

## **Governing Body Minutes – July 17, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, July 17, 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, Coen, Mays and Lesser -9. Mayor De La Isla presided -1.

AFTER THE MEETING was called to order, Pastor Scott Turner, North Rock Baptist Temple, gave the invocation.

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

A PRESENTATION of the American Public Works Association (APWA) Kansas Project of the Year Award was presented to the City of Topeka for the historic brick restoration project on SW Clay Street between 6<sup>th</sup> and 10<sup>th</sup> Streets, by Brett Letkowski, APWA Kansas Chapter Award Chairman.

A PRESENTATION of the City of Topeka Public Works Department APWA Reaccreditation was presented by Chuck Williams, APWA Region 7 Director.

BOARD APPOINTMENT recommending the appointment of Michael Snowden to the Jayhawk Area Agency on Aging Advisory Council for a term ending July 18, 2021, was presented.

BOARD APPOINTMENT recommending the appointment of Rickquette Cain to the Topeka Housing Authority Board of Commissioners to fill unexpired term and a full term expiring on January 1, 2023, was presented.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9029 introduced Councilmember Karen Hiller, approving a special event known as the Downtown Fight Festival, was presented.

RESOLUTION NO. 9030 introduced by Councilmember Karen Hiller, granting Woodward Striking an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 9031 introduced by Councilmember Sandra Clear approving a special event known as the Classic Movie Nites in NOTO and rescinding Resolution No. 8976 was presented.

MINUTES of the regular meeting of July 10, 2018, was presented.

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

AN ORDINANCE introduced by City Manager Brent Trout, concerning International Property Maintenance Code local amendments regarding notice and procedural matters, amending City of Topeka Code Sections 8.60.070, 8.60.080 and 8.60.110 and repealing original sections was presented.

Brent Trout, City Manager, reported the ordinance was deferred from the meeting of June 19, 2018, to allow time for staff to review the points of concern raised by Councilmember Hiller. He stated staff provided responses in a memorandum distributed to the Governing body on July 16, 2018.

Mary Feighny, Deputy City Attorney, reported Councilmember Hiller has proposed additional questions and concerns to staff including the desire to combine the ordinance into one document. She spoke in support of the ordinance as proposed by staff and recommended the Governing Body approve the ordinance as presented.

Councilmember Ortiz questioned the urgency in approving the ordinance. She expressed concern with the Governing Body not having sufficient time to review the information provided by staff in the memorandum. She referenced the term “personal service” for abatement and expressed concern with the current shortage of code officers and the requirement of staff to personally serve a property owner as well as the importance of legally providing notice to the proper person (the property owner versus the tenant).

Councilmember Jensen questioned if the City works with landlords when addressing property violations.

Brent Trout stated the City works with landlords as needed.

Councilmember Hiller reported she has continued to try and work with staff and resolve the points of concern she presented at the June 19, 2018, Governing Body meeting; however, because she received the responses on July 16, 2018, she has not had adequate time to review the memorandum. She suggested the ordinance be deferred until August 21, 2018, for the purpose of allowing her time to review the answers provided by staff as well as provide sufficient time for staff to address her additional questions and concerns she has submitted to staff for response.

Councilmember Ortiz expressed concern with the elimination of vital neighborhood programs that provide the tools for residents to address overgrown vegetation and the disposal of excessive trash and large items creating code issues for property owners.

Councilmember Jensen expressed the importance of allowing ample time for Governing Body members, staff members and the Topeka Landlord Association to provide input.

Councilmember Jensen moved to defer the ordinance until September 4, 2018, and place the ordinance on the agenda as a discussion item. The motion was seconded by Councilmember Hiller.

Councilmember Lesser expressed the importance of the Governing Body clarifying what they are trying to accomplish; however, he remains concerned with receiving information from staff in a timely manner so they can make informed decisions.

Councilmember Clear spoke in opposition of deferring the ordinance and expressed concern with the Governing Body deferring or delaying agenda items on a routine basis.

The motion to defer the ordinance until September 4, 2018, and place the ordinance on the agenda as a discussion item carried. Councilmember Padilla voted “no.” (9-1-0)

AN ORDINANCE introduced by City Manager Brent Trout, amending Topeka Municipal Code 8.60.100; adding a new section numbered TMC 8.60.085; and creating a new Chapter 8.75 of the Topeka Municipal Code concerning Unsafe Structures was presented.

