

Governing Body Minutes – November 17, 2020

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, November 17, 2020. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers participating remotely: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Dobler and Duncan - 8. Mayor De La Isla presided - 1. Absent: Councilmember Lesser -1.

The meeting was conducted virtually due to the increase of COVID-19 pandemic cases. No in-person public comment was allowed. A media release was distributed November 16, 2020, (Attachment A) to notify the public. Public comment related to an item on the agenda was submitted in writing to the City Clerk’s Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, or via email at cclerk@topeka.org for attachment to the minutes.

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

THE PLEDGE OF ALLEGIANCE was recited virtually by meeting participants.

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20267 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period June 27, 2020 through July 31, 2020, and enumerating said expenditures therein, was presented.

APPROVAL OF MINUTES of the regular meeting of November 10, 2020, was presented.

APPROVAL of the following Cereal Malt Beverage license applications were presented:

<u>Business Name</u>	<u>Address</u>
Chuck E. Cheese	2215 SW Wanamaker Rd
Doughboyz Pizzeria	1312 N Kansas Ave
Glory Days-Fleming Place	1033 SW Gage Blvd

Business Name

Glory Days-Lake Shawnee

Address (continued)

3310 SE 29th St, Ste 600

APPROVAL of an Open After Midnight license application for the 4310 Pizza Company located at 4310 SW 21st Street was presented.

Councilmember Dobler moved to approve the consent agenda. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9200 introduced by City Manager Brent Trout temporarily suspending certain Governing Body Rules and Procedures in response to the COVID-19 pandemic until February 16, 2021, was presented.

Brent Trout, City Manager, reported due to the increase in COVID-19 pandemic cases staff was requesting to extend the suspension of certain Governing Body Rules & Procedures until February 16, 2021.

Councilmembers Duncan and Naeger expressed the importance of public input at Governing Body meetings and requested staff work to provide citizens Zoom access to future Governing Body meetings.

Councilmember Hiller reported public comment via Zoom has been successful at the Council committee meeting level.

Mayor De La Isla commended the Governing Body for leading by example and conducting virtual meetings.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (9-0-0)

AUTHORIZING a public hearing for December 8, 2020, for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2020 Operating Budget, was presented.

Brent Trout, City Manager, stated approval of this item authorizes publication of the Notice of Public Hearing in the Topeka Metro News to be conducted on December 8, 2020.

Councilmember Naeger moved to approve the public hearing date of December 8, 2020. The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. (9-0-0)

ORDINANCE NO. 20268 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, approving a Planned Unit Development (PUD) Master Plan for Evergy Electric Substation located on property south of SE 6th Avenue and lying between SE Golden and SE Highland from “X-1” Mixed Use District to “PUD” Planned Unit Development (X-1 zoning use group plus the addition of a public utility facility type II) all being within the City of Topeka, Shawnee County, Kansas, was presented. (*PUD20/01*) (*Council District No. 3*)

Bill Fiander, Planning and Development Director, reported the request would allow Evergy Inc. to rebuild and expand its electric substation with heights up to 75 feet, exceeding the 62-foot height limit as stated in the zoning code. He noted the substation has to be rebuilt to maintain and improve service in the area. He stated the applicant was not required to conduct a neighborhood information meeting due to circumstances of the COVID-19 pandemic, however, the applicant did mail notices to all property owners within 300 feet of the site. He reported the Planning Commission and Planning Department recommended approval.

Councilmember Duncan inquired on the 62-foot height requirement.

Bill Fiander reported the height requirement was set several years ago to accommodate equipment such as radio antennas in residential areas.

Mayor De La Isla announced 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 they are able to fairly, objectively and impartially consider the measure based only upon the evidence provided on the record. The record includes the Planning Commission minutes, the 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 this decision and must demonstrate that appropriate due process has been afforded.

Ex parte communication was declared by Councilmember Ortiz.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Hiller carried unanimously. (9-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Dobler, Duncan and Mayor De La Isla - 9. Absent: Councilmember Lesser - 1.

SECURITY GUARD LICENSE APPEAL submitted by Christopher Ortega, was presented.

Mayor De La Isla reported Mr. Ortega contacted staff to advise that he was unable to attend the hearing and staff has no objection to continuing his security guard license appeal hearing to the next Governing Body meeting on December 1, 2020.

Councilmember Ortiz stated she would like to move forward with consideration of the appeal with the intent to override the denial as the incident took place over 10 years ago. She expressed the importance of allowing the individual a second chance.

Councilmember Ortiz moved to approve the denial. The motion was seconded by Councilmember Emerson.

