

Governing Body Minutes – August 18, 2020

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, August 18, 2020. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Valdivia-Alcala, Emerson and Duncan -4; and the following Councilmembers participated remotely: Ortiz, Padilla, Naeger, Dobler, and Lesser - 5. Mayor De La Isla presided -1.

AFTER THE MEETING was called to order, Councilmember Lesser provided the invocation.

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

ADVISORY COUNCIL APPOINTMENT of Anthony Fadale to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending July 31, 2022, was presented. *(Council District No. 7)*

ADVISORY COUNCIL APPOINTMENT of Ronda Hubbard to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending July 31, 2022, was presented. *(Council District No. 3)*

BOARD APPOINTMENT recommending the reappointment of Bill Naeger to the Board of Mechanical Examiners for an unexpired term ending December 31, 2020 and a term ending December 31, 2022, was presented. *(Council District No. 6)*

BOARD APPOINTMENT recommending the reappointment of Michael Wilson to the Downtown Business Improvement District Advisory Board to fill a term ending September 30, 2022, was presented. *(Council District No. 7)*

BOARD APPOINTMENT recommending the reappointment of Blanche Parks to the Washburn University Board of Regents for a term ending June 30, 2024, was presented. (*Council District No. 4*)

Juanice Crowley stated she has been medically diagnosed with a number of disabilities and has been denied disability assistance by two separate municipal court judges. She asked Governing Body members for assistance with her case and others like hers.

Councilmember Emerson stated the ADA Advisory Council advocates for those with disabilities; however, he questions if they would influence decisions made by a municipal court judge.

Mayor De La Isla asked staff to provide Ms. Crowley with contact information that would guide her through the appropriate channels for the assistance she needs.

Councilmember Ortiz moved to approve the appointments. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. (9-0-0) The Mayor does not vote.

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20256 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period May 2, 2020 through May 29, 2020, and enumerating said expenditures therein, was presented.

APPROVAL OF MINUTES of the regular meeting of August 11, 2020, was presented.

Councilmember Ortiz moved to approve the consent agenda. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (10-0-0)

ORDINANCE NO. 20257 introduced by City Manager Brent Trout adopting the 2018 Uniform Plumbing Code, amending Chapter 14.35 and § 5.63.030 of the Topeka Municipal Code was presented.

Brent Trout, City Manager, reported staff was recommending approval of the ordinance as presented.

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

Councilmember Emerson distributed a handout outlining proposed amendments and stated recently there were problems at the Walmart Distribution Center site due to language inconsistencies in the Topeka Municipal Code. He reported he has spoken with many plumbing and general contractors and all expressed their support of the amendment. He stated approval would result in a much better product for the City and a better experience for the development community.

Councilmember Emerson moved to amend the ordinance by including the following language: The motion was seconded by Councilmember Naeger.

- TMC 13.10.280(c) Any contractor licensed to install city utilities, including a plumbing contractor, may install or repair a water main, city water service line, or customer water line, servicing an industrial or commercial development project that has been designed by a licensed engineer. The contractor shall ensure that all connection and service lines are tested up to the cap outside each building.
- TMC 13.20.130 (c) Any contractor licensed to install city utilities, including a plumbing contractor, may install or repair any sewer line servicing an industrial or commercial development project that has been designed by a licensed engineer. The contractor shall ensure that all connection and service lines are tested up to the cap outside each building.

Councilmember Hiller questioned if the “designed by a licensed engineer” was a normal industry requirement or even needed. She referenced emails expressing support by the Utilities Department and asked if the Development Services Division supports the proposed changes.

Councilmember Emerson stated the “licensed engineer” requirement was included in the language amendment because it would only apply to commercial and industrial projects. He reported when main water lines are installed, sometimes the service line routing has to be

installed at a later time and the additional language in the code will ensure all aspects of installation would happen simultaneously.

