

Governing Body Minutes – September 14, 2021

CYRUS K. HOLLIDAY BUILDING, 620 SE Madison Street, Topeka, Kansas, Tuesday, September 14, 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, Emerson, Padilla, Dobler, Duncan and Lesser- 7; and the following Councilmembers participating remotely: Councilmembers Ortiz and Naeger -2. Mayor De La Isla presided remotely -1.

Public comment for the meeting was available via Zoom or in-person. 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 September 14, 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 September 14, 2021, for attachment to the meeting minutes.

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

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the reappointment of Alan Bearman to the Topeka Metropolitan Transit Authority for an unexpired term ending September 18, 2025, was presented. (*Extra Territorial Jurisdiction (ETJ)*)

BOARD APPOINTMENT recommending the reappointment of James Ogle to the Topeka Metropolitan Transit Authority for an unexpired term ending September 18, 2025, was presented. (*Extra Territorial Jurisdiction (ETJ)*)

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

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9258 introduced by City Manager Brent Trout authorizing initiation of condemnation proceedings to acquire fee title to construct an elevated water storage tank – Project No. T-281055.00, was presented.

RESOLUTION NO. 9259 introduced by Councilmember Karen Hiller, approving a special event known as Axe and Ale Block Party, was presented. (*Council District No. 1*)

RESOLUTION NO. 9260 introduced by Councilmember Karen Hiller granting Axe & Ale an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented. (*Council District No. 1*)

MINUTES of the regular meeting of September 7, 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)

RESOLUTION NO. 9261 introduced by City Manager Brent Trout concerning the Kansas Homeland Security Region J Hazard Mitigation Plan, was presented.

Dusty Nichols, Shawnee County Emergency Management Director, reported approval would adopt the multi-jurisdictional hazard mitigation plan which is a condition to applying for hazard mitigation grants from the Federal Emergency Management Agency (FEMA). He recommended approval of the resolution.

Councilmember Lesser commended Mr. Nichols for his service to the community.

Councilmember Duncan asked if the Governing Body should encourage additional municipalities to adopt the plan so funding would be available to additional organizations.

Councilmember Ortiz asked when the plan would expire.

Dusty Nichols responded there could be a potential for additional funding if more agencies adopted a plan and it would expire in 3 years.

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

RESOLUTION NO. 9262 introduced by City Manager Brent Trout, in accordance with Section 18.60.010 of the Topeka Municipal Code (TMC), approving a Conditional Use Permit to allow the use of motor vehicle sales on property zoned “X-1” Mixed-Use District at 1319 SE 6th Avenue in the City of Topeka, Shawnee County, Kansas, was presented. (*CU21/02*) (*Council District No. 2*)

Brent Trout, City Manager, stated approval would conditionally permit use of the property for car sales.

Bill Fiander, Planning and Development Director, reported the request would allow the operation of a used motor vehicle dealership on property located at 1913 SE 6th Avenue, with no new structures proposed. He reported a neighborhood information meeting was conducted on July 19, 2021, with no opposition being expressed. He stated the Topeka Planning Commission recommended approval by a vote of 7-0-0 and Staff recommends approval.

Councilmember Ortiz asked what restrictions have been put in place to keep the business from operating as a salvage yard and if fencing will surround the property.

Bill Fiander stated restrictions have been placed to include no auto repair as well as no storing of in-operable vehicles and the area will be enclosed with a metal fence.

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 the communication occurred and indicate that even in light of having engaged in the communication they were 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.

Ex parte communication was declared by Councilmember Ortiz.

Councilmember Duncan stated he would abstain from voting due to the fact his father serves as the applicant's attorney.

Councilmember Naeger moved to approve the resolution. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. Councilmember Duncan abstained. (9-0-1)

ORDINANCE NO. 20313 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 1115 SW Wanamaker Road from "O&I-2" Office and Institutional District use group TO "C-2" Commercial District, was presented. (Z21/05) (Council District No. 9)

Brent Trout, City Manager, stated approval will allow the property to be developed for a restaurant with drive through service.

