

Governing Body Minutes – March 2, 2021

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 2, 2021. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Valdivia-Alcala and Duncan -3; and the following Councilmembers participating remotely: Ortiz, Emerson, Padilla, Naeger, Dobler, and Lesser - 6. Mayor De La Isla presided - 1.

Public comment for the meeting was available via Zoom or in-person. COVID-19 pandemic public safety mandates allowed for 15 people inside the Council Chambers to observe the meeting at one time. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on March 2, 2021, after which the City Clerk's Office provided the Zoom link information and protocols prior to the meeting start time. Written public comment was also considered to the extent it was personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before March 2, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Judy a resident at Shelter Living Inc, (SLI) provided the invocation.

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

AN UPDATE on the February 2021 Energy Crisis due to severe cold weather conditions covering 17 states, including Kansas, was provided by Jeff Martin, Customer & Community Operations Vice President, Evergy, Inc. He highlighted the following:

- Power availability during the event;
- The Southwest Power Pool (SPP) Region;
- How temporary emergency power outages are determined;
- How interruptions lessen the stress on the grid in extreme weather events;

- What improvements are or can be made to reduce chances of outages as it relates to more extreme weather;
- How utility rates are regulated; and
- Payment options for increased utility bills.

Councilmember Valdivia-Alcala thanked Mr. Martin for providing the presentation and stated the power outage was a traumatic event for Oakland and North Topeka constituents. She asked if the rolling blackout was determined in consultation with SPP; why the blackouts lasted longer than 30-60 minutes as communicated; and if senior facilities were targeted in the outage. She reported COVID-19 pandemic clinics are not located in Low to Moderate Income (LMI) areas causing these areas adverse impact. She also reported the Water Treatment Plant was affected by the power outage and she hopes Evergy will work with the City to avoid this from happening in the future.

Councilmember Duncan asked why the event outages were longer than the 30 to 60-minute timeframe communicated to City officials; and why the text system and/or social media platforms used by Evergy for routine communications were not used to notify customers of the power outages.

Councilmember Lesser thanked Mr. Martin for providing the presentation and expressed the importance of a reliable notification system to allow people to prepare for upcoming power outages and surges. He expressed his appreciation to Mr. Martin for answering the hard questions and continuing a positive partnership with City.

Councilmember Naeger asked if internal audits or investigations are planned and if so would the audits and/or investigation be performed by a second party.

Councilmember Dobler thanked Mr. Martin for providing the presentation and commended Evergy for the great work they perform throughout the year.

Councilmember Hiller thanked Mr. Martin for providing the presentation and commended Evergy for the great work performed daily. She asked if consumer education was underway for severe weather events. She encouraged Evergy to work with the City's emergency social and housing services regarding educating constituents and reintroducing weatherization programs.

Jeff Martin provided the following responses:

- Evergy works with SPP; however, Evergy controls requirements placed on SPP.
- Power outages were determined based on clinics providing COVID-19 pandemic vaccinations; however, if outages would have continued then all elderly senior facilities would have been affected.
- He recognized the failures, and on behalf of Evergy, accepted responsibility to better utilize videos, messages and press releases.
- Internal and external audits/investigations would take place with adjustments to operations accordingly. Governor Kelly and the Kansas Corporation Commission (KCC) will determine when audits and investigations would be complete.
- Evergy will review new ways to educate customers as it relates to severe weather events for winter preparedness and energy efficiency opportunities.

Mayor De La Isla thanked Jeff Martin for providing the presentation and answering tough questions.

CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of February 16, 2021, was presented.

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

ORDINANCE NO. 20283 introduced by City Manager Brent Trout, concerning zoning ordinances, amending City of Topeka Code Sections 18.55.020, 18.55.040, 18.55.140, 18.55.150, 18.55.190, 18.55.200, 18.60.010, 18.225.010 and 18.240.030 and repealing original sections, was presented.

Brent Trout, City Manager, reported Deputy City Attorney Mary Feighny, worked closely with the Planning & Development Department on the short-term rental (STR) ordinance to address questions related to what consequences there would be in the event a guest stays longer than 28 consecutive days; and what laws apply to the relationship between the STR business and the guest.

Suzy Loy spoke in support of allowing the operation of Airbnbs and noted it was a great way for residents to generate revenue. She thanked Staff members for the work on the ordinance and Councilmember Hiller for reaching out to her for input.

