

## **Governing Body Minutes – December 11, 2018**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 11, 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, Emerson, Padilla, Jensen, Mays, Coen and Lesser -8. Mayor De La Isla presided -1. Absent: Councilmember Ortiz -1.

AFTER THE MEETING was called to order, Austin Harris, Topeka First United Methodist Church, provided the invocation.

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

A PRESENTATION on the Topeka Housing Authority Organizational Structure and Programs was presented by Trey George, Topeka Housing Authority, Inc., Executive Director.

BOARD APPOINTMENT recommending the reappointment of Steve Mohan to the Board of Building and Fire Appeals for a term ending January 1, 2021, was presented.

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

BOARD APPOINTMENT recommending the appointment of Todd Workman to the Topeka-Shawnee County Riverfront Authority Board to fill an unexpired term ending July 2, 2021, was presented.

BOARD APPOINTMENT recommending the appointment of Brad Loveless to the Topeka-Shawnee County Riverfront Authority Board to fill an expiring term ending December 11, 2021, was presented.

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

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of December 4, 2018, was presented.

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

<u>Business Name</u>	<u>Address</u>
Chuck E Cheese	2215 SW Wanamaker Road
Dickey's Barbecue Pit	609 NW US Highway 24
Glory Days Pizza Fleming Place	1033 SW Gage Boulevard
Great Life North	350 NE US Highway 24
Lupita's	732 S Kansas Avenue

APPROVAL of the following Dance Hall License applications was presented:

<u>Business Name</u>	<u>Address</u>
Flamingo Bar & Grill	2335 NW Clay
Midwest Elks Lodge #1441	1316 SE Madison Street
Lazy Toad	5331 SW 22 <sup>nd</sup> Place # 2
The Foundry	400 SW 33 <sup>rd</sup> Street

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

ORDINANCE NO. 20160 introduced by City Manager Brent Trout, amending City of Topeka Code Section 3.40.030 establishing a service fee levy for 2019 relating to the Capital City Downtown Business Improvement District and specifically repealing said original section was presented.

Brent Trout, City Manager, reported approval would continue the imposition of business improvement service fees on businesses located within the Capital City Downtown Business Improvement District and staff was recommending approval.

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

ORDINANCE NO. 20161 introduced by City Manager Brent Trout, amending City of

Topeka Code Section 3.65.035 establishing a service fee levy for 2019 relating to the Topeka Tourism Business Improvement District and specifically repealing said original section was presented.

Brent Trout, City Manager, reported approval would continue the imposition of business improvement service fees on hotels located within the business improvement district and staff was recommending approval.

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.

RESOLUTION NO. 9063 introduced by Deputy Mayor Brendan Jensen cancelling Governing Body meetings for calendar year 2019, was presented.

Councilmember Jensen reported approval would cancel the meetings scheduled on January 1, 2019 (New Year's Day), August 6, 2019 (Primary Elections) and November 5, 2019 (General Elections).

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

ORDINANCE NO. 20162 introduced by City Manager Brent Trout, approving and adopting certain amendments to the operating budget for the City of Topeka for the year 2018, and appropriating the amounts for the purpose as set forth therein was presented.

Brent Trout, City Manager, reported the Law Enforcement Center funding request has been removed from the proposed 2018 budget amendments as requested by the Governing Body.

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

Councilmember Hiller moved to delete the IT funding line item. She stated Police vehicles have not yet been purchased and she does not believe it would be good policy to add a large amount of funding at the end of the year which in effect adds funding authority to the IT Department budget next year. The motion was seconded by Councilmember Emerson.

Mayor De La Isla stated the actual funding amounts were not listed in the ordinance; however, the amounts are listed in the budget certificate, an attachment to the ordinance.

Councilmember Hiller revised the language of her motion to state, "Amend the budget certificate by deleting the IT funding line item." The second concurred.

Councilmember Coen asked for further explanation of the proposed amendment.

Councilmember Hiller stated the budget certificate, an attachment to the ordinance, lists the four (4) proposed funding amendments which would be approved by reference if the ordinance was passed by the Governing Body. She reported the budget certificate listed the IT funding line item in the amount of \$300,000 for the purpose of potential expenses that may cause the budget to exceed adopted expenditure authority.

Brent Trout spoke in support of approving the contingency funding request in the amount of \$300,000 in anticipation of staff being able to complete the work by the end of the year.

Councilmember Emerson asked how much remains in the IT Fund to date and if the fund request would cause operational deficiencies if not approved.

Nick Hawkins, Interim Administrative and Financial Services Director, reported 16% of the IT Departmental budget remains. He stated denial of funds would not cause operational deficiencies; however, the requested amount, if not spent, would be carried over and used as a

contingency fund in 2020 and years beyond, a similar practice used by other departments.

Doug Gerber, Deputy City Manager, stated the IT fund balance was approximately \$400,000.

Councilmember Emerson expressed concern with doubling the IT Department fund balance and creating an incentive to buy items that are not needed. He asked if there was an advantage to purchasing the equipment prior to the end of the year.