Richard Faulkner, Development Services Division Director, stated the topic has been an issue with plumbing contractors and excavators. He reported the issue of excavators installing site utility work was discussed with the Plumbing Board and the outcome was inconclusive; therefore, the Board decided not to move forward with a change. He expressed the importance of stakeholders being involved in these types of decisions.

Councilmember Dobler spoke in support of the amendment and stated the proposal would generate a better product for the City of Topeka.

Councilmember Lesser spoke in support of the amendment. He requested plumbing contractors be required to have continuing education for this type of activity. He asked if this type of activity would require a separate license; and if excavators would be required to have the same training requirements as plumbing contractors.

Councilmember Emerson confirmed a license would be required for all contractors installing “all city utilities” and reported the Utilities Department was in process of implementing a continuing education class requirement.

The motion to amend the ordinance as stated by Councilmember Emerson carried unanimously on roll call vote. (10-0-0)

The motion to approve the ordinance as amended carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Dobler, Duncan, Lesser and Mayor De La Isla -10.

APPROVAL of the 2021 Social Services Grant allocation recommendations in the amount of \$434,904, was presented.

Councilmember Hiller, Social Services Grant Committee Chair, provided a brief update on the application, reviews and scoring process, and noted the awarding and managing of grants was outsourced to United Way. She reported there was a high percentage of positive comments received on the process and the majority of agencies that were invited to participate attended the committee meeting. She stated the allocations are as they came forth from United Way, including six appeals that were vetted at the Committee level and the vendor's recommendation was sustained on each one. She thanked Councilmembers Padilla and Valdivia-Alcala for serving on the Committee.

Councilmember Valdivia-Alcala stated she believes she was the only one who did not want the process outsourced; however, she believes United Way did an outstanding job. She noted their sense of customer service and professionalism was spot on and the appeals process was thorough. She expressed her gratitude to all organizations that participated in the process.

Councilmember Padilla stated he echoes the comments of Councilmember Valdivia-Alcala and believes the process worked well and was fair. He stated he looks forward to upcoming Committee meetings.

Councilmember Hiller moved to approve the 2021 Social Services Grant Allocations in the amount of \$434,904. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (10-0-0)

DISCUSSION and POSSIBLE ACTION on the City of Topeka Small Business Grant Program to provide Business Grants to small businesses impacted by the COVID-19 pandemic was presented.

Brent Trout, City Manager, reported the City plans to set aside approximately \$800,000 of CARES Act funding to assist small businesses related to the COVID-19 Pandemic.

Corrie Wright, Housing Services Division Director, gave an overview of the small business grant process.

Nicole Purce asked the Governing Body to consider all small businesses that are in their startup phase, including those businesses with less than five employees.

Mayor De La Isla suggested Ms. Purce contact Glenda Washington, Senior Vice President of the Greater Topeka Partnership Entrepreneurial & Minority Business Development (EMBD) program for assistance.

Councilmember Hiller stated she appreciates the work staff has done in developing the process and reaching out to community partners. She referenced the language in the application stating, “sole proprietors would not be eligible” and noted many of the minority businesses are sole proprietors. She reported staff has clarified with U.S. Department of Housing and Urban Development (HUD) that applicants could qualify as long as they met the income guidelines. She also referenced the brick and mortar business requirement that included the exception that if a business owner did have a brick and mortar business, but closed because of the COVID-19 pandemic, they could still be eligible. She suggested removing the brick and mortar requirement and change the requirement concerning the number of full-time employees from 5-25 to 1-25.

Councilmember Duncan asked if the employee number requirement was a Federal mandate or a local recommendation. He requested an overview of the application process.

Corrie Wright stated the top priority was to keep the physical place of businesses open due to the impact on the community; however, requirements could be changed if that was the will of the Governing Body. She reported staff initially proposed a 2-25 full-time employee requirement, which was also a requirement by HUD; however, the minimum employee number

could be changed to one. She stated staff members that are familiar with the HUD requirements will process the applications and once applications are approved, a contract will be issued.

Councilmember Valdivia-Alcala spoke in support of including sole proprietorships and removing the brick and mortar requirement. She asked if GO Topeka would be assisting in the process and how will grant allocations be determined for minority and women owned businesses. She requested applications be translated in Spanish.

