

Governing Body Minutes – November 10, 2020

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, November 10, 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, Padilla and Duncan - 3; and the following Councilmembers participated remotely: Valdivia-Alcala, Ortiz, Emerson, Naeger, Dobler and Lesser - 6. Mayor De La Isla presided - 1.

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

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

PRESENTATION of the Tom McGaughey Award to Topeka Fire Department Lieutenant Matt Frehe was presented by Kansas State Fire Marshal Doug Jorgensen.

RECOGNITION of community partners that worked in collaboration with 2020 U.S. Census Bureau efforts was presented by Councilmember Padilla.

CONSENT AGENDA was presented as follows:

APPROVAL OF MINUTES of the regular meeting of October 20, 2020, was presented.

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

RESOLUTION NO. 9198 introduced by the members of the Public Infrastructure Committee comprised of Councilmembers Neil Dobler, Tony Emerson, Mike Lesser and Mike Padilla recommending approval of certain public infrastructure projects was presented.

Councilmember Dobler, Public Infrastructure Special Committee Chair, reported there was great discussion with City staff regarding upcoming projects to be completed with the Citywide Half Cent Sales Tax that are in excess of \$250,000 along with street maintenance

projects. He commended City Engineer Brian Faust and staff for assisting with the process and answering questions of the Committee.

Councilmember Emerson stated the process was a great way for the Governing Body to be more engaged in the CIP and CIB process.

Councilmember Padilla expressed his appreciation to the Committee members for their knowledge and hard work during the process.

Councilmember Lesser stated it was a worthwhile process and great to have the expertise of Councilmembers Dobler and Emerson. He commended staff for their assistance during the process.

Councilmember Ortiz thanked Councilmember Dobler for creating the committee. She reported she attended a committee meeting which was informative and beneficial.

Councilmember Hiller stated she was impressed with the work that has been completed by the Committee. She referenced a list of questions she emailed to Brian Faust asking how much funds are left and how long will the funds last at the rate they are being budgeted for curb and gutters; and how are the alleyways chosen to be placed on the list as well as the Americans with Disabilities (ADA) sidewalk ramps. She noted that she received handouts answering all her questions and requested that these types of handouts be included in the minutes of committee and governing body meetings.

Brent Trout, City Manager, reported from staff's viewpoint there are advantages having the committee in order to discuss issues and receive feedback regarding infrastructure projects and categories.

Councilmember Dobler clarified the purpose of the committee was not to direct City Staff on how to do their job, but instead, provide an opportunity for good communication and

presentations on pavement management and in-depth City processes. He commended City staff for their assistance and stated he looks forward to continuing the process in the future.

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

RESOLUTION NO. 9199 introduced by City Manager Brent Trout, setting the public hearing to consider the advisability of establishing a Community Improvement District (CID) for the Downtown Ramada Hotel & Convention Center pursuant to K.S.A. 12-6a26 et seq., was presented.

Brent Trout, City Manager, reported the applicant submitted a petition and an application requesting a Community Improvement District (CID) from the City for the purpose of making certain improvements to the Downtown Ramada Hotel & Convention Center ("Downtown Ramada") as well as it would make certain improvements and establish a 2% CID. He stated approval of the resolution would set a public hearing date of December 1, 2020, at which time the applicant would present the details on the CID.

Councilmember Ortiz moved to approve the resolution. The motion was seconded by Councilmember Lesser.

Councilmember Hiller stated typically when the City receives this type of proposal the City's policy requires the finances and draft development agreement be reviewed by staff and Council before a public hearing date was scheduled. She noted if the intent was to expedite the request then she would request a completed development agreement at least 10 days in advance of the date of the public hearing to remain on track with the statutory timeline.

Brent Trout stated he reviewed City policy and procedures and it does not state the finances have to be presented when the public hearing date was set; however, staff has already

been working with the developer in reviewing the financials while working on the proposal. He stated staff expects to receive the development agreement prior to November 18, 2020, providing sufficient time to review before the December 1, 2020, public hearing date.

