

## **Governing Body Minutes – December 17, 2019**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 17, 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, Padilla, Jensen, Dobler, Coen and Lesser -8. Mayor De La Isla presided -1. Absent: Emerson -1.

AFTER THE MEETING was called to order, Reverend Julie Kent-Hemphill St. John African Methodist Episcopal Church provided the invocation.

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

Brent Trout, City Manager, requested Item 2D, minutes of the regular meeting of December 10, 2019, be withdrawn from the consent agenda and placed on the January 7, 2020, consent agenda.

Councilmember Hiller referenced Item 2C, a resolution cancelling Governing Body meetings for calendar year 2020, and announced the Governing Body would meet on Monday, January 13, 2020, instead of Tuesday, January 14, 2020, in accordance with State statute.

Upon hearing no objections, Mayor De La Isla announced Item 2D, minutes of the regular meeting of December 10, 2019, would be withdrawn from the consent agenda and placed on the January 7, 2020, consent agenda.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9154 introduced by City Manager Brent Trout, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8963 was presented.

RESOLUTION NO. 9155 introduced by Deputy Mayor Sandra Clear cancelling Governing Body meetings for calendar year 2020, was presented.

ORDINANCE NO. 20231 introduced by City Manager Brent Trout authorizing initiation of condemnation proceedings to acquire easements for replacement of the Wanamaker Sanitary Sewer Main from the 6300 block of S.W. 9<sup>th</sup> to Danbury Lane (Project No. t-291056.00) was presented.

APPROVAL of Cereal Malt Beverage licenses for the following was presented.

<u>Business Name</u>	<u>Address</u>
Arturo's Mexican Restaurant	105 SE 10 <sup>th</sup> Avenue
Great Life Golf & Fitness	350 NE US Highway 24

APPROVAL of Dance Hall license for Gayle's located at 600 N.W. Paramore was presented.

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

ORDINANCE NO. 20232 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 921 SW 10<sup>th</sup> Avenue from "O&I-2" Office and Institutional Dwelling District TO "M-2" Multiple Family Dwelling District (Z19/8) (Council District No. 1) was presented.

Bill Fiander, Development and Planning Director, reported approval of the request would allow the conversion of the existing single family residential structure into a duplex. He stated a neighborhood information meeting was held on October 28, 2019, issues raised at the meeting include residential density, addition of apartments to the neighborhood, occupancy limits inside the building, good tenant-landlord relations with the neighbors and off-street parking. He reported the Historic Holliday Park NIA did not express opposition to the zoning change and the Planning Commission as well as the Planning Department recommends approval.

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 Hiller.

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

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

APPROVAL of the Policy and Finance Committee Report and Recommendation regarding Title 9 amendments submitted through the Topeka Human Relations Commission was presented.

Councilmember Coen, Policy and Finance Committee Chair, gave the Committee report. He stated the committee meeting was highly attended and no one spoke in support of the request; therefore, the Committee recommends the issue be sent back to the Topeka Human Relations Commission for review.

Mayor De La Isla announced the Committee report has been received by the Governing Body.

Councilmember Ortiz asked Councilmember Coen to explain the details of the Committee's recommendation.

Councilmember Coen reported they were asked to review the issue due to a recent discussion

of the Topeka Human Relations Commission (THRC), which would involve applying Title 9 to private businesses, primarily to: (i) add gender identity and sexual orientation to the list of protected classes; and (ii) provide the THRC with the ability to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations. (Revisions to TMC Sections 9.20.020, and 9.20.040 through 9.20.090 were proposed.) He stated there were no members of the Topeka Human Relations Commission in attendance and no complaints have been filed at this time.

Councilmember Jensen reported discussion ensued at the Committee level regarding the need to identify what issue was trying to be addressed and how it would be implemented. He noted the proposed language was vague and broad in nature.

Councilmember Hiller referenced the Committee report and noted there were questions posed during the Committee meeting over what specific activities would be covered; what level of enforcement/control the Topeka Human Relations Commission was requesting; and associated budgetary impact that would be tied to the requested changes.

Councilmember Coen moved to approve the recommendation of the Committee to refer the matter to the Topeka Human Relations Commission for further research, review and evaluation. The motion was seconded by Councilmember Jensen.

Councilmember Coen reported he has requested a copy of the minutes of the Topeka Human Relations Commission meeting where the issue was discussed and he has not received a copy to date.

The motion to approve the recommendation of the Committee to refer the matter to the Topeka Human Relations Commission for further research, review and evaluation carried unanimously. (9-0-0)

APPROVAL of the 2021 Social Services Grant funding priorities and budget recommendation in the amount of \$434, 904 was presented.

