

## **Governing Body Minutes – April 9, 2019**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, April 9, 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, Ortiz, Emerson, Padilla, Jensen, Mays, Coen and Lesser -8. Deputy Mayor Clear presided -1. Absent: Mayor De La Isla -1.

AFTER THE MEETING was called to order, Blaine Moore, Seaman Community Church, provided the invocation.

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

A PRESENTATION on the 4<sup>th</sup> Quarter Financial Report was given by Jessica Lamendola, Administrative and Financial Services Director.

Brent Trout, City Manager requested to add a resolution granting a noise exception to Valeria Mera to the agenda. He also requested the Non-Action Items be considered after the consent agenda as it was anticipated the Mayor would arrive at 7:00 p.m.

Upon hearing no objections, Deputy Mayor Clear announced the resolution would be added to the consent agenda as Item 5E; and the Non-Action Items would be considered after the consent agenda.

BOARD APPOINTMENT recommending the reappointment of Marc White to the Board of Mechanical Examiners for a term ending December 31, 2020, was presented.

BOARD APPOINTMENT recommending the reappointment of Mary Powell to the Topeka Sustainability Advisory Board for a term ending February 28, 2021, was presented.

Councilmember Lesser moved to approve the board appointments. The motion seconded by Councilmember Jensen carried unanimously. (9-0-0)

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9098 introduced by Councilmember Sylvia Ortiz, granting Yvonne Duncan an exception to the provisions of City of Topeka Code Section 9.45.150 et seq., concerning noise prohibitions was presented.

RESOLUTION NO. 9099 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 April 2, 2019, were presented.

APPROVAL of Open After Midnight License applications were presented for the following:

<b><u>Business Name</u></b>	<b><u>Address</u></b>
Applebee's	5928 SW 17 <sup>th</sup> Street
Cyrus Hotel	920 S Kansas Avenue
Gage Center Bowl	4200 SW Huntoon Street
Midwest Lodge #1441	1316 SE Madison Street
The Break Room	911 S Kansas Avenue
Topeka Performing Arts Center	214 SE 8 <sup>th</sup> Street

RESOLUTION NO. 9100 introduced by Councilmember Sandra Clear, granting Valeria Mera an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions was presented.

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

DISCUSSION on the common economic development tools used in Kansas was presented.

Brent Trout, City Manager, stated the discussion would continue from the April 2, 2019, Governing Body Work Session.

Doug Gerber, Deputy City Manager, continued with discussion on the use of economic development incentives including Transportation Development Districts (TDD) available to any city or county in the State.

Councilmember Hiller questioned why a developer would not create a Community Improvement District (CID) or a special assessment district.

Councilmember Emerson questioned if implementing a TDD would allow a developer to do different improvements than a CID.

Councilmember Ortiz questioned why a TDD was not utilized for the Southwest Industrial Park.

Discussion continued on an overview of the use of STAR Bonds, a special kind of TIF bond where the State of Kansas may agree to permit some or its entire sales tax levy to be captured by the project.

Brent Trout referenced the City's policy regarding the 20% project cost threshold for TIF projects and asked if this was an appropriate percentage to negotiate.

Doug Gerber stated the 20% threshold was included in the City of Topeka's TIF Policy which was established and based on what other cities are doing in regards to TIF districts.

Councilmember Hiller stated she would be open to making changes because she does not want to "over-incentivize."

Councilmember Jensen stated he would prefer the City stay flexible to encourage the best development possible.

Councilmember Emerson questioned if the 20% project cost threshold was the amount typically negotiated for each district or was that a combined percentage total when a TIF and CID district are layered for a development.

Doug Gerber reported the 20% project cost threshold would be the total percentage; however, the City's CID Policy does not address a specific threshold percentage.

Councilmember Hiller asked if the CID and TIF applications require the developer to disclose all sources of funding for the development.

Councilmember Ortiz asked who proposes TIF and CID boundaries within a development.

Doug Gerber stated the application requests a listing of all funding sources for the development; therefore, if other sources are acquired, it would have to be factored into the financial analysis. He noted the boundaries would be submitted by the developer when they submit a map of the district with the application.

Brent Trout asked if the Governing Body would support the City creating a preapproved district plan list that could be presented to developers.

Councilmember Jensen spoke in support of creating a list of proposed incentive districts; however, plans are usually driven by developers and municipalities. He questioned how the incentive plans would work.

