

## **Governing Body Minutes – October 13, 2020**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, October 13, 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, Padilla and Duncan - 4; and the following Councilmembers participated remotely: Ortiz, Emerson, Naeger, Dobler and Lesser - 5. Mayor De La Isla presided - 1.

AFTER THE MEETING was called to order, Pastor Theodis Williams, True Holiness Family Church provided the invocation.

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

Brent Trout, City Manager, reported Deputy Mayor Emerson plans to make a motion at the October 20, 2020, Governing Body meeting to amend City of Topeka Ordinance No. 20257 which adopted the 2018 Uniform Plumbing Code and amended Topeka Municipal Code (TMC) Sections 13.10.280(c) and 13.20.130(c) allowing contractors licensed to install City utilities to install and repair water and sewer lines servicing an industrial or commercial development.

ADVISORY COUNCIL APPOINTMENT of Joe Cheray to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending September 30, 2022, was presented. (*Council District No. 9*)

BOARD APPOINTMENT recommending the appointment of Cassandra Taylor to the Board of Building and Fire Appeals for a term ending December 31, 2021, was presented. (*Council District No. 7*)

BOARD APPOINTMENT recommending the appointment Wendy Wells to the Topeka Housing Authority Advisory Board to fill an unexpired term ending December 31, 2023, was presented.

BOARD APPOINTMENT recommending the reappointment of Matthew Werner to the Topeka Planning Commission for a term ending September 30, 2023, was presented. (*Council District No. 8*)

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

CONSENT AGENDA was presented as follows:

APPROVAL OF MINUTES of the regular meeting of October 6, 2020, was presented.

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

ORDINANCE NO. 20263 introduced by City Manager Brent Trout annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located the southwest corner of NW 25th Street and NW Button Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes, was presented.

Brent Trout, City Manager, reported the annexation case was discussed at the October 6, 2020, Governing Body meeting and staff recommends approval as presented.

Councilmember Hiller questioned how staff was handling COVID-19 pandemic procedures as it relates to the gathering and recording of public input.

Bill Fiander, Planning and Development Director, stated staff continues to conduct neighborhood information meetings in virtual settings as well as continues to provide notice to neighbors located within the property radius. He noted it was incumbent of the applicant to provide a record of the meeting.

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

Councilmember Padilla carried unanimously. (10-0-0)

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

ORDINANCE NO. 20264 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 3440 SE 29<sup>th</sup> Street from “R-1” Single Family Dwelling District to “M-2” Multiple Family Dwelling District, was presented.

Bill Fiander, Planning and Development Director, reported approval of the request would allow conversion of the existing single family residence into a duplex and the existing detached garage into an accessory dwelling unit. He noted the developer plans to extend SE 28th Terrace for the purpose of building three new duplexes (6 units) on the north two thirds of the property. He stated a Neighborhood Information meeting was conducted and the main concern expressed by one neighbor was the inadequate maintenance of existing duplexes in the surrounding area. He reported the Topeka Planning Commission and the Planning and Development Department recommend approval.

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 must state that this communication occurred and indicate that even in light of having engaged in this communication you are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record. The record includes: Planning Commission minutes, Staff report and its attachments, the public

comments made during the Planning Commission hearing and similar relevant information related to the matter. This declaration was required due to the fact that the Governing Body was acting in a quasi-judicial role in making the decision and must demonstrate that appropriate due process has been afforded.

Ex parte communication was declared by Councilmember Emerson.

Councilmember Naeger moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. (10-0-0)

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

ORDINANCE NO. 20265 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 700 SW Washburn Avenue from “M-3” Multiple Family Dwelling District TO “MS-1” Medical Services District, was presented.

Bill Fiander, Planning and Development Director, reported a request to change the zoning was to allow for redevelopment of the property for an internal-use pharmacy for the existing Cancer Center. He stated there were no significant issues associated with the proposed Medical Services zoning and the site was not well suited to its current M-3 multi-family residential zoning. He reported the proposed zoning was consistent with the Old Town Neighborhood Plan which designates the block as Medical Services. He stated the Topeka Planning Commission and the Planning and Development Department recommend approval.

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 must state that this communication occurred and indicate that even in light of having engaged in this communication you are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record. The record includes: Planning Commission minutes, Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter. This declaration was required due to the fact that the Governing Body was acting in a quasi-judicial role in making the decision and must demonstrate that appropriate due process has been afforded.

No ex parte communication was declared by Governing Body members.

Councilmember Dobler moved to adopt the ordinance. The motion seconded by Councilmember Naeger carried unanimously. (10-0-0)

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

ACCEPTANCE of Land Dedications in the Final Plat for Timber Ridge Subdivision No. 2 located generally at the southeast intersection of SW Timber Ridge Lane and SW 53rd Street, the centerline of the tract being approximately 1,000 feet south of SW 53rd Street along the east side of SW Timber Ridge Lane, all being within the City of Topeka Urban Growth Area and three mile extraterritorial jurisdiction and within unincorporated Shawnee County, Kansas, was presented.