Councilmember Ortiz moved to defer the ordinance until September 4, 2018, and place the ordinance on the agenda as a discussion item. The motion seconded by Councilmember Jensen carried unanimously. (10-0-0)

RESOLUTION NO. 9032 introduced by City Manager Brent Trout, to submit to the qualified electors of the City of Topeka, Kansas, the proposition of levying an additional special purpose retailers’ sales tax of five-tenths of one percent (0.5%) 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, stated the renewal of the sales tax initiative continues to be vital to the street infrastructure in Topeka and the needs for infrastructure could be best met by levying a 0.75% sales tax as initially proposed by staff and discussed by the Governing Body; however, the overall input of the Governing Body and citizens has not been supportive of that type of an increase in taxes. He stated it have been identified the additional funds generated from

a 0.75% sales tax initiative would allow the City to reach a Pavement Condition Index (PCI) goal of 60 sooner than renewal of the 0.5% sales tax. He reported the resolution being proposed presents a proposition of levying the same sales tax rate of 0.5% that continues to be in effect today to ensure the City continues to make progress in fixing streets. He stated the current three-year process which consists of designing streets in year one, completing utilities in year two, and beginning construction in year three has proven to be a solid method in showing many benefits to the City's pavement improvement program. He noted the City continues to receive good bids under engineer estimates, projects are staying on schedule with minimal change orders, staff continues to work on the process for daily maintenance of streets, and continues to program work including crack sealing and micro-surfacing, all programs that will keep the streets that are in "good" and "fair" condition for a longer period of time. He reported the proposed ballot language was the same language currently used to address existing streets; however, if the Governing Body wants to consider expanding improvement projects to include additional work such as drainage, sidewalk, curb and gutter to be funded with sales tax then staff would recommend approving a 0.75% sales tax initiative.

Councilmember Ortiz and Councilmember Clear stated they would oppose the resolution if the term "existing" remains in the ballot language.

Councilmember Jensen expressed the importance of rebranding the title of the Citywide Sales Tax so it would not be confused with the Countywide Sales Tax.

Gary Yager spoke in support of extending the 0.5% sales tax and stated he has seen improvements in the City's process of fixing the streets.

Joseph Ledbetter distributed handouts. He spoke in support of a 0.5% sales tax extension in conjunction with reviewing improved productivity within the City of Topeka Street Department.

He suggested a portion (\$3 million annually) of the sales tax revenue be used for the deferred maintenance needs for Shawnee County Parks. He noted it will take \$1.6 million annually to maintain parks, which directly affects the quality of life in Topeka.

Teri Roberts spoke in support of extending the 0.5% sales tax. She stated she concurs with Joseph Ledbetter and asked the Governing Body to consider the proposal and discuss it with Shawnee County Commissioners.

Teresa Miller spoke in support of removing the term “existing” from the proposed ballot language. She stated she concurs with Joseph Ledbetter and Teri Roberts and asked the Governing Body to consider their proposal.

Sydney Stone spoke in support of extending the 0.5% sales tax and concurs with the idea of allocating a portion of the sales tax for the purpose of funding deferred maintenance on Shawnee County Parks.

Carol Marple spoke in support of using sales tax funds for deferred maintenance of the Shawnee County Parks and to adequately staff community centers and community swimming pools. She encouraged the City and County to work together and explore all options.

Mayor De La Isla referenced a Community Canvassing Report for Ripley Park she provided to Councilmembers and Shawnee County Commissioner Kevin Cook outlining the request of the area residents. She stated she understands the need to improve parks; however, changing the proposed use of sales tax funds at this point in the process would not support transparency in government.

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

Councilmember Lesser moved to amend the resolution by adding a statement at the end of Section 2 on line 32 to read “for the purpose of this resolution, “Maintenance” shall not include snow removal expenses unless specifically authorized by the Governing Body”. The motion was seconded by Councilmember Emerson.

Councilmember Ortiz reminded the Governing Body to be mindful of presenting a ballot measure that was easy to understand for voters.

Councilmember Hiller spoke in support of the proposal and noted she has received good feedback from citizens on the language of the proposal. She referenced the current sales tax initiative and the desire by the community to continue with the same sales tax rate while the City continues to work on a solid process of repairing the streets. She suggested in 2 to 5 years they consider separating a portion of the sales tax (0.25% sales) to be used for growth and enhancement of various streets. She stated it has been a challenge to limit the sales tax funds; however, it has served the community well in terms of the number of completed street miles. She spoke in support of researching the possibility of levying a separate 0.25% sales tax for the streets only or other Public Works projects that are bonded which in turn would make more funds available overall for the short and long term.

Councilmember Emerson called the question.

