

Governing Body Minutes – November 12, 2019

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, November 12, 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, Coen and Lesser -8. Mayor De La Isla presided -1. Council District No. 7 – Vacant.

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

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

BOARD APPOINTMENT recommending the reappointment of Greg Schwerdt to the Topeka-Shawnee County Riverfront Authority Board for a term ending September 30, 2022, was presented.

BOARD APPOINTMENT recommending the reappointment of Walter Schoemaker to the Topeka Board of Zoning Appeals to fill an unexpired term ending December 31, 2019, and a three-year term ending December 31, 2022, was presented.

Councilmember Jensen moved to approve the appointments. The motion seconded by Councilmember Lesser carried unanimously. Mayor does not vote. (8-0-0)

PRESENTATION on the City of Topeka Development and Growth Management 3rd Quarter Report was provided by Bill Fiander, Planning and Development Director.

PRESENTATION on the City of Topeka Department of Financial Services 3rd Quarter Report was provided by Jessica Lamendola, Administrative and Financial Services Director.

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20217 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period August 31, 2019, through October 4, 2019, and enumerating said expenditures therein was presented.

MINUTES of the regular meeting of October 15, 2019, was presented.

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

PUBLIC HEARING and ORDINANCE NO. 20218 introduced by City Manager Brent Trout, relating to the vacation of a 20-foot wide section of public right-of-way along the front of 2620 NE Sardou Avenue in the City of Topeka, Shawnee County, Kansas, was presented.

(VI9ROW/02)

Bill Fiander, Planning and Development Director, reported the sale of the building was pending and the new owner wants assurance the parking lot could continue to be used in the future. He reported the right-of-way was no longer needed by the City and the Engineering and Public Works departments approve of the request.

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

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

Councilmember Clear moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Coen, Lesser and Mayor De La Isla -9.

RESOLUTION NO. 9151 introduced by City Manager Brent Trout adopting a new flag for the City of Topeka was presented.

Brent Trout, City Manager, reported the City of Topeka Seal will remain intact, however, the old flag design will be retired and the new flag design will be available to the public for use.

Mayor De La Isla thanked the Governing Body for being a visionary. She commented on the positive engagement by the community and contributions by Forge, Topeka's young professional group, for their efforts in implementing the new flag design and gaining public support.

Councilmember Jensen commended all those involved in the campaign of the new flag design and how it represents new pride in the community.

Councilmember Clear stated she supports the old flag design and what it stands for historically; however, she commends the younger generation in the community for the new flag design and making a positive change. She expressed the importance of making certain there will be consistency in the use of the new flag design throughout the community.

Angel Romero, Lindsay Lebahn and Trae McPherson spoke in support of the new flag design and thanked the Governing Body for supporting the initiative and moving the community forward.

Councilmember Jensen moved to approve the resolution. The motion was seconded by Councilmember Coen.

Councilmember Ortiz commended the community for the new flag design; however, she also supports the old flag design. She expressed the importance of following the correct approval process with important initiatives such as this. She stated she would not support approval of the resolution because she believes the new flag design initiative did not follow the correct approval process.

Councilmember Padilla stated he appreciates statements regarding correct process made by Councilmember Ortiz; however, the community has made it clear the community as a whole supports the new flag design.

The motion to approve the resolution carried. Councilmember Ortiz voted "no." (8-1-0)

SELECTION of Council Member to fill the unexpired term of Council District No. 7 was presented.

