

Governing Body Minutes – October 23, 2018

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, October 23, 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, Padilla, Jensen, Mays, Coen and Lesser -8. Mayor De La Isla presided -1. Absent: Councilmember Emerson -1.

AFTER THE MEETING was called to order, Pastor Pamela Myrtis Hughes Mason, St. John African Methodist Episcopal Church, provided the invocation.

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

AN UPDATE on the Water Distribution System was given by Bob Sample, Utilities Director.

A PRESENTATION on the City of Topeka “Clean Slate Day” was given by Lori Dougherty-Bichsel, Municipal Court Judge.

BOARD APPOINTMENT recommending the reappointment of Marilyn Lind to the City of Topeka ADA Advisory Council for a two-year term ending October 1, 2020, was presented.

BOARD APPOINTMENT recommending the reappointment of Craig Strever to the Board of Mechanical Examiners for a term ending November 1, 2020, was presented.

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

THE CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20146 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period of September 1, 2018, through September 28, 2018 and enumerating said expenditures therein was presented.

MINUTES of the regular meeting of October 9, 2018, was presented.

APPROVAL of Open After Midnight License applications for College Hill Pizza Pub located at 1418 SW Lane Street and Iron Rail Brewing located at 705 S. Kansas Avenue, were presented.

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

ORDINANCE NO. 20147 introduced by City Manager Brent Trout, authorizing initiation of condemnation proceedings to acquire fee title and a permanent easement for construction of the Solider Creek Booster Pump Station Project No. T-281091.00 was presented.

Brent Trout, City Manager, stated approval would authorize the City Attorney to initiate condemnation proceedings in the Shawnee County District Court.

Councilmember Coen moved to adopt the ordinance. The motion seconded by Councilmember Padilla carried. Councilmember Jensen voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Padilla, Mays, Coen, Lesser and Mayor De La Isla -8. Noes: Jensen -1. Absent: Emerson -1.

RESOLUTION NO. 9057 introduced by City Manager Brent Trout, setting the public hearing for Improvement Project No. T-601101.01 to provide street construction for Aquarian Acres Subdivision No. 9 was presented.

Brent Trout, City Manager, stated approval would set a public hearing date of December 4, 2018, for consideration of establishing a benefit district.

Councilmember Jensen moved to approve the resolution. The motion seconded by Councilmember Coen carried unanimously. (9-0-0)

APPROVAL of a three-year labor agreement between the City of Topeka and Teamsters Local No. 696, representing street maintenance employees was presented. (Contract No. 47255)

Councilmember Jensen moved to approve the labor agreement. The motion was seconded by Councilmember Padilla.

Councilmember Coen questioned if sustained growth would be unattainable if they continue to approve increases at the proposed rate.

Brent Trout, City Manager, reported staff reviewed the amounts being proposed and believes there are some concerns that will need to be addressed in out-years; however, in regards to competitive market wages and operational structure it was important for the City to move forward with the approval of the agreement. He stated the labor agreement was funded through the Motor Fuel fund and staff will continue to monitor the fund as it relates to these particular increases.

The motion to approve the labor agreement carried unanimously. (9-0-0)

ORDINANCE NO. 20148 introduced by City Manager Brent Trout, repealing Ordinance No. 20020 which established a Community Improvement District (CID) for the Cyrus Hotel and levied a CID sales tax of one percent (1%) within the CID was presented.

Doug Gerber, Deputy City Manager, reported the Governing Body passed Ordinance No. 20137 which increased the CID sales tax to 2% to commence on January 1, 2019; therefore, Ordinance No. 20020 which established a 1% CID sales tax was no longer necessary.

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

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

A PUBLIC HEARING and ORDINANCE NO. 20149 introduced by City Manager Brent Trout, establishing a neighborhood revitalization area, adopting a neighborhood revitalization

plan (NRP), and authorizing the city manager to execute an interlocal cooperation agreement with other municipalities pursuant to the Neighborhood Revitalization Act, K.S.A. 12-17, 114 et seq., was presented. (Contract No. 47256)

Brent Trout, City Manager, reported the current Neighborhood Revitalization Plan was set to expire on December 31, 2018, and the boundary was based on the recently updated 2017 Neighborhood Health Map. He stated all future NRP renewals should occur every three years in sync with Neighborhood Health Map updates. He noted he received a letter of support from the Greater Topeka Partnership.

