

## **Governing Body Minutes – December 4, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 4, 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 and Lesser -8. Mayor De La Isla presided -1. Absent: Councilmember Mays -1.

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

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

A PRESENTATION of the Troy Scroggins Award recognizing Martinez (Marty) Hillard for his service to Topeka in ameliorating discrimination and prejudice and advancing diversity was presented by Mayor De La Isla and the Topeka Human Relations Commission.

BOARD APPOINTMENT recommending the reappointment of Doug Hubbell to the Board of Plumbing Examiners for an unexpired term ending September 1, 2020, was presented.

BOARD APPOINTMENT recommending the appointment of William Naeger to the Topeka Human Relations Commission to fill an unexpired term July 1, 2020, was presented.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of November 20, 2018, was presented.

APPROVAL of the following Cereal Malt Beverage License applications was presented:

<b><u>Business Name</u></b>	<b><u>Address</u></b>
Glory Days	3310 SE 29 <sup>th</sup> Street
Hooters	6100 SW 10 <sup>th</sup> Street
Porubsky's	508 NE Sardou Avenue
Supermart	3000 NW Topeka Boulevard

APPROVAL of the following Dance Hall License applications was presented:

<u>Business Name</u>	<u>Address</u>
Los Charros	4111 SW Gage Center Drive
Skinny's	4016 SW Huntoon Street
Wild Horse Saloon	3249 SW Topeka Boulevard

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

#### PUBLIC HEARING NOTICE

PUBLIC HEARING to consider establishing a benefit improvement district for Street and Stormwater Improvement Project T-601101.01 in Aquarian Acres Subdivision No. 9.

RESOLUTION NO. 9062 introduced by City Manager Brent Trout, authorizing Street Improvement Project No. T-601101.01 to pave streets within Aquarian Acres Subdivision No. 9 as more specifically described herein was presented.

Brent Trout, City Manager, reported the owners of the property in Aquarian Acres Subdivision No. 9 have petitioned the City to establish a benefit improvement district to impose a special assessment on each unit within the district to pay for street improvements.

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

#### PUBLIC HEARING NOTICE

PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2018 Operating Budget was presented.

Brent Trout, City Manager, reported staff has withdrawn the request relating to the Law Enforcement Fund; however, staff will support inclusion of the Information Technology (IT) Fund in the amendments.

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 Ortiz asked the City Manager to comment on the potential projects related to the requested funds for Information Technology.

Brent Trout provided a list of projects that included phone system upgrades at the Law Enforcement Center and mounted computer units in 2019 Topeka Police Department vehicles.

Councilmember Hiller questioned the remaining budgeted authority in the IT Fund.

Brent Trout stated there was approximately 19% left in the IT Fund for budget authority.

ORDINANCE NO. 20155 introduced by City Manager Brent Trout, levying an additional special purpose city retailers' sales tax in the amount of five-tenths of one percent (0.5%) within the City of Topeka effective October 1, 2019, amending City of Topeka Code Section 3.50.010 and repealing original section was presented.

Brent Trout, City Manager, reported on November 6, 2018, the electors voted to continue the half-cent retailers' sales tax for improvements to existing city streets, gutters, curbs, sidewalks, alleys and street lighting. He stated the existing tax will expire October 1, 2019, and State Statute requires the Governing Body to enact an ordinance levying a sales tax that has been approved by the electorate.

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

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

ORDINANCE NO. 20156 introduced by City Manager Brent Trout, relating to designation of street names, more specifically changing the name of NW Cat Court in ADR Industrial Park Subdivision to NW Stina Court was presented. (SNC18/1)

Brent Trout, City Manager, reported approval would change the official name of the street to NW Stina Court and allow the City to install street signs for the new street.

Bill Fiander, Planning Director, reported the subdivision was platted in 2007 with the name NW Cat Court; however, the street was not constructed until recent development in the subdivision.

Councilmember Jensen moved to adopt the ordinance. The motion seconded by Councilmember Hiller carried unanimously. Mayor does not vote. (8-0-0)

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

ORDINANCE NO. 20157 introduced by City Manager Brent Trout, concerning liquid waste hauling, amending City of Topeka Code Sections 13.20.560, 13.20.570, 13.20.600 through 13.20.670, 13.20.830, 13.20.840, 13.20.890, 13.20.900, 13.20.920 and Section 13.20.940 and repealing original sections was presented.

Brent Trout, City Manager, reported the proposed ordinance was discussed at the November 20, 2018, Governing Body meeting and staff recommends approval.

Councilmember Lesser moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. Mayor does not vote. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Clear, Ortiz, Emerson,

Padilla, Jensen, Coen and Lesser -8. Absent: Mays -1.

