

## **Governing Body Minutes – June 12, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, June 12, 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 and Lesser -8. Mayor De La Isla presided -1. Absent: Councilmember Coen -1.

AFTER THE MEETING was called to order Carl Frazier, New Hope & Love Community Church, gave the invocation.

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

A PRESENTATION on the Sustainability Advisory Board Annual Report was presented by Derrick Carpenter, Sustainability Advisory Board member.

Governing Body members expressed their support of continued efforts of sustainability in Topeka and throughout the state of Kansas.

Brent Trout, City Manager, provided a brief overview of the City's progress in working towards the 2020 Sustainability goals set by the Governing Body.

BOARD APPOINTMENT recommending the reappointment of Michael Wilson to the Board of Building and Fire Appeals for a term ending June 1, 2020, was presented.

Councilmember Jensen moved to approve the board appointment. The motion seconded by Councilmember Mays carried unanimously. The Mayor does not vote. (8-0-0)

THE CONSENT AGENDA was presented as follows:

DENIAL of a Tort Claim submitted by Josefina Marmolejo for \$40,000 for damage related to a house fire in November 2007 was presented.

DENIAL of a Tort Claim submitted by attorney Vernon Jarboe, on behalf of Chris Schultz and Schultz Development, L.L.C., for \$116,000 for alleged damages related to water infiltration at 909 and 911 S. Kansas Avenue, was presented.

MINUTES of the regular meeting of June 5, 2018, was presented.

Councilmember Hiller requested to remove item 5B, Denial of a Tort Claim submitted by attorney Vernon Jarboe, on behalf of Chris Schultz and Schultz Development, L.L.C., for \$116,000 for alleged damages related to water infiltration at 909 and 911 S. Kansas Avenue, from the consent agenda for separate discussion. She reported Mr. Schultz was present and would like to comment on the matter.

Governing Body members referenced the packet of information submitted by Mr. Schultz at the beginning of the Governing meeting. They expressed concern with considering the issue separately without providing staff the opportunity to review the documents submitted by Mr. Schultz.

Lisa Robertson, City Attorney, reported she has no objection to allowing Mr. Schultz to speak to the matter, as she believes most of the documents submitted by Mr. Schultz has been reviewed and/or seen by City staff.

The motion to remove the Tort Claim from the consent agenda carried. Councilmembers Clear, Padilla and Lesser voted “no.” (6-3-0)

Mayor De La Isla announced the item would be removed from the consent agenda and added to the Governing Body agenda under Action Items as item 6B.

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

APPROVAL of the 2019 Social Services Grant allocation recommendations in the amount of \$440,273 was presented.

Councilmember Clear, Economic and Community Development Chair, gave the staff report and stated the Committee recommended approval of the 2019 Social Services Grant allocations totaling \$440,273 (\$373,273 in General funds and \$67,000 in Community Development Block Grant funds) with \$41,929 for Emergency Aid Services and \$398,344 for Prevention and Counseling.

Councilmember Clear moved to approve the recommendation of 2019 Social Services Grant allocations totaling \$440,273. The motion was seconded by Councilmember Jensen.

Mayor De La Isla commended the Committee on the process and stated most agencies were satisfied with the overall process.

Councilmember Ortiz reported overall the process was good; however, the Committee will begin discussing the process in August 2018 to determine if there are any changes to the process that may need to be reviewed.

The motion to approve the recommendation of 2019 Social Services Grant allocations totaling \$440,273 carried unanimously. (9-0-0)

DENIAL of a Tort Claim submitted by attorney Vernon Jarboe, on behalf of Chris Schultz and Schultz Development, L.L.C., for \$116,000 for alleged damages related to water infiltration at 909 and 911 S. Kansas Avenue, was presented.

Chris Schultz, claimant, referenced the packet of information he distributed and provided a brief overview of the history regarding water damage to his property. He asked the City to overturn staff's recommendation to deny the claim.

Councilmember Jensen questioned why the packet of information was not submitted with the initial claim.

Councilmember Clear expressed her discomfort in making a decision without being given the opportunity to review what has been submitted in the information packet and discussing it further with the Legal Department.

Councilmember Hiller moved to refer the claim and the packet of information submitted by Chris Schultz to the Legal Department for further review. The motion was seconded by Councilmember Ortiz.

Lisa Robertson, City Attorney, stated staff would hold firm to the recommendation to deny. She reported pursuant to State statute a claim is deemed denied if the municipality fails to approve the claim in its entirety within 120 days of the filing unless the interested parties have reached a settlement before the expiration of period (June 18, 2018). She noted staff could continue to engage in conversations with Mr. Schultz if the claim was denied.