Councilmember Hiller expressed concern with discrepancies in the facts being presented and would like to give the applicant an opportunity to provide an explanation.

Bill Cochran, Topeka Police Chief, clarified the denial was based on a 2010 violation. He stated the 2017 violation has not been dispensed of yet; however, the applicant has a duty to disclose all violations as well as rectify all court violations and fines.

Mayor De La Isla expressed concern with the Governing Body making a determination when the applicant was not present.

Councilmember Padilla questioned if there was an urgency to consider at this time as he would prefer clarification from the applicant before making a decision.

Councilmember Ortiz withdrew the motion to approve the denial. The second concurred.

Councilmember Ortiz suggested staff contact Mr. Ortega and encourage him to resolve any legal issues that are delaying the approval of the license prior to the December 1, 2020, Governing Body meeting.

Councilmember Duncan requested staff provide a detailed explanation of denial so the Governing Body can make an informed decision.

Councilmember Valdivia-Alcala moved to defer the appeal hearing until December 1, 2020. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. (9-0-0)

PUBLIC COMMENT was submitted via electronic mail by Tuck Duncan.
(Attachment B)

ANNOUNCEMENTS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE

COUNCIL;

Brent Trout, City Manager announced the closure of Municipal Court dockets from November 18, 2020 until December 4, 2020, at which time it will be re-assessed. He stated Municipal Administrative Court offices will remain open for business.

Governing Body members urged residents to wear their face mask, take care of each other, and remain steadfast in their health and safety efforts as it relates to controlling the COVID-19 pandemic.

Mayor De La Isla referenced documents the Governing Body received via email relating to Menninger's West Campus Tower Building. She stated the City has been working with community partners with the hope to find a resolution to help save the building. She commented on the seriousness of rising COVID-19 pandemic cases in the community and reported local hospitals as of November 13, 2020, reached 80% capacity making the situation critical.

Councilmember Padilla referenced an article printed in the Topeka Capital Journal on November 13, 2020, announcing the first Washburn University Latino Sorority Gamma Phi Omega.

Councilmember Naeger stated the healthcare providers in the community are giving the best healthcare they can in response to the COVID-19 pandemic. She announced that Zoom will offer free services with no time limit starting November 26, 2020, at 11:00 p.m. C.S.T. until 5:00 a.m. C.S.T. on November 27, 2020.

Councilmember Dobler expressed his appreciation to Tuck Duncan for providing the background information on the Menninger Tower Building. He stated he hopes the City can find a way to preserve the historic building and noted he believes there will be a coalition formed to save the building through partnership of many organizations. He thanked the Public Works

Department for their assistance relating to water main breaks on SW 37th Street, and commended staff for providing a thorough presentation to the neighborhood to help them understand the fiscal and operational components related to water line replacements.

Councilmember Duncan expressed his appreciation to City staff for promptly addressing many issues over the past couple weeks throughout the city. He clarified the Governing Body has no desire to shut down small businesses and implement unnecessary regulations, however, citizens must help stop the spread of the COVID-19 pandemic in order to economically recover from the pandemic.

Councilmember Hiller commended staff for the completion of the construction season and the many sidewalks improvements throughout the city, specifically along Lindenwood Avenue. She also commended staff for implementing upgrades to the City's utility payment portal.

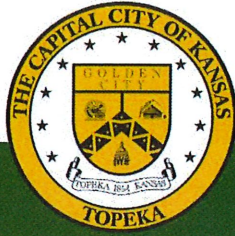
Councilmember Valdivia-Alcala referenced a recent tragedy that took place on NW Lyman Road related to the death of a teenage girl. She reported the City was aware of the series of tragedies along this corridor and asked constituents to understand that their phone calls and emails are being acknowledged. She reported she has been working with Public Works staff regarding this area of the city to see if there are funds available to install much needed sidewalks. She offered her deep condolences to the family for their loss.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:05 p.m.

(SEAL)

Brenda Younger
City Clerk

Attachment A



CITY OF TOPEKA

City Communications
City Hall, 215 SE 7th Street
Topeka, KS 66603

Tel: 785-368-0991
www.topeka.org

For Immediate Release

Contact for further information: Molly Hadfield, Director of Media Relations 368-0991,
mhadfield@topeka.org

Monday, November 16, 2020

Remote Governing Body Meeting

TOPEKA, KS – The Governing Body meeting for Tuesday, November 17th will be entirely remote on Zoom due to the rising number of COVID-19 cases in Shawnee County. Due to this change, only action items on the meeting agenda will be considered. All non-action items will be moved to the December 1st meeting. Public comment can still be given, if submitted in writing, to the city clerk's office at cclerk@topeka.org by 5 p.m.

