

Governing Body Minutes – January 7, 2020

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, January 7, 2020. 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, Dobler, Coen and Lesser -9. Mayor De La Isla presided -1.

AFTER THE MEETING was called to order, Councilmember Clear provided the invocation.

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

A SERVICE RECOGNITION CEREMONY was conducted for out-going Council members Sandra Clear, District 2; Brendan Jensen, District 6; and Jeff Coen, District 8.

BOARD APPOINTMENT recommending the appointment of Benjamin Reed to the Topeka Sustainability Advisory Board for an unexpired term ending December 31, 2021, was presented.

BOARD APPOINTMENT recommending the appointment of Joel Cromwell to the Shawnee County Community Corrections Advisory Board to fill an unexpired term ending November 30, 2021, was presented

BOARD APPOINTMENT recommending the reappointment of Kurt Young to the Topeka Tourism Business Improvement District Advisory Board for a term ending December 31, 2021, was presented.

BOARD APPOINTMENT recommending the reappointment of Dean Patel to the Topeka Tourism Business Improvement District Advisory Board for a term ending December 31, 2021, was presented.

Councilmember Jensen moved to approve the appointments. The motion seconded by Councilmember Dobler carried unanimously. Mayor does not vote. (9-0-0)

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20233 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period November 2, 2019, through November 29, 2019, and enumerating said expenditures therein was presented.

APPROVAL OF MINUTES of the regular meeting of December 10, 2019, and December 17, 2019, was presented.

APPROVAL of Cereal Malt Beverage license for Compass Point located at 800 N. Kansas Avenue was presented.

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

ORDINANCE NO. 20234 introduced by Councilmember Brendan Jensen amending the Topeka Municipal Code by creating Chapter 10.80 in Title 10 concerning Pedestrian and Traffic Safety was presented.

Brendan Jensen, Special Committee Chair, reported after considering input received, a revised ordinance was presented and agreed upon by the Special Committee during its meeting on December 9, 2019. He stated the recommendation of the Special Committee was to submit the proposed ordinance creating a new Chapter 10.80 of the Topeka Municipal Code to include certain restrictions on pedestrians at specified intersections of the city. He thanked Committee members for their work on the issue.

Councilmember Coen inquired on the initial map that was presented with the ordinance listing nearly all intersections in the center of the city.

Councilmember Jensen reported the ordinance only includes the 23 intersections identified in the 2019 Traffic Safety Plan.

Councilmember Hiller spoke in opposition of the ordinance. She expressed concern with the 23 intersections being based on point-in-time data that will change annually. She stated erecting signs at the intersections will cause driving distractions, clutter the appearance of the city, and draw attention to the act of panhandling or asking for contributions. She stated she believes the MTPO should be consulted regarding crash and safety enhancements and encouraged the Governing Body to explore more options and take additional time to work on the functionality of the ordinance.

Councilmember Jensen stated the ordinance relates to pedestrian and traffic safety not panhandling. He stated it was understood the ordinance would have to be reviewed every few years because the intersections are determined through supportable data of the Traffic Safety Plan.

Councilmember Dobler asked how the ordinance would be enforced and if it would help mitigate the problems that are currently causing unsafe intersections. He also asked what rules govern crosswalks and noted a majority of the intersections listed in the ordinance have crosswalks.

Brent Trout reported the purpose of intersection signs was to create awareness. He stated the restrictions identified in the proposed ordinance are narrowly-tailored to serve the significant interest of promoting and protecting public health, safety and welfare at the 23 intersections listed.

Councilmember Padilla spoke in support of the ordinance. He stated if implemented, it could prevent injury to people or prevent vehicle accidents.

Bill Cochran, Topeka Police Chief, reported the current code allows pedestrians to be ticketed if in the roadway and not utilizing crosswalks; however, the proposed ordinance will

provide TPD an additional tool to keep citizens safe and out of the roadways, as well as, police officers the ability to issue citations when they witness the activity.

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

Councilmember Ortiz asked how people relocating to different intersections will be addressed as well as unsafe activity taking place at intersections not listed. She asked if certain intersections could be added if needed.

Lisa Robertson, City Attorney, stated she would not advise adding intersections to the ordinance that were not data driven and identified in the 2019 Traffic Safety Plan. She noted the issue could be revisited every three years in conjunction with the update of the Traffic Safety Plan.