Councilmember Ortiz moved to suspend the Governing Body Rules & Procedures to allow public comment. The motion seconded by Councilmember Emerson carried. Councilmembers Clear and Lesser voted “no.” (7-2-0)

Clark Trammell spoke in support of approving the claim being submitted by Chris Schultz.

Councilmember Clear expressed her confidence in staff and spoke in support of the recommendation to deny.

Councilmember Jensen spoke in support of Staff’s recommendation to deny the claim. He stated he understands the issue continues to be a complex case; however, he believes the City has made every effort to make the situation fair for all involved.

Councilmember Mays expressed his disappointment with only being given six days to consider the claim. He stated he would prefer additional time to review the documents submitted by Mr. Schultz so he can make an informed decision.

Councilmember Hiller spoke in support of calling a Special meeting of the Governing Body to consider the issue before the June 18, 2018, deadline.

Brent Trout, City Manager, suggested the tort claim be considered at the June 16, 2018, Special Meeting of the Governing Body already scheduled to discuss the 2019 Operating Budget.

Councilmember Padilla stated he would support voting on the claim at this time with full confidence in the recommendation made by staff to deny; however, he would also support considering the item on June 16, 2018, to ensure due diligence for those questioning the review process by City staff members.

Councilmember Hiller made a substitute motion to defer the claim until June 16, 2018, to be considered at the Special Meeting of the Governing Body held at the Law Enforcement Center, 320 S. Kansas Avenue, Classroom A, at 9:00 a.m. The motion seconded by Councilmember Ortiz carried. Councilmember Lesser voted “no.” (8-1-0)

DISCUSSION concerning International Property Maintenance Code (IPMC) amendments regarding notice and procedural matters relative to unsafe structures and general IPMC violations was presented.

Mary Feighny, Deputy City Attorney, reported the 2012 IPMC was adopted four years ago and certain adjustments are necessary in the area of notification and process. She stated in order to make the enforcement process more efficient staff recommends changes to service of notice by clarifying the methods of service of notice and reducing the need for publication service. She

reported staff was also recommending separating the handling of general IPMC violations from the unsafe structure violations by creating a new ordinance limited to unsafe structures.

Councilmember Hiller referenced Mothballing homes and noted not every unsafe structure needs to be demolished and should be preserved until restoration could commence. She asked if the ordinance addresses Mothballing structures.

Mary Feighny stated the term “Mothballing” was not included in the language of the ordinance.

Brent Trout, City Manager, stated there was language included in the ordinance that would authorize the City to secure unsafe structures for a period of time. He reported the process of Mothballing would be different and take much more time.

Councilmember Hiller expressed concern with proceeding to quickly on demolishing homes and asked staff to proceed with caution in regards to drafting language.

Joseph Ledbetter stated he concurs with Councilmember Hiller. He cautioned the Governing Body in allowing homes to be demolished to quickly resulting in empty lots throughout the city before infill housing could be secured.

DISCUSSION regarding the renewal and adoption of the Neighborhood Revitalization Program for years 2019-2021 was presented.

Bill Fiander, Planning Department Director, reported the current Neighborhood Revitalization Plan (NRP) would expire on December 31, 2018; and the current NRP boundary was based on the 2011 Topeka Neighborhood Health Map. He reported the following:

- The NRP renewal would update the boundary so that it was in sync with the current 2017 neighborhood health map and the proposed NRP would last through December 31, 2021.
- The health map was updated earlier this year and will be updated in the same year as the NRP going forward.
- The main changes of the proposed 2019 plan include:

- Revise the eligible area to reflect any new “At Risk” areas in the City’s 2017 Neighborhood Health Map;
- Provide a 95%, 10 year rebate to finish out new infill single family dwellings within Drakes Farm, Southern Hills and Cowdin Subdivisions. These subdivisions lie outside the proposed boundary. However, they were initially platted with the intent of using the rebate and approved under previous plans.
- Provide a rebate for properties fronting on Topeka Blvd lying between SW 37<sup>th</sup> and 45<sup>th</sup>. This linear strip ties together the “Intensive Care” Hi-Crest neighborhood to the “At Risk” neighborhood south of 45<sup>th</sup> and includes an important commercial and industrial gateway into the community.

In conclusion, Planning Director Fiander stated the next steps would be to address any comments and begin presenting the Plan to other taxing entities in July and August for their comments; schedule a public hearing with the Governing Body to adopt the Plan in the fall; and submit the Plan to other taxing entities for their approval prior to December 31, 2018.

Mayor De La Isla questioned if the NRP would align with Opportunity Zones and if staff was communicating with developers so they are aware of building opportunities within city limits.

Bill Fiander reported Opportunity Zones are considered larger census track areas; however, these areas could be considered. He stated they are working with developers on the concept with the intent to keep them informed.