Councilmember Naeger read a statement on behalf of Vicki Arnett, resident at 1105 SE Medford, expressing concern with noise, trash and parking regulations associated with rental properties. She thanked Planning Staff for their assistance and work on the issue.

Councilmember Valdivia-Alcala asked for an explanation of rental lengths for 29 days to one-year not covered in the proposed ordinance.

Councilmember Hiller reported an extended stay rental was very common; however, a variety of individuals that stay longer than 28 days would not be covered by the additional regulations outlined in the ordinance. She stated the language does not include occupancy limit as well as there may be a need at a later date to reference the term “inn keeper” as outlined in State statute.

Brent Trout stated if it was determined, that language amendments are needed then they could do so after the pandemic was over to allow for more public input.

Councilmember Duncan stated he generally supports the ordinance. He inquired on the penalties and/or consequences of not registering a short-term rental property with the City and if those penalties and/or consequences are outlined in the language of the ordinance.

Bill Fiander, Planning and Development Director, stated if a property was not registered with the City then it would be considered a zoning violation and handled as such, eventually causing the permit to be denied or revoked.

Lisa Robertson, City Attorney, reported a violation of a zoning regulation was a violation of State law.

Councilmember Valdivia-Alcala expressed concern with the slow process of issuing a zoning violation and the need to think outside the box regarding a change in that process. She stated she would oppose the ordinance as written.

Councilmember Duncan asked what the general timeframe would be to process a zoning violation.

Bill Fiander stated violations are complaint based followed by a two-week correction period. He stated the City has only one zoning inspector so the process could take months to prosecute.

Councilmember Naeger noted the City may need to consider hiring more inspectors to allow Staff to be proactive instead of reactive.

Councilmember Hiller questioned if the City has the ability to conduct an audit of “stay” records if there was a violation reported.

Councilmember Valdivia-Alcala asked if the City tracks rental sites or clustering of rental locations. She stated she believes the language needs clarification.

Bill Fiander stated the City tracks rentals; however, he was not aware of many clusters of rentals besides where the original complaint took place in the Greater Auburndale Neighborhood. He reported Staff could request lease records if needed.

Councilmember Ortiz stated she would abstain from voting because she was unable to hear the majority of the discussion due to an unstable internet connection.

Councilmember Naeger moved to approve the ordinance. The motion seconded by Councilmember Padilla carried on roll call vote. Councilmember Valdivia-Alcala voted “no.” Councilmember Ortiz abstained. (8-1-1)

DISCUSSION for the purpose of establishing priorities for the 2022 budget on or before the third Tuesday of May, and discussion of grant priorities, was presented.

Stephen Wade, Budget & Performance Manager, reported Staff was proposing the following 2022 Budget Priorities:

- (1) Investing in Infrastructure;
- (2) Continuing a Commitment to Developing Neighborhoods;
- (3) Public Safety;
- (4) Selected Strategic Investments toward Quality of Life; and
- (5) Improving Fiscal Sustainability.

Councilmember Hiller suggested removing the term “five-year” or using a different timeframe on line 71 of the resolution. She stated she supports long-term strategic funding decisions and would prefer the document to reflect that.

Councilmember Duncan stated he has no objections to what was being proposed. He asked if there would be an objection to deferring the item until March 16, 2021, to allow citizens time to provide input.

Brent Trout, City Manager, reported the time period of five years was used for the purpose of supporting fiscal sustainability and predictability. He confirmed delaying consideration of the resolution until March 16, 2021, would not have an impact on the overall 2022 Operating Budget approval process. He asked Governing Body members to notify Staff with any proposed changes prior to the March 16, 2021, Governing Body meeting.

Joseph Ledbetter requested language revisions to address overall Staff performance and productivity of department directors specifically in the Property Maintenance, Water and Street Departments. He stated there should be language addressing improved transparency of infrastructure project life cycles, including the use of outside consultant costs. (See Attachment A)

Upon hearing no objections, Mayor De La Isla announced it was the consensus of the Governing Body to consider the resolution on March 16, 2021.

DISCUSSION of the proposed 2022-2031 Capital Improvement Plan and 2022-2024 Capital Improvement Budget, was presented.

Brent Trout, City Manager, reported the proposed street projects slated for completion in 2026 would cause the General Obligation (GO) Bond cap to be greater than \$9 million; therefore, staff was seeking guidance from the Governing Body on how to proceed with scheduled street projects.

