

## **Governing Body Minutes – February 13, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, February 13, 2018. 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 Michelle De La Isla presided -1.

AFTER THE MEETING was called to order, Councilmember Jensen asked for a moment of silent meditation.

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

BOARD APPOINTMENT recommending the reappointment of Grant Sourk to the Topeka Landmarks Commission for a term ending March 1, 2021, was presented.

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

THE CONSENT AGENDA was presented as follows:

APPROVAL of a Workers' Compensation Settlement in the amount of \$15,000 for Trenton Ginn, former City of Topeka employee, for an injury sustained while engaged in normal work duties was presented.

MINUTES of the regular meeting of February 6, 2018, was presented.

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

APPROVAL of the Governing Body Rules and Procedures was presented.

Brent Trout, City Manager, reported the item was deferred from the meeting of February 6, 2018, at the request of Councilmember Ortiz for the purpose of presenting an amendment for consideration.

Councilmember Ortiz distributed suggested amendments relating to the election of a deputy mayor. She stated no specifics as to “qualifications” are included in the Governing Body Rules as it relates to deputy mayor, and would like it to be based on seniority. She noted if there were two or more who have the same level of seniority, then a vote from among those individuals would occur. She expressed the importance of a fair process by allowing the position to be available to all Governing Body members. The amendments are underlined below:

**Section 4.1 “Chair”**

- (a) Mayor. The mayor, if present, shall preside as chair at all meetings of the governing body.
  
- (b) Deputy Mayor. In the absence of the mayor, the deputy mayor shall preside. The deputy mayor shall be elected in accordance with City Charter Section A2-26. In addition, council members who have served the longest period of time and have not previously served as deputy mayor shall receive preference. If two or more council members have served the same length of time (i.e., have equal seniority) and have never served as deputy mayor, the names of all such members who express an interest in serving as deputy mayor shall be placed on the ballot and be considered for the position during the election process. Thereafter, preference shall be given to council members who have not previously served as deputy mayor in descending order of seniority and to the extent they express an interest in serving in such capacity. In the event the deputy mayor resigns prior to expiration of his or her full (one-year) term, the governing body will apply the same reasoning in selecting a successor.
  
- (c) City Clerk. In the absence of both the mayor and the deputy mayor, the city clerk shall preside until a chair is elected from among the council members present.

Councilmember Ortiz moved to amend the Governing Body Rules and Procedures as distributed. The motion was seconded by Councilmember Coen.

Councilmember Jensen stated he was not comfortable with making procedural decisions for future governing body members.

Councilmember Padilla questioned if past practices regarding election of a deputy mayor has caused difficulty in conducting the business of the Governing Body.

Councilmember Hiller stated the current process has only been followed in the past four to five years as the duties of the deputy mayor have expanded, and tends to be an awkward process at times.

Councilmember Lesser suggested deferring the amendment for one week to review the amendment.

Councilmember Ortiz withdrew the motion to amend. The second concurred.

Councilmember Lesser moved to defer the Governing Body Rules and Procedures for one week. The motion was seconded by Councilmember Jensen.

Lisa Robertson, City Attorney, provided an overview of Topeka Municipal Code Section A2-26(b) as it relates to the election of the deputy mayor.

Councilmember Hiller questioned if the Governing Body should consider amending Topeka Municipal Code Section A2-26 (*Charter Ordinance No. 117*) instead of the Governing Body Rules and Procedures, and if so, would it have to be amended through a public vote.

Councilmember Jensen asked staff to identify the term “preference” as it relates to the voting process.

The motion to defer the Governing Body Rules and Procedures for one week carried unanimously. (10-0-0)

UPDATE on the Citywide Half Cent Sales Tax Program and discussion on reauthorization of the sales tax was presented.

Brent Trout, City Manager, stated the report would provide an update on the Citywide Half Cent Sales Tax Program, its relationship to the overall Pavement Management Program, and reauthorization of the sales tax.

Jason Peek, Public Works Director, reported the current sales tax would expire on October 1, 2019, and was initiated to provide additional funding for street maintenance due to the poor condition of the city streets and associated infrastructure. He highlighted historical data of street maintenance dollars spent from 1997 to 2009 as well as the “completed” and “in process” construction locations for street projects during the Sales Tax Program period. He reported in order to achieve the goal of improving the overall Pavement Condition Index (PCI) rating to 60, city streets require an average annual funding of \$24.4 million for the next 10 years. He noted the current Citywide Half Cent Sales Tax provides 52% of the 2018 Pavement Management Program budget with the remaining funding for the program coming from General Obligation Bonds, Countywide Sales Tax, State/Federal Funds, the Motor Fuel Fund and the General Fund.

Councilmember Ortiz expressed concern with the ballot language and the use of the word “existing” which has created a huge problem specifically where sidewalks, gutters and curbs do not exist and are desperately needed.

Councilmember Hiller referenced the ballot language and reported that improvements to existing street lights have never been budgeted for, or funded through, sales tax dollars.