Brent Trout stated staff would determine parts of the community that would be considered blighted and have a plan ready for the developer.

Councilmember Ortiz questioned how properties tied up in bankruptcy would be handled.

Councilmember Hiller questioned the overall benefit of the City designating and promoting certain areas for incentive districts when the Joint Economic Development Organization (JEDO) Board was created to help provide these types of services. She suggested the JEDO Board work with neighborhoods to help build and establish certain businesses where needed.

Brent Trout stated developers would not be required to use preapproved incentive designations, it would only be an option.

Councilmember Lesser spoke in support of designating and promoting certain areas of the city for development encouraging a wider range of developers and providing an opportunity to create and expand public/private partnerships.

Councilmember Coen spoke in support of the proposal because he believes it would be a good direction for the City to take encompassing small and large projects.

Councilmember Mays spoke in support of the proposal and stated he believes the proactive approach to economic development will support the City's overall vision.

Brent Trout asked if the Governing Body would consider utilizing TIF Districts for housing subdivisions. He noted utilizing this kind of district was rare and harder to manage.

Councilmember Jensen asked if the TIF could be used in older neighborhoods to assist the residents in improving the neighborhood.

Doug Gerber stated the neighborhood would have to follow the same requirements as a commercial/business property.

Councilmember Padilla spoke in support of using TIF Districts for subdivisions and encouraged the City to be bold in economic development and remain involved in how the community could be developed.

Councilmember Lesser asked if a TIF District could be used for the Lauren's Bay housing development.

Brent Trout stated a TIF District could be considered for the Lauren's Bay area.

Councilmember Mays asked if the use of a TIF District would be similar to how the Neighborhood Revitalization Plan was utilized in neighborhoods.

Bill Fiander, Planning and Development Director, stated both a TIF District and the Neighborhood Revitalization Plan could not be used for the same area; however, if a TIF District

overlapped an “at risk” neighborhood, the developer would have to choose which funding source to use that would provide the most benefit to the area.

Brent Trout asked for input from the Governing Body regarding the relocation of businesses as it relates to incentive districts.

Councilmember Jensen stated it would depend on the situation or the factors that would have to be considered including the condition of the building, if it would prevent a business owner from leaving the community, if there was a need to open a second business location, and if it would allow a business owner to own property instead of leasing property.

Councilmember Lesser stated if a business was relocating he would want to make certain it would be adding a service needed in the area and not a duplication of services. He thanked staff for providing an overall explanation of the different economic development incentive tools.

Mayor De La Isla entered the room at 7:00 p.m.

Councilmember Hiller gave examples of current TIF and CID properties in the city and commented on the success of combining the two districts.

Brent Trout requested the Governing Body send any additional comments and input to him.

Councilmember Ortiz requested staff continue to provide good information so the Governing Body can continue to be educated on each incentive as they are proposed and used with examples.

Councilmember Hiller referenced a resource book created by GO Topeka approximately ten years ago which listed many downtown incentives and encouraged City staff to review that list and update it.

DISCUSSION on the proposed community improvement district (CID) at SW 17<sup>th</sup> and SW Wanamaker was presented.

Doug Gerber, Deputy City Manager, reported moving forward, a discussion will be added as part of the economic development incentive district approval process prior to setting a public hearing date.

Bob Johnson, Legal Counsel representing Equity Investment Group (EIG), provided an overview of the proposed district plan, the renovation of the K-Mart building through the backfill of a mixture of tenants, upgraded signage, parking lot improvements, landscape improvements and overall façade improvements. He announced Ann Marie Queen, EIG, was also present to answer questions.

Councilmember Jensen questioned the project timeline.

Councilmember Ortiz questioned how the developer plans to keep tenants in the district.

Bob Johnson reported they would prefer the project be completed by the third quarter in 2020. He stated good market rates, great location, competitive lease rates and synergy with other related companies would provide the tools needed to support and encourage long-term tenants.

Councilmember Lesser stated he struggles with the need for the development and creating an area where patrons have to pay an additional 1% sales tax. He questioned if the owner plans to sell the development once complete and if so, would the City be compensated.

Councilmember Hiller asked if the existing businesses support the additional 1% sales tax and questioned the 20% participation of the developer.

