



# CITY OF TOPEKA

CITY COUNCIL COMMITTEE  
MEETING MINUTES

## PUBLIC HEALTH AND SAFETY COMMITTEE

CITY COUNCIL  
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Date: November 18, 2019

Time: 3:00 p.m.

Location: 1<sup>st</sup> Floor Conference Room, Holliday Building, 620 Madison

**Committee members present:** Sylvia Ortiz (Chair), Councilmembers Karen Hiller, Councilmember Michael Padilla

**City staff present:** Luther Ganieany (Police Legal Advisor), SGT Josh Klamm (Topeka Police), Braxton Copley (Deputy Director Utilities), Sasha Haehn (Director, Neighborhood Relations), Mike Haugen (Property Maintenance Division Director), Brent Trout (City Manager)

### Call to Order

Chair Ortiz called the meeting to order at 3:02pm. Committee members introduced themselves.

### Approve October 14<sup>th</sup>, 2019 Meeting Minutes

Councilmember Hiller made a motion to approve the October 14<sup>th</sup> minutes.

Councilmember Padilla seconded the motion. The motion was approved 3:0.

### Consideration of Partial Ban (with zones) - Camping Ordinance

- Chair Ortiz called the representative for the Homeless Taskforce to the podium. Carrie Higgins, Chair for the Homeless Taskforce. The ordinance was presented to the Taskforce members at their past Wednesday meeting. Fifteen (15) voted in favor of the ordinance, fourteen (14) did not take a stance, and two (2) opposed. Chair Ortiz inquired if the two agencies that opposed the vote had commented on the reason for their vote. Ms. Higgins stated she did not recall a reason being given. Ms. Higgins stated that prior to the vote, there was about 30 minutes of discussion related to the pros, cons, and other ideas or options. Those individuals had spoken at that time, however Ms. Higgins did not recall the specific concerns mentioned and did not have a copy of the minutes.

Councilmember Hiller inquired if the members had received the proposed ordinance. Ms. Higgins stated that the City's Legal department met with the Taskforce department and had sent the most recent draft of the ordinance to the Taskforce President. This was then sent to the membership along with a request to review prior to the meeting. Councilmember Hiller inquired as to any reasons provided by the 14 who chose not to vote. Ms. Higgins stated that she felt the

majority of the 14 agencies who did not vote were supportive of the ordinance but had some reservations. There were a lot of newcomers and were less familiar with the ordinance and did not feel comfortable voting at that time. Councilmember Hiller inquired if having more time for those members to review the ordinance would make a difference on the outcome. Ms. Higgins stated she felt that more time would not change the outcome and that the Executive Committee felt this version of the ordinance was a good compromise that allows for camping yet is respectful to business owners and protects the City's infrastructure.

Councilmember Padilla inquired as to the reasons provided by those members who had voted in favor of supporting the ordinance. Ms. Higgins stated that many of those members had been on the committee since the beginning of the discussion, or had served on the subcommittees and had been able to see the compromise and research that had gone into this ordinance and feel comfortable supporting it.

- SGT Josh Klamm, TPD, provided a few updates regarding the unsheltered population. The camp located behind the Topeka Rescue Mission is roughly 40-50 individuals. The port-a-potties and trash can are still there. The Shawnee County Health Department has been paying for the port-a-potties and will continue until the end of the year. At this time, there is no plan to continue this after the first of the year. A project in the works: various outreach programs are seeking grants to assist with weather proofing and providing a bit of warmth to the current tents. SGT Klamm stated the outcome of receiving the grant is currently unknown.

Chair Ortiz commended SGT Klamm for his work with the City ID program.

Councilmember Hiller inquired if SGT Klamm had been able to read through the ordinance with regard to the levee system. SGT Klamm confirmed that he had read through the newest proposed ordinance. From his understanding, the levee is referencing the dike; and if anyone is sleeping on top of it, they would be in violation. SGT Klamm stated that from his understanding, the ordinance more importantly is discussing the flood control devices. SGT Klamm noted the creek located to the east side of the Wal-mart in North Topeka, where a pump house (or structure of similar purpose) sits. The language of the ordinance allows for removing individuals who would camp on those types of devices. There have not been many instances of individuals camping on the levees, and those that do are camping under a bridge, which is also addressed in the ordinance.

