 20 years.

Mayor De La Isla opened the public hearing and asked if there was any one present who would like to speak to the matter.

Upon no one appearing, Mayor De La Isla announced the public hearing was closed.

Councilmember Lesser moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -10.

RESOLUTION NO. 9120 introduced by City Manager Brent Trout, authorizing initiation of condemnation proceedings to acquire fee title for construction of Grant-Jefferson Pump Station Project No. T-291061.00 was presented.

Brent Trout, City Manager, stated approval would be the first step in the eminent domain process by authorizing the engineering department to determine which properties are necessary to be acquired by eminent domain (condemnation) for the Grant-Jefferson Pump Station.

Councilmember Ortiz requested the City Attorney provide an overview of the eminent domain process.

Lisa Robertson, City Attorney, reported that due to the need to use the property for public services, acquisition of property by condemnation may be necessary in order to proceed with the Grant-Jefferson Pump Station project. She stated the next step would occur on June 18, 2019, when staff will request that the Governing Body adopt an ordinance authorizing the City Attorney to file an eminent domain action in the district court followed by petition being served to the property owner. She stated the court would appoint three appraisers who would determine fair market value and compensation to the property owner.

Councilmember Lesser moved to approve the resolution. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

APPROVAL of the 2020 Transient Guest Tax allocations in the amount of \$2,854,458 was presented.

Councilmember Mays, TGT Committee Chair, provided the Committee Report. He stated the Committee recommended by a vote of 3-0-0 approval of the 2020 TGT allocations in the amount of \$2,854,458. He noted the Committee rejected the proposal by staff to transfer \$100,000 from the TGT base fund to the City's General Fund to help cover the costs for Special Events.

Councilmember Clear asked what factors were used to help determine how the suggested amendment (\$100,000) would have been used for special events.

Councilmember Mays stated the Committee believes the funds should be used for marketing purposes by Visit Topeka, Inc. as opposed to helping with the cost of special events.

Councilmember Ortiz expressed the importance of Visit Topeka, Inc., increasing their advertisement efforts of the Topeka-Shawnee County area.

Councilmember Padilla stated the Committee believes the dollars would be best spent on marketing and promotion of the Topeka-Shawnee County area.

Councilmember Hiller asked if there were any discussions on other services and programs being provided by Visit Topeka, Inc. She expressed concern with the City's website and its usefulness in highlighting tourism and activities offered in the area. She suggested scheduling time to meet with Visit Topeka, Inc. to see how other services and/or programs are performing since they are utilizing public funds.

Councilmember Mays stated a Special Events Report was distributed at the Committee meeting providing a cost breakdown of all special events in 2018. He reported the Committee discussed possible ways to reduce overall special event costs including the reduction of parade routes as well as seeking ways to decrease or recoup Police and Fire personnel overtime costs associated with large events such as the "Spirit of Kansas."

Mayor De La Isla requested Visit Topeka, Inc. provide their performance parameters and service plan in the near future to the Governing Body.

Councilmember Jensen declared a non-conflict of interest statement. He stated he serves as a board member on the Jayhawk Theatre Board of Directors; however, he will not derive personal benefit by voting on the funds in his official capacity.

Councilmember Mays moved to approve the 2020 TGT allocations in the amount of \$2,854,458. The motion seconded by Councilmember Padilla carried unanimously. (10-0-0)

PUBLIC HEARING NOTICE

A PUBLIC HEARING for the parties to explain their issues as required by K.S.A. 75-4332 with regard to the Water AFSCME meet and confer impasse.

RESOLUTION introduced by City Manager Brent Trout, to decide settlement of labor agreement impasse with the AFSCME, Council 61 Local 1294, Water Division was presented.

Kim Seten, City of Topeka Labor Attorney - Constangy, Brooks, Smith & Prophet LLP, provided a comprehensive review of contract negotiations; the Factfinder's Report and Recommendations; the process to resolve the contractual disputes; and the remaining steps necessary to address the following items that need to be determined by the Governing Body:

1. Whether a second shift should be implemented within Article 3, Section 2 of the labor agreement.
2. What wage increases in Article 7, Sections 3 and 4 should be implemented.
3. Whether Article 7 wage increases should be retroactively applied to pay periods in 2018 or commence with the first pay period in 2019.

Nick Hawkins, Administrative and Financial Services Deputy Director, provided a detailed summary of the wage proposal outlined in the financial memo provided to the Governing Body in the agenda packet.

Councilmember Coen left the meeting.

Mayor De La Isla opened the public hearing and asked if there was any one present who like to speak to the matter.

Discussion ensued between Governing Body members and staff on disciplinary procedures; regular working hours compared to stand-by and overtime working hours as it relates to shift differential pay; how implementation of a second shift would potentially affect overall employee safety; fiscal responsibility and organizational efficiencies; scope of work performed and methodology used in the base wage study; total compensation package based on fair market value; retroactive pay; the advantages of a competency pay plan and how it supports improved skill sets; and consideration of performance-based processes.