The Governing Body meeting will be broadcast on City4, livestreamed to Facebook and can be viewed on the City of Topeka website at <https://www.topeka.org/communications/live-stream/>.

Attachment B

Brenda Younger

From: tuckduncanlaw@yahoo.com
Sent: Tuesday, November 17, 2020 4:25 PM
To: City Clerk
Subject: PUBLIC COMMENT TONIGHT
Attachments: Treasurer the Tower comments.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.

PURSUANT TO THE NOTICE:

Only written public comment will be considered for the November 17, 2020, Governing Body Meeting. Written comments must be submitted personally to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email (cclerk@topeka.org) by no later than 5:00 p.m. on November 17, 2020, for attachment to the meeting minutes.

Please find herewith my comments to be submitted.

Please confirm receipt.

Thank you,

R.E. "Tuck" Duncan

R.E. "Tuck" Duncan
Attorney at Law LLC
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Topeka, Kansas 66603
785.233.2265 FAX 785.233.5659
tuckduncanlaw@yahoo.com

TO: Mayor, Members of the Council and City Manager:

I had planned on personally attending the meeting November 17, 2020 to comment on the need of the City to find a solution to saving the Tower Building. 4 days ago it was reported:

Menninger clock tower could soon be demolished; owner hopes buyer will step forward

<https://www.cjonline.com/news/20201113/menninger-clock-tower-could-soon-be-demolished-owner-hopes-buyer-will-step-forward>



**Tower Building,
Menninger West Campus,
Topeka, Kansas**

The Tower Building as seen from the south. The pond in the front served as part of the air conditioning system when it was a medical hospital for the Security Benefit Life Association. The building was modeled after Independence Hall in Philadelphia. Construction began in 1923 on the central portion of the building. When completed in 1924, the furnishings of the 30 rooms were donated by councils

of the SBA at the cost of \$200. The names of those councils are inscribed on the terrazzo floors in the doorways. After purchasing the entire facility in about 1960, the Menninger Clinic used the Tower Building for offices, the museum, and the Professional Library.
<https://www.kansasmemory.org/item/222600>

HOW CAN WE STAND BY, TAKE NO ACTION, AND ALLOW DEMOLITION OF THIS IMPORTANT LANDMARK TAKE PLACE ?

Originally the Security Benefit Association Hospital, The Security Benefit Association, a fraternal organization and a forerunner of social security, charged the members a nickel a month for hospital care, an orphanage for their children if the member died, and an old folks home all centered around a model farm in Topeka, Kansas. This hospital had 300 beds, and a very modern operating suite of rooms.



According to the Shawnee County Appraiser's records the property is owned by: 5800 SW 6TH AVE City State ZIP: Topeka, KS 66606 Owner Name: SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM INC Size: 71.57 Acres.

As I stated in my FACEBOOK post this week:

“It would be criminal to destroy this historical building. Shame on those who could prevent this. The city should take the building, owners should give it free, get the public buildings commission to issue bonds on the strength of long-term leases. The state could be a tenant. This can work. Shawnee County Historical Society could host a county museum using the museum tax levy¹ that is on the books to pay rent. It could include a Menninger component. Where is the Menninger Museum in Topeka? Why not here? All we need is the will to get this done. Pass it on.”

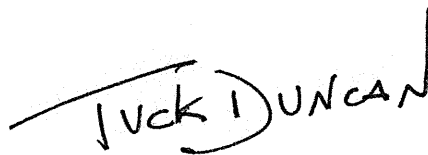
All we need is “the will.” Do you have “the will” ? Destruction of this building can be summed up in one word – **tragic**.

As a former President of the Shawnee County Historical Society, as counsel for Rev. Richard Taylor in assisting his efforts to “Save the Jayhawk,” as a professional in this community for 45 years, I and my spouse Kathy, implore you, while there is still time, to establish an appropriate work group to

Treasure the Tower.

We would be pleased to assist as may be appropriate. Thank you for your kind attention to and consideration of this matter.

Respectfully,

A handwritten signature in black ink that reads "TUCK DUNCAN". The signature is written in a cursive, slightly slanted style. The first name "TUCK" is written in all caps, and "DUNCAN" is also in all caps. There is a horizontal line above the "T" and "U" in "TUCK".

R.E. “Tuck” Duncan

¹ KSA 12-1681 et.seq. Community historical museums authorized; property and employees. **Any city or school district may establish, promote and operate a community historical museum** and acquire or lease land, buildings or other facilities and equipment and employ a director and assistants and vote and expend funds for said purposes.