Councilmember Hiller inquired if SGT Klamm felt the proposed ordinance would be something the Police Department would find to be manageable. SGT Klamm responded that he felt the ordinance would provide the police department with some clarity on what would be acceptable and what is not. With regard to the number of individuals who would be effected by the ordinance, SGT Klamm

speculated that a low number, less than 5% city-wide, and that there are not many of the unsheltered individuals who have been living under the bridges. The bus stops would be a nightly check, however individuals do not camp there in a permanent way. Councilmember Hiller appreciated the feedback and noted she had wanted to hear from the various groups before moving forward with making a final decision.

Chair Ortiz expressed thanks to SGT Klamm for his work and presentations to the committee, but stated that his continued work and communication with the committee would be important. SGT Klamm stated there were a couple of concerns that he had heard from constituents and wanted to share those at this time. One was a suggestion to set up public lockers in the Downtown district to alleviate concerns of personal items being left behind and being confiscated by the police department. The other suggestion was made that if camping in the Downtown area would be banned by this ordinance, that perhaps a percentage of the revenue generated by special events at the Downtown Events center could be put toward homelessness issues. Chair Ortiz noted that those were both good suggestions and would be open to looking into that further.

- Mark DeGroff, Street Reach Director with the Topeka Rescue Mission, stated that Rev. Barry Feaker voted in support of the ordinance during the Homeless Taskforce meeting. Mr. DeGroff stated he would like to see this ordinance put into place correctly and deliberately in order to do all parties as much good as possible and to minimize any negative consequences that would come with implementing a new ordinance.
- Dr. Russell Burton addressed the committee as an advocate for the street homeless. Dr. Burton stated the newest draft is much improved from the initial copy, however feels that the individuals who are staying under the bridges, in doorways or in bus shelters are the most venerable of the population as they are not even able to maintain a shelter. These individuals need a warming shelter or to be in a Shelter First program. Dr. Burton read information and statistics about providing a shelter first program to the committee. Dr. Burton stated that a non-profit organization has recently been established called Second Chance Street Coalition which is umbrella-ed by the Community Resource Center. This will be the only non-profit that is dedicated to providing housing first to the chronically unsheltered population. Dr. Burton expressed thanks to the committee for their dedication to listening to the individuals who are effected by this ordinance.

Councilmember Hiller thanked Dr. Burton for his advocacy work with the unsheltered and for bringing information to the committee. Councilmember Hiller also thanked Chair Ortiz, the Neighborhood Relations Staff, the Homeless Taskforce and the unsheltered community members who attended meetings for bringing much needed information to the committee.

Councilmember Hiller stated that due to all of the work that has been done by Dr. Burton, SGT Klamm, and others has been instrumental in bringing the population who will be directly affected by this ordinance to a very manageable number from where it had been previously. Dr. Burton agreed, and stated that the ordinance is a fair compromise but will continue to work with the individuals who are being negatively impacted by this. Chair Ortiz stated that perhaps with the ordinance, the few individuals who are going to be negatively impacted will be motivated to receive the help that has been offered. Dr. Burton is hopeful for that as well.

Chair Ortiz inquired if there was further comments from the floor. There were none.

Chair Ortiz inquired if there was further discussion by the committee members.

Councilmember Hiller inquired if there was a standing list, or way to maintain a standing list of owners from the private or government sectors who wanted to provide a blanket statement to not allow individuals to camp on their property. Luther Ganieany, TPD Legal Advisor, noted that having a list would be difficult to maintain a standing list and would not cover if an owner gave permission to someone on a one-time basis, or property being sold without having that information maintained. Councilmember Hiller inquired about the steps for an owner to make the request as a situational basis. Mr. Ganieany stated that current practice allows for officers to contact the owner of a property when activity has been occurring to inquire if the owner would like to have individuals removed from the property.

Councilmember Padilla thanked Chair Ortiz for inviting him to sit on the committee for the remainder of the year. He appreciates the work that has been done from the year prior to this point and that a decision has not been rushed until the committee felt comfortable with doing so.