Councilmember Jensen stated he believes they should extend the number of years as well as increase the sales tax amount so all streets and alleys could be fixed.

Councilmember Clear stated she would like to ensure all funds are not dedicated to just one area of the city.

Councilmember Mays stated the Governing Body must be mindful of the amount of increase that would be tolerated by taxpayers because if the proposed sales tax initiative fails it would put the City in a difficult financial position.

Mayor De La Isla encouraged the Governing Body to continue discussion on the parameters, impact and plan to work with citizens so that they understand what the funding source could potentially provide to the community.

Jason Peek continued discussion on the following policy decisions that need to be made by the Governing Body:

- (1) Whether or not to renew the Citywide Half Cent Sales Tax.
- (2) The amount of the Sales Tax to impose
- (3) The ballot language to be used.
- (4) The overall election cycle.

Councilmember Jensen suggested presenting proposals to increase the sales tax to the public by clearly outlining how much of the funds would provide needed street improvements.

Lisa Robertson, City Attorney, reported the type of tax being proposed could not exceed ten (10) years; the ballot language would have to be confirmed with the Shawnee County Election Commission; and sales tax percentages must be in increments of 0.5% and could not exceed 1%.

Councilmember Lesser asked how the potential of federal funding was going to affect local government projects in 2019.

Brent Trout reported the City would monitor federal funding opportunities, and be prepared to apply for federal grants where applicable.

Jason Peek reported federal funds are generally granted for designated routes that are part of the nation-wide highway system. He stated a large portion of the City of Topeka Pavement Management Program consists of local streets.

Councilmember Hiller stated historically the process has been, and continues to be, complicated. She noted Governing Body members and staff must spend the time to understand what they are facing and determine a proposal to consider while providing a clear explanation for the ballot language in regards to complete rehabilitation of streets including utility infrastructure,

sidewalks, curbs and gutters. She stated she would prefer using cash instead of general obligation bonds to finance projects; however, if general obligation bonds are considered she would like the line item to show what fund the bond payments would be paid from.

Councilmember Emerson requested staff provide the difference in cost per lane-mile between a mill and overlay compared to a complete street improvement.

James Parrish, Future Forward, Inc. spoke in support of continuing the sales tax initiative and noted 30% of the tax dollars generated come from outside the community. He commended the research involved in creating a comprehensive pavement program which could be used to help citizens better understand how sales tax funds are used.

Councilmember Ortiz reminded the Governing Body to keep the ballot language simple and easy to understand for voters.

Councilmember Coen asked how much sales tax was collected over the past ten (10) years. He expressed the importance of focusing on the Pavement Condition Index (PCI) as a guide in drafting ballot language.

Mayor De La Isla thanked Mr. Parrish for his comments and stated she looks forward to further discussion on the matter.

UPDATE on the Building Code Administrative process was presented.

Brent Trout, City Manager, reported staff would present an overview of the City's Development Services Division process and status of the action plan for improvement, followed by an overview of the technical changes of the International Building Code, International Fire Code and Life Safety Code at the February 20, 2018, Governing Body meeting.

Bill Fiander, Planning Director, reported the Planning Department instituted an action plan in 2016 to improve components of the development approval process particularly as it relates to the

Development Services Division. He stated the forthcoming 2015 code updates related to the Building, Fire and Life Safety codes are elements of the overall action plan.

Mayor De La Isla asked what areas are being improved to eliminate delays in the process.

Councilmember Jensen questioned if staff views and tracks plans so there are no delays, and what would need to occur to reduce the process for full construction permits from 42 days to 30 days.

Councilmember Clear asked how the City's timeline of the process compares to other cities.

Councilmember Hiller referenced the technical appeals board process and suggested setting a protocol that the board be convened within seven (7) days upon receiving an appeal. She asked if there has been any reaction from small businesses regarding process updates.

In response, Bill Fiander stated the following:

- The new process has removed many of the obstacles in the building permit stage and early site review process.
- The Development Services Division has been fully staffed to address the shortage issues in inspections and site reviews.
- The 42 day timeline was an average time that includes the applicant's responses which staff has no control over.
- Processes are handled differently in all cities; however, staff could benchmark the information and provide it to the Governing Body.
- The Board of Appeals has the ability to convene as needed.

Brent Trout reported the information has been presented to small business owners with the intent the City would continue to make progress with the processes in place to address many of the issues. He stated he has already seen the communication line improve and issues addressed in a timelier manner.

NOTIFICATION of possible action at the February 20, 2018, meeting regarding suspension of Governing Body Rules to allow reconsideration of the operating time restrictions set out in Ordinance No. 20109 (Aqua Blast Laundry Rezoning).

Brent Trout, City Manager, reported the item has been placed on the agenda to provide notification and information on the possible reconsideration of the operating time restrictions as set out in Ordinance No. 20109.

Lisa Robertson, City Attorney, stated staff would provide the procedural process of what the anticipated action by the Governing Body would be at the February 20, 2018, Governing Body meeting.