The motion to amend the resolution by adding a statement at the end of Section 2 on line 32 to read “for the purpose of this resolution, “Maintenance” shall not include snow removal expenses unless specifically authorized by the Governing Body” carried. Councilmember Ortiz voted “no.” (9-1-0)

Councilmember Ortiz requested the term “existing” be deleted from the ballot question language and requested staff draft language that would encompass construction of new streets, sidewalks, curb and gutters etc.

Councilmember Hiller referenced the importance of understanding the history and the purpose of using the term “existing” in the current ballot language. She expressed concern with staff having sufficient time to draft the appropriate language as requested by Councilmember Ortiz.

Lisa Robertson, City Attorney, stated she concurred with Councilmember Hiller and would like more time to understand the background or the reason for the use of the term “existing.”

Councilmember Mays questioned the definition of the term “existing” in the current ballot language.

Jason Peek, Public Works Director, stated the term “existing” has been defined as replacing what was already there; however, there are other funding sources available to supplement sales tax funds when there is a need for other improvements such as sidewalks, curbs and gutter. He reported the current proposal was presented in a form that would support the goal of the Governing Body to improve overall pavement management of streets.

Councilmember Jensen reminded the Governing Body a change in the ballot language would extend the schedule of improvement projects.

Mayor De La Isla announced there would be a ten-minute recess to allow staff time to draft language as requested by Councilmember Ortiz.

Following a ten-minute time period, the meeting reconvened into open session and the City Manager asked the City Attorney to read the proposed language as drafted.

Lisa Robertson, City attorney, read the following proposed ballot language:



*Shall the City of Topeka levy an additional retailers' sales tax in the amount of five-tenths of one percent (0.5%) to be used exclusively for costs of: (1) maintenance and improvements of existing City Streets, gutters, curbs, sidewalks, alleys and street lighting; (2) widening of existing streets, including the addition of gutters, curbs, sidewalks, and street lighting; and (3) all associated infrastructure within the public right of way necessary for completion of the improvements identified in (1) and (2), provided such tax shall take effect on October 1, 2019, and expire on October 1, 2029?*

Councilmember Clear stated she believes the term "additional" would be confusing to voters as it could be perceived as an additional tax instead of an extension of the current sales tax.

Lisa Robertson stated the word "additional" must be used because the extension would be considered an addition to the base sales tax.

Councilmember Lesser asked Governing Body members to keep in mind the intent of the initial sales tax initiative as it was written for the costs of maintenance and improvements of existing City streets, gutters, curbs etc., was contrary to the City's normal street program where funds are used to build new streets, gutters, curbs etc.

Councilmember Emerson stated he believes Councilmember Clear raises a good point as they do not want voters to be confused with the language.

Councilmember Lesser stated he shares the concerns expressed by Councilmember Clear; however, he believes the majority of voters would understand what has been stated.

Jason Peek stated the current language was crafted to add enhancement of existing streets and it has allowed the City to make good progress on street improvements. He noted the goal of the Governing Body has always been to reach the target PCI. He cautioned the Governing Body against approving more flexible language as it would cause the plan to shift from its original path.

Mayor De La Isla commended Mr. Peek for providing an overall citywide long-term pavement management program and the costs associated with it. She noted the Governing Body

understands the need for an additional 0.25% of sales tax to reach the goal set by the Governing Body in regards to reaching an overall PCI of 70; however, the citizens support an extension of a 0.5% sales tax at this time.

Councilmember Jensen and Councilmember Emerson questioned if the newly proposed ballot language complicates or allows more flexibility for outlined street improvement plans.

Jason Peek stated if the Governing Body plans to approve a 0.5% sales tax as opposed to a 0.75% sales tax then more restrictive language and/or the existing language will be important to achieve the PCI objective without the additional funding.

Councilmember Emerson spoke in support of the prior ballot language to help all involved remain true to the commitment of implementing a Pavement Management Program.

Councilmember Padilla commended staff for holding true to the intent of the original plan to fix the streets. He reported his constituents have expressed their support of continuing with the program to improve the streets as implemented. He spoke in support of the previous ballot language.

Mayor De La Isla expressed the importance of implementing a solid policy with consistent language that will provide clear guidance on how the funds will be used for the next 10 years.

Councilmember Ortiz stated she respects the comments made by Governing Body members; however, her constituents continue to pay a tax and not receive the same benefits as other parts of the city.

Councilmember Hiller reminded Governing Body members representing neighborhoods that are underdeveloped or older that the City sets aside \$1.4 million annually to be targeted in the SORT program to help the neighborhoods that are missing amenities. She referenced the first sales tax initiative and the need to implement programs such as the Sidewalk Program and the

Complete Streets Program to fill funding gaps. She noted it continues to be a slow process; however, it is working and the Governing Body will need to consider all of the options over the next 10 years.