Bill Fiander, Planning and Development Director, reported the request to change the zoning would allow construction and operation of a restaurant with drive through service, and C-2 Commercial zoning is the minimum zoning needed to allow a restaurant with drive-through service. However, the applicant requested C-4 zoning because it will allow for a taller sign than

allowed under C-2 zoning. He stated the Topeka Planning Commission agreed with Staff's recommendation for C-2 zoning to be more in keeping with C-2 properties to the north and their sign character. He noted the smaller size of the lot and the proposed development under C-2 zoning would be more consistent with the Land Use and Growth Management Plan 2040 and the recently adopted comprehensive sign ordinance. He stated a neighborhood information meeting was conducted via Zoom on July 27, 2021, with no one attending other than Staff, the applicant and associates. He stated the Topeka Planning Commission recommended approval by a vote of 6-1-0 and Staff recommends approval as presented.

Councilmember Hiller expressed concern with the functionality of locating the businesses. She asked if it is better to have a variety of sign heights and noted the Wanamaker corridor has many different heights of signs.

Bill Fiander stated the sign ordinance was based on community feedback which included opposition to excessive signage. He stated there is no rationale in determining that one sign height is better than the other; zoning codes are developed to support uniform codes.

Councilmember Lesser moved to amend the ordinance from C-2 to C-4 zoning. The motion was seconded by Councilmember Dobler.

Councilmember Ortiz asked for an explanation of why the zoning should be changed.

Councilmember Lesser stated many of the businesses surrounding the property are zoned C-4 and there is not a lot of difference between the two zoning classifications as well as the developer believes he needs the visibility advantage due to the smaller size of his building and the location.

Councilmember Duncan questioned why the request originally was for C-4 zoning and Staff recommended C-2 zoning.

Bill Fiander stated Staff determined C-2 zoning supports the surrounding sign character along with the new signage ordinance.

Councilmember Duncan stated he can support the C-4 zoning request because many of the surrounding C-4 zoning signage was grandfathered and C-2 zoning would seem to put the business at a disadvantage.

Councilmembers Dobler and Naeger spoke in support of C-4 zoning.

Councilmember Hiller asked if the information being discussed would be considered new information and therefore, need to be presented to the Topeka Planning Commission for consideration.

Bill Fiander reported all information being discussed at this time has already been discussed by the Topeka Planning Commission.

Councilmember Valdivia-Alcala stated she would support C-4 zoning out of fairness to the applicant.

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 the communication occurred and indicate that even in light of having engaged in the communication they were able to fairly, objectively, and impartially consider the measure based only up-on 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.

Ex parte communication was declared by Councilmembers Lesser and Dobler.

Councilmember Lesser moved to adopt the ordinance with C-4 zoning. The motion seconded by Councilmember Dobler 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.

ORDINANCE NO. 20314 introduced by City Manager Brent Trout, imposing a real estate lien, pursuant to K.S.A. 12-808c, upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the cost for utility services where such payments to the City have not been made due to neglect, failure or refusal to pay, was presented.

Brent Trout, City Manager, stated approval would authorize the imposition of charges for delinquent utility accounts on the tax rolls and delinquent payments were accepted until 3:00 p.m. on September 14, 2021.

Nicole Malott, Business and Customer Services General Manager, stated the ordinance includes commercial and residential properties inside city limits as well as residential properties outside city limits. She reported there were 166 delinquent notices sent, totaling \$108,625 with 74% being individuals who have previously been listed on a similar lien ordinance. The City's collection methods success rate includes 98% for lien assessment, 30% when utilizing a collection agency, and 13% when utilizing the State of Kansas Setoff Program. She noted the last day the City would accept delinquent payments will be September 30, 2021, as the Shawnee County tax lien submittal deadline is October 1, 2021. She stated as of September 14, 2021, there were 125 delinquent accounts totaling \$82,950.

Councilmember Emerson spoke in support of the ordinance. He asked if there was anything that the City could do to address repeat offenders.

Nicole Malott stated the City continues to work with the County, but the County will not turn off the water service due to City wastewater customers not paying their bill.

Councilmember Lesser stated he concurs with Councilmember Emerson and believes some of the businesses listed have the means to pay their utility bills. He stated they want to help those that need help, but also need to find a way to get the delinquent bills paid by businesses.

Councilmember Hiller asked for confirmation that convenient payment options are available for customers to pay their bills via electronic payments.

Nicole Malott confirmed there are many payment options available to customers. She stated Staff could conduct another campaign to attempt collection of more payments.

Councilmember Duncan stated he would like to propose an amendment to remove residential accounts that are 6 months past due and total less than \$200 from the list.

Councilmember Emerson asked if the accounts on the lien list are more than 120 days delinquent and if there is a cost per property to file the liens.

