

Governing Body Minutes – March 16, 2021

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 16, 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, Emerson, Padilla, Dobler, Duncan, and Lesser - 6; and the following Councilmembers participating remotely: Valdivia-Alcala, Ortiz and Naeger - 3. 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 9, 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 16, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Susan Zuber Shaw, Topeka Police Department Chaplin, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Angelique Brown to the Topeka Human Relations Commission to fill an unexpired term ending January 31, 2023, was presented. (*Council District No. 6*)

BOARD APPOINTMENT recommending the reappointment Kyle Mead to the Topeka Housing Authority Advisory Board to fill an unexpired term ending December 31, 2024, was

presented.

BOARD APPOINTMENT recommending the reappointment of Leilani Grey to the Topeka Sustainability Advisory Board for a term ending February 28, 2023, was presented. (*Council District No. 6*)

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

CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of March 9, 2021, was presented.

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

ORDINANCE NO. 20286 introduced by City Manager Brent Trout authorizing and providing for the issuance of \$35,070,000 aggregate principal amount of General Obligation [refunding] Bonds, Series 2021-A and \$2,735,000 aggregate principal amount of General Obligation Bonds, Series 2021-B (Zoo Projects), of the City of Topeka, Kansas; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on said bonds as they become due; authorizing certain other documents and actions in connection therewith; and making certain covenants with respect thereto, was presented.

Jessica Lamendola, Administrative and Financial Services Director, thanked Staff and the City's Bond Counsel for their assistance in conducting a successful sale of the bonds.

Khalen Dwyer, Columbia Capital Management, LLC reported the City's General Obligation Refunding Bonds, Series 2021-A was purchased by Robert W. Baird & Co., Inc. and the Taxable General Obligation Bonds, Series 2021-B (Zoo Projects) was purchased by BOK

Financial (2021-B). He stated the Series 2015-A refinancing produced a total debt service savings of \$3.7 million (\$250,000 annually) through the life of the loan amounting to \$3.5 million on a present value basis, or 9.4% of the refunded principal amount.

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: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Naeger, Dobler, Duncan, Lesser and Mayor De La Isla -10.

RESOLUTION NO. 9213 introduced by City Manager Brent Trout prescribing the form and details of and authorizing and directing the sale and delivery of \$35,070,000 aggregate principal amount of General Obligation [refunding] Bonds, Series 2021-A and \$2,735,000 aggregate principal amount of General Obligation Bonds, Series 2021-B (Zoo Projects), of the City of Topeka, Kansas, previously authorized by Ordinance 20286 of the issuer; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith, was presented.

Brent Trout, City Manager, reported approval of the resolution outlines the details and form of the bond sale.

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

RESOLUTION NO. 9214 introduced by City Manager Brent Trout establishing the City's 2022 budget priorities, was presented.

Brent Trout, City Manager, reported budget priorities were discussed at the March 2, 2021, Governing Body meeting and Staff recommends approval as presented.

Joseph Ledbetter requested more language be included in the resolution regarding productivity, code enforcement specifically related to commercial properties, and the Parks and Recreation Department being properly funded through Shawnee County. He suggested all utility rate increases provide a 60-day notice to the public. He suggested improved communication between Staff members and the Governing Body, and improved transparency of contracts over \$50,000.

Councilmember Hiller moved to amend line 71 of the resolution by replacing the “,” with the word “and.” The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. (10-0-0)

Councilmember Duncan moved to amend the resolution by adding the statement, “Continue to work towards funding the Housing Trust Fund.” under Priority 2. Continuing a Commitment to Developing Neighborhoods. The motion was seconded by Councilmember Ortiz.

Councilmember Hiller questioned if the suggested language would limit the use of only City funds for the Affordable Housing Trust Fund.

Councilmember Duncan stated he believes the language was broad enough to allow the use of all funding – private or public.

Councilmember Ortiz asked if the language will legally bind the City to allocate funding for the Housing Trust Fund. She encouraged Governing Body members and citizens to recognize the affordable housing problem needs to be addressed by the entire city as a whole.