Bob Johnson reported the current tenants support the additional 1% sales tax; the developer sits at 19%-20% total investment participation in the project even though the CID Policy does not address this. He noted if the development was sold after completion, the increased property value would generate more property tax for the City of Topeka.

DISCUSSION concerning affordable housing and the Topeka Housing Trust Fund was presented.

Brent Trout, City Manager, provided an overview of the proposed ordinance and asked the Governing Body for their input for approval of the ordinance in the future.

Steve Schiffelbein spoke in support of the ordinance and recognized the proposed changes. He stated as a community they are starting to recognize the critical need for affordable housing so people can afford other necessities.

Councilmember Clear referenced the application review process and expressed concern with the amount of time that will be required by staff to administer the funds.

Councilmember Jensen asked if the proposed ordinance would be presented after the housing study was complete.

Councilmember Emerson asked if private funding was an option.

Councilmember Hiller commented on the language that prioritizes low-income and stated the ordinance creates a good housing tool for future use. She distributed amendments (*Attachment A*) to the proposed ordinance. She noted the feedback comes from Topeka JUMP discussions with members of the Governing Body.

Councilmember Jensen asked if the Topeka Housing Authority could manage the funds.

Councilmember Hiller stated this would be a City housing trust fund and the City would be considered a neutral partner in the process, therefore, she had not considered THA in the management of funds.

Councilmember Coen questioned if any tax dollars would be used to fund the trust. He stated he believes the City Manager needs to approve the allocations and not the Governing Body because it would become too political.



Councilmember Lesser stated he believes the Review Committee structure as proposed would have too many City employees and needs more diversity. He suggested revising Line 158, definition of “supportive services” to be more specific.

Councilmember Clear stated she concurs with Councilmember Coen and believes approval of allocations should be done by the City Manager.

Councilmember Emerson asked if there could be unintended consequences of creating the housing trust fund such as affecting the City’s ability to receive grants or other types of funding.

Brent Trout stated no taxpayer funds would be used for the proposal as most of the funds the City receives are based on a formulation created by the U.S. Department of Housing and Urban Development (HUD).

Sasha Haehn, Neighborhood Relations Department Director, reported funding grants are based on HUD formulas and as long as the funds are held as a trust; it should not cause a problem for the City in receiving other grants or funding.

Councilmember Ortiz spoke in support of the Governing Body approving the funding allocations as her constituents are not happy with Topeka Housing Authority services at this time as well as JUMP was seeking more efficient and modern homes.

Councilmember Jensen stated he believes this would be a duplication of services in the community and THA should be considered.

Councilmember Emerson stated he concurs with Councilmember Lesser and would prefer a more diverse Review Committee with increased citizen representation.

Councilmember Hiller expressed the importance of the individuals serving on the Review Committee being subject matter experts that deal with the regulations and other technical issues related to the housing business.

Mayor De La Isla cautioned the Governing Body against politicizing the process; however, she believes it would be useful to include a member of the Governing Body on the Review Committee.

Councilmember Mays moved to allow Public Comment before considering the Action Items. The motion seconded by Councilmember Emerson carried. Councilmembers Clear and Lesser voted “no.” (8-2-0)

Spencer Duncan and Joseph Ledbetter appeared to speak under public comment.

ORDINANCE NO. 20178 introduced by City Manager Brent Trout, concerning electric-assisted scooters, amending Topeka Municipal Code Chapter 10.35 was presented.

Brent Trout, City Manager, gave the staff report. He stated the only substantive revisions made to the ordinance since presented to the Governing Body on March 12, 2019 are as follows:

1. Further clarification of the definition for “electric-assisted scooter”
2. A reduction in the age for operators (from 18 to 16)
3. Removal of the requirement to possess a driver’s license
4. Require operators under the age of 18 to wear a helmet

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

Councilmember Hiller distributed proposed amendments. The amendments were as follows:

1. Line 78 of the ordinance replace “unless there is a bike lane” with “unless the scooter is traveling in a marked bike lane.”
2. Line 109 of the ordinance, move (4)(vii) up to its own line as a new section (4) to read “(4) Park in a manner that would impede access to bike racks, including Topeka Metro Transit Authority bike share stations;” (4) becomes (5); (vii) is deleted; and (viii) becomes (vii).

Councilmember Jensen asked for clarification on the proposed amendment to Line 78.

Councilmember Lesser expressed concern with the language as he believes it would not be enforceable as well as the downtown core has been excluded, where he believes most of the scooters will be utilized.