Corrie Wright stated Glenda Washington will be assisting with advertising and staff will continue to work with Ms. Washington to ensure they are reaching the women and minority owned businesses. She stated grant allocations would be a local decision among those reviewing the application.

Councilmember Hiller asked if there was a difference in how much grant funds a business would receive as it relates to the number of employees (1-5 versus more than 5 employees).

Corrie Wright stated the grant amount to be awarded would be up to a maximum of \$20,000 based on the need not the number of employees.

Brent Trout stated the purpose of including a higher number of employees was to assist as many individuals as possible.

Councilmember Hiller spoke in support of targeting low to moderate income (LMI) employees, businesses and sole proprietors for the grant funding.

Councilmember Hiller moved to approve the documents as presented by staff with the following changes (1) change the full-time employee requirement from 5-25 full-time employees to 1-25 full-time employees; and (2) remove the brick and mortar requirement. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (10-0-0)

PUBLIC COMMENT was expressed by the following individuals:

Alan Gilmore stated he watched the August 12, 2020, and August 13, 2020, Strengthening Police & Community Partnerships (SPCP) meetings online and noted nationally and globally there are opinions on how to fix the problems of society. He stated he would share some informative links with the Governing Body, from many different people with many different backgrounds relating to opinions that he believes are pertinent. He stated he believes the SPCP mission statement was filled with hypothetical construct and weaknesses. He expressed the importance of the community discussing diversity, inclusion and equity.

Bill Smallback stated he opposed the reallocation of resources for the Police Department as the majority of the City's police officers are good people trying to do the right thing. He noted that he emailed links to the Governing Body regarding the issues being discussed about police reform and spoke in opposition of putting restrictions on police officers that would jeopardize their lives.

Mayor De La Isla thanked Mr. Smallback for speaking. She reported Topeka Police Chief Bill Cochran has made sure the Police Department has instrumental practices in place; an additional \$20,000 was approved for the Police Department's 2021 operating budget; and over the next 18 months the Police Department will hire more police officers in order to be fully staffed. She noted the City will continue to have the important conversations with community members to address the issue of those individuals that feel unsafe and do not trust the Police Department.

Councilmember Naeger stated the purpose of the proposed resolution relating to best police practices on the August 25, 2020, special meeting agenda was to make sure police officers and citizens are protected. She expressed the importance of continuing the tough conversations between police officers and the people they serve to help resolve the unrest in the community.

Janlyn Nesbitt-Tucker stated while she has been campaigning, many residents have expressed concern with the ordinance banning choke holds and the resolution regarding police practices to be considered on the August 25, 2020, special meeting agenda. She questioned why the Governing Body was rushing to approve these two items and requested the August 25, 2020, meeting be held at the Topeka Performing Arts Center (TPAC) auditorium in order to accommodate more people. She reported the Police Department already has an internal policy in place banning choke holds. She referenced the ordinance recently passed banning no knock warrants and stated she believes this limits the powers of police officers which will be detrimental. She commented on Governing Body members working closely with local activist Ariane Davis.

Councilmember Naeger stated she feels a sense of urgency due to the topic of conversation being avoided year after year; therefore, the Governing Body continues to work to make sure they are taking the challenges to task and making prudent decisions. She reported the reason for placing certain policy changes in the code was to ensure protection of citizens and police officers for years to come.

Councilmember Padilla stated he continues to remain focused on setting high standards for the Topeka Police Department and best practices will always be the focus of the Governing Body.

Councilmember Valdivia-Alcala stated she believes the statements made by Ms. Nesbitt-Tucker were passive-aggressive and her attempt to besmirch the character of Ariane Davis was off point and uncalled for.

Nicole Purce thanked the Governing Body for approving the small business grants and asked that everyone do their part to make the community better. She expressed the importance

of people truly understanding the movement and stance of Black Lives Matter and that all people want to be treated equal.