Brent Trout stated that he was not aware of any discounts or advantages the City would receive if the equipment was purchased prior to the end of the year.

Discussion continued and concerns were expressed by Governing Body members in regards to increasing the IT Departmental budget authority unnecessarily as well as the IT Departmental Budget for out years.

The motion to amend the ordinance, by deleting the IT Fund budget line item from the budget certificate incorporated by reference in the ordinance, carried. Councilmembers Clear, Jensen and Coen voted “no.” (6-3-0)

The motion to adopt the ordinance as amended 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.

DISCUSSION regarding the renaming of the Planning Department and establishing a policy to waive certain types of building permits was presented.

Bill Fiander, Planning Director, reported the proposed ordinance would rename the Planning Department to align with one of its core functions which has included the Development Service Division since July 2016. He stated the ordinance would also authorize the Planning and Development Department to establish a fee waiver policy approved by the City Manager for

building permits related to certain humanitarian purposes such as emergencies, affordable housing and charitable housing.

Janice Watkins, Topeka Habitat for Humanity Executive Director, spoke in support of developing a policy that would waive certain building permits which would be beneficial to not-for-profit housing providers.

Councilmember Lesser spoke in support of the policy and suggested narrowing down the language to only include 501c(3) organizations.

Councilmember Clear noted that not all builders are 501c(3) organizations.

Bill Fiander clarified the language would include “charitable housing” as all labor and materials would be counted as donations.

Councilmember Hiller stated she believes the policy should be included in the ordinance and cautioned staff to frame the language to include all necessary criteria for all types of housing waivers.

Councilmember Emerson stated he concurs with Councilmember Hiller. He expressed concern with authorizing a policy that has not yet been established. He questioned the amount of waivers that would be granted each year by the City.

Bill Fiander stated the estimated amount was approximately \$600 on average for permits with a possibility of three to five exceptions granted annually. He noted the intent was to offer a narrow focus on situations that would fit the criteria specified in the policy.

Councilmember Mays questioned if the language would include natural disaster situations.

Bill Fiander stated unexpected situations such as natural disasters could be included in the policy.

Mayor De La Isla stated the consensus of the Governing Body seems to be to continue

collaboration with providing housing assistance and continue discussion with staff on drafting a policy.

Brent Trout encouraged the Governing Body to provide any additional information and/or comments to him for consideration.

DISCUSSION of proposed revisions to Governing Body Rules and Procedures was presented.

Brent Trout, City Manager, stated the recommendations are being presented to the Governing Body for input and consideration.

Lisa Robertson, City Attorney, reported staff has conducted its annual review of the Governing Body Rules and Procedures along with input from Governing Body members. She highlighted recommended changes to the following Rules:

- Section 2.2 “Quorum; Voting”
- Section 4.3 “Preservation of Order”
- Section 5.1 “Preparation and Circulation”

Councilmember Jensen asked for additional clarification of emergency meetings.

Councilmember Hiller requested staff clarify language for Rule 5.1 in regards to preliminary agendas versus final agendas and support documentation. She specifically referenced how not having all final documentation attached to preliminary agenda action items affects her overall decision making process on agenda items.

Brent Trout expressed concern that requiring final documentation on preliminary agenda items may delay the approval of items. He reported when feasible final documentation was attached to preliminary agenda items.

Discussion continued on the following rules:

- Section 5.2 “Addition and Removal of Items from the Agenda”
- Section 5.5 “Opportunities to Present Information or Make Public Comment”

Councilmember Coen asked if Public Comment could be reinstated at the beginning of the meetings.

Councilmember Emerson asked Legal to research the possibility of conducting public hearings or allowing public comment on zoning cases to the Governing Body at a municipal level.

Councilmember Jensen questioned the need to place a time limit on presentations and suggested an option for the Governing Body to extend public comment if necessary.

Councilmember Hiller questioned the need to place a time limit on presentations as well as general public comment. She stated she would prefer to keep the presentation process fluid.

Brent Trout stated the proposed amendment allows him to determine the appropriate time limit for presentations; however, lengthy presentations could be listed on an agenda as a non-action discussion item.

Councilmember Jensen spoke in support of public comment at the beginning and end of governing body meetings.

Councilmember Clear spoke in support of keeping public comment at four (4) minutes and voting to extend time if needed.

Councilmember Lesser spoke in support of the proposed eight (8) minute time limit for Presentations; as well as enforcing a set time limit for Public Comment because it was not fair to the individuals that prepare their comments and remain within the allotted time.

Councilmember Emerson stated he concurs with Councilmember Clear. He spoke in support of Public Comment occurring at the beginning and end of a Governing Body meeting.

Councilmember Padilla spoke in support of Public Comment occurring at the beginning and end of Governing Body meetings. He also stated he concurs with Councilmember Lesser regarding Public Comment; however, he would prefer to only allow one extension of time.