Mayor De La Isla provided opening statements and welcomed the candidates. She stated each candidate will be called to the podium for his or her interview, which will be conducted in the order applications were received in the City Clerk's Office (1) Neil Dobler (2) Margaret Soroko (3) Erica Garcia and (4) Dana Book. She highlighted the process as follows:

- Each candidate will provide an opening statement, not to exceed four (4) minutes. There will be no extension of time.
- Each Governing Body member will then be provided with the opportunity to ask an interview question. Interview Questions will be asked in District Order.
- Each candidate will be provided up to two (2) minutes to answer each question.
- After all interviews have concluded, each Governing Body member will vote for one candidate using a ballot provided by the City Clerk.
- The balloting process will continue until such time as a minimum of five (5) votes is secured for one or more candidates.
- If no candidate receives five (5) or more votes, the matter may be deferred to the next regular Governing Body meeting (November 19, 2019).
- Following the selection of a representative for Council District No. 7, Administrative Court Judge, Lori Dougherty-Bichsel, will administer the Oath of Office.
- The new Councilmember will take his or her seat and the Governing Body Meeting will proceed with the next agenda item.

Neil Dobler, Margaret Soroko, Erica Garcia and Dana Book provided open statements and answered each of the following questions:

1. Councilmember Hiller asked what is the size of the City's annual budget.
2. Councilmember Clear asked if there was a vote coming before the Governing Body on an issue that most of your constituents have asked you to vote "no" on – but voting "no" would go against your personal morals and values – how would you vote on the issue?
3. Councilmember Ortiz asked what is your understanding of the challenges and strengths of district 7? What are the top three challenges you would like to work on first?
4. Councilmember Emerson asked the candidate to discuss what personal/professional life experience you bring that will add value to our team.
5. Councilmember Padilla asked what is your understanding of the role you will play as a Governing Body member and the role the City Manager will play in the City's form of government?

6. Councilmember Jensen asked what steps do you think the Governing Body needs to take in order for Topeka to become a more successful community in the future and how are you prepared to help us achieve this?
7. Councilmember Coen stated a lot of things are changing in Topeka, many for the better. He asked what do you see as the most important constituent concern for changes that are needed in District 7?
8. Councilmember Lesser stated as a Council Member you represent your district and the City. Please discuss how you will balance this. Are you more City-focused or more district focused?

Mayor De La Isla announced that the interviews were complete.

Governing Body members thanked the candidates for their interest in serving as a council district representative.

After the tally of the vote, the City Clerk announced Neil Dobler received seven (7) votes and would serve as the newly appointed Council District No. 7 representative. (*Erica Garcia received the remaining two (2) votes.*)

SWEARING IN of newly appointed Council District No. 7 representative Neil Dobler was conducted.

Oath of Office was administered by Lori Dougherty-Bichsel, Administrative Court Judge.

DISCUSSION of proposed amendments to the Topeka Zoning Regulations, Title 18 of the Municipal Code regarding regulation of Small Cell Wireless Facilities (SCWF) was presented.

Brent Trout, City Manager, stated staff has been reviewing the need to regulate telecommunications companies deploying small cell technology to meet consumer demand.

Bill Fiander, Planning and Development Director, reported the proposed regulations differentiate small cell wireless facilities from communication towers and will allow SCWFs by right in all zoning districts, provided they comply with the proposed SCWF General Design and Aesthetic Requirements. He noted the zoning regulation change supports smart city initiatives.

Councilmember Hiller inquired on the proposed regulations including if the City would have the ability to require companies to use existing poles already installed; how many poles will be allowed per block; the type of infrastructure material that would be allowed; and how many cell tower companies would be allowed to install communication mechanisms per pole.

Bill Fiander stated the proposed guidelines include restrictions on the use of existing poles and/or infrastructure; limits the number of poles per block; regulates the type of material allowed as well as places limitations on the number of small cell units per pole.

Brent Trout noted staff will continue to monitor the regulations as needed as customer demands increase.

DISCUSSION concerning Appendix C of the International Fire Code, repealing Section 14.40.130 of the Topeka Municipal Code was presented.

Michael Martin, Topeka Fire Marshal, stated staff discovered a discrepancy with the 2015 International Fire Code (IFC) with regard to fire hydrant locations/distributions when it was adopted. He reported approval of the proposed ordinance would allow fire hydrant locations to be determined in accordance with the 2015 International Fire Code/Appendix C in addition to Utility Department design guidelines.