Lisa Robertson, City Attorney, stated the language amendment proposed by Councilmember Duncan would have no legal binding and would be considered aspirational.

The motion to approve the amendment as stated by Councilmember Duncan carried unanimously on roll call vote. (10-0-0)

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

ORDINANCE NO. 20287 introduced by City Manager Brent Trout annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located on the east side of SE Croco Road, approximately 300-feet south of SE 31st Street, 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. (A20/3) (Council District No. 4)

Brent Trout, City Manager, stated Staff recommends approval of the request to annex by Shawnee Woods Subdivision No. 2. He reported Staff has provided answers to the questions raised at the March 2, 2021, Governing Body meeting.

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

Councilmember Padilla questioned the approach to the overall annexation process and noted it seemed disconnected from routine annexation procedures.

Bill Fiander, Planning & Development Director, stated usually the annexation of a development moves much slower; however, this development evolved faster and took place ahead of the annexation scheduled. He stated this case would not set precedence for future annexation cases.

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.

DISCUSSION concerning the repeal of the "All-Night Retailers" license was presented.

Brent Trout, City Manager, stated the proposed ordinance update was requested by Councilmember Duncan.

Councilmember Duncan proposed the elimination of the All Night Retailers License required for any business to remain open between the hours of 12:00 a.m. and 6:00 a.m. He noted the license requirement was originally adopted in 1981. He reported the businesses the City would be most interested in monitoring, also primarily have liquor licenses, which the City already has a broad authority over. He stated other businesses that stay open past midnight (laundromats, convenience and grocery stores, etc.) have no need for the license. He stated he spoke with Interim Police Chief Wheelles and was informed it was not used for enforcement or tracking of these businesses at this point. He expressed the importance of consistency in license compliance and stated the City needs to fully enforce the license and make sure all businesses that qualify comply or be penalized, otherwise it needs to be eliminated. He reported the license only generates approximately \$3,700 in annual revenue; therefore, he believes the City has reached a point where Staff spends more time than seems warranted for the minimal cost per license.

Councilmember Hiller questioned if Staff was reviewing other outdated language of the Topeka Municipal Code such as the Dance Hall License.

Brent Trout reported the Legal Department in collaboration with the City Clerk's Office will be presenting Title 5 business license and regulations language revisions at a future Governing Body meeting.

Councilmember Dobler asked how the lost revenue of approximately \$3,700 will be addressed.

Brent Trout stated that amount will be absorbed in the overall budget.

DISCUSSION regarding revisions to the Topeka Municipal Code to reflect updates to Chapters 2.30 and 2.35 concerning compulsory retirement, was presented.

Lisa Robertson, City Attorney, reported language related to compulsory retirement was mistakenly removed during the comprehensive revisions to personnel provisions in September 2019. The revisions would provide for minor clean-up and remove outdated language related to the following:

- The Age Discrimination in Employment Act (ADEA) should have been retained due to the fact that the ADEA requires the language to be a "local law" which means it needs to be included in the TMC versus the Personnel Manual.
- Topeka Municipal Code language contained in Chapter 2.30 concerning the Fire Department
- Topeka Municipal Code language contained in Chapter 2.35 concerning the Police Department
- Topeka Municipal Code language contained in Chapter 2.130 concerning the Firefighters Relief Fund

Councilmember Emerson referenced the many other retirement incentives offered and asked why there was a need for compulsory retirement.

Lisa Robertson stated the ADEA requires the language to be a "local law" which means it needs to be included in the Topeka Municipal Code versus the City's Personnel Manual. She stated she believes the requirement may be outlined in State Statute; however, she would research the details and report her findings to the Governing Body.

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

Brent Trout, City Manager, stated through discussions on the Capital Improvement Budget there were questions raised regarding the Biogas Project as well as the request of an additional \$1.2 million in funding for the project.