ORDINANCE NO. 20158 introduced by City Manager Brent Trout, authorizing initiation of condemnation proceedings to acquire temporary and permanent easements for the Arvonias and Winding Road Improvement Project No. T-701014.01 was presented.

Brent Trout, City Manager, reported staff has determined that it will be necessary to acquire temporary and permanent easements from Sam's Club for the realignment of Winding Road.

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

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

ORDINANCE NO. 20159 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 Gage Center to allow an "Automobile Service Station, Type I" at 1301 SW Gage Boulevard, contained on property bounded by SW Huntoon and SW 15<sup>th</sup> Streets and SW Woodhull and SW Gage Boulevard was presented. (Z55/43K)

Bill Fiander, Planning Director, reported the proposed revision would accommodate a new gas station and convenience store, demolition of one-third of the building at 1301 SW Gage Boulevard within the Gage Shopping Center and include eight (8) gas pump islands. He stated staff believes the conditions of the Planned Unit Development Master Plan have adequately addressed concerns of the neighbors who attended the Neighborhood Informational meeting on September 26, 2018. He reported the Topeka Planning Commission and Planning Department recommends 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, must state that the communication occurred and indicate that even in light of having engaged in the communication they were able to fairly, objectively, and impartially consider the measure based only upon the evidence provided on the record. The record 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.

Ex parte communication was declared by Councilmembers Ortiz, Jensen and Lesser.

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

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

UPDATE and possible ACTION on the proposed Camping ordinance was presented.

Councilmember Ortiz, Public Health and Safety Committee Chair, provided an update on the process. She reported there are 48 organizations that want to be a part of the solution as well as they have heard testimony from a number of the homeless. She commended the Topeka Police Department, specifically Sergeant Klemm for efforts in providing identification of the homeless population for the purpose in assisting with social security and health benefits as well as documenting the location of where the homeless person was located.

Councilmember Clear stated the issue continues to require a delicate balance for all people involved. She noted she has enjoyed the process of understanding the situation and getting to know all the people that are affected by the problem.

Councilmember Padilla stated understanding the problem will be critical to finding a solution, learning the perspective of a homeless person and how it relates to freedom of choice as well as providing safety for them.

Councilmember Lesser commended Councilmember Ortiz for her leadership in organizing and understanding the situation and people involved with the subject matter. He stated it will be important to help constituents understand how the process will progress as a whole as well as the wellbeing of the homeless.

Councilmember Ortiz thanked Topeka Police Chief Bill Cochran for creating the Outreach Team and the work they continue to do to help with the issue.

UPDATE and possible ACTION on the proposed traffic and pedestrian safety ordinance was presented.

Councilmember Jensen, Special Committee Chair, expressed his appreciation for the collaboration of City government and community partners with the goal of helping people. He stated the Committee would wait until the Public Health and Safety Committee has finished their work on the Camping ordinance and then consolidate efforts and solutions.

Teresa Miller expressed concern with excessive panhandling relating to traffic safety, NW 25<sup>th</sup> and NW Rochester continue to create safety issues.

Councilmember Hiller expressed her appreciation to both Committees for working to assist people with helping themselves by truly researching the root cause of the problem.

UPDATE and possible ACTION on examination of similar underlying issues associated with the Camping and Traffic Pedestrian Safety ordinances, including the five non-Governing Body members who have been appointed to serve as members of such Committee was presented.

Brent Trout, City Manager, stated there would be nothing to report until both Committees

have completed their work on their respective ordinances.

Teresa Miller expressed concern with the people living in vehicles, creating safety issues in neighborhoods and the lack of authority Community Officers have in addressing the issues.

DISCUSSION related to the ordinance establishing a service fee levy for 2019 relating to the Capital City Downtown Business Improvement District (BID) was presented.

Vince Frye, Downtown Topeka Inc., Chief Executive Officer reported the BID Board recommends combining Tiers 1 and 2 and increasing the rate per square foot of occupied space to \$0.0905 and \$0.04525 per square foot of unoccupied space for 2019.

Tier 1: Up to 999 square feet, the fee is \$60; over 1000 square feet, the rate is .0805 per square foot; with a cap of \$15,000

Tier 2: Up to 999 square feet, the fee is \$60; over 1000 square feet, the rate is .0605 per square foot; with a cap of \$15,000

Tier 3: Up to 999 square feet, the fee is \$60; over 1000 square feet, the rate is .0405 per square foot; with a cap of \$15,000

Additionally, vacant structures would pay as follows:

- \$.0405 per square foot in Tier 1
- \$.0305 per square foot in Tier 2
- \$.0205 per square foot in Tier 3

Councilmember Jensen questioned cleanup efforts and asked if DTI plans to assess empty buildings at the full rate.