Councilmember Lesser left the room.

DISCUSSION regarding parking rate recommendations to support the modernization of the downtown parking system was presented.

Brent Trout, City Manager, reported the Governing Body authorized staff to proceed with recommendations included in the Comprehensive Parking Plan. He stated the discussion would include the policy changes needed to generate the revenue to support modernization of the downtown parking system.

Jason Peek, Public Works Director, provided a detailed overview on parking rate recommendations. He stated the maintenance and operations of the City of Topeka's parking facilities is currently funded through the Parking Enterprise fund supported through user fees from City owned parking garages, surface parking lots and on-street parking meters. He reported on the City's current parking system and provided background of the proposed Comprehensive Parking Plan including recommended infrastructure activities and revenue recommendations.

Councilmember Coen asked if the City has considered selling the parking garages.

Councilmember Emerson asked if the City has considered how charging for metered spaces will have an effect on businesses along Kansas Avenue.

In response, Jason Peek reported staff has considered selling the parking garages; however, the garages are financially tied together making it difficult to sell certain properties. He also stated staff was not proposing any changes to the timeframe for charged meter spaces along Kansas Avenue, and it will remain the same 8:00 a.m. to 5:00 p.m. Monday through Friday with free parking in the evenings and on weekends. He expressed the importance of balancing the needs of the businesses and developing a system that will cover the cost to implement a comprehensive parking plan.

Councilmember Ortiz requested the City consider eliminating courtesy warnings for parking violations and grant parking waivers for downtown residents.

Councilmember Jensen questioned the goal of the proposed parking plan and asked why it was being proposed as an enterprise fund with a focus of generating revenue. He stated the focus should be on providing better service and charging an amount that supports a balanced parking system. He noted it may be time to consider if a portion of the Business Improvement District (BID) fees, paid by downtown businesses, should be used to help improve and maintain

parking infrastructure.

Jason Peek confirmed the goal of the proposal was to cover the cost to modernize, operate and maintain a parking system, not to make money. He stated staff assumed the Governing Body agreed with keeping the services financed through an enterprise fund due to the challenges that go along with the use of the general fund as well as the demands on the limited resources of the City.

Brent Trout stated staff has identified the items needed to provide services related to parking. He reported up to the present time, staff has been operating under the premise that the Governing Body would not support using general funds to help supplement the City's parking system. He stated if this becomes the new directive of the entire Governing Body, it will cause a dramatic change in strategy as well as there will be a need to increase the mill levy by one or two mills in order to properly supplement the general fund to make up for lost revenue.

Councilmember Dobler inquired on the amount of revenue that could be generated by reinstating meters on Kansas Avenue. He referenced the option of selling the parking garages and requested staff generate a proforma for each parking garage that includes (1) how much debt is associated with each parking garage (2) how much revenue is generated by each parking garage and (3) how much it would cost to modernize each parking garage.

Jason Peek reported in 2017 parking meters along Kansas Avenue generated approximately \$100,000 annually. He stated staff is open to the options mentioned by the Governing Body; and they would provide the Governing Body with the financial information requested by Councilmember Dobler on the parking garages.

Councilmember Ortiz suggested the City implement a rental fee for the use of parking garages for community events.

Councilmember Hiller commended staff for the work they have done with the study as well as the communication they have had with downtown businesses and residents. She stated all of the parking presentations made by staff to date have been based on demand not revenue as well as provided solutions to generate sufficient turnover to help small downtown businesses flourish. She expressed the importance of determining how much parking will truly be needed in downtown before they consider selling the parking garages. She noted staff has presented a complex system; however, it will accommodate a thriving downtown.

Councilmember Emerson moved to extend the meeting past 10:00 p.m. The motion seconded by Ortiz carried unanimously. (9-0-0)

Councilmember Jensen requested staff provide information on expected turnover rates for metered parking as well as garage parking. He asked how they anticipate balancing residential needs with evening and daytime business needs within the parking system.