Councilmember Lesser stated fundamentally all areas of the city contribute to the sales tax and pay for different needs throughout the city; therefore, it would be impossible to draft language that would encompass all the needs of each district.

Councilmember Jensen called the question.

Councilmember Ortiz moved to amend the resolution to include the ballot question language as stated by the city attorney. *“Shall the City of Topeka levy an additional retailers’ sales tax in the amount of five-tenths of one percent (0.5%) to be used exclusively for costs of: (1) maintenance and improvements of existing City Streets, gutters, curbs, sidewalks, alleys and street lighting; (2) widening of existing streets, including the addition of gutters, curbs, sidewalks, and street lighting; and (3) all associated infrastructure within the public right of way necessary for completion of the improvements identified in (1) and (2), provided such tax shall take effect on October 1, 2019, and expire on October 1, 2029?”* The motion died due to a lack of a second.

Councilmember Jensen moved to approve the resolution as amended. The motion was seconded by Councilmember Emerson.

Mayor De La Isla asked the City Attorney to read the ballot language as proposed.

City Attorney Robertson stated the proposition to be voted on would appear on the ballot as follows:

*“Shall the City of Topeka levy an additional retailers’ sales tax in the amount of five-tenths of one percent (0.5%) to be used exclusively for costs of maintenance and improvements of existing City streets, gutters, curbs, sidewalks, alleys and street lighting, provided such tax shall take effect on October 1, 2019 and expire on October 1, 2029?”*

The motion to approve the resolution as amended carried. Councilmembers Ortiz and Coen voted “no.” (8-2-0)

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

Brent Trout, City Manager, announced Coffee On Your Corner would be held July 18, 2018, from 10:00 a.m. to 11:00 a.m. at Lori's Short Stop located at 101-A NE Highway 24. He announced the Hands Only CPR video has been viewed over 6,400 times since posted last week with 86% of those views located in Kansas.

Mayor De La Isla requested participation from the community to donate 200 backpacks full of school supplies to students in Puerto Rico and stated people who are interested in donating can contact her office at 785-368-3895 for more information. She commended Evergy and Capital Federal for their \$5 million donation towards the Downtown Plaza. She announced she would participate in the Harvard Bloomberg Leadership Program along with City Manager Brent Trout and Director of Finance and Administrative Services Nickie Lee.

Councilmember Clear congratulated the Topeka Zoo on the birth of baby giraffe Konza. She announced there would be a Free Movie Event at the Oakland Community Center on July 20, 2018, starting at 6:30 p.m.; and the Governing Body would have a team for the Sertoma Great Topeka Duck Race on September 15, 2018.

Councilmember Ortiz offered her assistance to the Mayor in coordinating the donations for Operation Puerto Rico and working in collaboration with local companies to help with shipping costs.

Councilmember Emerson announced the Topeka Golden Giants baseball team is participating in a championship game on July 18, 2018.

Councilmember Padilla thanked all those that attended and supported the 2018 Fiesta Mexicana.

Councilmember Lesser congratulated Steve Bushnell, Seaman High School Head Baseball Coach for being awarded the American Baseball Coaches Association (ABCA) National Coach of the Year award.

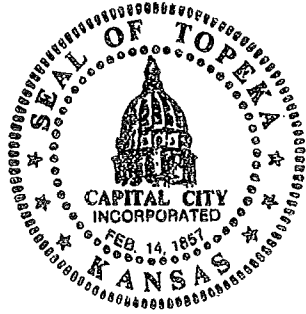
Councilmember Hiller thanked Capital Federal and Evergy for their \$5 million donation to the Downtown Plaza. She commended the City Water Pollution Control staff for their work on the drainage correction improvements at SW 5th Street and SW Clay as well as City staff for coordinating improvement project efforts with utility companies to keep ahead of schedule. She also thanked staff for addressing the rundown building issues and demolition on SW 6th Street.

Councilmember Coen moved to recess into executive session for a time period not to exceed 20 minutes for consultation with the City's legal counsel to discuss attorney-client privileged matters involving a claim against the City and pending issues involving a contractual matter, as justified by K.S.A. 75-4319(b)(2). In order 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; Associate City Attorney, Nick Jefferson and City Attorney, Lisa Robertson. The motion seconded by Councilmember Emerson carried. Councilmember Ortiz did not vote. (9-0-0)

Councilmember Ortiz left 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.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:30 p.m.



*Brenda Younger*  
Brenda Younger  
City Clerk