The following individual submitted public comment via electronic mail: Sandra Clear
(Attachment A)

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

Kelly Bogner, Assistant City Clerk, provided an overview of the August 25, 2020, special meeting agenda.

Brent Trout, City Manager, reported after five years of design and construction the Kay McFarland Japanese Garden located in the Topeka Zoo will open to the public on August 27, 2020. He thanked staff for their hard work on the 2021 operating budget and noted the Police and Fire Departments will be fully staffed in two years. He reported a larger venue was considered for the August 25, 2020, special meeting, however, due to the COVID-19 pandemic environment the Council chambers would be the best place to hold the meeting. He stated individuals will receive 4 minutes to address the Governing Body and the meeting will end at 10:00 p.m.

Mayor De La Isla commented on the racial divide in the community and noted the City has a long standing history of equality, inclusion and making sure difficult conversations are taking place. She reported the City has a phenomenal Strengthening Community Police Partnerships (SPCP) program.

Councilmember Hiller expressed her appreciation to the Mayor for scheduling the August 25, 2020, special meeting and staff members who continue to work on the preparations for the meeting. She confirmed the Governing Body was not considering defunding the police and the

Governing Body has always supported the police department. She requested the agenda remain open to allow as much time as possible for public comment.

Councilmember Valdivia-Alcala stated the public comment made by Janlyn Nesbitt-Tucker was out of line and a point of order should have been called. She stated she concurs with Councilmember Hiller and would like to hear as much public comment as possible and would support holding another meeting at a later date. She stated she continues to seek information from the City Manager regarding what seems to be biased comments made on Facebook from a City of Topeka Municipal Court judge. She believes the City Manager may be in violation of Section 11 of his employment contract and has another concern under the International City Managers Association guidelines. She stated as an elected official, she needs to understand what occurred and how it was handled.

Councilmember Valdivia-Alcala requested the City Manager call an executive session to discuss the matter.

Councilmember Ortiz announced the 57th Anniversary of the March at Washington, D.C. will be held on August 28, 2020. She stated Reverend Al Sharpton will lead the march and will coincide with the original march for jobs and freedom, which took place in 1963 where Dr. Martin Luther King Jr. delivered his "I Have a Dream" speech. She thanked Ariane Davis for attending the march and representing Topeka. She commented on changes being made to Police policies and procedures, however, until there was real shift in the hearts of people she believes nothing will change.

Councilmember Emerson encouraged individuals that sign up to speak to remain civil during Governing Body proceedings.

Councilmember Padilla congratulated retired police officers Janine Faley and Steve Roth who have served the community in many ways. He announced the Cruising for Votes Parade hosted by the League of Woman Voters of Topeka-Shawnee County would be held on August 26, 2020, and begin at the Manner Conference Center at 7:00 p.m. He also announced the 2020 United States Census deadline was September 30, 2020.

Councilmember Naeger expressed the importance of hearing from people from all walks of life to help us all have a better understanding of the racial issues. She asked constituents to continue to call and email the Governing Body with their comments. She reported she visited the Tender Loving Care Pet Nursing Hotel and stated it was a great resource for pet owners.

Councilmember Dobler reported the Governing Body had no intention of defunding the Police Department and the resolution be proposed on August 25, 2020, affirms the Topeka Police Department already adheres to the best practices being proposed.

Councilmember Duncan announced the August 31, 2020, Transient Guest Tax Committee will be rescheduled sometime in September 2020. He stated he concurs that the August 25, 2020, special meeting should be about listening to citizens, not the Governing Body talking. He suggested moving all action items to a regular meeting in September 2020, including the ordinance banning chokeholds. He commended all school districts for working hard to keep children safe during the 2020-2021 school year.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:28 p.m.




Brenda Younger
City Clerk

Attachment A

Brenda Younger

From: Sandra Clear <ksoz@aol.com>
Sent: Wednesday, August 12, 2020 12:05 PM
To: City Council; Brenda Younger
Subject: Social Service Grant Appeal
Attachments: City grant appeal signed.pdf; Grant email.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you in advance for taking time to read the attached information. Please contact me if you have additional questions.