Brian Faust, City Engineer, provided an overview summary of the following street projects and stated prioritization was based on having a Pavement Condition Index (PCI) of 70 or higher:

- South Topeka Boulevard from 29th to 37th Streets
- Huntoon from Executive Drive to Urish Road
- NW Tyler from Beverly to Paramore
- SW Urish Road from 21st to 29th Streets
- SW 10th Street from Wanamaker Road to Gerald Lane

Councilmember Duncan questioned if they should take advantage of currently low interest rates for bonds and move the Huntoon Street Project from Executive Drive to Urish Road forward in the Capital Improvement Plan (CIP).

Brent Trout stated low borrowing rates have been considered and Staff seeks guidance from the Governing Body in regards to the amount of bonding capacity. He stated after the year 2025, the City will have additional bonding capacity due to the payoff of the Heartland Park STAR Bonds and College Hill TIF District.

Councilmember Duncan inquired on the possibility of completing mill and overlay projects in 2021 that are scheduled for completion in 2022 or 2023.

Brian Faust stated the mill overlay will be funded from the Citywide Half Cent Sales Tax and those projects have been approved from the Public Infrastructure Committee of the Governing Body for 2021, with the first opportunity for those projects to begin in 2022.

Councilmember Valdivia-Alcala stated she would prefer to see the NW Tyler project from Beverly to Paramore made a priority. She asked if the entire construction project along NE Lyman could be completed before the slated completion date in 2026.

Brian Faust stated the project could be moved up at the directive of the Governing Body and if funding was available; however, a complete street project takes three years to complete from design to finished product.

Councilmember Dobler requested a chart from Staff that includes the projects currently included in the \$9 million GO Bond cap without moving other projects to out years. He concurs with Councilmember Duncan that the City should take advantage of low interest rates.

Jessica Lamendola, Administrative & Financial Services Director, stated the City would have the debt capacity for the Polk Quincy Viaduct Project as well as Zoo debt until year five, then the bonding amount increases to \$18.8 million. She stated Staff would need to make sure projects could be moved up, along with sufficient manpower to complete the projects, specifically in years 2021 and 2022.

Councilmember Dobler asked if increasing the bond cap to \$11 million for next five years from 2021-2025 would help provide guidance to Staff.

Councilmember Lesser asked if the City could move forward with additional mill and overlay projects by taking advantage of low interest rates.

Brent Trout suggested a summary of projects based on priority, including mill and overlay projects be presented to the Governing Body so they can provide input to Staff.

Councilmember Naeger spoke in support of the City Manager's suggestion.

Councilmember Padilla spoke in support of taking advantage of low interest rates and increasing mill and overlay projects.

Councilmember Hiller encouraged Staff to research and determine if there were any projects that could be delayed or completely postponed including the scope of projects.

Councilmember Emerson spoke in support of completing additional mill and overlay projects where possible. He thanked Mr. Faust for his service to the City and believes he has been a great asset to the City.

Mayor De La Isla thanked Mr. Faust for his service to the City.

Joseph Ledbetter spoke in support of completing additional mill and overlay street projects where possible to support long-term maintenance and reducing potential damage to vehicles. He stated if there was an increase of GO Bonding then the cap needs to be reduced for Revenue Bonds. He spoke in support of using Reserve Funds to complete more street projects.

DISCUSSION proposing amendments to Chapter 2.255 of the Topeka Municipal Code, entitled "Human Relations Commission" was presented.

Commissioner Nicholas Smith, Topeka Human Relations Commission, reported the revisions will allow the Topeka Human Relations Commission (HRC) to clarify language related

to the powers and duties of the Commission; as well as, updates the protected class language by referencing the discrimination code. He stated there are two major updates in the ordinance that include: (1) Allow the Commission to assist with Civil Rights complaints by referring them to the Kansas Civil Rights Commission; and (2) Directs the Topeka HRC to review the quarterly Independent Police Auditor reports and the Affirmative Contracting Report. He stated that after the review of the report, the HRC can express any concerns they have to the City Manager. He noted the ordinance does not give the Commission any enforcement authority and does not give the Commission the authority to accept public complaints in an official capacity.

Councilmember Naeger spoke in support of the revisions specifically related to the Topeka HRC serving as a resource to the community as opposed to an enforcement tool.

Councilmember Hiller thanked Commissioner Smith for his work and how the change will clarify that the Commission now has the authority to do the type of work they have been charged with as it relates to their duties and responsibilities.