Councilmember Hiller stated she believes the ordinance was unnecessary as there are already tools in place to address the issues being discussed, such as standing on the median.

Chris Deister spoke in opposition of the ordinance and stated he believes it was unnecessary. He suggested if the ordinance was approved and the Governing Body believes it was necessary, metal disks should be placed in sidewalks instead of erecting signs that will clutter the city.

Councilmember Lesser stated he understands data was used to guide and create the ordinance language; however, it does not preclude the option of adding intersections.

Lisa Robertson cautioned against adding intersections that are not supported by solid data as it will likely be challenged in a court of law. She stated the purpose of the ordinance was to address distracted driving not behavior.

Councilmember Ortiz spoke in opposition of creating the ordinance based on data because it does not include problematic intersections.

Mayor De La Isla announced the Special Committee Report was received.

Councilmember Emerson asked if there was the ability to receive real time data from the Police Department and add any dangerous intersections to the ordinance as needed instead of waiting until the Traffic Safety Plan was updated.

Jason Peek, Public Works Director, stated the ordinance needs to be considered as part of a risk management plan, based on a time trend to better manage the factors that can be controlled. He noted there was a 2-year lag in receiving Kansas Department of Transportation (KDOT) traffic safety information.

Chief Cochran stated real time data could be supplied if needed.

Lisa Robertson stated real time data will change to frequently and locations listed in the ordinance must rely on consistent supportable data in a court of law.

The motion to adopt the ordinance carried. Councilmember Hiller voted “no.” Mayor does not vote. (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Clear, Ortiz, Padilla, Emerson, Jensen, Dobler, Coen and Lesser -8. Noes: Hiller -1.

ORDINANCE NO. 20235 introduced by City Manager Brent Trout, amending the “District Map” referred to an 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 1422 NW Eugene Street from “R-2” Single Family Dwelling District with a Special Use Permit for a mobile home park ALL TO “X-1” Mixed Use District was presented. (Z19/09) (Council District No.2)

Bill Fiander, Planning and Development Director, reported the request to rezone was a in conjunction with a Conditional Use Permit application for a parking lot to be used in association

with the owner's vehicle repair business on his property to the north. He stated the Topeka Planning Commission recommended approval of the reclassification of the property in conjunction with approval of the Conditional Use Permit requesting a surfacing parking lot with all the conditions stipulated in the staff report. He stated staff was recommending approval.

Councilmember Hiller asked why a paved parking lot was not required of the applicant.

Bill Fiander stated the parking lot will have a high turn-over of cars and not used as permanent storage. He noted this would be the same requirement of other applicants with similar businesses.

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

Councilmember Jensen stated he opposes the use of gravel on the parking lot and inquired on the opposition expressed by the North Topeka Neighborhood Improvement Association (NIA).

Councilmember Clear reported constituents support the property rezoning because of the conditional use permit requirement. She noted only two constituents (North Topeka NIA members) expressed opposition to the request.

Councilmember Emerson asked if any of the residents located in the notification area opposed the rezoning request.

Bill Fiander reported no residents in the notification area expressed opposition to the rezoning.

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

Mayor De La Isla 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 all Governing Body members.

The motion to adopt the ordinance carried. Councilmembers Padilla and Jensen voted “no.” (8-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Dobler, Coen, Lesser and Mayor De La Isla -8. Noes: Padilla and Jensen -2.

RESOLUTION NO. 9156 introduced by City Manager Brent Trout, in accordance with Section 18.60.010 of the Topeka Municipal Code, approving a Conditional Use Permit to allow for a “Surface Parking Lot” on property located at 1422 NW Eugene Street and zoned “X-1” Mixed Use District in the City of Topeka, Shawnee County, Kansas, was presented. (CU19/08) (Council District No. 2)

Councilmember Dobler moved to approve the resolution. The motion was seconded by Councilmember Lesser.

Mayor De La Isla 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 all Governing Body members.

The motion to approve the resolution carried. Councilmember Padilla voted “no.” (9-1-0)

ORDINANCE NO. 20236 introduced by City Manager Brent Trout, concerning the acquisition and disposal of real property, amending City of Topeka Code Sections 3.30.310 through 3.30.350 and repealing Sections 3.30.360 through 3.30.370, was presented.