Sandra Clear
785-925-0008

August 11, 2020

Dear City Council Members,

As most of you are aware, I served on the Social Services Grant Committee for three years. Two of those were as the chair. Therefore, I am aware of the procedures and process for those grants. With that being said, the appeal process is broken. The Committee has always understood and upheld the grant reviewers' scores and agreed that agencies needed to be held accountable for any mistakes, omissions or changes that should have been made when completing the grant application. However, if that holds true, then the grant reviewers should also be held responsible when they make mistakes. This is not what happened with Sole Reasons grant application for 2021.

I truly believe that if this grant would have been reviewed by City reviewers and staff, it would have been funded. However, since United Way was responsible for the grants this year, without City staff evaluating if scoring was done correctly, Sole Reason's grant request was not funded due to mistakes and assumptions by the United Way reviewers.

In addition, the committee did not have the comment sheets from United Way regarding the grants that were appealing. Nor did some of the committee members and United Way have the grant requests in front of them. That makes a discussion and rendering an accurate appeal decision rather difficult.

As most of you also know, I take a committee's decision very seriously. But, when the Committee Chair Councilwomen Hiller, at the beginning of the meeting states, "It's rare to have an appeal granted, but we always want to go through that process," it appears decisions have already been made; which should not be the case until conversations have been held.

Even when the Social Services Committee agreed with an agency regarding an inconsistency, the committee refused to agree to the appeal. Topeka Lulac showed that they lost two points in an inconsistency between the scoring sheet and the RFP with a total loss of \$500 to the agency. The committee agreed there was an inconsistency, but Councilmember Alcala stated, "I understand the conundrum of not wanting to set anything in stone with an appeal approval because then you have to go back and look at every single one. Is that correct?" Councilmember Hiller responded, "Arguably, yes." So, the appeal was denied; with a "we do need to fix that" attitude from the committee.

With that background information, I would like to address the appeal from Sole Reason. After reading, I'm sure you will agree with me that the mistakes made on reviewing this grant request was made by the reviewers, compounded with a lack of experience from the United Way and a lack of willingness on the Social Services Committee, to hold the agency accountable and correct the score. Also, worth noting, the United Way did not have Sole Reason's application in front of them in order to be able to precisely and accurately address questions from the committee.

There were three items addressed by the reviewers in Sole Reason's grant application.

#1. No budget history

In Sole Reason's grant request in 2019, a question was asked of Rachelle Vega-Retana about entering budget information if there were no funds received from the City in that year. Attached is Ms. Retana's reply. Also, of importance, during the training with United Way for the 2020 application, **it was stated that the application had not changed from last year**, but there would be changes made next year. This implied the answer from Rachel for the 2019 grant was still applicable. The budget was not discussed exclusively in the training.

8/11/2020

Fwd: Grant

From: s.clearsolereason@gmail.com,
To: ksoz@aol.com,
Subject: Fwd: Grant
Date: Tue, Aug 11, 2020 1:48 pm

Sandra Clear
Sole Reason
785-925-0008

Begin forwarded message:

From: Rachelle Vega-Retana <rvretana@topeka.org>
Date: March 6, 2019 at 8:35:32 AM CST
To: Sandra Clear <s.clearsolereason@gmail.com>
Subject: RE: Grant

You are correct,

2018 - 0

2019 - 0

2020 - requested amount

Rachelle Vega-Retana

Grants Administrator

City of Topeka

Dept. of Neighborhood Relations

620 SE Madison St. 1st Floor – Unit 8

Topeka, Ks. 66607

Phone: (785) 368-4490

Fax: (785) 368-2546

Email: rvretana@topeka.org

The preceding email message (including any attachments) contains information that may be confidential, protected by the attorney/client or other applicable privileges or that may constitute non-public information. This message is intended to be conveyed only to the

Attachment A

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620 SE Madison St. 1st Floor – Unit 8

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Email: rvretana@topeka.org

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