Councilmember Coen, Social Services Grant Committee Chair, gave the Committee report. He stated the Committee recommends the Governing Body approve the 2021 Social Services Grant Priorities and Budget Recommendation in the amount of \$434,904.

Councilmember Coen moved to approve the 2021 Social Services Grant Priorities and Budget Recommendation in the amount of \$434,904. The motion was seconded by Councilmember Lesser.

Councilmember Hiller questioned if the additional \$40,000 allocated to senior centers and Community Action was included in the total amount or would it be cut in 2021. She also inquired if the amount set aside for agencies that fall under a grandfather clause would be carried over and included in 2021 allocations and sustained in subsequent years.

Brent Trout, City Manager, reported the three senior centers and Community Action would be funded in 2020; however, funding for 2021 has not yet been decided. He stated senior centers would still be eligible for funding and could make application because funding of these agencies is considered a priority. He noted there may be a need at a later date for the Committee to discuss and determine if senior centers should be permanently funded or compete for funding.

Councilmember Lesser commented on using the term “funding cuts” and noted funding allocation amounts vary from year to year based on requirements not lack of funding.

Councilmember Coen referenced comments made by Councilmember Hiller and stated the Committee was not recommending any changes to senior centers; however, he would support eliminating the grandfather clause because he believes it was unfair to the agencies that must follow requirements to receive funding.

Councilmember Hiller stated it was her understanding the Committee was recommending that the same application requirements are kept and allocate the same amount of funding. She reported historically, the following five issues are consistently discussed:

- 1) Solidifying the process for senior centers
- 2) Removing the grandfather provision
- 3) Reinstating a ratio recommendation for emergency services verses prevention services
- 4) Treat all new programs the same (*brand new programs vs. new programs of an existing agency*)
- 5) Add budget as a rating item in the application process (*show total agency funding sources as well as other sources for the programs under consideration*)

Councilmember Clear raised a point of order. She stated the process should be discussed during the next agenda item.

The motion to approve the 2021 Social Services Grant Priorities and Budget Recommendation in the amount of \$434,904 carried unanimously. (9-0-0)

APPROVAL of the recommendation from the Social Services Grant Committee to outsource the City of Topeka's Social Services Grant program to a third party was presented.

Councilmember Coen, Social Services Grant (SSG) Committee Chair, requested the discussion on the Social Services Grant process continue.

Mayor De La Isla provided an overview of the history of the Committee and the process to date. She reported each time the process was instituted it has been changed and turned into a political conversation. She recognized the importance of all organizations and believes all deserve funding assistance.

Councilmember Lesser asked Sasha Haehn, Department of Neighborhood Relations Director, to comment on the process and explain what the Committee was seeking.

Sasha Haehn, Department of Neighborhood Relations Director, reported the intent of the Committee was to outsource the SSG program entirely with the exception of the Committee

retaining the process that establishes funding priorities and budget recommendations; and the third-party would provide the services now being provided by the Department of Neighborhood Relations staff. She reported the Committee discussed benefits of outsourcing including the reduction or elimination of appeals from agencies not satisfied with their application score and/or funding allocations to the Governing Body as these are typically political in nature. She noted the overall reduction in the cost to the City to administer the Social Services Grant Program was an estimated savings of approximately \$30,000. She stated there would be a 5% service fee charged for the services and staff fully supports the outsourcing of the SSG process as well as the elimination of the appeal process.

Councilmember Coen spoke in support of changing the process and believes the key to improving the application process will be to outsource services.

Councilmember Lesser reported the third party vendor will fully understand the expectations of the Governing Body and keep them informed as they move through the process. He noted the process guidelines will be outlined in the Request For Proposal (RFP) and he supports eliminating the appeal process as there are very few grant programs that allow it.

Councilmember Hiller stated approval of grants at the Governing Body level was implemented so the Governing Body as a whole accepted the decisions being made. She reported the appeal process was implemented at the Committee level because applicants felt like they were not being heard by staff as well as there have been times when application scores have been corrected after seeking an appeal.

Councilmember Jensen moved to approve the recommendation from the Social Services Grant Committee to outsource the City of Topeka's Social Services Grant program to a third party. The motion was seconded by Councilmember Dobler.

Councilmember Ortiz spoke in opposition of paying a 5% service fee to a third party and noted those fees could be allocated to an organization in need. She stated she believes the current process was fair and does not need to change.