Nicole Malott confirmed that the accounts are more than 120 days past and there is no cost to the City to file the liens.

Councilmember Hiller inquired on individuals who have been on the tax lien list within the last two years and of those individuals, how many paid the lien bill when they paid their property taxes.

Nicole Malott stated she does not have an exact number but would estimate that it is at least 95% or higher.

Councilmember Duncan moved to amend the ordinance to remove residential accounts that are 6 months past due and total less than \$200 from the lien list. The motion died due to lack of a second.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Lesser carried unanimously. Councilmember Duncan abstained. (9-1-0)

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

Councilmember Emerson moved to amend the agenda to enter into Executive Session to discuss employer/employee negotiations. The motion seconded by Councilmember Padilla carried unanimously. (10-0-0)

Councilmember Emerson moved to recess into executive session for a period of 10 minutes to discuss employer/employee negotiations relating to the Fire, Police and Street Departments, as authorized by KSA 75-4319(b)(3). To aid in the discussion, the following individuals were present: Members of the Governing Body, City Manager, Brent Trout; Chief of Staff, Bill Cochran; Human Resources Director, Jacque Russell, Interim Administrative and Financial Services Director, Stephen Wade; Senior Assistant City Attorney, Mary Kuckelman; City Attorney, Amanda Stanley; Fire Chief, Craig Duke; Interim Police Chief, Bryan Wheelles and Public Works Director, James Jackson. No action was anticipated when the meeting resumed in open session. The motion seconded by Councilmember Lesser carried unanimously on roll call vote. (10-0-0)

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

Councilmember Emerson moved to recess into executive session for a period of 10 minutes to discuss employer/employee negotiations relating to the Fire, Police and Street Departments, as authorized by KSA 75-4319(b)(3). To aid in the discussion, the following individuals were present: Members of the Governing Body, City Manager, Brent Trout; Chief of Staff, Bill Cochran; Human Resources Director, Jacque Russell, Interim Administrative and Financial Services Director, Stephen Wade; Senior Assistant City Attorney, Mary Kuckelman; City Attorney, Amanda Stanley; Fire Chief, Craig Duke; Interim Police Chief, Bryan Wheelles and Public Works Director, James Jackson. No action was anticipated when the meeting resumed in open session. The motion seconded by Councilmember Lesser carried unanimously on roll call vote. (10-0-0)

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

APPROVAL of a three-year Labor Agreement between the City of Topeka and the Fraternal Order of Police Lodge No. 3, was presented. (*Contract No. 49771*)

Brent Trout, City Manager, reported approval of the labor agreement provides for step increases for eligible employees in 2022, 2023 and 2024; and a 1.25% increase to the existing pay matrix for 2023 and 2024 in both January and July.

Councilmember Lesser moved to approve the labor agreement. The motion was seconded by Councilmember Dobler.

Councilmember Valdivia-Alcala stated the Wages, Pays, and Plans section of the agreement references the step advancement for each year. She questioned if an employee has to “meet expectations” on their performance evaluation in order to get a step increase. She

expressed the importance of keeping all information in the disciplinary file and asked for confirmation that some of the information may be removed after 24 months.

Brent Trout reported the new contract will modify what is being considered in the disciplinary file and the duration.

Councilmember Valdivia-Alcala stated for those two reasons she would not support the contract.

Councilmember Hiller stated she struggles for the same reasons that Councilmember Valdivia-Alcala mentioned; however, the Governing Body has been assured there are more progressive mechanisms in place. She reported the Police and Fire labor agreements by the third year of contract will cost an additional \$5 million and there needs to be continued efforts to find efficiencies within the City budget. She stated they have to work hard to grow the local economy without increasing taxes.

Councilmember Lesser moved to approve the labor agreement. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. Councilmember Valdivia-Alcala voted “no.” (9-1-0)

APPROVAL of a three-year labor agreement between the City of Topeka and Teamsters Local No. 696, representing street maintenance employees, was presented. (*Contract No. 49772*)

Brent Trout, City Manager, reported the proposed agreement provides for step increases for eligible employees in 2022 and 2023; a 0.5% increase to the existing pay matrix for 2022; and a 1% increase to the pay matrix in 2023.

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

APPROVAL of a three-year labor agreement between the City of Topeka and the International Association of Fire Fighters (IAFF) Local Union No. 83, was presented. (*Contract No. 49773*)

Brent Trout, City Manager, reported the proposed provides for longevity increases for eligible employees in 2022, 2023 and 2024; a 1% increase to the existing pay matrix in 2022; and 3.5% increase in 2023 and 2024.