Mayor De La Isla commended staff for presenting the issue to the Governing Body and providing advance notice to the public so citizens remain informed while ensuring transparency of the process.

Councilmember Ortiz questioned why the Governing Body would be reconsidering the ordinance.

Lisa Robertson stated Councilmember Lesser would like to reconsider the hours of operation based on the information he has received from the owner.

Councilmember Lesser reported he has been informed by the owner that he would not move forward with the development unless the facility could remain open until 2:00 a.m. in order to make the \$2 million investment feasible. He noted there are currently 24-hour businesses operating in very close proximity to the proposed laundry facility.

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

Brenda Younger, City Clerk, gave a brief overview of the February 20, 2018, Governing Body agenda.

Mayor De La Isla reported the Topeka LULAC Senior Center hosted a Sweetheart Dance February 10, 2018, benefiting the Topeka LULAC Senior Center and area High School



Scholarships. She stated she has received the results of the 2017 Menino Survey of Mayors from Boston University and it has reported that one of the reasons people leave a community directly relates to housing availability. She referenced concerns expressed across the nation relating to sexual assault of individuals placed under arrest, and reported the Topeka Police Department has ethical and administrative policies in place to prohibit this conduct.

Councilmember Hiller commended Topeka Police Chief Bill Cochran on the positive feedback through social media regarding Topeka Police officers. She referenced the property issues of the Sumner School and concerns raised by neighborhood residents. She encouraged the City to establish a stance on the issue and hopes a statement of support could be issued for the rehabilitation of the building.

Councilmember Clear reminded citizens the Community Resource Center is offering assistance with the Franchise Fee Rebate Program application which helps eligible households receive financial assistance for their utility bills. She reported applications are available at the City of Topeka Department of Neighborhood Relations, the Topeka-Shawnee County Public Library, and the Community Resource Center and their website at <https://crcnet.org>. She noted individuals who meet the requirements can come to the CRC CARE Center at Avondale East, 455 SE Golf Park Boulevard, on Wednesdays and Thursdays, from 9:00 a.m. to 3:00 p.m.

Councilmember Emerson stated the East Topeka Learning Center bid closed last week and noted construction should begin this spring. He thanked City staff for organizing the Capital Improvement Plan Bus Tour on February 10, 2018, and stated it was very informative.

Councilmember Padilla expressed appreciation to City staff for organizing the Capital Improvement Plan Bus Tour, and thanked Topeka Fire Chief Craig Duke for his presentation

during the tour. He commended Molly Hadfield, Media Relations Director, for posting the "Council Cap" which summarizes Governing Body meetings on YouTube.

Leslie Hayward and Marty Hillard appeared to speak under public comment.

Councilmember Coen moved to recess into executive session for a period not to exceed 30 minutes for consultation with the City's legal counsel to discuss attorney-client privileged matters related to contract negotiations, as justified by K.S.A. 75-4319(b)(2). To aid the discussion, the following individuals should be present: Governing Body members; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Financial and Administrative Services Director, Nickie Lee; Human Resources Director, Jacque Russell; Senior Assistant City Attorney, Catherine Walter; Budget and Performance Manager, Nick Hawkins; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Padilla carried unanimously.

(10-0-0)

Following a 30 minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Ortiz left the room.

Councilmember Hiller moved to recess into an executive session for a period not to exceed 10 minutes to continue consultation with the City's legal counsel to discuss attorney-client privileged matters related to contract negotiations, as justified by K.S.A. 75-4319(b)(2). To aid the discussion, the following individuals should be present: Governing Body members; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Financial and Administrative Services Director, Nickie Lee; Human Resources Director, Jacque Russell; Senior Assistant City Attorney, Catherine Walter; Budget and Performance Manager, Nick Hawkins; and City

Attorney, Lisa Robertson. The motion seconded by Councilmember Emerson carried unanimously. (9-0-0)

Following a 10 minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Lesser left the room.

Councilmember Coen moved to recess into executive session for a period not to exceed 20 minutes to continue consultation with the City's legal counsel to discuss attorney-client privileged matters related to contract negotiations, as justified by K.S.A. 75-4319(b)(2). To aid the discussion, the following individuals should be present: Governing Body members; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Financial and Administrative Services Director, Nickie Lee; Human Resources Director, Jacque Russell; Senior Assistant City Attorney, Catherine Walter; Budget and Performance Manager, Nick Hawkins; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Jensen carried unanimously. (8-0-0)

Councilmember Lesser entered the room.

Following a 20 minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Emerson moved to recess into executive session for a period not to exceed 15 minutes to discuss confidential employment matters pertaining to nonelected personnel, as justified by K.S.A. 75-4319(b)(1), in order to protect the privacy of those discussed. To aid the discussion, the following individuals should be present: Governing Body members; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; and Human Resources Director, Jacque Russell. The motion seconded by Councilmember Padilla carried unanimously. (9-0-0)

Following a 15 minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:40 p.m.

---

Brenda Younger  
City Clerk