The motion to approve the resolution carried unanimously on roll call vote. (10-0-0)

DISCUSSION regarding the details of the future vision of Friends Of Topeka Zoo (FOTZ) to operate the Topeka Zoo through a Public Private Partnership (PPP) was presented.

Pat Colley, FOTZ Board President, provided a brief overview of the history of FOTZ and their continued partnership with the City to work towards the goal of FOTZ operating the Topeka Zoo.

David Walsh, Zoo Advisors (ZA) Principal, continued with an overview of the PPP as it relates to the growth, economic impact and risk mitigation of the Zoo.

In conclusion, Pat Colley stated from a FOTZ perspective, they feel as if they have done their due diligence by working with Zoo Advisors and the City since 2012 to create a successful partnership. He highlighted the next steps in the process if the Governing Body decides to move forward with the partnership including approval of a management agreement; commitment to a City license and management fee for operations and capital improvement support; begin implementation steps for transitioning City employees to FOTZ; and begin the overall organizational transition process.

Councilmember Naeger inquired on animal care and animal health and if there was a difference between zoos that are operated by government entities versus those operated through a PPP model. She expressed the importance of the City investing in new and existing zoo experiences.

David Walsh stated the zoos the ZA works with are all Association of Zoo & Aquariums (AZA) accredited members and they follow a set of minimum standards for animal care and welfare. He reported zoos that are operated by nonprofits are able to allocate more funds towards animal welfare and behavior.

Councilmember Hiller expressed her support of the partnership. She stated she wants to make certain there are no funding restrictions for FOTZ as a result of the partnership with the City. She asked the following questions:

- 1) If a City representative would serve on the FOTZ board and if so, what would be the pros and cons of the role of the board member.
- 2) Would the board member be a staff member or an elected official.
- 3) Would FOTZ be asking for support of capital maintenance expenses.
- 4) If the current debt service for the Zoo was included in the FOTZ operating budget. She noted the City could be paying as much as \$600,000 annually based on the current list of capital projects and based on the proposed FOTZ budget, there would be an additional \$300,000 in debt service that would need to be covered.

Pat Colley provided the following responses:

- 1) The management agreement and fee would include transferring responsibility of the Zoo to FOTZ while ensuring the City has a “seat at the table.”
- 2) FOTZ would prefer two *ex officio* City staff members and two *voting* Governing Body members to serve on the board.
- 3) Capital expenses include the current assets in place and ongoing capital needs. He noted the proposed model includes much less than what has historically been in the budget for those types of expenditures, and moving forward, they believe it was a good level to support the continued needs of those facilities and assets that are currently at the zoo.
- 4) The model being proposed assumes a much lower debt service amount than \$600,000; therefore, they would report back to the Governing Body in regards to the debt service amount.

State House Representative Fred Patton and FOTZ Board President, stated he does not know the specific amount of the City’s debt service for the Zoo. He reported they recognize that the City has certain limitations on how funding could be spent, which was why the proposal has been presented in two separate parts.

Brent Trout stated the existing debt includes projects that are underway or already completed and the City plans to continue paying on those projects; however, due to various funding sources associated with those payments and expenses it will not fit the model be presented. He reported the City would continue to own the facilities and contribute a portion of the funds for the maintenance of the buildings.

Councilmember Hiller stated the proposed model includes a creation of new assets that would generate maintenance expenses. She suggested a lease for the ground and buildings and allows FOTZ to manage performance requirements including media marketing and operational programs as well as the animals.

Pat Colley stated the intent of FOTZ was to be self-sufficient using the management fee as a supplement for operations.

State Representative Patton stated he believes the proposed model will save the City money next year and into the future. He noted next year's zoo attendance will be much less causing a loss in revenues.