Brent Trout, City Manager, reported the proposed changes to the code were the result of a Rapid Process Improvement (RPI) event conducted by staff. He stated the proposed ordinance was amended based on the discussion from the December 17, 2019, Governing Body Meeting. He requested the Governing Body consider staff’s recommendations and implement proposed updates to a code dating back 30 years.

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

Councilmember Hiller distributed an amendment to the ordinance. She stated the language regarding leases matches and reverts to a \$10,000 annual threshold for Governing Body approval, both for properties the City leases from others, as well as, properties the City leases to others. She noted the main purpose of the proposal was to ensure public disclosure. She proposed to amend lines 136 and 137 to state, “Leases of real property shall be subject to governing body approval if costs or revenue contemplated by the lease, including the annual rent, exceed \$10,000.”

Councilmember Clear questioned the need for the amendment and asked if leases are considered public record.

Councilmember Emerson spoke in support of the language amendment.

Brent Trout stated leases are considered public record.

Councilmember Dobler spoke in support of the amendment as it would provide protection for staff, as well as, placing the responsibility of making the final decision on the Council.

Councilmember Hiller made a substitute motion to adopt the ordinance as amended. The motion seconded by Councilmember Emerson carried unanimously. Mayor does not vote.

(9-0-0)

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

APPROVAL of a three-year labor agreement between the City of Topeka and Local 1294 Missouri/Kansas State Council 61, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, was presented. (**Contract No. 48329**)

Brent Trout, City Manager, stated approval would provide guidelines for management and employees in the bargaining unit from 2020 through 2022.

Councilmember Clear expressed her appreciation to staff for providing the Governing Body detailed information to make an informed decision.

Councilmember Clear moved to approve the labor agreement. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

PUBLIC COMMENT was provided by the following:

Teresa Miller expressed her disappointment in the Governing Body for approving the zoning change at 1422 NW Eugene. She stated she believes neighborhood residents misunderstood what was being purposed, as well as, it does not support the neighborhood plan approved by the City. She expressed concern with burning in her neighborhood and believes it has become a safety hazard for the residents. She reported she had a rude encounter with a Police Officer and stated she does not feel safe in the city of Topeka.

Joseph Ledbetter stated he has still not received the complete Water Utility Report from Black & Veatch regarding the recently approved utility rate increase. He distributed a handout outlining 2018 GDP Kansas Counties list of improvement funds received. He reported the I-70 and Polk Quincy Viaduct remains in dire need of repair and encouraged the Governing Body to lobby for its repair.

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

Brenda Younger, City Clerk, provided an overview of the January 13, 2020, Governing Body agenda.

Brent Trout, City Manager, announced a Topeka Fire Department Graduation Ceremony will be conducted on January 8, 2020, at the Downtown Ramada Inn; and the Department of Neighborhood Relations in collaboration with Housing and Credit Counseling, Inc. (HCCI) will host monthly home maintenance classes beginning January 15, 2020, from 6:00 – 7:00 p.m. at the Buchanan Center. He noted to call 785-234-0217 for registration. He also announced citizens will be provided the opportunity to give input to the Governing Body regarding goals and priorities for the coming year at the January 13, 2020, Governing Body meeting. He thanked out-going Council members Clear, Jensen and Coen for their support while serving on the Governing Body.

Mayor De La Isla thanked out-going Council members Clear, Jensen and Coen for their service.

Councilmember Clear recited a poem and thanked the community for allowing her to serve on the Governing Body.

Councilmembers Hiller, Ortiz, Emerson, Padilla, Dobler and Lesser thanked out-going Council members Clear, Jensen and Coen for their service.

Councilmember Jensen expressed his appreciation to the community for allowing him to serve on the Governing Body. He also expressed his appreciation to members of the Governing Body and City of Topeka staff members for their guidance.

Councilmember Coen thanked Governing Body members for their vision and helping the community change and move forward with positive growth.

Councilmember Jensen moved to recess into executive session for a period of time not to exceed 20 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; City Manager, Brent Trout; Human Resources Director, Jacque Russell and Human Resources Manager, Shawn Maisberger. No action will be taken when the open meeting resumes in the Governing Body Chambers. The motion seconded by Councilmember Clear carried.

Councilmember Lesser did not vote. (9-0-0)

Mayor De La Isla left the meeting.

Following a 20-minute time period the meeting reconvened into open session and Deputy Mayor Clear announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:32 p.m.

(SEAL)

Brenda Younger
City Clerk