

## **Governing Body Minutes – August 14, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, August 14, 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 De La Isla presided -1.

AFTER THE MEETING was called to order, Councilmember Ortiz gave the invocation.

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

A PRESENTATION on the 2<sup>nd</sup> Quarter 2018 Financial Report was provided by Nickie Lee, Finance and Administrative Services Director.

A PRESENTATION on the 2<sup>nd</sup> Quarter 2018 Planning and Year To Date (YTD) Development and Growth Management Report was provided by Bill Fiander, Planning Director.

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of August 7, 2018, was presented.

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

ORDINANCE NO. 20130 introduced by City Manager Brent Trout, authorizing and providing for the issuance of \$45,695,000 aggregate principal amount of Combined Utility Revenue Bonds, Series 2018-A, of the City of Topeka, Kansas; making certain covenants and agreements to provide for the payment and security thereof and authorizing certain other documents and actions in connection therewith was presented.

Jeff White, Columbia Capital Title, provided an overview of the process and function of Utility Revenue Bond financing and the importance of the City's positive debt portfolio.

Nickie Lee, Finance and Administrative Services Director, provided a summary of the competitive bid results for the Utility Revenue Bonds.

Councilmember Jensen moved to adopt the ordinance. The motion was seconded by Councilmember Coen.

Councilmember Hiller expressed concern with the City's indebtedness continuing to increase and encouraged staff to work to minimize bonds and borrow as little as possible.

The motion to adopt the ordinance carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -10.

RESOLUTION NO. 9044 introduced by City Manager Brent Trout, prescribing the form and details of and authorizing and directing the sale and delivery of \$45,695,000 aggregate principal amount of Combined Utility Revenue Bonds, Series 2018-A, of the City of Topeka, Kansas, previously authorized by ordinance of the issuer; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith was presented.

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

Councilmember Jensen stated they are working to finance improvement projects as efficiently and effectively as possible to fix the infrastructure crisis while minimizing the burden of taxpayers now and in the future.

The motion to approve the resolution carried unanimously. (10-0-0)

ORDINANCE NO. 20131 introduced by City Manager Brent Trout amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka

Municipal Code, by providing for amendment of the Planned Unit Development Master Plan for the College Hill Redevelopment Subdivision to allow for the construction and operation of a dog park and pet exercise area as an interim use with the underlying PUD land use of eight attached residential townhomes to remain in place for future construction on vacant property located at 1423 SW Lane Street was presented. (PUD06/01C)

Bill Fiander, Planning Director, reported the decision of the Governing Body should be based on the eight “Golden Factors” (Golden v. City of Overland Park) which provides the baseline of how land use zoning cases should be considered. He provided examples of factors that should not play into the decision such as how the property was acquired; who was the developer; who provided public input; and if it falls under a certain taxing district. He encouraged the Governing Body to base their decision on the Golden Factors as well as how it affects the landowner, neighborhood and community at large.

Councilmember Jensen reported the property was not taken by eminent domain and the College Hill apartment complexes are currently at full capacity. He spoke in opposition of the proposed dog park unless the developer would commit in writing to build the townhomes in three years as initially planned for the property.

Councilmember Hiller expressed her appreciation to staff for providing information to assist the Governing Body in making a fair and impartial planning and zoning allowance decision. She stated she has no concerns with the proposed use and support has been expressed by constituents.

Councilmember Lesser stated he believes requiring the developer to commit to a specific timeframe for development was immaterial because the tax base will stay the same over the next three years if the lot remains vacant or only slightly increase if a dog park was constructed.

Mayor De La Isla stated prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered to indicate that even in light of having engaged in this communication they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record which includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

Mayor De La Isla, Councilmembers Hiller, Clear, Ortiz, Emerson, Jensen, Mays, Coen and Lesser declared ex parte communication in the form of emails and conversations with opponents and proponents.

Councilmember Lesser moved to adopt the ordinance. The motion seconded by Councilmember Hiller carried. Councilmember Padilla and Jensen voted “no.” (8-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson, Mays, Coen, Lesser and Mayor De La Isla -8. Noes: Padilla and Jensen -2.

ORDINANCE NO. 20132 introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 412 SW Jackson Street from “I-1” Light Industrial District to “D-1” Downtown District was presented. (Z18/03)

Bill Fiander, Planning Director, reported the change in zoning would provide for the re-use of the existing building for two residential units. He stated no opposition was expressed by surrounding property owners and the Planning Commission recommended approval.