Chair Ortiz inquired with City Manager about moving forward with this proposal. Mr. Trout stated that the 90-day committee report will be scheduled for December 3, 2019. If the committee took action today, the information could be added to the agenda for the Governing Body to take action.

Chair Ortiz inquired with Mr. Ganieany about the timeline for when signage and the ordinance would go into effect should the Governing Body vote to approve it. Mr. Ganieany stated that signs have been posted to bridges already, mostly as there is work currently taking place on the Kansas Avenue bridge, however signs would not be placed in most areas. The posting of notices was referencing when personal belongings were taken and that a notice would be left to let the owner know where to claim the belongings and the timeline of how long the belongings would be stored before disposal.

## **Motion to Refer Proposed Camping Ordinance to the Governing Body - with a recommendation to either adopt or withdraw the ordinance**

Councilmember Hiller noted that the staff was thorough with the information they provided to the committee. There were various options the committee could decide to take, but a recommendation to choose "Option C" to move the current proposal forward is noted.

Councilmember Hiller made a motion to approve "Option C" which states: To recommend that the Governing Body adopt the draft ordinance as amended. Partial ban which establishes "no camping" zones.

Councilmember Padilla seconded the motion. Motion passes 3:0.

## **Property Maintenance Discussion: Current Policies & Procedures**

Mike Haugen, Division Director of Code Services, presented the Sanitation process. (This presentation can be found by viewing the video at the 43:10 minute mark).

Report System: Councilmember Hiller noted that there was a lot of information in the inspection form, but commented that she appreciated all of the detail that was included for Staff to tailor the report in such great detail. Councilmember Ortiz inquired about the inspectors' log and the number of cases that are assigned to each and how that portion of the system works. Mr. Haugen noted that the inspectors who are able to complete all of their cases, they are able to then move onto combing through their areas to look for smaller code violations. If an inspector's case number begins to rise to a level that is difficult to manage, all of the inspectors as well as Mr. Haugen, join to help bring that number back to a manageable number. Mr. Haugen also noted that the inspector areas are created by the areas in need. For example, there are only two inspectors west of Burlingame Road. Mr. Haugen stated that the cases seem low due to the time of year that is happening. November through March generally sees a drop in case numbers due to colder weather. Inspectors use that drop in time to catch up or get work done on other projects.

Mr. Haugen noted that the staff in Property Maintenance is a close group, and all work well together. The staff used to feel run down, but now they feel as though they are making real differences in the community and work great as a team.

Councilmember Ortiz spoke to Mr. Trout, saying the section of the presentation was very informative and thought the public would also benefit from seeing this information.

Councilmember Padilla stated that the presentation show the efficiencies that are often criticized in a tangible way that is easy to understand.

Mr. Haugen included that it helps with consistency in training, and prosecution. When a report is not written in a way that meets expectations, Staff is able to review that and use it as a training opportunity. The standardized format also helps to keep all reports easy for the judge who reviews cases to process them more efficiently.

Councilmember Ortiz inquired about Staff and Management accessibility to the site. Mr. Haugen stated that all of his Staff has access to view the information. As the Division Director, Mr. Haugen has the ability to view and make changes to certain areas within the site, however, it is important to have as much transparency between himself and the staff.

Violation Notice: Mr. Haugen noted that there are up to 30 warrants per week. He then went on with reading the presentation.

Councilmember Ortiz requested a copy of the violation notice that goes out to community members. Often times, constituents will call her and state they are not finding certain information. Councilmember Ortiz stated that another reason she would like to have a copy of the letter is to better understand when constituents will claim to not know what the violation is. Mr. Haugen will bring a copy to the next meeting.

Councilmember Hiller stated that the violation notice pops the boiler plate language out of the ordinance and is not customized per individual. Mr. Haugen stated that the boiler plate pops out and is followed by an area for the inspector to specifically note what the violation notice is for.