Braxton Copley, Interim Utilities Department Director, provided an overview of the

Biogas Project. He highlighted the following:

- Project History beginning in 2016
- Profit Projections including the unexpected increase for interconnect fee of \$1.2 million from Southern Star
- Phase I – Dewatering (2016-2017)
- Phase II – Biogas Project (2018-2020)
- Oakland Waste Water Treatment Plant Biosolids Reuse Program

In response, Governing Body members inquired on the following:

- If the project would produce byproducts and if so, would those byproducts harm the community; and if there would be an increase of an environmental hazard due to a natural disaster situation.
- If Staff anticipates anymore unexpected charges in addition to the \$1.2 million.
- Referenced the contract between the City and Southern Star and why Southern Star was requesting additional funds.
- The payback period of 34 years
- Questioned the certainty in the life span of tax credits
- If the City sells any part of the Class A Biosolids

Braxton Copley provided the following responses:

- The gas line would be the largest risk; however, it will be located in a low-density populated area and annual safety testing will be conducted on the gas line. The biogas project will not create any additional hazard to the community if a natural disaster takes place.
- They do not anticipate additional costs. Southern Star's legal counsel crafted the language of the contract to state the City would be responsible for all costs incurred for the construction of the facility. The \$1.2 million legal obligation would make the City whole for all costs associated with the construction of the project. He stated construction amount included in the contract was an estimate from 2017, and in 2021, they provided all the current construction costs including the additional \$300,000 needed for the contribution and aid of capital. The expectation in 2017 was the cost would be \$1 million and now in 2021, the City has been notified of the increase in fees.
- The 34-year payback period would cover the cost to construct the facility; and the sale of gas would generate revenue for the project.
- The professional consultant was confident in the longevity and value of tax credits.
- He would determine if the City sales Class A Biosolids and report his findings to the Governing Body.

Mayor De La Isla left the meeting.

Councilmember Valdivia-Alcala spoke in support of the project and the positive long-term outcome it will have on the community and environment.

Councilmember Emerson stated it was his understanding there may be an opportunity to sell the gas and tax credits to a different company. He asked if doing so would reduce the cost of construction.

Braxton Copley reported initially Kansas Gas Service (KGS) had no interest in a partnership with the City; however, since that time, OneGas has raised interest and the City awaits their response. He stated Staff will do all they can to utilize the most cost-effective option for the project.

Councilmember Duncan asked when a project cost estimate would be considered outdated.

Braxton Copley reported upcoming CIP projects are reviewed annually as part of the overall process which includes an adjustment for inflation costs. He noted construction costs have the potential to vary from month to month.

Councilmember Hiller requested a threshold for bids be added as part of the CIP policy review.

Councilmember Dobler stated a lot of the same information has been discussed during the Public Infrastructure Committee meetings and he believes large projects will inevitably be placed before the Governing Body for review.

City Manager Trout and Deputy Mayor Padilla concurred with Councilmember Dobler as it relates to review of projects by the Public Infrastructure Committee.

Joseph Ledbetter distributed a handout and asked if there was a contract in place for the sale of gas. He expressed concern with the bidding procedure associated with City contracts

over \$50,000 and requested all contracts be approved by the Governing Body based on current estimates. He asked the Governing Body to approve all CIP projects annually allowing the public to provide input on how public dollars are being spent.

Brent Trout reported the City of Topeka has a competitive bid and purchasing policy in place and follows all required regulations.

Councilmember Emerson stated the debt service fund surplus continues to increase. He spoke in support of funding projects with debt service fund surplus with the intent to fund projects with cash. He requested the details of large projects for the next three years of CIP projects being brought before the Governing Body for review.

Brent Trout stated he will work with Staff to provide the intent of the project schedule for the next 2-3 years; however, flexibility in scheduling projects remains a necessity as needs arise.

Councilmember Hiller stated she would like to receive details on the immediate projects in the upcoming year for the CIP.

Councilmember Duncan inquired on the cost analysis of purchasing fleet vehicles versus leasing fleet vehicles.