Councilmember Duncan asked the following questions:

- 1) In reference to the PPP model assessment, has the Zoo considered conducting primary market research on price elasticity and tolerance.
- 2) In reference to the Zoo Advisors memo, why do they think the venue rental and the assessment of the projection to be somewhat aggressive.
- 3) In reference to the Zoo Advisors memo, why are they questioning the elimination of the Guest Experience Manager position.

Pat Colley stated they have discussed the importance of the zoo remaining assessable to the community and Zoo Advisors could conduct the market research analysis.

David Walsh stated the initial assessment regarding the venue rental projection could be attainable with the right market; and they want to make sure there would be enough staffing for

the incoming revenue under the model and that FOTZ will have the flexibility to place staff where needed.

Councilmember Duncan asked what the debt service and payoffs would be in 15 years and if City staff has reviewed the cost analysis in terms of actual savings to the City. He spoke in support of a model that supports the mills chosen; a Councilmember serving on the FOTZ Board; and a model that gives discounts to Topeka residents who visit the zoo.

State Representative Patton reported FOTZ has been working under the assumption that an elected official and a City staff member would serve on the board as requested by the Governing Body; and the term limit of the agreement would be the decision of the Governing Body.

Councilmember Dobler asked for an explanation of the projected attendance numbers that were generated.

Pat Colley stated the attendance numbers have been based on past exhibits such as the Lion's Pride, drawing approximately 289,000 visitors annually, as well as new exhibits that will be opening as soon as November 2020. He reported with the analysis of the market penetration study conducted by Zoo Advisors the attendance numbers listed will be easily attainable in the future.

State Representative Patton reported FOTZ plans to increase marketing efforts in communities located outside the Topeka-Shawnee County area with the intent to support the trend of increased revenue streams from outside areas.

Councilmember Dobler expressed the importance of sustainable revenue for the zoo as it relates to forecasted attendance. He requested City staff generate a pro forma spending graph of

the financial spending forecast for the City with a partnership versus without partnership and include debt service.

Councilmember Hiller questioned if the 0.3 mills for capital maintenance requested by FOTZ would be cash obtained through fundraising instead of borrowed funds; and if FOTZ would prefer a set mill levy.

Pat Colley stated it would depend on the agreement reached with the City and FOTZ would support a set mill levy.

Jeff White, Columbia Capital Municipal Advisors, provided an overview of the memorandum he distributed to the Governing Body dated November 9, 2020, addressing the following as the City considers entering into a Private Public Partnership (PPP) with FOTZ:

- Framework of Analysis – The experience is that local government PPPs generally do not provide cost savings versus public delivery of the same good or service.
- The key risks the City would be transferring to FOTZ include expenses, growth demand, regulatory matters, human resources management, staffing growth and community ownership.
- The key risks the City would be accepting if it entered into a PPP with FOTZ include governance risk, flexibility risk and counterparty risk.

In conclusion, Mr. White stated the key decision facing the Governing Body would be if the value of the risks transferred to FOTZ equals or exceeds the value of the risks retained and added. He noted FOTZ has been a known proven partner to the City; however, FOTZ does not have deep financial resources on which to draw, if its assumptions are wrong, or if the Zoo suffers a future exogenous shock, such as a prolonged pandemic induced shutdown. He stressed the importance of the City acknowledging the inherent challenge of projecting the future and being willing to recognize financial volatility from year-to-year. He suggested the following be considered:

- 1) Do they believe the City's transfer of the risk as proposed by FOTZ leave both the City and the Zoo in a better net position at the end of the proposed 15-year contract term?

2) What would the City be willing to pay each year to gain the risk transfer it desires?

Brent Trout thanked Jeff White for the presentation. He asked the Governing Body if they are at a point where they would like staff to continue to move forward with the negotiations of a license and management agreement with FOTZ.

Councilmember Lesser moved to direct the City Manager to begin negotiating with Friends of Topeka Zoo (FOTZ) for conditions and terms of a license and management agreement with the City in a public/private partnership to be brought back to the Governing Body in order to move forward. The motion was seconded by Councilmember Emerson.