Mayor De La Isla stated she would prefer to limit the number of people to five for Public Comment at the beginning of the meeting for the sake of decorum and conducting business.

Councilmember Mays suggested allowing up to 1-hour of public comment at the beginning of the meeting possibly allowing 10 people to speak for six (6) minutes each with no extensions.

Councilmember Clear suggested allowing five people to speak under public comment at the beginning of the meeting for three (3) minutes each with no extensions.

Councilmember Hiller stated she believes people should have the option to sign up to speak at special meetings in the same manner as regular meetings, one-hour prior to the meeting start time.

Councilmember Jensen suggested offering an online sign up option for Public Comment.

Lisa Robertson clarified suggestions made by the Governing Body include:

- (1) Public Comment be allowed at the beginning and end of the meeting
- (2) Limiting the number of slots for public comment speakers at the beginning of the meeting
- (3) Setting a time limit for each public comment speaker
- (4) Allowing a person to speak one time under public comment during the same meeting

Discussion continued on the following rules:

- Section 5.6 “Adjournment”
- Section 6.1 “Questions on Agenda Items”
- Section 6.2 “Motions”
- Section 7.2 “Input from the Governing Body”

Councilmember Clear stated she would prefer to ask questions in an open meeting setting for transparency purposes.

Brent Trout stated the protocol would not preclude a Governing Body member from asking questions at a Governing Body meeting; however, by asking questions ahead of time it allows staff to be better prepared at the Governing Body meeting.

Councilmember Hiller questioned the intention of Rule 7.2 and asked if it would apply to action items only and if Governing Body members have the ability to seek a legal opinion from Legal staff.

Brent Trout stated the purpose of the proposal would be to allow for a more advanced notice of language amendments primarily for action items. He reported the protocol would provide Legal sufficient time to address the impact of a particular amendment; draft the language accurately; and make sure the proposal falls within the law or framework of the ordinance being proposed. He stated the protocol would not preclude a Governing Body member from contacting the City Attorney according to the Rules with a question; however, if it was a language amendment he would prefer advance notice for the purpose of conducting meetings in a constructive manner.

Discussion continued on the following rule:

- Section 8.2(a) “Standing Committees”

Councilmember Hiller questioned the need for the Economic Development Committee to remain and asked what committee would discuss community development and planning issues.

Lisa Robertson noted the Governing Body has the option to assign any issue to any committee or create Special Committees.

Discussion continued on the following rule:

- Section 8.3 “Special Committees”

Councilmember Hiller stated she believes Rule 9.2 should be titled “Rules of Citizen Input.”

Councilmember Jensen suggested placing the following rules in the same section:

- Procedures for Addressing the Governing Body
- Rules of Decorum
- Communication with the Governing Body

Discussion continued on the following rules:

- Section 8.5(a)(1) and (d)(1) and (2) “Procedure for Committee Items”
- Section 8.12 “Committee Expenses”
- Section 9.1 “Procedure for Addressing the Governing Body”
- Section 9.3 “Communication with Governing Body”
- Section 10.1 “Suspension of These Rules”
- Section 10.2 “Amendment of These Rules”

Councilmember Mays suggested including an annual review of the Governing Body Rules and Procedures in Section 10.

Councilmember Hiller suggested adding language to notify Governing Body members of any executive session items and their subject matter by 9:00 a.m. on the Monday prior to a meeting for preparation and informational purposes.

Councilmember Lesser requested sufficient notification if there were items the Governing Body needs to be aware of to make an informed decision.

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

Brenda Younger, City Clerk, provided a brief overview of the December 18, 2018, Governing Body agenda.

Brent Trout, City Manager, announced he would provide a presentation on the Rapid Process Improvement initiatives at the December 18, 2018, Governing Body meeting and looks forward to implementing the program to make processes more efficient.

Mayor De La Isla reported on the US Conference of Mayor’s in New York concerning the Smart Cities Initiative and vowed to always work with the community to champion

considerations for Topeka as a “Smart City.” She stated she was working with staff on a predictive analytics model case study for all municipalities across the nation through “blotching of information” which creates a data lake and noted Topeka will have the opportunity to receive assistance from students at New York University regarding any technical case studies they would like to conduct.

Councilmember Coen announced the JEDO Board would hold a meeting on December 12, 2018, at 6:00 p.m. in the City Council Chambers.

Councilmember Emerson offered his condolences to the Edward Horn family.

Councilmember Jensen stated he believes infrastructure repair data and information would be a great "Smart City" initiative and was excited about the possibility of implementing a program that would help cities centralize the location of collective data.

Donna Anderson appeared to speak under public comment.

Councilmember Coen 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 Emerson 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 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 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.

Councilmember Coen left the room.

Councilmember Padilla moved to recess into executive session for a period of time not to exceed 20 minutes to continue discussion of 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 and Human Resources Director, Jacque Russell. The motion seconded by Councilmember Jensen carried unanimously. (8-0-0)

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 9:57 p.m.

---

Brenda Younger  
City Clerk