Bill Fiander, Planning and Development Director, reported the request was made for the purpose of subdividing Lot 10, to create ten additional single-family residential lots on six acres of the original Timber Ridge Subdivision. He noted in 1990, the lot was originally planned for a sewage treatment lagoon which became unnecessary because of the extension of the sanitary sewer interceptor that enabled Timber Ridge to connect to City sewer. He stated the Planning Commission approved the plat, however, before the plat could be recorded, the Governing Body must take action to accept the dedication of land for public purposes identified in the plat.

Councilmember Emerson stated he was a friend of the applicant and as the business owner of Emcon, Inc., he was not aware of any services provided to the applicant, however, he would abstain from voting to avoid any potential conflict of interest.

Councilmember Dobler stated as an employee of Bartlett & West Engineers he was not aware of any services provided to the applicant, however, he will abstain from voting to avoid any potential conflict of interest.

Councilmember Padilla move to accept the dedications of land for public purposes identified in the plat. The motion seconded by Councilmember Lesser carried unanimously on roll call vote. Councilmembers Emerson and Dobler abstained from voting. (8-0-2)

APPROVAL of a two year labor contract for AFT Kansas Local 6406 effective January 1, 2021, through December 31, 2022, was presented. **(Contract No. 48941)**

Brent Trout, City Manager, reported a tentative agreement has been reached by the negotiating teams and was ratified by the bargaining unit and staff recommends approval.

Councilmember Dobler moved to approve the labor agreement. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (10-0-0)

APPROVAL of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2021 Special Alcohol Fund, was presented.

Brent Trout, City Manager, reported the recommendations were discussed at the October 6, 2020 Governing Body meeting and staff recommends approval as presented.

Councilmember Emerson moved to approve funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2021 Special Alcohol Fund. The motion seconded by Councilmember Padilla carried unanimously on roll call vote. (10-0-0)

DISCUSSION on the financial approach of transitioning the operation of the Topeka Zoo to Friends of the Topeka Zoo (FOTZ) through a Public Private Partnership, was presented.

Brendan Wiley, Topeka Zoo Director, reported the purpose of the discussion was to generate a better understanding of the purpose of the License and Management Fee; however, it will realistically take an additional two weeks to complete these discussions. He stated as it relates to the Management Fee he will only discuss capital maintenance of existing assets at this time.

Councilmember Lesser asked if staff was still considering a similar operations model discussed in March 2020, which includes a 2.5 mill increase for a certain period of time and then gradually reducing that number to 2 mills; and FOTZ would be responsible for operations and capital items.

Councilmember Duncan asked how many mills are needed versus the set dollar amount.

Brendan Wiley stated at this time they are unsure if the model presented in March 2020 would still work for the City; however, they will continue to work with FOTZ in making that determination and report back to the Governing Body on November 10, 2020.

Brent Trout stated discussion needs to include the base dollar amount needed; anticipated increases through the transition; the sustainable amount needed in the long-term; and the responsibilities of FOTZ and the City.

Councilmember Duncan clarified the reference made to mills refers to exiting mills. He expressed the importance of creating and distributing actual budgets and proposals for years 2021 and 2022 to the Governing Body for review before they can make an informed decision. He questioned if the financial model includes the entire personnel structure of transiting City employee to the FOTZ organization.

Brendan Wiley stated FOTZ already has all of the professional components in place that the City has including Human Resources, Legal Counsel and Financial services.

Councilmember Hiller requested staff provide an overview of all Governing Body discussions, specifically from March 2020, to ensure all members of the Governing Body understand the “why” as well as the Vision of the partnership as it relates to ownership of buildings, land, animals and organizational growth. She expressed the importance of staff clarifying what they are seeking as it relates to fiscal responsibility, providing clear guidance to the Governing Body as they consider the Capital Improvement Plan (CIP) and funding expectations of new items compared to existing items.

PUBLIC COMMENT was expressed by the following individuals:

Raymond Collins, Central Highland Park Neighborhood Improvement Association, expressed concern for the safety of the residents in the neighborhood and having sufficient police officers to protect them. He invited City officials and Governing Body members to attend a special neighborhood safety meeting on November 9, 2020, at the Hillcrest Community Center at 6:30 p.m.



Sandra Lassister referenced the Brown v. Board of Education of Topeka Landmark 1954 Supreme Court decision and stated the Board was created to build unity in the city not tear it down. She commented on the positive actions that are taking place in the city for the purpose of bringing about peace and unity including the Topeka Public Schools multi-culture program.

Paul Lassley referenced the Caravan Mobile Home Park located at 106 NW US Highway 24 and the overgrown trees that have become a public safety issue. He encouraged the Governing Body to create codes that would address the issue of overgrown trees located in public easements.