Councilmember Ortiz left the meeting.

Mayor De La Isla stated prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered to indicate that even in light of having engaged in this communication they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record which includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

No ex parte communications were declared by Governing Body members.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Padilla carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -9. Absent: Ortiz -1.

ORDINANCE NO. 20133 introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, approving a major amendment to the Planned Unit Development (PUD) Master Plan for Kanza Education and Science Park to allow the additional use of multiple family residential on Lot 1, Block C and further described as “Area A” all contained on property located at 3001 SW Kanza Drive, was presented. (PUD11/5C)

Bill Fiander, Planning Director, reported the amendment was needed to allow multiple family residential uses within the area which was consistent with the Land Use and Growth Management Plan. He stated the Planning Commission recommended approval.

Mayor De La Isla stated prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or

against, the matter being considered to indicate that even in light of having engaged in this communication they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record which includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

No ex parte communications were declared by Governing Body members.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -9. Absent: Ortiz -1.

ORDINANCE NO. 20134 introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property located at the southwest intersection of SW Kirklawn Road and SW 42<sup>nd</sup> Street from “I-1” Light Industrial District to “PUD” Planned Unit Development District (I-1 use group) was presented. (PUD18/1)

Bill Fiander, Planning Director, reported approval would allow for the construction of three automated storage and retrieval system warehouses “ASRS” in three phases along with truck staging and parking. He noted the Planning Commission recommended approval.

Mayor De La Isla stated prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered to indicate that even in light of having engaged in this communication they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record which includes the Planning Commission

minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

Councilmember Padilla declared ex parte communication in the form of conversations with proponents.

Councilmember Padilla moved to adopt the ordinance. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -9. Absent: Ortiz -1.

FINAL PLAT for Frito Lay Subdivision No. 3 on property lying between and running linearly between SW 42<sup>nd</sup> Street and SW 49<sup>th</sup> Street, approximately halfway between SW Topeka Boulevard and U.S. 75 Highway with the northwest corner lying adjacent with the Kansas Turnpike, all being within the City of Topeka, Shawnee County, Kansas was presented. (P18/13)

Bill Fiander, Planning Director, reported approval would dedicate rights-of-way and easements and would accommodate a two-lot subdivision to provide for the re-alignment of SW 42<sup>nd</sup> Street/SW Wenger Road connecting to SW 49<sup>th</sup> Street as an industrial collector street. He noted the Planning Commission and Planning Department staff recommended approval.

Councilmember Jensen moved to approve the final plat. The motion seconded by Councilmember Padilla carried unanimously. (9-0-0)

APPROVAL of the City of Topeka 2019 Consolidated Annual Action Plan was presented.

Brent Trout, City Manager, reported the Plan was discussed at the August 7, 2018, Governing Body meeting and staff was recommending approval.

Councilmember Jensen moved to approve the 2019 Consolidated Annual Action Plan. The motion seconded by Councilmember Mays carried. Councilmember Coen did not vote. (8-0-0)

ORDINANCE NO. 20135 introduced City Manager Brent Trout, approving and adopting the operating budget for calendar year 2019 and appropriating the amounts for the purpose set forth therein was presented.

Nick Hawkins, Budget and Finance Manager, provided an update on budget process to date and the changes that were incorporated as requested by the Governing Body including amendments approved on July 3, 2018, totaling \$55,000 (an increase of \$50,000 to the Topeka Performing Arts Center and an increase of \$5,000 to the Topeka Youth Employment Program).

Steve Schiffelbein, JUMP member, spoke in support of the City investing in a Housing Trust Fund to address the affordable housing problem in Topeka.

Councilmember Jensen encouraged JUMP to partner with the City to repair homes that are in non-compliance and advocate for the City in regards to the responsibility of landlords. He noted the reallocation of funds for a Housing Trust Fund would require cuts in other essential services or an increase in the mill levy.

Mayor De La Isla expressed concern with creating more homelessness for low-to-moderate income families through forced compliance of landlords. She stressed the importance of understanding the complexity of the problem and creating viable solutions.

