

Governing Body Minutes – March 12, 2019

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 12, 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, Padilla, Jensen, Mays, Coen and Lesser -9. Mayor De La Isla presided -1.

AFTER THE MEETING was called to order, Pastor Jeff Klinger, Topeka First United Methodist Church, provided the invocation.

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

THE EXCEPTIONAL DRIVING AWARD from the National Safety Driving Federation was presented to Reggie Moore and Efren Mazas, Topeka Metro Bus Operators, by Susan Duffy, Topeka Metropolitan Transit Authority General Manager.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9086 introduced by Councilmember Karen Hiller, approving a special event known as 99.3 The Eagle Cruise Night 2019, was presented.

MINUTES of the regular meeting of March 5, 2019, were presented.

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

<u>Business Name</u>	<u>Address</u>
Aldi #54	1530 SW Arvonias Place
Aldi #83	105 SW 29 th Street
CVS #8605	2835 SW Wanamaker Road
CVS #10244	3901 SW 21 st Street

APPROVAL of the following Open After Midnight License applications was presented:

<u>Business Name</u>	<u>Address</u>
Blue Moose	3030 SW Wanamaker Road
Boulevard Billiards	4700 SW Topeka Boulevard
Buffalo Wild Wings	1227 SW Wanamaker Road Ste 400
Gayle's	600 NW Paramore Street
Happy Basset Brewing Co	6044 SW 29 th Street

<u>Business Name</u>	<u>Address</u>
KNJ's	1909 NE Seward Avenue
Old Chicago	1231 SW Wanamaker Road
Sk8Away	815 SW Fairlawn Road
Taco Bell	101 SE 29 th Street
Taco Bell	1560 SW Wanamaker Road
Taco Bell	2013 N Topeka Boulevard

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

ORDINANCE NO. 20175 introduced by City Manager Brent Trout, amending and repealing certain sections of the Topeka Municipal Code Chapters 5.10, 5.55 and 9.15 concerning cereal malt beverage and alcoholic liquor was presented.

Brent Trout, City Manager, stated the ordinance was discussed at the March 5, 2019, Governing Body meeting and staff recommends approval.

Councilmember Padilla asked if staff received any communications from stakeholders.

Brent Trout, City Manager; Mary Feighny, Deputy City Attorney; and Brenda Younger, City Clerk, stated they have not received any communications from businesses.

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

Councilmember Jensen stated he supports bringing local code in compliance with State law; however, he will not support imposing additional taxes or fees on small businesses.

Councilmember Jensen moved to amend the ordinance to remove any additional fees or taxes for Wine Distributors, Caterers, Public Venues and the Beer Distributor fee would remain the same at \$1,400. The motion was seconded by Councilmember Lesser.

Councilmember Lesser asked for clarification on the term "Public Venue."

Mary Feighny, Deputy City Attorney, stated Heartland Park of Topeka would be the only facility located in city limits that would be considered a Public Venue as defined by the ordinance.

Councilmember Lesser questioned if the Public Venue category should remain in the ordinance to help absorb the costs incurred by the City for law enforcement personnel and other City resources used at the Heartland Park facility.

Councilmember Lesser requested a friendly amendment to reinstate the language relating to Public Venues in the ordinance. The seconded concurred.

Councilmember Hiller expressed concern with the need to spend more time on researching actual costs of licensing and what each license would entail in regards to cost of City resources. She noted this would give the City the opportunity to monitor public venues as well as other licensing relating to distribution or consumption of alcohol.

Councilmember Padilla stated he believes if there was objection to the new fees, the State of Kansas Alcohol Beverage Control (ABC) Division would have been alerted by stakeholders. He noted ABC regulates and enforces liquor laws not local law enforcement.

Councilmember Jensen stated he would support deferring the ordinance to committee to research what the actual cost of the licenses would be; however, he will not support any additional fees or imposing a blanket fee because liquor laws are already being enforced.

Councilmember Mays stated he believes it makes sense to impose a license fee for the operations listed; however, he questions the amounts proposed by staff as they seem arbitrary.

Councilmember Lesser stated he believes the proposed fees seem disproportional for large businesses compared to small businesses, specifically caterers.

Councilmember Emerson expressed concern with including a fee for a Public Venue which only has an effect on Heartland Park of Topeka. He noted the facility currently pays a large amount in property taxes and imposing an additional fee would seem unfair at this time.

Councilmember Lesser withdrew the friendly amendment to reinstate the language relating to Public Venues in the ordinance. The second concurred.

Councilmember Clear spoke in support of imposing the new fees and encouraged Governing Body members to consider all individuals involved in the costs of doing business including the City of Topeka.

Councilmember Emerson stated he concurs with Councilmember Mays and believes the fees are arbitrary in nature.

Councilmember Jensen stated they could continue a more robust license fee discussion at a later date.

Lisa Robertson, City Attorney, confirmed the motion to amend would include the removal of the additional fees or taxes for Wine Distributors, Public Venues, Caterers and the Beer Distributor fee would remain the same at \$1,400.