Matthew Bergmann, AFSCME Local #1294 Attorney - Frieden, Unrein & Forbes, LLP, responded to statements made by City representatives regarding the Factfinder's Report and Recommendations. He highlighted actions that they believe could be taken to resolve the issues relating to differential pay being proposed in the Factfinder's Recommendations; implementing

retroactive pay periods beginning in 2018; confirming support of the Union to implement a second shift - only if - the language will be included in the labor contract as recommended in the Factfinder's Report; and clarification regarding validity of the wage study. He asked the Governing Body to approve the Factfinder's Report and Recommendations.

Following a short recess, discussion continued between Governing Body members and Union President Pete Vobach and Attorney Matthew Bergmann regarding the use of excess Water Department operational funds in the amount of \$300,000 in 2017; proposed disciplinary action; selection of consultant for the wage study; retroactive pay beginning in 2018; the importance of a performance-based pay plan; operational efficiencies and how to address fair market value wage differentials.

Councilmembers Lesser and Clear asked Utility Deputy Director Braxton Copley to comment on the use of excess funds in 2017.

Braxton Copley, Utility Deputy Director, reported the excess funds were spent on necessary items such as equipment, piping and chemicals.

Brad Duchesneau, Aaron Freeman and Matt Blassingame spoke in support of closing the wage gap and approving the Factfinder's Report and Recommendations.

Joseph Ledbetter spoke in support of implementing a second shift to decrease extensive overtime costs while increasing productivity. He noted the cost of living in Topeka was much lower than surrounding cities and expressed the importance of replacing infrastructure pipe with a better product to fix long-term problems.

Upon no else appearing, Mayor De La Isla announced the public hearing was closed.

Councilmember Jensen referenced the extensive amount of information presented and the need for additional time for staff to clarify issues discussed.

Councilmember Jensen moved to defer the resolution until July 2, 2019. The motion was seconded by Councilmember Ortiz.

Councilmember Lesser spoke in opposition of deferring the resolution because he believes the Governing Body has had sufficient time to review the information presented in the agenda packet.

Councilmember Padilla spoke in opposition of deferring the resolution and would prefer to vote on each item (Exhibit A, B and C) separately.

The motion to defer the resolution until July 2, 2019 failed. Councilmembers Clear, Padilla, Mays, Lesser and Mayor De La Isla voted “no.” (4-5-0)

Councilmember Lesser moved to approve Exhibits A, B and C as follows. The motion was seconded by Councilmember Padilla.

- Exhibit A - Implement a second shift as recommended by the Factfinder.
- Exhibit B - Implement a 17% wage increase as recommended by the Factfinder.
- Exhibit C - Apply the wage increase retroactive to January 2019.

Councilmember Hiller expressed concern with voting at this time and stated she believes the Governing Body needs clarification from staff on items discussed.

Councilmember Mays made a substitute motion to consider deferring the resolution until June 18, 2019. The motion seconded by Councilmember Clear carried. Councilmember Padilla and Lesser voted “no.” (7-2-0)

Councilmember Mays moved to defer the resolution until June 18, 2019. The motion seconded by Councilmember Clear carried. Councilmember Padilla and Lesser voted “no.” (7-2-0)

Councilmember Ortiz moved to defer agenda items 4A, Discussion regarding the Dynamic Core Redevelopment District and 4B, Discussion regarding the 2015 Uniform Mechanical Code and Backflow/Cross Connection Ordinances; and extend the Governing Body meeting past 10:00

p.m. for the purpose of allowing public comment. The motion seconded by Councilmember Jensen carried. Councilmember Lesser voted “no.” (8-1-0)

Paul Byrne, Linda Ochs and Lucas Ryan appeared to speak under public comment.

ANNOUNCEMENTS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Brenda Younger, City Clerk, gave a brief overview of the June 18, 2019 Governing Body Agenda.

Brent Trout, City Manager, reported the Neighborhood University Workshop conducted on June 11, 2019, was well attended. He announced the City Planning Department would host the Historic Edgewood Neighborhood Big Reveal Workshop on June 14-15, 2019; and Out & About with Trout would be held June 24, 2019, from 1:00 p.m. to 5:00 p.m. at Yak 'n Yarn located in Fairlawn Plaza.

Mayor De La Isla thanked staff members for their work in preparing the 2020 City Operating Budget and stated she looks forward to upcoming budget discussions. She reported she attended the YWCA National Conference in Washington D.C. on June 6, 2019, recognizing women who make an impact and empower others.

Councilmember Padilla thanked Police Chief Cochran for participating in the Healing Gun Violence Conference on June 7, 2019. He announced the Topeka Police Department and ArtsConnect Topeka would host the Common Ground Mural on June 15, 2019, from 10:00 a.m. to 2:00 p.m. and June 16, 2019, from 12:00 p.m. to 4:00 p.m. (*The mural will be located on the north wall of the Law Enforcement Center, visible from SW 3rd Street.*)

Councilmember Hiller stated she believes Topeka could benefit from the models used at the Healing Gun Violence Conference on June 7, 2019, and the Community Breakthrough Event on June 8 and June 10, 2019.

Councilmember Ortiz requested the one-way traffic signage along SW 5th Street and SW Topeka Boulevard be improved.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:15 p.m.

(SEAL)

Brenda Younger
City Clerk