

Governing Body Minutes – April 10, 2018

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, April 10, 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, David Hinkle, Fellowship Bible Church Associate Pastor, provided the invocation.

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

A PRESENTATION on the Downtown Plaza was given by Pat Michaelis, Chairman of Downtown Topeka Foundation, and Kurt Young, Topeka Lodging Association Executive Director.

AN ANNUAL REPORT on the Topeka Tourism Business Improvement District (TBID) Budget & Services for 2019 was distributed by Kurt Young, TBID Advisory Board Chair.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8990 introduced by Councilmember Sylvia Ortiz, granting Jerald Fisher an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 8991 introduced by Councilmember Sandra Clear, approving a special event known as the Sacred Heart-St. Joseph Parish Germanfest 2018 was presented.

MINUTES of the regular meeting of April 3, 2018, was presented.

Councilmember Jensen moved to approve the consent agenda. The motion seconded by Councilmember Clear carried. Councilmember Ortiz did not vote. (9-0-0)

RESOLUTION NO. 8992 introduced by City Manager Brent Trout, regarding an appeal to the Kansas Appellate Courts in the matter of DWAGFYS Manufacturing, Inc., d/b/a The Vapebar Topeka and Puffs ‘N’ Stuff, L.L.C., v. City of Topeka, Kansas, was presented.

Mayor De La Isla reported approval would allow the City Manager to file an appeal with regards to Ordinance No. 20099 passed on December 5, 2017, to make it unlawful to sell, furnish or distribute cigarettes, electronic cigarettes, tobacco products or liquid nicotine to any person under 21 years of age.

Shannon Quinby, Preventing Tobacco Addiction Foundation Eastern Region Director, encouraged the Governing Body to pursue the appeal. She commented on the statistics of adolescent smokers and the long term effects it has on a person’s health.

Councilmember Ortiz asked legal to clarify the appeal process.

Lisa Robertson, City Attorney, reported when the Governing Body passed Ordinance No. 20999 on December 5, 2017, two businesses challenged the City’s use of its home rule power by seeking an injunction in the Shawnee County District Court, and on March 22, 2018, the District Court agreed with the businesses and permanently ordered the City to cease enforcement of the ordinance; therefore, the City would like to appeal the decision to the Kansas Appellate Courts.

Councilmember Jensen asked if there was a possibility the appeal would be considered by the Kansas Supreme Court.

Lisa Robertson stated the appeal would be heard by the Kansas Appellate Court and if transferred, it would be heard by the Kansas Supreme Court; however, the Kansas Supreme Court has no obligation to consider the case.

Councilmember Lesser asked if there were any organizations willing to partner with the City on the appeal.

Lisa Robertson stated once the appeal has been authorized by the Governing Body, staff would reach out to organizations as there are many groups who have expressed interest in assisting the City in the appeal.

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

Councilmember Emerson stated he opposed the ordinance in December because he viewed the issue as a violation of a person's individual rights; however, he will support the appeal because it relates to a home rule issue.

Councilmember Mays stated he would abstain from voting due to a conflict of interest.

The motion to approve the resolution carried. Councilmembers Ortiz and Coen voted "no." Councilmember Mays abstained. (7-2-1)

DISCUSSION related to the Quinton Heights-Steele Neighborhood Plan as an element of the Comprehensive Plan was presented. (CPA17/01)

Bill Fiander, Planning Director, gave a brief overview on the purpose of implementing the neighborhood plan, the public engagement process, the history of the area, the declining health trend of the area from 2000-2014, housing and infrastructure conditions, future land use and target areas. He reported City-SORT funds would remain inside the target areas for infrastructure while City-SORT funds outside the target area (\$379,000) would mostly go towards infrastructure improvements to Shunga Glen Park (bridge, sidewalk, lighting, etc.) plus their top priority amenity (basketball court). He noted federal housing dollars are not permitted within the 100-year flood plain; therefore, the housing rehabilitation will impact the surrounding blocks. He stated in addition to SORT funds, Shawnee County Parks and Recreation recommends another \$35,000 in upgrades to Shunga Glen in 2018-2019 and two play structures

for future funding. He reported staff would present the plan to the Governing Body for approval on April 17, 2018.

James Prout, Quinton Heights-Steele Neighborhood Improvement Association (NIA) President, spoke in support of the plan and its importance to area residents. He commented on the history of the area and how the plan would help revitalize the neighborhood and provide a safe access route for students of Stout Elementary School. He thanked City staff for collaborating with the neighborhood in drafting the plan.

Councilmember Clear questioned the width of the street improvements in the neighborhood. She asked what the standard street width should be for neighborhoods.

Bill Fiander reported it was determined in working with engineering staff and the neighborhood, widening the streets to 22 feet instead of 28 feet would allow for more streets improvements.

