

## **Governing Body Minutes – January 15, 2019**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, January 15, 2019. 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, Jensen, Mays, Coen and Lesser -8. Mayor Michelle De La Isla presided -1. Absent: Councilmember Padilla -1.

AFTER THE MEETING was called to order, Jim Hoehn, Seventh Day Adventist Church, gave the invocation.

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

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9065 introduced by Councilmember Karen Hiller, approving a special event known as the 2019 Mater Dei Irish Fest was presented.

RESOLUTION NO. 9066 introduced by Councilmember Karen Hiller, approving a special event known as the 2019 St. Patrick's Day Street Party was presented.

RESOLUTION NO. 9067 introduced by Councilmember Karen Hiller granting The Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

MINUTES of the regular meeting of January 8, 2019, were presented.

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

ORDINANCE NO. 20166 introduced by City Manager Brent Trout, granting a non-exclusive franchise agreement to ExteNet Systems, Inc., to construct and maintain its facilities in the public right-of-way as a wireless infrastructure provider was presented.

Brent Trout, City Manager, reported the agreement was discussed at the January 8, 2019, Governing Body meeting and staff has addressed Councilmember Lesser's questions regarding the language of the agreement. He stated staff recommends approval as presented.

Councilmember Hiller referenced the concerns expressed by Councilmember Lesser at the January 8, 2019, Governing Body meeting and stated she believes the language in the agreement was solid and covers liability insurance in general for the City including required performance bonds.

Councilmember Lesser expressed concern with franchise agreements as a whole and stated he would prefer to draft "blanket" language to include in future franchise agreements. He stated he would support the ordinance as presented.

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

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

ORDINANCE NO. 20167 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 3117 SW Topeka Boulevard from "M-1" Two-Family Dwelling District to "C-2" Commercial District and "OS-1" Open Space District was presented. (Z18/08)

Bill Fiander, Planning and Development Director, reported approval would provide for the expansion of accessory parking with the major remodel of an existing McDonald's Restaurant, while also helping ensure the adjacent residential neighborhood would not be negatively affected. He stated the Planning Commission and Planning Department recommends approval.

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

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 communication was declared.

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

ORDINANCE NO. 20168 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 certain changes in zoning on property located at 3041 NW U.S. 24 Highway from “R-1” Single Family Dwelling District TO “I-1” Light Industrial District was presented. (Z18/09)

Bill Fiander, Planning and Development Director, reported approval would provide for use of the property for retail trailer sales with outdoor storage and display of products. He noted the owner would be required to address stormwater drainage as part of a subdivision plat and site plan. He stated the Planning Commission and Planning Department recommends approval.

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

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.

Ex parte communications were declared by Councilmembers Clear and Ortiz.

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

ELECTION of a Deputy Mayor to serve a one-year term pursuant to Topeka Municipal Code Section A2-26(b) was presented.

Mayor De La Isla referenced Governing Body Rules and Procedures 4.1(b) and stated anytime there was a need for an election of a deputy mayor, council members who have served the longest period of time and have not previously served as deputy mayor will automatically be nominated. She asked Councilmember Clear if she accepted the nomination.

Councilmember Clear accepted the nomination to serve as Deputy Mayor.

Upon hearing no further nominations, Mayor De La Isla announced nominations were closed.

After the tally of votes, the City Clerk announced Councilmember Clear received ten (10) votes.

Mayor De La Isla announced Councilmember Clear would serve as Deputy Mayor.

ELECTION of two City Council voting representatives to serve a one-year term on the Joint Economic Development Organization (JEDO) Board was presented.

Mayor De La Isla explained the role of the Governing Body as it relates to the JEDO Board and opened the floor for nominations.

Councilmember Jensen nominated himself to continue serving on the JEDO Board. He stated he would like to continue working on the Topeka-Shawnee County broadband initiative.

Councilmember Emerson nominated Councilmember Lesser to serve on the JEDO Board.

Councilmember Hiller nominated Councilmember Emerson to serve on the JEDO Board.

Councilmember Lesser nominated Councilmember Padilla to serve on the JEDO Board.

Upon hearing no further nominations, Mayor De La Isla announced nominations were closed.

After the tally of votes, the City Clerk announced Councilmember Emerson received six (6) votes; Councilmember Lesser received six (6) votes; Councilmember Jensen received five (5) votes; and Councilmember Padilla received one (1) vote.

Mayor De La Isla announced Councilmembers Emerson and Lesser would serve as voting members on the JEDO Board.