Joseph Ledbetter spoke in support of the changes to the NRP and how it addresses the areas of the city that need development the most.

Councilmember Ortiz spoke in support of the program. She stated they need to review and consider implementing infill housing where possible.

Councilmember Emerson spoke in support of the program and the incentives being offered for infill housing.

Councilmember Hiller spoke in support of the program and efforts to begin a marketing plan for infill housing specifically in neighborhoods. She asked how the City’s plan compares to

other plans across the nation.

Bill Fiander stated the City's offers above average incentives compared to other cities.

Councilmember Jensen spoke in support of offering as many incentives as possible to encourage growth in the city.

DISCUSSION of the proposition of levying an additional special purpose retailers' sales tax of 0.75% 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 staff would highlight information on the proposed extension of the sales tax as well as detailed answers to the questions asked at the May 22, 2018, Town Hall meeting.

Jason Peek, Public Works Director, highlighted the following:

- An overview of the successes of the Citywide Half Cent Sales Tax Program 2009-2019
- How the sales tax revenue provided an average annual revenue boost of \$14 million to street maintenance spending
- Summary of the sales tax revenues and expenditures from 2009 through 2017
- An overview of the financial accounting of the sales tax program
- Explained the difference between the Countywide and Citywide Sales Tax Programs
- Procedure used to ensure sales tax funds are used for their intended purpose

Governing Body members commended staff for the presentation outlining detailed information they could provide to constituents.

Councilmember Lesser questioned the actual amount spent on snow removal.

Jason Peek stated the current CIP authorizes up to \$1.5 million to be spent on curb, gutters and snow removal; however, he will report back on the actual dollar amount for each year.

Councilmember Hiller spoke in opposition of using sales tax revenue funds for snow removal. She expressed the importance of allowing sufficient time to educate voters on the ballot question.

Victor Miller, Kansas House District 58 Representative, thanked staff for providing the detailed information. He expressed concern with poor street conditions as a result of poor construction standards. He suggested the City research what other cities spend on street repairs as well as what type of construction standards are being used to improve the street repair process. He requested the voters be provided with a comprehensive review of what was being proposed so they clearly understand the ballot question. He also requested sidewalks be installed from 6<sup>th</sup> to 10<sup>th</sup> streets along SW Macvicar Avenue.

Joseph Ledbetter requested the City conduct more public input sessions on the sales tax question. He distributed handouts regarding funds being expending on streets and spoke in support of maintaining the 0.50% sales tax. He stated he believes the City needs to improve construction standards on street improvements and productivity within the Street Department.

Clark Trammell stated he concurs with Mr. Ledbetter and Mr. Miller. He reminded the Governing Body that what was being proposed was a regressive tax and they must be sensitive with those in effects the most. He believes citizens are taxed out and would only support a 0.50% renewal not an increase of 0.75%.

Councilmember Jensen stated the Governing Body understands the importance of operational efficiencies. He expressed the importance in providing community outreach to determine if citizens support simple street repairs or a complete street program concept as well as how long they are willing to finance the proposed tax.

Councilmember Mays referenced the reinstatement of the Federal Exchange Fund Program and asked if staff projects that these funds would generate additional revenue to the City.

Councilmember Emerson expressed the importance of clarifying to citizens that the proposed 0.25% sales tax increase was intended to fix more existing lane miles, and would not be used to add new lanes, curbs, gutters or sidewalks.

Councilmember Jensen asked the City Attorney to comment on the timeline in regards to submitting the ballot question to the Shawnee County Election Commission for approval.

Lisa Robertson, City Attorney, expressed the importance of allowing enough time to properly educate voters on the sales tax proposal. She stated the ballot language must be submitted to the election authority by August 24, 2018; however, she would recommend no later than August 1, 2018.

Councilmember Hiller referenced earlier discussions pertaining to the proposed sales tax. She stated it was proposed that 0.50% would be used for fixing existing streets as it is now; and the additional 0.25% could be used for widening of streets, new curbs, gutters and sidewalks as well as possibly contributing to utilities underground. She asked staff to confirm that the proposal being considered would be used to fix existing streets only.

Jason Peek stated the program be proposed focuses on fixing streets as this continues to be the will of the Governing Body. He reported staff would continue to utilize other funding sources within the Capital Improvement Plan (CIP) in conjunction with sales tax funds to address additional needs, such as the infill sidewalk program. He noted if the expectation was to add curb, gutters and sidewalks, it would require an additional \$7 million annually.