Councilmember Ortiz commended Vince Frye and his staff for organizing great events in the downtown area.

Councilmember Emerson asked if State of Kansas properties contribute to the BID Fund.

Councilmember Lesser stated he concurs with Councilmember Jensen and believes DTI should consider charging empty buildings at full price.

Councilmember Hiller noted as buildings become occupied the funds will increase. She



inquired if private owners renting and/or leasing State-owned buildings are generating property taxes.

Vince Frye stated cleanup efforts are done throughout the main corridor, alleys and west of Topeka Boulevard; the State of Kansas does not contribute to the fund as well as not-for-profit agencies and residential properties.

DISCUSSION related to the ordinance establishing a service fee for 2019 relating to the Topeka Tourism Business Improvement District (TBID) was presented.

Kurt Young, Topeka TBID Advisory Board Chair, reported approval of the ordinance would continue the current service fees for the Topeka TBID of \$1 per paid occupied room night on hotel room rentals. He commended the City of Topeka Finance Department for their assistance in helping to establish the process and noted hotels are becoming familiar with the process and overall administration of the program continues to run well. He reported the funds generated by the fee would be used for (1) funding for design and construction of the downtown plaza – 75% completed with design plans; (2) refund Visit Topeka Inc., for the cost of hiring legal counsel for the purpose of establishing the TBID; and (3) funding of the administration of the TBID fees for the Topeka Lodging Association.

Councilmember Hiller commended Kurt Young for his work on the process and implementation of the fee and the success of the downtown plaza to date.

DISCUSSION regarding Topeka Metro Transit Authority's request to amend the charter ordinance and increase TMTA's mill levy was presented.

Jim Ogle, TMTA Board, spoke in support of the services provided by TMTA and asked the Governing Body to support the request for a mill levy increase.

Susan Duffy, TMTA General Manager, requested a mill levy increase to become effective

January 2020 to support current and future operations. She reported the mill levy funding for TMTA would have been static for 10 years as of January 2020; TMTA has aggressively pursued operational efficiencies, grant funding and partnerships to maximize services delivered within constrained financial resources and the limit has been reached. She stated without additional funding, significant staff and service reductions would be necessary beginning in 2019. She provided an overview of TMTA financials, history of service, ridership, fiscal efficiencies and savings. In conclusion, she provided highlights of 2019 Long Range Transit Plan including investment priorities, adding new routes and Sunday service. She suggested the following transformational funding options:

1. Option No. 1 – Do Nothing – service on streets will be reduced beginning in 2019; remove one hour of evening service, reduce peak service, eliminate one North Topeka route on Saturday.
2. Option No. 2 – City Owns Buses – City of Topeka purchases the buses through CIP funding or bonds. Metro funding is focused on operating costs to maintain existing service and meet Long Range Transit priorities.
3. Option No. 3 – Add One Mill to Property Tax funding for the Metro – Metro funding is focused on purchasing new buses, to maintain existing service and to meet Long Range Transit priorities.

Mayor De La Isla commended TMTA for their contributions to the community.

Councilmember Jensen asked how electric buses would affect the long-range plan.

Jim Ogle stated federal funding would cover approximately 80% of the cost of electric buses as well as the upgrades would allow TMTA to use the maintenance fees that are required of diesel for other services.

Councilmember Ortiz asked if the funding formula is based on services provided.

Susan Duffy reported it continues to remain difficult to be awarded federal funding; however, TMTA continues to work to change the dynamics of funding sources and recently received

competitive grant funds. She noted State funding appropriations remain flat.

Councilmember Clear asked how the mill levy increase would affect taxpayers.

Susan Duffy reported the increased mill levy would cost an additional \$11 on a \$100,000 home.

Councilmember Emerson commended TMTA for the services they provide to the community; however, he expressed concern with increasing taxes for citizens.

Jim Ogle stated he recognizes the difficulty of the request to increase the mill levy; however, they believe the level of value is an investment back into the community.

Mayor De La Isla stated the increase will provide an opportunity for individuals to have access to resources that are needed in order for them to give back to the community and be productive citizens. She noted the public investment could possibly generate private investment and provide transportation services that have been requested for many years in the community.

Councilmember Hiller commended TMTA for the services they provide; however, there continues to be a need to keep moving toward assisting young adults with transportation for employment. She asked how the new services will contribute to the long-range plan as well as the bike-share program. She also asked if the Governing Body should include efforts for increased funding in their 2019 Legislative Agenda.

Susan Duffy stated they initially invested \$225,000 in the bike-share program; new staff including a route and bus stop planner, marketing staff member, bus operators and right-of-way agenda which are crucial to a successful program. She noted it would be worth including the increased funding efforts for TMTA in the City's 2019 Legislative Agenda.