Councilmember Mays spoke in support of regulating the proposed licenses because he believes it needs to be addressed; however, due to the fact he remains uncertain of the amounts that should be charged he will oppose the amendment.

Councilmember Lesser called the question. The motion died due to a lack of a second.

Councilmember Ortiz spoke in opposition of the proposed ordinance because she believes the Governing Body needs more information to make an informed decision.

The motion to amend the ordinance to remove the additional fees or taxes for Wine Distributors, Public Venues, Caterers and the Beer Distributor fee would remain the same at \$1,400 carried. Councilmembers Clear, Ortiz and Mays voted “no.” (7-3-0)

The motion to adopt the ordinance as amended carried. Councilmembers Clear and Ortiz voted “no.” (8-2-0)

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

DISCUSSION on the proposed ordinance concerning electric-assisted scooters, amending Topeka Municipal Code Chapter 10.35 was presented.

Bill Fiander, Planning and Development Director, reported electric scooters are beginning to appear in cities by virtue of individual purchases and scooter-share companies. He reported State law does not currently address electric scooters; however, recently Kansas House Bill 2126 passed in the House, and would allow cities to prohibit or regulate the operation of scooters on streets and sidewalks. He noted the City has been approached by several scooter-share companies, as have other cities in the state, with an eye towards deploying scooters in Topeka. He reported the operation of these scooter-share companies would be similar to Uber in that individuals can use an “app” to access and pay for the rental of an electric scooter. He commented on the corresponding license agreement establishing a one-year pilot program will contain more specific parameters related to fees, fleet size, operating and parking regulations, data sharing and insurance. He stated the license agreement will be finalized with each interested scooter-share company should the Governing Body choose to adopt the proposed ordinance.

Councilmember Emerson asked if the Center for Disease Control and Prevention (CDC) has conducted a study on the scooter program and related number of injuries as well as if the pilot program would allow the City to make the scooters unlawful if necessary.

Lisa Robertson, City Attorney, reported the pilot program agreement would allow the City to make scooters unlawful if necessary.

Councilmember Clear asked how the speed and parking of scooters would be regulated and if there would be a local office for the scooter-share company.

Bill Fiander stated the scooters can be programmed and parking can be outlined in the license agreement. He noted there would not be a local office; however, the scooter-share company would employ local people to pick up, charge and deploy the scooters.

Lisa Robertson stated staff anticipates the scooters would arrive in spring of this year, and the proposed ordinance would regulate scooters by imposing speed, operation, parking and age restrictions. She noted the City can proceed with the proposed ordinance through its home rule authority regardless of whether or not Kansas House Bill 2126 was adopted.

Councilmember Jensen stated he believes the scooter-share program was a viable option to address transportation issues. He asked if there would be a program for low-income individuals and text messages to unlock scooters. He questioned if they should remove the driver's license requirement as well as lower the age limit to 16 to allow teenagers the option to use scooters as a transportation option. He suggested they add language to regulate individuals that already own scooters; determine if existing bike racks could be utilized; and if safety information would be displayed on the screen when a scooter was activated.

Bill Fiander stated staff has worked with the Topeka Metropolitan Transit Authority (TMTA) and they approve of the regulation of electric scooters.

Lisa Robertson reported the language in the license agreement addresses the option of offering a low-income program and requires educational outreach.

Councilmember Lesser stated he concurs with Councilmember Jensen in regards to the age limit and driver's license requirements; however, if an individual was under the age of 18 they should be required to wear a helmet.

Councilmember Jensen thanked City staff for being proactive in addressing the growing trend of electric scooters.

Councilmember Mays questioned if the ordinance would include the regulation of hover boards.

Councilmember Hiller referenced the implementation of a low-income program and the costs associated with a helmet requirement.

Councilmember Emerson stated the scooter-share companies offer free helmets with the use of the scooters.

AN OVERVIEW of the City's first Rapid Process Improvement (RPI) Event was presented.

Brent Trout, City Manager, reported during the week of February 18, 2019, several City staff members participated in the City's first Rapid Process Improvement (RPI) event related to the Tort Claims Process.

Shelly Starr, Chief of Litigation and RPI Event Team Leader, reported the nearly week-long event resulted in the development of a very detailed "Process Map" resulting in a total of 23 potential solutions some of which will be presented to the Governing Body for consideration in the near future. She highlighted a few of the solutions and the implementation plan resulting from the RPI Tort Claims event.

DISCUSSION of the proposed 2020-2029 Capital Improvement Plan and 2020-2022 Capital Improvement Budget was presented.

Brent Trout, City Manager, reported he has tentatively scheduled the discussion on the City Hall Project Budget Amendment as well as the other requests relating to the 3-year capital improvement budget on April 2, 2019.

Joseph Ledbetter commented on the need to continue to improve snow removal efforts; completion of the SE California Avenue improvement project; support the Kansas River Weir Project and keeping design fees in the CIP for the Kansas Turnpike Authority (KTA) Exchange for the southeast area.