Jason Peek reported they were striving for 85% utilization, the amount considered to be at full capacity in the parking industry.

Discussion continued on rate change recommendations for on-street parking, parking garages, surface parking lots, parking enforcement and a routine increase rate schedule.

Councilmember Jensen asked if they anticipate a reduction in staff due to new technology.

Jason Peek stated there could possibly be a reduction in staff or a shift in duties; however, they do not anticipate adding staff.

PUBLIC COMMENT was expressed by the following individuals:

Joseph Wakefield asked the Governing Body to inspect the complexes owned by Mr. Lew McGinnis and address his retaliatory landlord behavior.

Greg DeBacker distributed a handout. He spoke in support of fair utility rate increases and expressed concern with the City serving water customers outside of city limits. He referenced the proposed vacant and foreclosed property ordinance slated for consideration by the Governing Body on November 19, 2019, and stated the ordinance should only target truly vacant properties. He asked the City to direct the Shawnee County District Attorney to sale vacant properties in order for the properties to be placed back on the tax roll.

Dave Jackson, owner of property located at 911 N Kansas Avenue, commented on the demolition order that was currently in place for the property by the City. He reported he has been working with the local Historic Landmarks Commission on the designation of the site. He requested a waiver on the upcoming administrative hearing for the demolition order.

Joseph Ledbetter invited the Governing Body to attend the Washburn Tech East Open House on November 14, 2019. He spoke in opposition of the proposed utility rate increase of 9% and suggested the City move forward cautiously and defer the ordinance to a Council committee for review and public engagement.

Trae McPherson expressed concern with charging parking fees on Kansas Avenue and suggested the City find more ways to encourage the use of parking garages. He spoke in support of automating the City's parking system.

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

Brenda Younger, City Clerk, provided overview of the November 19, 2019, Governing Body agenda.

Brent Trout reported staff will meet with Mr. Wakefield and noted the City has the ability to address the issues raised regarding retaliatory landlords; staff will provide the Governing Body

an update on property owned by Dave Jackson; and staff will consider all comments relating to utility rate discussions. He announced the Topeka Fire Department will host a Firefighter for a Day Forge event on November 16, 2019; and the Topeka Municipal Court Food for Fines Drive collected 2,233 pounds of food resulting in \$4,438.50 in waived court fines.

Mayor De La Isla congratulated the Indian community for a beautiful Diwali Celebration on November 17, 2019. She thanked all Council District No. 7 candidates for their interest in serving the community.

Councilmember Hiller commented on the many Veteran Day celebrations across the community. She stated she has received comments relating to citizens not being able to locate candidate information. She noted the Topeka Capital Journal published a voter's guide over a series of days; and the young professional group Forge, published a voter's guide and plans to continue publishing a voter's guide along with utilizing several social media outlets in an effort to create a one-stop shop in years to come. She commended Animal Control for their recent rescue of two neighborhood cats. She also commended Mayor De La Isla for her speech at the NAACP Freedom Fund Banquet held on November 9, 2019. She reported she would provide updates to the Governing Body as she receives them relating to the National Trust for Historic Preservation and the inclusion of all five sites across the nation associated with the Brown v. Board of Education Supreme Court case.

Councilmember Clear announced the grand opening of the Red Bud Park in North Topeka on November 18, 2019.

Councilmember Emerson announced Washburn Tech East Open House on November 14, 2019.

Councilmember Jensen thanked veterans for their service. He congratulated Hannah Naeger on her election as the next Council District No. 6 representative.

Councilmember Dobler thanked the Governing Body for allowing him to serve as the new Council District No. 7 representative.

Councilmember Coen thanked the City Manager for completing the minor overlay on SW 29th Street between I-70 and Wannamaker. He noted the improvement helped the flow of traffic.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:39 p.m.

(SEAL)

Brenda Younger
City Clerk