Brent Trout stated the fleet vehicle cost analysis was presented to Public Infrastructure Committee on March 15, 2021, and forwarded to the Governing Body. He reported he anticipates making changes to the vehicle fleet program in 2021 and into 2022.

Councilmember Hiller expressed concern with reducing the amount of funds being distributed towards street projects causing delays. She referenced \$600,000 allocated annually for infill sidewalks which includes \$500,000 for the pedestrian plan and \$100,000 for sidewalks; and questioned the need to allocate funds for installation of sidewalks along California Avenue. She questioned if the Complete Streets Program could provide funding for sidewalks; if

engineering costs could be reinstated to reduce temporary note amounts; the need for the project adding \$50,000 a year for planting trees; and the status of street sweeping projects.

Brent Trout confirmed that \$100,000 has been added to the General Fund for the purpose of constructing sidewalks along SE California Avenue bringing the total bonded amount to \$600,000 and then returning to \$500,000 in out years.

Councilmember Emerson inquired on the status of the SORT Program and why it was included in the CIP budget.

Brent Trout stated it has been determined that SORT as a program should be reconsidered and reviewed, a decision supported by the Citizen Advisory Council. He reported Staff has been looking at how the program can help neighborhoods with infrastructure needs and allow funding to be allocated to multiple neighborhoods. He expressed concern with not using SORT funding in one concentrated area because it has been proven effective. He stated he anticipates the same amount of funding but slightly different distribution of funds and noted it has been a valuable program that may have run its course.

PUBLIC COMMENT was provided by the following individuals:

Joseph Ledbetter spoke in support of the SORT program for the intensive care neighborhoods. He expressed concern with the fiduciary duty of the City as it relates to competitive bids, contracts and the CIP process.

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

Councilmember Ortiz announced Low Income Energy Assistance Program (LIEAP) extended the City's utility program until May 28, 2021, and have expanded income limits to help the working-class. She stated she wanted to be the first person to donate \$100 for seed money

for the City's Affordable Housing Trust Fund and challenged other Governing Body members to match her contribution.

Councilmember Dobler announced his candidacy for Council District 7 in 2021.

Councilmember Duncan stated he plans to donate to the Affordable Housing Trust Fund; and the Topeka Performing Arts Center Board was in need of appointees.

Councilmember Lesser announced his candidacy for Council District 9 in 2021.

Councilmember Hiller stated she believes the approval of each CIP project by the Governing Body did not delay the overall CIP process.

Councilmember Valdivia-Alcala announced the Oakland Community Garden ground breaking ceremony, 1020 NE Forrest on March 21, 2021, at 1:00 p.m. She noted they are in need of volunteers and equipment. She announced she will host a public meeting on March 28, 2021, at 2:00 p.m. in the Lundgren Elementary School gymnasium, 1020 NE Forrest. She reported meeting topics would include the increase of area drug houses and neighborhood watch. She announced on March 18, 2021, at 6:00 p.m. a virtual Special Fire Commission meeting will be held. She stated she will donate \$150 to the Affordable Housing Trust Fund.

Councilmember Emerson donated \$100 to the Affordable Housing Trust Fund. He commented on the tough job of code enforcement officers and expressed his appreciation for their service.

Councilmember Naeger stated she will donate \$100 to the Affordable Housing Trust Fund.

Councilmember Lesser moved to recess into executive session for a period of time not to exceed 60 minutes to discuss upcoming employer-employee negotiations, as justified by KSA 75-4319(b)(3). In order to aid the discussion, the following individuals were present: Members

of the Governing Body; City Manager, Brent Trout; Chief of Staff, Bill Cochran; Administrative & Financial Services Director, Jessica Lamendola; Human Resources Director, Jacque Russell; Interim Police Chief, Bryan Wheelles; Senior Assistant City Attorney, Catherine Walter; Budget and Performance Manager, Stephen Wade; and City Attorney Lisa Robertson. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (9-0-0)

Following a 60-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 9:16 p.m.

(SEAL)

Brenda Younger
City Clerk