DISCUSSION and PUBLIC HEARING introduced by City Manager Brent Trout, authorizing and providing for the issuance of \$10,000,000 aggregate principal amount of Revenue Bonds (Sunflower Foundation Project), Series 2019 of Topeka, Kansas; providing for Bond proceeds to be made available to Sunflower Foundation; Health Care for Kansans, for the purpose of financing the acquisition, construction, renovation, furnishing and equipping of a nonprofit health care educational and resource facilities in the City and authorizing certain bond financing documents with respect thereto, was presented.

Brent Trout, City Manager, spoke in support of the project and stated the City looks forward to moving ahead with the Foundation's plan.

Jeff White, Columbia Capital Title, reported the bonds would be used to finance the construction of a corporate headquarters building for the Sunflower Foundation, to be located on a 13.5 acre site purchased by the Foundation at SW 6<sup>th</sup> Street and SW Wanamaker Road. He stated only three buildings remain from former uses: the tower, the nursing dormitory and the powerhouse. He noted the Sunflower Foundation's plan will be to create an Educational Resource Center; a Non-profit Education Center; and Shared Office Space through the repurposing of older buildings in conjunction with new construction.

Billie Hall, Sunflower Foundation President and Chief Executive Officer, provided a brief overview of the planning facilities which will employ approximately 10 full-time people; utilize contractors; and a number of non-profits. She reported 40% of the facility would be dedicated to education of non-profit or public sector partners working together to combine efforts.

Councilmember Lesser spoke in support of the project. He commended Sunflower Foundation staff members for their professionalism and expertise and thanked the Foundation for choosing to locate their corporate headquarters in Topeka.

Councilmember Hiller thanked the Sunflower Foundation for being a part of the Topeka community and asked them to comment on their various community partnerships.

Billie Hall reported the Foundation serves as a partner in the expansion of the trails in Topeka and Shawnee County; neighborhood parks as well as the GraceMed Health Clinics. She noted [www.sunflowerfoundation.org](http://www.sunflowerfoundation.org) provides detailed information on their extensive list of community partnerships.

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

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

DISCUSSION regarding the annexation ordinance and final plat for property located at 2400 SW Indian Hills Road (Sherwood Village Subdivision) within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits Shawnee County, Kansas was presented.

Bill Fiander, Planning and Development Director, reported the applicants have requested annexation of a 9-acre tract at 2400 SW Indian Hills Road that will be developed as a 33-lot single-family residential subdivision (Sherwood Village Subdivision). He noted the property was located within Tier 2 of the City's Urban Growth Area and has been deemed ready for annexation and was consistent with the City's Land Use and Growth Management. He reported the Topeka Planning Commission's approval of the annexation proposal was based on if SW Indian Hills Road was planned to be improved to an urban standard road as part of the City's next 10-year Capital Improvement Plan, and the property was rezoned to R-1 Single Family Dwelling District.

Councilmember Coen referenced the smaller lot size compared to adjacent neighboring lots.

Councilmember Jensen questioned the cost to maintain the infrastructure in the long-term and noted the City currently struggles to maintain their existing infrastructure system.

Bill Fiander reported the infrastructure will be financed through an improvement district and the an anticipated growth absorbance rate for 30 lots will be approximately 3 years - long before infrastructure would fail or need to be replaced.

Councilmember Hiller commented on the cost of the development for the City compared to the County, specifically relating to the improvement of SW Indian Hills Road.

Discussion continued on the Final Plat for Sherwood Village Subdivision. Bill Fiander reported the request complies with the City of Topeka Subdivision Regulations and was consistent with the land use policies and principals of the Land Use and Growth Management Plan-2040. He stated the applicant held a neighborhood information meeting on November 27, 2018, and the concerns at the meetings related to the traffic capacity of SW Indian Hills Road, stormwater drainage, and the type of housing that would be built.

Kristin Poage, Nicholas Isakson, Jarrod Ansley, Adam Proffitt (distributed a handout), James Ungerer (distributed a handout), Gary Smith, Michelle Fox, Brian Fox and Conner Sabel spoke in opposition of the development as proposed and commented on the following:

- The new development would cause flooding due to the increase in stormwater runoff.
- The increase in traffic would increase safety issues that already exist on SW Indian Hills Road including no sidewalks or bike paths.
- The aesthetics of the proposed lots do not require enough green space and the density of the proposed development was too compact.
- Suggested solutions included reducing the number of lots and developing an alternative design.
- The proposed development would decrease area property values.
- The overall increase of traffic could have an effect on the safety of neighborhood children.

Mark Boyd and Rick Schmidt, project engineers, spoke in support of the development project and provided the following information:

- The similarities of the proposed development compared to adjacent and adjoining neighborhoods including design covenants.
- Stormwater drainage and/or mitigation will be developed to City Engineering standards.
- Miller's Reserve pond was designed to replace the Sherwood Park detention pond with the intent to protect against flooding.
- Assured residents property value will not decrease due to the proposed housing design standards which will be the similar to the Miller's Glen neighborhood with the addition of a pool and community area and/or building.