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

Brenda Younger, City Clerk, provided an overview of the October 20, 2020, Governing Body agenda.

Brent Trout, City Manager, announced the SW Gage Boulevard Project (S.W. 37<sup>th</sup> Street to SW 45<sup>th</sup> Street) has been completed 52 days ahead of schedule. He stated the City of Topeka will host a mobile pop-up food drive on October 14, 2020, from 6:00 – 8:00 p.m. at 433 SW Harrison Street; and October 15, 2020, from 6:00 – 8:00 p.m. at 1195 SW Buchanan Street. He referenced the request made by Councilmember Valdivia-Alcala to add an ordinance to an upcoming agenda establishing a citizen review board. He stated because the Police and Community Special Committee was currently considering items related to the topic he would not be placing the ordinance on a future agenda; however, an action item, in the form of a motion to “Approve the addition of an ordinance to the agenda.” will be placed on the October 20, 2020,

Governing Body agenda, providing the Governing Body the opportunity to consider the ordinance if that is the will of the Body.

Mayor De La Isla encouraged citizens to participate in the 2020 U.S. Census.

Councilmember Valdivia-Alcala requested to withdraw her request to add the ordinance creating a citizen review board to the October 20, 2020, agenda because the organizations that have drafted the ordinance will be presenting it to the Police and Community Special Committee for consideration. She announced the Oakland Neighborhood cleanup event would be held on November 7, 2020, from 7:00 a.m. to 11:00 a.m. She thanked Topeka Housing Authority for providing her a tour of their housing units. She reported on the routine closures of Topeka Fire Department Engine Crews and Fire Station No. 11 and asked citizens to provide input on the importance of Station No. 11 remaining open.

Councilmember Ortiz encouraged all citizens to get their flu shot. She commended Trey Hopkins for providing his mobile food truck in north Topeka. She commented on the October 10, 2020, shooting that took place in the 1200 block of SW Garfield Avenue and encouraged citizens to participate in the “See Something Say Something” rally. She noted details of the rally would be released at a later date.

Councilmember Emerson commented on the growth in the community and commended staff for their assistance with the developments.

Councilmember Padilla commended Momentum 2020 for their continued efforts through the Champion Program to encourage and assist local entrepreneurs. He encouraged citizens to vote in the 2020 General Election on November 3, 2020.

Councilmember Naeger encouraged citizens to participate in the 2020 U.S. Census by visiting the census website at [www.2020census.gov](http://www.2020census.gov). She reminded citizens to vote in the 2020 General Election on November 3, 2020.

Councilmember Duncan reported the State of Kansas Office of the Governor has established the Office of Broadband Development and announced the distribution of nearly \$50 million in Connectivity Emergency Response Grant (CERG) funds to underserved communities across Kansas. He stated that Cox Communications has received \$1.4 million in CERG funds to distribute to cities across the state including Topeka. He stated he will continue to meet and collaborate with Cox Communication for the purpose of providing internet access to students in the area.

Councilmember Lesser requested the City Manager conduct an evaluation and audit on the Sherwood Crossing Improvement District located at SW 29<sup>th</sup> Street and Wanamaker Road. He reported at least four different individuals have raised concerns to Governing Body members in regards to the status of the development and the developer being held accountable.

Councilmember Hiller thanked Councilmember Emerson for addressing the concerns of local plumbers. She encouraged citizens to participate in the 2020 U.S. Census and asked citizens to get engaged in the community and vote in the 2020 General Election. She announced the Tennessee Town Neighborhood cleanup would be held October 23-25, 2020; and broadband efforts will be discussed at the next Public Health and Safety Committee.

Councilmember Emerson 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 KSA 75-4319(b)(1), in order to protect the privacy of those discussed. To aid in the discussion, the following individuals were present: Members of the Governing

Body and Human Resources Director, Jacque Russell. No action will be taken when the open meeting resumes in the Governing Body Chambers. The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. (10-0-0)

Following a 45-minute time period, the meeting was reconvened into open session and Mayor De La Isla announced no action was taken.

Councilmember Lesser moved to recess into executive session for a period of time not to exceed 10 minutes to discuss confidential employment matters pertaining to nonelected personnel, as justified by KSA 75-4319(b)(1), in order to protect the privacy of those discussed. To aid in the discussion, the following individuals were present: Members of the Governing Body; and Human Resources Director, Jacque Russell. No action will be taken when the open meeting resumes in the Governing Body Chambers. The motion seconded by Councilmember Hiller carried on roll call vote. Councilmember Ortiz voted “no”. (9-1-0)

Following a 10-minute time period, the meeting reconvened into open session and Mayor De La Isla announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:15 p.m.

(SEAL)

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Brenda Younger  
City Clerk