Jim Ogle stated TMTA continues to balance all programs and believes a good operational plan is currently in place and they continue to find ways to be efficient with funds.

Councilmember Hiller questioned how the mill levy increase would affect the City's property tax lid as regulated by the State.

Brent Trout, City Manager, stated staff recommends the charter ordinance be amended to require a tax in a specific amount so the City could exclude TMTA's revenues and expenses when determining the City's aggregate limit for property taxes; however, staff makes no recommendation regarding TMTA's request to increase the mill levy from 4.2 to 5.2.

Councilmember Clear asked how long the mill levy increase would sustain TMTA.

Susan Duffy stated the increase should sustain TMTA for a very long time.

Councilmember Jensen thanked TMTA for the information and providing them sufficient time to make an informed decision regarding a possible mill levy increase.

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

Brenda Younger, City Clerk, gave a brief overview of the December 11, 2018, Governing Body agenda.

Brent Trout, City Manager, announced Department Directors and staff as well as himself and Deputy City Manager Doug Gerber, would be attending Rapid Improvement Process training on December 5-7, 2018. He noted the training would provide the tools needed to remove waste from work processes.

Mayor De La Isla thanked the Topeka Police Department for their assistance during the Miracle on Kansas Avenue Christmas Parade on November 24, 2018. She announced the grand opening of the Iron Rail Brewing Company located along S. Kansas Avenue.

Councilmember Hiller commended the Topeka Police Department for implementing the Homeless ID Program. She announced various events throughout the community occurring during the month of December.

Councilmember Ortiz thanked the Public Health and Safety Committee and City staff for their insight and commitment during the review of the Camping ordinance. She thanked Street Department staff for clearing streets during the recent snow event. She commented on the many great events happening in the downtown area.

Councilmember Emerson commented on the many great events happening in downtown Topeka and encouraged everyone to support local events.

Councilmember Padilla commented on the many great events happening in downtown Topeka and surrounding areas. He commended TPAC for increased efforts in reaching out to the community. He thanked Councilmember Ortiz for her leadership and professionalism at the Public Health and Safety Committee meeting on November 30, 2018. He encouraged people to think about those in need during the holidays.

Councilmember Jensen welcomed the Iron Rail Brewing Company to the downtown area. He commended Street Department staff for their work during the recent snow event.

Brian Brewer and Teresa Miller appeared to speak under public comment.

Councilmember Coen moved to recess into executive session for a period of time not to exceed 10 minutes to discuss attorney-client privileged matters related to worker's compensation, as justified by K.S.A. 75-4319(b)(2). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Interim Administrative and Financial Services Director, Nick Hawkins; Human Resources Director, Jacque Russell; Risk Manager, Shannon Langston; and

City Attorney, Lisa Robertson. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

Following a 10-minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Coen moved to recess into executive session for a period of time not to exceed 5 minutes to continue discussion of attorney-client privileged matters related to worker's compensation, as justified by K.S.A. 75-4319(b)(2). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Interim Administrative and Financial Services Director, Nick Hawkins; Human Resources Director, Jacque Russell; Risk Manager, Shannon Langston; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

Following a 5-minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Jensen moved to recess into executive session for a period of time not to exceed 15 minutes to discuss the acquisition of real property necessary for utility infrastructure, as justified by K.S.A. 75-4319(b)(6). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Interim Administrative and Financial Services Director, Nick Hawkins; Utilities Director, Bob Sample; Water Pollution Control General Manager, Sylvia Davis; Right-of-Way Agent, Tom Allen; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Lesser carried unanimously. (9-0-0)

Following a 15-minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Emerson moved to recess into executive session for a period of time not to exceed 10 minutes to continue discussion of the acquisition of real property necessary for utility infrastructure, as justified by K.S.A. 75-4319(b)(6). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; Deputy City Manager, Doug Gerber; Interim Administrative and Financial Services Director, Nick Hawkins; Utilities Director, Bob Sample; Water Pollution Control General Manager, Sylvia Davis; Right-of-Way Agent, Tom Allen; and City Attorney, Lisa Robertson. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

Following a 10-minute time period, the Governing Body reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Ortiz moved to extend the meeting past 10:00 p.m. The motion seconded by Councilmember Emerson carried unanimously. (9-0-0)

Councilmember Emerson moved to recess into executive session for a period of time not to exceed 15 minutes to discuss confidential employment matters pertaining to nonelected personnel, as justified by K.S.A. 75-4319(b)(1), in order to protect the privacy of those discussed. To aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout and Human Resources Director, Jacque Russell. The motion seconded by Councilmember Coen carried unanimously. (9-0-0)

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 9:50 p.m.

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Brenda Younger  
City Clerk