Brent Trout, City Manager, reported housing concerns fall under two categories (1) violations outside the home which could be reported and City inspectors could review for action; or (2) violations inside the home which are difficult for the City to enforce due to state laws. He commented on the retaliatory eviction policy and enacting it to protect the inhabitants of the structure; however, he also understands how it may concern tenants if there was a threat of losing their home.

Councilmember Lesser called the question.



Councilmember Jensen moved to adopt the ordinance. The motion was seconded by Councilmember Emerson.

Councilmember Hiller expressed her appreciation to City staff for the budget proposals as presented and the overall process. She referenced the financial report presented earlier in the meeting as well as natural inflation, and noted the City would realistically need to figure out how to absorb \$1 million in the budget in terms of forecasting and preparing for the 2020 budget. She encouraged the Governing Body and staff to watch strategic investments as they progress through the year and determine if those investments will generate economic prosperity for the community as a whole, and if not, it may be time to reconsider some of the investments. She suggested they set discussion topics throughout the year, instead of just at budget time, on certain items such as affordable housing as well as other programming and cost savings as it relates to the budget.

Councilmember Emerson asked the City Manager to provide an explanation of the five additional positions being proposed in the 2019 City Operating Budget as well as the City's plan for proposing an Affordable Housing Trust fund.

Brent Trout reported only one of the five positions, the Fire Department Plans Reviewer, would be considered an "additional" position because it will not be funded with existing funds. He stated he was in the process of revising the language of the Affordable Housing Trust fund ordinance based on Governing Body discussions and when complete, the revised ordinance would be presented to the Governing Body for consideration.

Councilmember Padilla thanked the City Manager and staff for providing detailed information in a professional manner allowing the Governing Body to make sound financial decisions. He noted he looks forward to reviewing the Affordable Housing Trust fund proposal.

The motion to adopt the ordinance carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Emerson, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -9. Absent: Ortiz -1.

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

Brenda Younger, City Clerk, gave a brief overview of the August 21, 2018, Governing Body agenda.

Brent Trout, City Manager, thanked Governing Body members and staff for a successful budget process.

Mayor De La Isla reported staff continues to research the needs of the community before making financial decisions and has a clear understanding of the City's debt to income ratio. She noted the Governing Body continues to evaluate the most effective ways to spend City funds without raising the tax base. She expressed the importance of allowing constituents to express their concerns and provide input on the affordable housing issue. She commented on the National Night Out neighborhood events on August 11, 2018, and the sense of community created. She thanked the Topeka Police and Fire Departments for participating in the neighborhood events. She announced the City has been selected as a recipient of free expert counseling and support on a major improvement project by the Mayors Institute of Design. She stated she has selected the Riverfront Project which will be discussed and evaluated by top professionals around the country to assist the City in moving forward with the project.

Councilmember Emerson commented on National Night Out events and the Back to School Block Party on August 18, 2018, at Ebenezer Baptist Church from 10:00 a.m. to 4:00 p.m. He

thanked Water Department staff for working on the major watermain break at SW 49th Street and Topeka Boulevard and coordinating services for affected businesses.

Councilmember Padilla commented on the National Night Out events which were well attended by the community and thanked law enforcement agencies for their participation in the events.

Councilmember Jensen stated he concurs with Mayor De La Isla on the housing issue and believes private/public partnerships should be created to help solve the problem.

Councilmember Mays commented on the National Night Out events and thanked everyone for their participation in the community.

Councilmember Coen commented on the National Night Out events and the sense of community created when engaging with one another.

Councilmember Lesser thanked City Water Department staff for repairing major waterline breaks in Council District No. 9. He also thanked Topeka Police Chief Cochran for the great work he continues to do within the Police Department and throughout the community resulting in a large private donation to the Topeka Police K-9 Unit.

Councilmember Hiller commented on the National Night Out events; the Back to School Haircut event at New Mount Zion Church; and the dedication of a Sharp Collection Box at the Topeka Police Department. She thanked Water Department staff for their hard work during the peak season of water line breaks.

Councilmember Clear announced the 2018 Harley party sponsoring the Boys and Girls Clubs of Topeka on August 18, 2018, at Vaerus Aviation Forbes Field. She encouraged City staff to invest in a duck to show their support of the Governing Body team at Sertoma's Great Topeka Duck Race on September 15, 2018.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:13 p.m.

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Brenda Younger  
City Clerk