Mayor De La Isla opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Upon no one appearing, Mayor De La Isla announced the public hearing was closed.

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, Ortiz, Padilla, Jensen, Mays, Coen, Lesser and Mayor De La Isla -9. Absent: Emerson -1.

ORDINANCE NO. 20150 introduced by City Manager Brent Trout, concerning special use landscape requirements, amending City of Topeka Code Section 18.60.010, 18.225.010, 18.230.030 and 18.235.060 and repealing original sections was presented. (ACZR18/03)

Brent Trout, City Manager, reported approval would amend zoning code related to landscaping and screening standards for new construction.

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

Councilmember Hiller asked if the proposed ordinance addresses standards related to how

Westar Energy trims trees located under utility lines; and if the ordinance addresses standards related to the planting of trees for the purpose of disease resistance.

Bill Fiander, Planning Department Director, reported the proposed ordinance does not change the current process which takes into consideration the type of trees that should be planted in certain areas such as under utility lines. He stated there are also principles included in the ordinance that do not require monoculture landscape plantings.

Councilmember Coen asked if the regulations outlined in the proposed ordinance would add an additional burden to opening a new business.

Councilmember Lesser asked if the proposed ordinance adds more standards to enforce property conditions after development was complete.

Bill Fiander reported the proposed ordinance clarifies language quantifying minimum landscape screening and staff continues to conduct meetings in the beginning stages of development for the purpose of clarify standards with developers and new business owners. He stated staff has begun conducting more periodic inspections of landscape plans that have been approved to ensure standards are being followed and plans are being completed.

Councilmember Jensen commended staff for their work on the proposed ordinance.

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

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

ORDINANCE introduced by City Manager Brent Trout, creating Chapter 18.275 of the Topeka Municipal Code concerning non-residential design standards was presented.

(ACZR18/01)

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

Councilmember Lesser.

Councilmember Hiller commended staff for their work and expressed her appreciation for a clear process that would not create unnecessary difficulties or hardships for developers. She referenced the recent intercity visit to Chattanooga, Tennessee, in regards to public art making a difference in the appearance and character of their downtown. She referenced the nine alternatives outlined in the ordinance which only address parking or landscaping features. She stated she believes art features could be a better alternative for more urban areas and suggested adding additional language to line 110 of the ordinance to insert “art features” with the intent to introduce art as an option or request Planning staff to research language that would add the intent into the ordinance.

Councilmember Hiller moved to adopt the ordinance as written and formally request that staff research and develop language for adding art features as an alternative and discuss suggested language with the Planning Commission. The motion was seconded by Councilmember Jensen.

Councilmember Clear stated she believes it was unnecessary to provide staff directive in a formal motion.

Mayor De La Isla stated she understands the intent of the motion; however, she does not believe it would be fair to direct staff to set standards relating to art features due to its subjectivity.

Councilmember Lesser stated he concurs with Mayor De La Isla.

Councilmember Jensen questioned the approval process for the Washburn University Ichabod Statues placed in various locations around the city.

Brent Trout, City Manager, stated installations of objects in the public right-of-way differ

from approving design standards on private property.

Bill Fiander reported developers have the option to do more than the minimum requirement to enhance the site which may include art; however, inspecting and/or approving art features as an alternative could become a challenge for staff.

Councilmember Hiller expressed concern with some businesses not being able to meet one of the nine alternatives due to their location i.e. urban settings.

Councilmember Mays stated he concurs with Councilmember Hiller and believes “art features” provides a creative option; however, he would prefer the ordinance be remanded back to the Planning Commission with the suggested language amendments to be considered and if approved, the intent of the Governing Body would be clear.

Councilmember Ortiz expressed concern with the motion and spoke in support of remanding the ordinance back to the Planning Commission for consideration with suggested language amendments.

Lisa Robertson, City Attorney, clarified the Governing Body has the option to approve, reject, amend or remand the ordinance back to the Planning Commission.