Jason Peek, Public Works Director, reported residents expressed concern with a wider street because it could encourage motor vehicles to speed as well as the smaller street fits the character of the neighborhood.

Councilmember Ortiz thanked staff for working with the neighborhood on the plan. She stated she hopes the SORT grants could support neighborhood parks and structures, an essential part of neighborhoods. She commented on Shawnee County Parks and Recreation possibly funding some of the park improvements and encouraged Mr. Prout to contact the County. She spoke in support of the neighborhood plan and asked the Governing Body to approve the plan on April 17, 2018.

Councilmember Lesser asked what the rehabilitation cost breakdown would be for a homeowner versus a landlord as well as the percentage of rental properties versus owner occupancy in the area.

Bill Fiander reported 74.6% of the properties are rental units because there are two large apartment complexes in the area; however, the majority of single-family homes are owner occupied.

Sasha Haehn, Department of Neighborhood Relations Director, stated neighborhoods typically desire to focus on owner occupied homes. She noted there are two different programs, (1) An owner occupied program that would offer up to \$30,000 for interior and exterior improvements; and (2) A rental property program would offer up to \$15,000 for exterior improvements only, with the landlord matching 10% of the funding and their funds being used first.

Councilmember Lesser expressed concern with rental rates increasing once a property has been improved.

Sasha Haehn reported to qualify for the program, a landlord would have to verify the tenant meets the low-income guidelines by Housing and Urban Development (HUD) and maintain the property as an affordable rental as long as the funds remain attached to the property.

DISCUSSION regarding the time at which public comment is received during Governing Body meetings was presented.

Mayor De La Isla stated that she received a request from Governing Body members to consider moving the general public comment portion of the meeting to the beginning of the agenda.

Councilmember Mays expressed concern with citizens having to sit through long meetings in order to make general public comments.

Councilmember Coen reported he discussed the matter with Councilmember Mays as well as community groups have expressed discontent with having to sit through long meetings before

they could make general public comment. He requested general public comment be moved to the beginning of the agenda.

Councilmember Ortiz reported initially general public comment was placed at the end of the agenda to allow people time to get to the meeting after work. She stated she prefers a set time to hear public comment, allowing the Governing Body to conduct City business in an orderly manner. She questioned if the City Clerk could ask people if they would like to speak at the beginning or end of the agenda when they sign up to speak.

Councilmember Hiller suggested as a compromise to conduct general public comment at a set time such as 8:30 p.m. if the Governing Body has not yet reached the end of the agenda.

Councilmember Jensen spoke in support of providing additional opportunities for public comment and suggested the Governing Body conduct a trial run for a couple meetings.

Councilmember Padilla spoke in support of a trial run. He expressed the importance of hearing from constituents and noted the change would make the process more convenient.

Councilmember Lesser concurred with Councilmember Ortiz and noted people need time to get to the meeting after work. He spoke in support of conducting general public comment only one time during the meeting for efficiency. He questioned if they could consider when to conduct public comment based on the number of people signed up to speak at each meeting.

Mayor De La Isla expressed concern with general public comment being moved to the front of the agenda and noted many times staff will connect with people after the meeting to address their concerns. She stated she would support the idea of conducting public comment following their routine break at 8:30 p.m.

Lisa Robertson, City Attorney, stated Governing Body Rules & Procedures 5.3 relating to Agenda Contents only lists what the required contents of the agenda must be, not the order.

Clark Trammell expressed the importance of engaging the public as well as the importance of allowing public comment on each agenda item. He noted most citizens appreciate the opportunity to be engaged in the government process from start to finish.

Mayor De La Isla stated the decision would be based on the consensus of the Governing Body.

Lisa Robertson stated staff would consider discussion points made by Governing Body members and pursue available options.

DISCUSSION of the proposition of levying an additional special purpose retailers' sales tax of .75% in the City of Topeka, for the purpose of paying for certain improvements in the City, pursuant to K.S.A. 12-187, et seq., as amended was presented.

Brent Trout, City Manager, reported the discussion would continue from the meeting of February 13, 2018, and based on the items to consider, staff recommends a 0.75% retailers' sales tax extension.

Jason Peek, Public Works Director, stated the need for the discussion was based on (1) if there was a desire by the Governing Body to extend the sales tax because the proposed Capital Improvement Plan assumes renewal of the sales tax; and (2) the election cycle in regards to when the Governing Body would like to propose the question to voters - November 2018 General Election or conduct a Special Election. He provided an overview of the City of Topeka pavement conditions including the Pavement Condition Index (PCI) goal and budget forecast for 2018-2031. He referenced the proposed ballot language and noted the Governing Body must prioritize between maximum overall pavement conditions and addressing improvements to existing streets.

Governing Body Members questioned if the proposed ballot language addresses infrastructure located under streets, snow removal, pothole repair and improvement of gravel streets.