Councilmember Padilla spoke in opposition of outsourcing the service unless the process will continue in the same manner. He stated he does not believe the process has been politicized but instead allows Governing Body members to advocate for different areas of the community.

Councilmember Hiller questioned if the Request For Proposal (RFP) would address the senior service centers separately or as part of the entire package.

Councilmember Coen stated the details and priorities of the RFP would be determined at the first committee meeting.

The motion to approve the recommendation from the Social Services Grant Committee to outsource the City of Topeka's Social Services Grant program to a third party carried.

Councilmembers Hiller and Ortiz voted "no." (7-2-0)

APPROVAL of a Real Estate Agreement between Cedar Crest Properties, LLC and the City of Topeka in the amount of \$290,000 was presented. (*Contract No. 48289*)

Brent Trout, City Manager, reported staff conducted an analysis and determined the best location for a new fire station would be in the northwest area of the city along SW 6<sup>th</sup> Street and Fairlawn Avenue, providing better coverage for the northwest area of the city as well as overall response time for the entire city. He stated the analysis was based on the assumption there was no new money available; however, if there was, the location recommendation would remain the same. He noted acquisition of the land provides an opportunity to move forward with plans for a new fire station, a project that began many years ago.

Craig Duke, Topeka Fire Chief, provided a brief overview of the methodology and process

used to determine the proposed location including response times, historical data, volume of calls and GIS information, with the end goal of having equalized response times for the entire city. He stated past studies validated the suggested location for a new fire station.

Councilmember Coen asked if the approval of the real estate agreement would cause the closure of any fire stations.

Brent Trout reported the intent would be to eventually close Fire Station No. 11 and relocate the crew members to the new fire station. He stated the vacant building would be used for storage as well as onsite training for the Fire and Police Departments.

Councilmember Lesser asked for confirmation that after the real estate agreement was approved, the reallocation of resources and/or the closing of a fire station would require approval by the Governing Body.

Brent Trout confirmed the Governing Body would be required to approve an amendment to the capital improvement budget in the approximate amount of \$1.1 million in order to build the new fire station. He stated discussions would also have to take place regarding the closing of Fire Station No. 11 because it would affect the overall City of Topeka operating budget.

Mayor De La Isla spoke in support of building a new fire station because it was needed for better coverage in certain districts; however, she wants to make certain approval of the real estate agreement was not contingent upon closing a fire station. She stated there needs to be more discussion on the overall Fire Department Strategic Master Plan.

Councilmember Clear expressed concern with the eventual closing of Fire Station No. 11 if the purchase of property was approved. She questioned the type of data used to make the decision and believes the building of a new fire station will not solve coverage problems for the entire city, specifically in north Topeka.

Councilmember Ortiz commented on the many Fire Department studies that have been conducted over the years and the recommendations that have not been implemented. She expressed the importance of community engagement as it relates to the overall creation of a Fire Department Strategic Master Plan and requested the acquisition of land be put on hold. She spoke in opposition of closing a fire station and requested a copy of the 2016 Fire Department Report conducted under the leadership of former City Manager Jim Colson as well as final budget numbers for an overall plan.

Councilmember Jensen stated the Governing Body continues to direct staff to do more with less and believes staff has done a good job with the directive given. He spoke in opposition of closing Fire Station No. 11 and will support the acquisition of property because it will lay the foundation in the decision to build a new fire station in a location where it was needed.

Councilmember Jensen called the question. The motion died due to a lack of a second.

Councilmember Jensen moved to approve the real estate agreement. The motion was seconded by Councilmember Padilla.

Councilmember Lesser encouraged Governing Body members to approve the purchase of the land so the opportunity was not lost. He referenced the large facilities located in the vicinity of the proposed new fire station and the need for emergency coverage by the Fire Department. He commended staff for presenting good data to the Governing Body; however, he will not support the closing of Fire Station No. 11.

Councilmember Hiller spoke in opposition of approving any items of this nature until a Fire Department Strategic Master Plan was in place. She stated the information distributed to the Governing Body needs to be clarified and questions need to be answered. She referenced the many Fire Department reports and/or studies that have been conducted over the years and the

need to consider the data resulting from those reports and/or studies.

Discussion ensued by the Governing Body concerning the importance of having comprehensive discussions on fire services in the community for the purpose of creating a Fire Department Strategic Master Plan. It was the consensus of the Governing Body to include City Administration, Fire Department employees and union representatives and Governing Body members in discussions, followed by community engagement.