Councilmember Hiller inquired about charging penalty fees being charged when constituents are repeat offenders. Mr. Haugen stated that if the owner cleans before Property Maintenance staff cleans, there is no fine. Additionally, some of the properties were described as a “zombie property”, when an owner is unavailable or no longer living. There are a percentage of fines that are paid, however not all fines get paid. Mr. Haugen stated that he would be able to bring a list of fines issued and a list of fees collected for the committee to review. The presentation continued.

Hearing: Councilmember Hiller inquired about the process. Her understanding of the process is the inspector writes the violation up, and are able to give one extension. Then, Mr. Haugen (as the supervisor) is able to give unlimited extensions as he sees are fit, and the case only goes to the hearing officer if the supervisor feels the next step is necessary. Mr. Haugen stated that understanding is not entirely correct. The first steps that Councilmember Hiller noted are correct, and the supervisor could give unlimited extensions, however usually does not choose to do so. The hearing occurs when the individual fills out a request for a hearing. The

inspector is willing to work with an individual. The hearing is a different thing, where the individual does not feel the information they are being cited for is accurate. The hearing officer can override a decision made by the inspector and the supervisors. The hearing officer can issue an extension.

Councilmember Hiller reframed the question to inquire about authority to give more time. When a case is given to the hearing officer, it is to affirm, modify or reverse a decision for whatever reason. However, when the individual leaves the hearing, they once again have a time frame. Either the original date that was given, or an extension. Mr. Haugen confirmed. Councilmember Hiller inquired that an individual has ten (10) days to request the hearing to contest the citation. Mr. Haugen confirmed and included that the hearing officer is able to provide an extension or keep the original date. However, once the hearing officer gives a date, that date is final and is no longer allowed to be extended by the Property Maintenance staff. Mr. Haugen provided an example where the hearing officer has informed an individual at a hearing that they will be required to appear at the next hearing. This action is essentially providing an extension for the work to be completed within that time frame, prior to Property Maintenance finishing the job. Councilmember Hiller inquired if the current system seems to work. Mr. Haugen stated that he felt it works.

Councilmember Hiller inquired as to the percentage of sanitation cases that are sent to the hearing officer. Mr. Haugen stated that he did not have that number readily available, however noted that there were not many sanitation cases that moved to hearings. The housing violations are usually the cases that move forward. Mr. Haugen stated that having the extra level of a hearing officer, who is also a lawyer, to interpret the situation and make a final decision is a nice checks and balance.

Councilmember Ortiz inquired about sending housing letters out in the winter months and wanted to find out what the date looked like for getting those violations completed. Mr. Haugen stated that the letters that are sent in the winter inform the owner that the inspector has seen the violation and understand that it is winter and that a case will not be opened for 120 days. However, within the 120 days, the expectation is that the owner contact the inspector to set up a plan of action to include a reasonable time frame to come back into code. Mr. Haugen clarified that courtesy letters are sent through February, and that the time frame shortens each month; November is 120 days, December is 90 days, January is 60 days. The ideal situation is to have individuals begin work in the spring. This program has been in place for two years and it has found some success. Mr. Haugen stated that there are some housing cases that will not be given the courtesy letter for things like holes in the walls, missing windows or doors. The paint will be included in the citation, however if the individual speaks to the inspector and address the immediate needs, the inspector will be willing to work with the individual. Mr. Haugen proceeded with the presentation.

Abatements: Councilmember Hiller inquired if photos are taken throughout the process of abatement for documentation purposes. Mr. Haugen confirmed. Mr. Haugen stated there are an average of 10, 000 cases a year and there are around 40 pictures taken at each case, sometimes more with larger cases there are upward of 120 pictures taken. Mr. Haugen proceeded with the presentation.

Bill Owner: Councilmember Hiller inquired if staff time for other departments, such as Forestry, is included in the billing amount. Mr. Haugen stated it is not and provided specific examples where other departments are called in to help. Councilmember Hiller inquired if the workload of the inmate crews and Property Maintenance staff are tracked. Mr. Haugen stated that the inmate crew time is tracked through another division within Neighborhood Relations, however the money to support having the inmate crews is taken from the Property Maintenance budget. Councilmember Hiller would like to have a breakdown of how much is being spent and how much is coming back, as well as where all of those funds are allocated to. Mr. Haugen stated he could provide that information in the future. Mr. Haugen proceeded with the presentation.