Councilmember Hiller gave a brief overview of the history as to why the debt service cap policy and life terms on bonds were put in place by the Governing Body. She referenced the amount of interest paid with each bond cap presented and the amount of money that could be saved annually between now and 2029.

Mayor De La Isla encouraged the Governing Body to consider the present value of borrowing funding at current interest rates versus the overall cost of delayed maintenance. She questioned how long the City would need to increase their borrowing cap to catch up on much needed projects and potentially decrease the borrowing in years to come.

Nick Hawkins, Budget and Performance Manager, reported staff analyzes these items on an annual basis to determine what the City can sustain financially. He stated staff presented different scenarios to the Governing Body for consideration (\$39 million – 36.6 million) to identify what they believe the City could financially sustain without effecting the overall mill levy rate, debt service fund and stay within the bonding cap policy.

Brent Trout stated staff was proposing to borrow \$36.6 million annually over a 3-year period; however, the Governing Body could establish a policy to decrease the amount after the 3-year time period.

Councilmember Hiller asked Governing Body members to consider removing the financing of fire trucks from the CIP and begin the replacement of the trucks through a fleet replacement program; develop a facility fund to be used for the majority of the facility projects because they are maintenance related and would not be considered new construction; allow citizens the opportunity to vote on the large projects that would be paid over the 3-year period with the increased bonding cap similar to sales tax projects. She noted these were a few examples of how they could eliminate routine items from being included in the CIP.

Councilmember Clear questioned how the maintenance of fire stations would be addressed and when will the fire station buildings be identified in the CIP project list. She stated it was extremely important to improve the fire stations and suggested eliminating the bikeways project to pay for fire station improvements. She also asked for clarification of the \$1 million to be allocated for Special Council Projects and the cost breakdown of the Information Technology costs related to Microsoft Licensing for the City.

Jason Peek, Public Works Director, reported the list reflects fire station projects in the current CIP period and the Fire Chief will determine the order of fire station renovations on an annual basis. He stated this was the first attempt of a comprehensive plan to address the issue in a more acceptable timeframe. He noted the majority of the bikeways projects are being funded through sales tax funds, a funding source that could not be shifted and used for facility projects.

Brent Trout stated the purpose of the Special Council Projects was to set aside funding for a project the Governing Body, as a whole, felt worthy of funding that was not proposed by staff.

He reported the Fire Chief will be providing a presentation on the overall plan of the fire stations including Advanced Life Support (ALS) Emergency Services.

Councilmember Ortiz reported fire station improvements have been a politically charged issue through the years; however, she will not support closing one station in order to construct a new fire station in a different location. She stated she believes the City needs to concentrate on improving response times in certain parts of the city and expressed the importance of doing what was necessary and build another station and follow through with the studies that have been conducted. She encouraged Governing Body members and City staff to educate the public on the cost of a fire truck.

Councilmember Mays stated he was opposed to bonding additional funds. He asked staff to make certain the projects completed last longer than the term of the bond and make certain sales tax funds could not be used. He encouraged staff to move forward with expansion projects that would spur economic growth such as a new Kansas Turnpike Authority Exchange Ramp in southeast Topeka. He suggested putting these types of stipulations on projects before projects are bonded.

Councilmember Emerson stated he would support increasing the bond cap if it would improve the overall Pavement Condition Index (PCI) through the completion of more mill and overlay street projects. He stated more completed mill and overlay projects will help preserve the street base which he believes will pay huge dividends in the long-term.

Councilmember Lesser stated he concurs with Councilmember Emerson.

Councilmember Jensen expressed the importance of reviewing the allocation of all funds in great detail before they consider raising the City's spending cap and/or taxes.

Councilmember Hiller thanked the Governing Body for the discussion and stated she looks forward to continuing to work and establish a good CIP process.

Councilmember Ortiz requested the \$1 million proposed to be set aside for Special Council Projects be used for street improvements.

Brent Trout reported the \$1 million for Special Council Projects would be considered a place holder at this time as funding would not be allocated until year four. He noted the first year would be used to develop a process on how the Governing Body would like to proceed.

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

Brenda Younger, City Clerk, gave a brief overview of the March 19, 2019, Governing Body agenda.

Mayor De La Isla recognized March as International Women's Month and thanked the women serving on the Governing Body and City staff for their service.

Councilmember Clear announced LULAC was hosting a Fishing Derby on June 1, 2019; the NOTO Arts & Antique Festival will be held March 15-16, 2019; the LULAC Senior Center was offering free computer lessons for seniors during the month of May; and SoleReason was hosting a golf tournament fundraiser on June 29, 2019. She commented on Carry the Load, a non-profit dedicated to providing active, meaningful ways to honor and celebrate the sacrifices made by our nation's heroes that would be in Topeka on May 23, 2019.

Councilmember Emerson provided an update on the SE 29th Street project and encouraged the public to patronize local businesses during construction.

Councilmember Padilla referenced LULAC's free computer lessons for seniors during the month of May and noted the program has been nationally recognized as the only program like it in the nation.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:43 p.m.

(SEAL)

Brenda Younger
City Clerk