Jason Peek reported the new ballot question has more flexibility in the language and would include the widening of existing streets; adding items such as sidewalks and street lights to existing streets as well as all associated infrastructure under existing streets; snow removal would be considered a maintenance activity; gravel streets would be maintained as such because the new language would not allow for construction of new streets; and overall pavement condition would include maintenance, patching potholes and replacing concrete panels.

Brent Trout stated the City's main goal would be to improve the existing streets; however, language could be added to provide the flexibility to update any gravel streets if needed.

Councilmember Jensen questioned repair of potholes compared to full depth resurfacing and how the process relates to the overall pavement program. He asked how much of a mill levy increase would be needed to achieve what was being proposed; and how many years would it take to accomplish what was being proposed with normal funding sources.

Jason Peek reported pothole repairs vary depending on the severity; however, in regards to the pavement program staff assesses the overall area to determine if it may be slated for a future improvement project. He stated he would report back to the Governing Body in regards to different funding strategies.

Brent Trout reported the proposed improvements would require an increase of 15 or 16 mills.

Councilmember Hiller spoke in support of an average annual program funding level of \$24.4 million. She commended staff for the progress made to date on repair of potholes and the reimplementation of crack sealing. She suggested identifying a Capital Street Development

Budget to address construction of new streets or major street expansions. She expressed the importance of prioritizing and making sure existing streets are fixed.

Mayor De La Isla expressed the importance of understanding the overall costs compared to the needs in the community, and how as a Governing Body, they need to accomplish the master plan that has already been developed.

Councilmember Emerson spoke in support of extending the current sales tax; however, he cautioned the Governing Body about increasing sales tax to the point people are forced to spend or consume less. He expressed concern with addressing capacity issues for staff and contractors, triggering cost inflation to hire contractors.

Jason Peek asked the Governing Body what additional information they need from staff to continue discussion and determine the purpose of the sales tax, the priority of the sales tax, drafting clear ballot language and an acceptable sales tax rate. He reported the deadline to place the ballot question on the November General Election ballot would be the last Governing Body meeting in July 2018.

Marge Ahrens distributed a handout and asked Governing Body members to further review the tax evaluation policy and analysis and how it affects the social economics of the city.

Clark Trammell questioned the need for more sales tax funding or if there was a need for making operations more efficient among City employees and contractors. He expressed concern with how taxes impact various businesses and the importance of voters understanding the ballot question.

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

Jennifer Goodrich, Assistant City Clerk, gave a brief overview of April 17, 2018 Governing Body agenda.

Brent Trout, City Manager, announced the City of Topeka would host a public input session on the 2019 Operating Budget, April 24, 2018, at 6:00 p.m. at the Law Enforcement Center.

Mayor De La Isla congratulated the honorees of the 2018 Boys and Girls Clubs of Topeka Youth of the Year Award. She encouraged everyone to attend one of the Marat/Sade Washburn University Theatre productions scheduled on April 13, 14, 20, 21 or 22, 2018, at the Andrew J. and Georgia Neese Gray Theatre.

Councilmember Coen commented on the St. Jude Dream Home Giveaway and encouraged everyone to visit <https://stjude.org/give/dream-home/topeka.html> for more information. He also expressed concern with deteriorating street conditions along SW 17th Street from SW MacVicar to the Kansas Turnpike; and SW Huntoon Street from SW Gage Boulevard to the downtown area. He questioned if the projects could be moved up in the Capital Improvement Plan project schedule.

Councilmember Hiller congratulated the graduates of the Topeka Police Department Recruit Class 54. She thanked Alex Wall, Topeka Police Officer, for participating in the Council District 1 Crime Summit on April 7, 2018. She encouraged everyone to participate in the Tulips at Twilight occurring April 6-15, 2018, from 6:00 p.m. to 10:00 p.m. She announced the 2018 Aaron Douglas Art Fair is scheduled for May 4, 2018, from 5:30 p.m. to 10:00 p.m.

Councilmember Clear commented on the positive impact the Topeka Workforce Center is making on the community and thanked staff members for providing her a tour of the facility.

Councilmember Ortiz encouraged residents to participate in the Free Smoke Alarm Program offered through the Topeka Fire Department.

Councilmember Padilla congratulated the 2018 Topeka Police Department Officer Academy graduates. He recognized Topeka Firefighter Jacob Torrez for receiving the Champion of Character Award from the Safe Streets Coalition. He commended Washburn University

Professor Kim Morse and Mayor De La Isla for their continued participation in the MANA de Topeka Hermanitas youth program.

Councilmember Jensen encouraged everyone to participate in ribbon-cutting ceremonies and local community events.

Willard Steinkuehler and Carol Marple appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:16 p.m.

Brenda Younger
City Clerk