Councilmember Duncan questioned if entering into an agreement with FOTZ was exempt from the City of Topeka Request for Proposal (RFP) process.

Brent Trout reported a RFP was conducted and FOTZ was awarded the proposal.

Councilmember Dobler spoke in support of moving forward with negotiations.

The motion to direct the City Manager to begin negotiating with Friends of Topeka Zoo (FOTZ) for conditions and terms of a license and management agreement with the City in a public/private partnership to be brought back to the Governing Body in order to move forward carried on roll call vote. Councilmember Valdivia-Alcala voted “no.” (9-1-0)

The following individuals submitted public comment via electronic mail: Joseph Ledbetter (*Attachment A*)

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

Kelly Bogner, Assistant City Clerk, provide an overview of the November 17, 2020, Governing Body agenda.

Brent Trout, City Manager, stated the City would continue as an organization to follow the face mask mandate and he does not anticipate closing the City Hall building. He announced City administrative offices will be closed November 11, 2020, in observance of Veteran's Day.

Mayor De La Isla reported Shawnee County has high numbers of positive COVID-19 cases and the County will hold a press conference on November 12, 2020, addressing the matter. She reminded everyone of the importance of wearing a mask.

Councilmember Ortiz stated the schools will most likely be fully remote starting November 16, 2020, and reminded students to wash their hands and face masks. She highlighted the benefits of smoke detectors. She thanked Councilmember Padilla and his wife for their work on the 2020 U.S. Census and all veterans for their service.

Councilmember Emerson thanked the veterans for their service. He stated the Central Park NIA Crime Summit was a success and thanked Councilmembers Padilla and Hiller and City Manager Trout for attending the event.

Councilmember Padilla commented on the 2020 political environment and encouraged City elected officials to remain respectful and follow the respectful lead of Mayor De La Isla in upcoming 2021 elections.

Councilmember Naeger encouraged citizens with questions regarding the mask mandate to reach out to local professionals for guidance. She thanked active military service members and veterans for their service.

Councilmember Dobler thanked the veterans across the city and expressed his appreciation for their service. He thanked Councilmember Padilla for his work on the 2020 U.S. Census.

Councilmember Duncan thanked the veterans and reminded everyone to remember all that serve on Veterans Day. He reminded everyone to avoid mass gatherings and to be vigilant in wearing face masks as it will save lives.

Councilmember Lesser thanked Planning and Development Director Bill Fiander and City Manager Brent Trout for assisting with an issue in District 9 relating to signage for a business. He thanked veterans for their service.

Councilmember Hiller stated she was too proud to serve on the City Council and believe they all do their best to represent their districts and the city as a whole. She stated they need to remember those on Veterans Day and thanked Councilmember Padilla for his work on the 2020 U.S. Census.

Councilmember Valdivia-Alcala stated she retired from the Veteran Affairs and dealt with healthcare for veterans and expressed the importance of understanding the vulnerability related to mental health issues. She asked that everyone take care of their family and keep in contact with them. She thanked City Community Engagement staff members Monique Glaude and LaToya Burnett-Martinez for assisting with Operation Food Secure food drives.

Councilmember Hiller 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 City Manager, Brent Trout. No action will be taken when the open meeting resumes in the Governing Body Chambers. The motion seconded by Councilmember Lesser 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.

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

(SEAL)

Brenda Younger
City Clerk

Attachment A

Brenda Younger

From: Joe Ledbetter <joe_ledbetter@yahoo.com>
Sent: Tuesday, November 10, 2020 5:57 PM
To: Neil Dobler; Michael Lesser; Michael Padilla; Tony Emerson; Karen A. Hiller; Spencer Duncan; Sylvia Ortiz; Michelle De La Isla; Brenda Younger
Subject: I support the Zoo having its own governance. For the record.

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.

I will not be at the meeting tonight but I support this concept. Thank you.

Sent from my iPhone