PUBLIC COMMENT was provided by the following individuals:

Councilmember Padilla stated he supports the review of the quarterly report of Independent Police Auditor, which ensures transparency of the process and provides assistance.

Danielle Twemlow referenced the Evergy presentation and discussion educating the community on winter weatherization. She thanked the Habitat for Humanity and the role they play in the community. She referenced the Fraternal Order of Police (FOP) contract negotiations and suggested simple changes that can be made in the contracts that are beneficial to everyone.

Dr. Glenda Overstreet referenced community policing survey results and made comments relating to the survey on the City's website regarding community policing. She expressed concern with the population that was polled. She stated the majority of police officers are

relatable, but some of the officers have not been held accountable for their actions. She referenced the FOP police negotiations and suggested dialogue regarding police misconduct and use of force.

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

Brenda Younger, City Clerk, provided an overview of the March 9, 2021, Governing Body meeting agenda.

Brent Trout, City Manager, announced the Shawnee County COVID-19 vaccine interest survey assistance mobile pop-up clinic for persons 65 years of age and older will be held March 6, 2021, at the Hillcrest Community Center from 9:00 a.m. until 12:00 p.m. He stated the City was partnering with Shawnee County and the Jayhawk Area Agency on Aging to assist those 65 years of age and older to complete the survey.

Councilmember Dobler thanked Liz Toyne, Council Office Executive Assistant, for her help in arranging the invocation provided by Judy, a resident from SLI.

Councilmember Lesser stated the Shelter Living Inc. (SLI) was a great organization and he thanked Councilmember Dobler for extending the invitation.

Councilmember Hiller expressed her gratitude for the invocation. She referenced City of Topeka Ordinance No. 20223 concerning registration of vacant properties and foreclosure of properties, and requested a report from City Manager Trout on the goals of the ordinance, property activity, types and number of properties, as well as what the success towards the original goal has been.

Councilmember Valdivia-Alcala referenced notices constituents received from ProChamps regarding vacant property registration (Ordinance No. 20223) and noted a District 2

constituent received a notice regarding their four properties and none of the properties are vacant. She inquired if vacant property registration fees have already been collected. She announced District 2 was seeking volunteers for the Oakland Community Garden and asked interested volunteers to contact her at 785-233-7110. She announced a Special Fire Commission meeting on March 18, 2021 at 6:00 p.m. via Zoom.

Brent Trout stated Staff was in the process of verifying property ownership; however, property owners should follow through with the steps outlined in the ProChamps notice to remove their properties from the list. He noted Staff was in the process of following up with residents who were sent the vacant property registration letters.

Councilmember Ortiz announced a free document shredding event would be held March 6, 2021, from 9:00 a.m. to 12:00 p.m. at the Judicial Center parking lot located at SW 12th and Van Buren Streets.

Councilmember Padilla thanked City Manager Trout and Chief of Staff Cochran for their work. He encouraged citizens to participate in the pop-up COVID-19 vaccine survey event.

Councilmember Hiller announced a virtual public meeting would be held March 3, 2021, from 5:00 p.m. until 6:30 p.m. regarding the Polk Quincy Viaduct. She stated those that would like to attend could register online at www.polkquincy.org or call the City Council Office for meeting access information.

Councilmember Emerson moved to recess into executive session for a period of time not to exceed 30 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. In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout; and Human Resources Director, Jacque Russell.

No action was anticipated to be taken when the open meeting resumed in the Governing Body Chambers. The motion seconded by Councilmember Padilla carried on roll call vote. Councilmembers Ortiz voted “no.” (9-1-0)

Following a 30-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 adjourned at 9:30 p.m.

(SEAL)

Brenda Younger
City Clerk

Attachment A

Kelly L. Bogner

From: Joseph Ledbetter <joe@josephledbetter.com>
Sent: Tuesday, March 02, 2021 4:37 PM
To: City Council; City Clerk; Neil Dobler; Tony Emerson; Michael Lesser; Michelle De La Isla; Spencer Duncan
Subject: Ref. CIP and Parking Garage 'projects" Just sell them and cut the staff to run them.

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.

Save the salaries, save more DEBT, AND GET SOME MONEY FOR THEM.
NO MORE REVENUE BONDS for them. We have enough Revenue Bond debt already for a city that is shrinking in population. I think we have some developers that would be interested.

Thank you,

Joseph Ledbetter, Attorney