Brent Trout thanked residents for providing their comments. He stated staff would consider all comments and encouraged Governing Body members to provide their questions and comments to him for response.

Councilmember Clear thanked residents for their comments. She asked City Attorney Robertson to comment on the action the Governing Body could take in regards to the final plat.

Councilmember Ortiz expressed her appreciation to residents for providing comments. She encouraged staff to assist in finding a compromise that would work for the contractor and neighborhood residents. She questioned the need for additional discussion on the issue.

Lisa Robertson, City Attorney, stated staff would need to review the current dedications outlined in the approved final plat in relation to possible solutions or compromise.

Councilmember Jensen expressed the importance of developing a realistic project timeline in regards to improving SW Indian Hills Road. He asked if there was a need to develop a transition barrier between neighborhoods.

Councilmember Mays stated he concurs with Councilmember Jensen and noted SW Indian Hills Road should have been included in the City's Capital Improvement Plan 10 years ago. He stated that he believes the residents have raised valid points.

Mayor De La Isla requested staff coordinate a meeting between the developer and neighborhood residents with the intent to find a resolution. She stated she concurs with Councilmembers Jensen and Mays in regards to the pedestrian and traffic safety issues along SW Indian Hills Road as well as the importance of flood mitigation. She expressed the importance of providing complete information to neighborhood residents as well as residents supporting diverse neighborhoods.

Brent Trout stated staff would contact the developer and request a meeting be scheduled with residents.

Councilmember Hiller stated it was her understanding the ownership of SW Indian Hills Road may include the City, County and Township, making it complicated to manage improvement efforts. She commended the design engineers for the drainage improvements; however, she suggested the traffic concerns be discussed further.

Councilmember Emerson stated he appreciates comments made by residents. He reminded staff and the Governing Body that this was a local developer that produces high quality developments.

Councilmember Lesser stated he appreciates the comments made by residents. He expressed concern with the safety issues relating to SW Indian Hills Road and the need to find a compromise to address those concerns.

Brent Trout stated SW Urish Road improvements are scheduled for design in 2023, utilities in 2024, and street improvements in 2025.

Mayor De La Isla stated she would prefer not to proceed with the issue until the residents, engineers and City staff could work together to determine a reasonable resolution for everyone involved.

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

Mayor De La Isla reported she attended the Inaugural Ball for Governor Laura Kelly and looks forward to her leadership.

Councilmember Coen thanked the residents of Sherwood Park for providing comments on the Sherwood Village Subdivision.

Councilmember Lesser offered his condolences to the Kathleen Ambrosio family.

Councilmember Hiller reported she attended the Inaugural Ball for Governor Laura Kelly and noted it was a great event. She announced Brown vs. Board of Education would celebrate their 65th Anniversary in May; upcoming Living the Dream events around the community and the Cyrus Hotel Grand Opening on January 29, 2019.

Councilmember Clear thanked the residents of Sherwood Park for providing input on the Sherwood Village Subdivision. She thanked the Governing Body for electing her to serve as Deputy Mayor.

Councilmember Ortiz offered her condolences to the Gary Clark family. She requested an update on the damage to the Kansas Avenue Bridge.

Councilmember Emerson reported Shawnee County would begin street improvements along SE 29th Street soon causing portions of SE 29th Street to close over the next two years.

Councilmember Jensen thanked the Governing Body for allowing him to serve as Deputy Mayor. He thanked the residents of Sherwood Park for offering alternative solutions to the Sherwood Village Subdivision project and stated he appreciates their comments.

Councilmember Mays congratulated Governor Laura Kelly on her election as Kansas Governor. He commended the Public Works Department for their work in clearing the streets in preparation of Governor Kelly's Inaugural Ball during the recent snow event.

Mayor De La Isla announced Councilmember Padilla was absent due to attending the Bloomberg Harvard Institute. She offered her condolences to the Gary Clark family.

Councilmember Ortiz moved to extend the meeting past 10:00 p.m. The motion seconded by Councilmember Emerson carried. Councilmembers Clear and Mays voted no. (7-2-0)

Councilmember Ortiz moved to recess into executive session for a period of time not to exceed 45 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 City Manager, Brent Trout. The motion seconded by Councilmember Jensen carried. Councilmember Lesser did not vote. (8-0-0)

Following a 45-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 30 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 City Manager, Brent Trout. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

Following a 30-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 10:15 p.m.

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Brenda Younger  
City Clerk