Councilmember Hiller withdrew the motion to adopt the ordinance as written and formally request that staff research and develop language for adding art features as an alternative and discuss suggested language with the Planning Commission. The second concurred.

Councilmember Jensen withdrew the motion to adopt the ordinance. The second concurred.

Councilmember Jensen moved to remand the ordinance back to the Planning Commission to consider adding language regarding art features. The motion was seconded by Councilmember Ortiz.

Councilmember Lesser spoke in opposition of remanding the ordinance back to the Planning

Commission because he believes that was not the intent of the ordinance and it could be a difficult task for the Planning Commission to accomplish.

The motion to remand the ordinance back to the Planning Commission to consider adding language regarding art features carried unanimously. (9-0-0)

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

Brent Trout, City Manager, announced the next Governing Body meeting would be on November 13, 2018; the Topeka Landlord Expo would occur October 27, 2018, from 9:00 a.m. to 3:00 p.m. at the Ramada Hotel and Convention Center; and the Neighborhood Relations Advisory Council would host a Neighborhood Celebration at Cushionberry Park on October 27, 2018, from 11:00 a.m. to 6:00 p.m. He recognized Nickie Lee, Administrative and Financial Services Director, for her service to Topeka.

Mayor De La Isla thanked Nickie Lee, Administrative and Financial Services Director, for her service to the community. She reported on the Intercity Visit to Chattanooga, Tennessee, and stated she enjoyed the opportunity to interact and share the camaraderie between City staff, the Governing Body and other municipalities. She congratulated Topeka Police Chief Bill Cochran for being awarded for efforts on improving mental health in the community at the Unmasking Stigma: A Hope and Healing Benefit for Valeo Behavioral Health Care.

Councilmember Padilla stated he enjoyed the Intercity Visit to Chattanooga, Tennessee, and noted the event reinforced efforts to make Topeka a better place to live. He stated Mana de Topeka would host a savings program in collaboration with Azura Credit Union at the Law Enforcement Center on October 24, 2018, at 5:45 p.m.

Councilmember Jensen reported on the Intercity Visit to Chattanooga, Tennessee and commented on the information presented regarding the private/public partnership with entrepreneurship businesses.

Councilmember Mays encouraged people to attend the Topeka Pilot hockey games at the Kansas Expocentre.

Councilmember Coen requested reports from those who were able to attend the Intercity Visit to Chattanooga, Tennessee, and the ideas and opportunities they think would best fit the Topeka community.

Councilmember Hiller commented on the intercity visit to Chattanooga, Tennessee, and the topic of broadband in cities and riverfront development. She recognized Nickie Lee, Administrative and Financial Services Director, for her service to the community. She congratulated Councilmember Mike Lesser for receiving the 2018 Kansas Agent of the Year Award by the Kansas Association of Insurance Agents. She referenced an email received from a constituent regarding a recent fire incident in their neighborhood and concerns with vacant homes being secured. She stated she hopes the Governing Body will continue to work with Code Enforcement staff to ensure timely and comprehensive responses to deteriorating properties. She expressed concern with how Shawnee County handles tax sales and encouraged the County to conduct at least one sale twice a year to help with properties that have become a priority and find a better process to expedite property titles. She proposed the Governing Body consider drafting an ordinance that would fine property owners that do not secure vacant properties.

Councilmember Clear commended Nickie Lee, Administrative and Financial Service Director, for her service to the City. She encouraged people to vote in the General Election on November 6, 2018.

Councilmember Ortiz thanked the City Manager for his assistance during Clean Slate Day. She commended Nickie Lee, Administrative and Financial Services Director, for her service to the City.

Greg Inkmann and JW Benning appeared to speak under public comment.

Councilmember Jensen moved to recess into executive session for a period of time not to exceed 15 minutes for consultation with the City's legal counsel to discuss attorney-client privileged matters related to tort claims, as justified by K.S.A. 75-4319(b)(2). In order to aid the discussion, the following individuals should be present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Administrative & Financial Services Director, Nickie Lee; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Coen carried. Councilmember Lesser left the room. (8-0-0)

Councilmember Lesser entered the room.

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 8:35 p.m.

Brenda Younger
City Clerk