Councilmember Emerson stated he concurs with Councilmember Lesser as most large cities allow scooters within the main core of the city.

Councilmember Jensen stated the intent of the company was to deploy the scooters in the areas that are most needed, not the core necessarily. He spoke in support of a “trial run” as he believes the community needs an alternative transportation option.

Councilmember Hiller stated the purpose of the amendment to Line 78 was to clarify that scooters should not be in the same lane as vehicles.

Councilmember Hiller moved to amend Line 78 to replace “unless there is a bike lane” with “unless the scooter is traveling in a marked bike lane.” The motion seconded by Councilmember Jensen carried unanimously. Mayor does not vote. (9-0-0)

Councilmember Hiller moved to amend Line 109 to move (4)(vii) up to its own line as a new section (4) to read “(4) Park in a manner that would impede access to bike racks, including Topeka Metro Transit Authority bike share stations;” (4) becomes (5); (vii) is deleted; and (viii) becomes (vii). The motion seconded by Councilmember Emerson carried unanimously. Mayor does not vote. (9-0-0)

Councilmember Mays moved to amend Lines 53-54 to reflect South Kansas Avenue from 6<sup>th</sup> Street to 10<sup>th</sup> Street. The motion was seconded by Councilmember Lesser.

Councilmember Hiller expressed concern with the amendment and stated the language as proposed matches the current enforcement regulations for bikes in the downtown area.

Councilmember Clear stated she concurs with Councilmember Hiller.

Councilmember Mays stated his intent of the amendment was to help bridge the gap between downtown and the NOTO District.

The motion to amend Lines 53-54 to reflect South Kansas Avenue from 6<sup>th</sup> Street to 10<sup>th</sup> Street carried. Councilmembers Hiller, Clear and Jensen voted “no.” Mayor does not vote. (6-3-0)

The motion to adopt the ordinance as amended carried. Councilmembers Clear and Ortiz voted “no.” Mayor does not vote. (7-2-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Emerson, Padilla, Jensen, Mays, Coen and Lesser -7. Noes: Clear and Ortiz -2.

Councilmember Jensen stated due to the late hour, he would move to defer the following agenda items to the April 16, 2019, Governing Body meeting. The motion was seconded by Councilmember Ortiz.

- Item 6B a resolution establishing the City’s 2020 budget priorities
- Item 6C a revised project budget for City Hall Improvement Project T-131036.00
- Item 6D a resolution adopting the 2020-2029 Capital Improvement Plan (CIP) and 2020-2022 Capital Improvement Budget (CIB)
- Item 6E a resolution authorizing issuance of CIP Revenue Bonds for Enterprise Fund Projects

Councilmember Lesser suggested a friendly amendment to start the April 16, 2019, Governing Body meeting at 5:00 p.m. instead of 6:00 p.m. to allow time for discussion and action on the deferred agenda items.

Councilmember Jensen accepted the friendly amendment. The second concurred.

The motion to defer agenda items 6B, 6C, 6D and 6E to the April 16, 2019, Governing Body meeting and start the April 16, 2019 Governing Body meeting at 5:00 p.m. instead of 6:00 p.m. carried. Councilmembers Clear and Mays voted “no.” Mayor De La Isla abstained. (7-2-1)

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

Brenda Younger, City Clerk, provided an overview of the April 16, 2019, Governing Body agenda.

Councilmember Coen announced the deadline to vote on the City of Topeka flag ends April 9, 2019, at midnight and encouraged everyone to vote at [www.topekaflag.com](http://www.topekaflag.com).

Councilmember Ortiz moved to extend the meeting past 10:00 p.m. The motion seconded by Councilmember Emerson carried. Councilmember Clear voted “no.” (9-1-0)

Councilmember Jensen moved to recess into executive session for a period of time not to exceed 30 minutes to discuss confidential employment matters pertaining to non-elected 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; Deputy City Manager, Doug Gerber; Administrative and Financial Services Director, Jessica Lamendola; Human Resources Director, Jacque Russell; Senior Assistant City Attorney, Catherine Walter; City Attorney, Lisa Robertson. The motion seconded by Councilmember Emerson carried. Councilmember Lesser was out of the room. (9-0-0)

Councilmember Lesser entered the room.

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 10:10 p.m.

(SEAL)

---

Brenda Younger  
City Clerk