Brent Trout stated he understands the concerns expressed in regards to the management of funds; however, he has analyzed the current process and he has seen improvements including

bidding projects six weeks earlier than last year; every bid with the exception of one came in under bid estimate indicating projects are being designed proficiently and professionally. He referenced the proposed additional 0.25% in sales tax and noted the increase was minimal (an additional \$0.05 per \$20 spent) in comparison to the revenue that would be generated for the progression of street improvements over the next 10 years.

Councilmember Jensen expressed concern with limiting the use of funds to existing streets.

Councilmember Mays referenced the results of a sales tax proposal survey he distributed to his constituents. He questioned if the 0.75% tax proposal would pass and noted there were many comments that reflect distrust by citizens in regards to use of funds.

Councilmember Ortiz moved to extend the meeting until the agenda was complete. The motion seconded by Councilmember Emerson carried. Councilmember Clear voted “no.”

(8-1-0)

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

Brenda Younger, City Clerk, gave a brief overview of the June 19, 2018, Governing Body agenda.

Brent Trout, City Manager, announced a Special Meeting of the Governing Body would be held on June 16, 2018, at the Law Enforcement Center, 320 S. Kanas Avenue, Classroom A, at 9:00 a.m. to discuss the 2019 City of Topeka Operating Budget and consideration of Denial of a Tort Claim filed by Chris Schultz.

Mayor De La Isla De La Isla provided a verbal report on the 86th Annual Meeting of the United States Conference of Mayors she attended in Boston, Massachusetts, June 8-11, 2018. She reported the City of Topeka continues to be recognized across the nation for inclusion,

innovation and infrastructure and noted other topics discussed at the conference include digital literacy, affordable child care, and Opportunity Zones and how these zones relate to economic development through private/public partnerships. She commended Kansas House District 50 Representative Fred Patton for serving as the Freedom Now USA Program Board Co-Chairman; she thanked those involved in the June 8, 2018, Strengthening Police and Community Event; and she thanked City Staff, Media and citizens for openly addressing the many serious issues in the community.

Councilmember Hiller thanked Mayor De La Isla for her leadership and representing the City of Topeka on a national level. She expressed her appreciation to Public Works, Street and Utility staff members for their work on long-range projects while addressing short-term emergencies; the Neighborhood Relations Department staff for their work on proposed policies and for working with neighborhoods in regards to the “Team Up Clean Up” events; and the Topeka Police Department for their work in addressing recent violent crimes as well as hosting events to strengthen relationships in the community. She referenced the upcoming Public Health and Safety Committee meeting to discuss the camping ordinance and announced she was informed by a Kansas Department of Wildlife Parks and Tourism employee that they are considering implementing a permitting program for people using the Kansas River.

Councilmember Ortiz announced a Public Health and Safety meeting would be held on June 15, 2016, at the Cyrus K. Holliday Building, 620 SE. Madison Street, First Floor Conference Room, at 3:30 p.m. She stated she received several “Gun Stoppers Cash Rewards” at a recent NIA meeting and noted it was a new incentive being offered by the Topeka Police Department to address illegal guns in the community. She commended the Boys & Girls Club for hosting the

first annual “Stand Up 4 Life” event which aims to educate on gun violence. He thanked City Manager Trout for caring and investing in the community.

Councilmember Emerson announced the 104<sup>th</sup> Habitat for Humanity Family Home Dedication on June 18, 2018, at 4:00 p.m. located at 3339 SE Powell Street.

Councilmember Padilla commended Topeka Police Chief Cochran and staff for hosting the Strengthening Police and Community Event displaying an open-minded approach to law enforcement and addressing criticism in a positive manner. He thanked Mike Haugen, Property Maintenance Unit Director, for addressing a long-standing issue in District 5. He expressed his appreciation to the continued efforts of property maintenance staff in dealing with a magnitude of issues throughout the city.

Councilmember Jensen commended everyone involved in the Strengthening Police and Community Event. He reported the eight members of the Special Committee to consider the Traffic and Pedestrian Safety Ordinance referred by the Governing Body on May 8, 2018, have been appointed and include Councilmembers Mike Padilla, Brendan Jensen and Mike Lesser, Topeka Police Officer Lt. Aaron Jones, Topeka Fire Chief Craig Duke, Valeo Chief Executive Officer Bill Persinger, Topeka Rescue Mission Executive Director Barry Feaker and Shawnee County Department of Corrections Director Brian Cole. He encouraged Governing Body members to provide him feedback on the Broadband Initiative which would address (1) the lack of infrastructure in certain areas of Topeka and Shawnee County; and (2) affordable broadband access in the Topeka and Shawnee County area. He offered his thoughts and prayers to those involved in the recent acts of violence over the past weekend.

Chris Schultz and Clark Trammell appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:15 p.m.

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Brenda Younger  
City Clerk