Councilmember Dobler spoke in general support of purchasing the property because he believes it will be the right location for a new fire station; however, if approved, it will likely set plans in motion regarding Fire Station No. 11. He expressed concern with delaying the process through the creation of a committee and asked if it was possible to include an option in the agreement to extend the offer for a short period of time, no longer than two months.

Jason Peek, Public Works Director, reported the offer for the land expires at the end of the year; however, the property owner may be amenable to a 45-day extension if needed.

Councilmember Jensen moved to create a committee consisting of City Administration, Fire Department employees and union representatives and Governing Body members to discuss fire services in the community *i.e.* a Fire Department Strategic Master Plan. The motion was seconded by Councilmember Lesser.

Councilmember Hiller questioned if a date certain should be included in the motion and asked if the goal of staff was to complete the framework for a Fire Department Master Strategic Plan by April 2020.

Brent Trout stated he believes three months would be a reasonable target as it would accommodate capital improvement planning and operating budget deliberation deadlines.

The motion to create a committee consisting of City Administration, Fire Department

employees and union representatives and Governing Body members, for the purpose of creating the framework for a Fire Department Strategic Master Plan by April 2020, carried unanimously. (9-0-0)

Councilmember Lesser moved to approve the real estate agreement. The motion seconded by Councilmember Jensen carried. Councilmembers Hiller and Ortiz voted “no.” (7-2-0)

Councilmember Clear left the meeting.

APPROVAL of the Disposal of Real Property located at 421 SW Huntoon Street, was presented.

Brent Trout, City Manager, stated the item was withdrawn from the December 3, 2019, agenda to determine if there was a need to keep the property for purposes of storing construction equipment during the 12<sup>th</sup> Street Improvement Project. He reported staff determined there was not a need for the property; however, due to reservations expressed by Governing Body members he would request the disposal of property be denied.

Councilmember Dobler moved to approve the disposal of real property located at 421 SW Huntoon Street. The motion seconded by Councilmember Coen failed. Councilmembers Hiller, Ortiz, Padilla, Jensen, Dobler, Coen, Lesser and Mayor De La Isla voted “no.” (0-8-0)

DISCUSSION concerning the City’s process for acquiring and disposing of real property was presented.

Brent Trout, City Manager, stated the proposal to revise code language was the result of the Rapid Process Improvement (RPI) event conducted by staff.

Mary Feighny, Deputy City Attorney, reported on the RPI event that was conducted. She provided an overview of the following proposed changes:

- The Governing Body approves: (1) acquisitions of fee simple title to real property; (2) sales; (3) transfers; and (4) donations. Governing Body approval will not be required for

- acquisition and disposal of easements/rights of way, IRB leases/acquisitions, and leases.
- The methods of disposing of real property are unchanged (e.g. transfer, auction, bidding, private sale), except to add donations and any other method approved by the Governing Body.
  - Ordinances relating to the process of purchasing property for City use and leasing private property for City use are repealed. (Governing Body will still approve all purchases.)

Councilmember Hiller questioned the lease process and stated she believes the Governing Body should remain a part of the approval process with a \$10,000 threshold.

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

Brent Trout, City Manager, announced City of Topeka offices would be closed December 24-25, 2019, in observance of the Christmas Holiday.

Councilmember Coen stated it has been a pleasure serving on the Governing Body.

Councilmember Ortiz moved to recess into executive session for a period of time not to exceed 15 minutes to discuss upcoming employer-employee negotiations, as justified by KSA 75-4319(b)(3). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Administrative and Financial Services Director, Jessica Lamendola; Human Resources Director, Jacque Russell; Planning and Development Director, Bill Fiander; Deputy Administrative and Financial Services Director, Nick Hawkins and City Attorney Lisa Robertson. No action was anticipated to be taken when the open meeting resumed in the Governing Body Chambers. The motion seconded by Councilmember Jensen carried unanimously (8-0-0)

Following a 15-minute time period the meeting reconvened into open session and Mayor De La Is La announced no action was taken.

Councilmember Dobler moved to recess into executive session for a period of time not to exceed 30 minutes to discuss confidential employment matters pertaining to nonelected

personnel, as justified by KSA 75-4319(b)(1), in order to protect the privacy of those discussed. To aid the discussion, the following individuals were present: Members of the Governing Body and Human Resources Director, Jacque Russell. No action was anticipated to be taken when the open meeting resumed in the Governing Body Chambers. The motion seconded by Councilmember Jensen carried. Councilmembers Hiller and Ortiz voted “no.” (6-2-0)

Following a 30-minute time period the meeting reconvened into open session and Mayor De La Is La announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:31 p.m.

(SEAL)

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Brenda Younger  
City Clerk