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

PUBLIC COMMENT was submitted via electronic mail by Joseph Ledbetter.
(*Attachment A*)

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

Brenda Younger, City Clerk, provided an overview of the September 21, 2021, Governing Body agenda.

Brent Trout, City Manager, announced the Topeka Housing Trust Fund online payment option has been activated on the City's website at <https://www.topeka.org/htf/>.

Mayor De La Isla stated they must never forget 9/11 and expressed her appreciation for public safety employees. She announced the retirement of Air Force Colonel Daniel A. Skoda, 190th Air Refueling Wing. She congratulated the honorees for the Northeast Kansas YMCA Ignite & Inspire: The 33rd Annual Women of Excellence Awards event; and Topeka's Top "20 under 40" award members for their commitment and contributions both professionally and personally to the Topeka-Shawnee County community.

Councilmember Emerson thanked Staff for their work on the three labor agreements.

Councilmember Padilla commended Staff for their work on the three labor agreements as well as the great work conducted by the Police and Community Special Committee. He commented on the great service the Topeka Police Department provides the community and the confidence he has in the department. He announced that September is National Hispanic Heritage Month.

Councilmember Naeger thanked Staff for setting up easy online access to donate to the Topeka Housing Trust Fund. She stated she will be attending the September 23, 2021, Changing the Culture of Property Maintenance Public Input Meeting and encouraged citizens to attend.

Councilmember Dobler expressed his appreciation to Staff for the increased micro surfacing of streets in District 7.

Councilmember Duncan offered his condolences to the Larry Wilson family. He announced the District 8 Open House event from 4:30 p.m. to 6:00 p.m. on September 16, 2021, at Fairlawn Plaza.

Councilmember Lesser thanked Staff for their work on the labor agreements. He welcomed new City Attorney Amanda Stanley. He stated he has been following the Police and Community Special Committee meetings which have generated great results and thanked Interim Police Chief Bryan Wheelles for his responsiveness and stability during his interim. He stated Lou McGinnis will be issued a refund for mold at his apartment complex.

Councilmember Hiller stated the Changing the Culture of Property Maintenance Public Input meetings began on September 13, 2021. She thanked Staff for their assistance, along with the great input and ideas provided by citizens. She provided an overview of the upcoming scheduled sessions and encouraged citizens to access the City's website for more information.

She announced the Aaron Douglas Art Fair to be held on September 25, 2021, from 10:00 a.m. to 5:00 p.m. at the Aaron Douglas Art Park located near SW 12th and Lane Streets.

Councilmember Valdivia-Alcala encouraged citizens to participate in the Changing the Culture of Property Maintenance Public Input Sessions and reported the sessions thus far have resulted in healthy and hopeful dialog encouraging a community of support. She stated she understands there is no perfect labor agreement; however, there is always a need for more transparency on all levels of government and she believes there is more work to be done.

Councilmember Ortiz thanked the Topeka Fire Department for displaying the slogan “Stand Back 343” on their firetrucks to honor the 343 firefighters who lost their lives in the September 11 (9/11) attacks. She offered her condolences to the Larry Wilson family. She announced Topeka High School will celebrate their 150th year anniversary on September 17, 2021, with a sesquicentennial event beginning at 2:00 p.m. She referenced the great work performed by the Police and Community Special Committee and the importance of “looking thru the lens” of other people to help people understand there is another side to policing and understanding the citizens of the Topeka. She thanked Staff for their work on the 2022 City of Topeka Operating Budget.

NO FURTHER BUSINESS appearing the meeting adjourned at 8:06 p.m.

(SEAL)

Brenda Younger
City Clerk

Attachment A

Kelly L. Bogner

From: Joe Ledbetter <joe_ledbetter@yahoo.com>
Sent: Tuesday, September 14, 2021 6:35 PM
To: Michael Padilla; City Clerk; Tony Emerson; Neil Dobler; Michael Lesser
Subject: Housing incentives

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.

This would apply to houses or duplexes built in the city limits that must go on the tax rolls.

Free water meter.

Five thousand dollar incentive given for each building built upon completion w the occupancy certification. The goal would be to get 150- 200 new residential buildings above what we currently grow per year. We MUST start growing our population again. We lost 5000 population in seven years. Joseph Ledbetter JD , MPA Sent from my iPhone