Councilmember Padilla inquired about the RPI process and why the sanitation process was chosen to review first. Mr. Haugen stated that by using the RPI process, there were a large number of steps that were able to be eliminated. Sanitation was chosen first because it encompasses many of the steps that are also used in housing, vehicles and graffiti with regard to notifications, with the exception of housing violations going to Municipal Court. Weeds follow a separate process.

Councilmember Hiller brought a question back from the Billing Process and asked Mr. Haugen to explain the process for splitting a bill between collections and taxes, as well as if the sanitation cases are sent to court for prosecution. Mr. Haugen stated that sanitation cases are not sent to court. They are sent for bills. They get split due to how state law is written. The law states something along the lines of fines and fees are not allowed to be put on taxes. However, abatement costs, truck costs, and other things can be put onto taxes. Collections are able to take the rest. If an individual pays the full collections fee, the other is removed. Councilmember Hiller inquired as to the reason for not sending sanitation cases to court. Mr. Haugen stated that sanitation cases are billed because they are not criminal. The fees are doubled with reoccurring cases. Mr. Haugen proceeded with the presentation.

Mr. Haugen showed a video of a warrant being served. Some situations can become intense, however Property Maintenance staff is trained to leave the property and wait for the police to arrive before proceeding if a situation becomes escalated or if an owner tells the staff to get off of their property. Due to these types of occurrences, which happen frequent when warrants are served, the process is held up as inspectors wait for police officers to arrive. Mr. Haugen noted that if police officers are held up on other calls, the wait time is much longer. Mr. Haugen proceeded with the presentation.



Right of Entry: Councilmember Hiller inquired about the ability of an inspector to view through someone's fence, and what is procedure if the items are sheltered, as well as what Mr. Haugen thinks about using drones. Mr. Haugen stated that if items are in the line of site and is documented correctly, it will hold up in court. Councilmember Hiller inquired about past assumptions that anything blocked in by a fence cannot be cited and how accurate that assumption is. Mr. Haugen stated that fences do make it difficult to cite people for violations, and that concealment will always be a problem. Mr. Haugen allows the inspectors to any reasonable tool they are able to in order to move forward. Neighbors will often allow inspectors onto their property to view the offender's property. Councilmember Hiller inquired about the use of a cell phone hoisted onto a selfie stick above a fence line to see over. Mr. Haugen stated that although there is not a law forbidding that, it is not his division's practice to partake in that method. Mr. Haugen identified his height as an attribute to being able to see over most fences. Mr. Haugen stated that drones may be something to discuss in the future, however noted that for the topic of code compliance, there are currently enough cases that are easier to cite without using a drone to capture private property to find more.

Councilmember Hiller noted that exteriors will be covered at a later time, however perhaps using a drone in the future to view roofs may be something to talk about.

Mr. Haugen proceeded with the presentation.

Councilmember Padilla appreciated the presentation and the detail that was included to show the process to how Property Management approaches cases.

Mr. Haugen restated that the program, as it is currently, would not be as successful as it is without the other City departments taking requests for helping seriously. The teamwork component has been strong.

Councilmember Hiller noted she had thought the committee would be reviewing policies and procedures.

Councilmember Ortiz stated she would like for the full Governing Body to receive copies of the presentation.

Mr. Haugen stated that the process for vehicles and graffiti follow the sanitation process, however Weeds are very different. The committee confirmed they would like to hear about weeds during the next meeting. As well as any questions from other councilmembers.

Councilmember Hiller will send Mr. Haugen a list of questions that she would like to be brought back.

Councilmember Ortiz stated she would like to have a copy of the courtesy letter, violation notice, and the door hanger that are sent out. She thanked Mr. Haugen for the information and the work that has been put into all of the processes. Councilmember Ortiz informed City Manager that she would like to have Mr. Haugen go over the presentations at the Governing Body meetings, as she has found them to be very informative and feels the others would appreciate the information as well.

### **Other Items before the Committee**

#### **Adjourn**

Chairwoman Ortiz adjourned the meeting.

Meeting video can be viewed at: <https://youtu.be/RO4fQBW4Ei8>