

Governing Body Minutes – September 21, 2021

CYRUS K. HOLLIDAY BUILDING, 620 SE Madison Street, Topeka, Kansas, Tuesday, September 21, 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 and Duncan - 4; and the following Councilmembers participating remotely: Councilmembers Valdivia-Alcala, Ortiz, Naeger, Dobler and Lesser -5. Mayor De La Isla presided -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 21, 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 21, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, United States Air Force Academy Cadet First Class Cole Resnick, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Dominic Gutierrez, Sr. to the Civil Service Commission to fill an unexpired term ending September 21, 2025, was presented. (*Council District No. 6*)

BOARD APPOINTMENT recommending the reappointment of Corey Dehn to the Topeka Planning Commission for a term ending September 30, 2024, was presented. (*3-mile Extraterritorial Jurisdiction*)

BOARD APPOINTMENT recommending the appointment of James Tobaben to the Topeka Planning Commission for a term ending September 30, 2024, was presented. *(3-mile Extraterritorial Jurisdiction)*

ADVISORY COUNCIL REAPPOINTMENT of Kim Dietrich to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending September 30, 2023, was presented. *(Council District No. 7)*

Councilmember Padilla thanked appointees for volunteering to work with the City and expressed the importance of having community members willing to serve.

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

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20315 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.

MINUTES of the regular meeting of September 14, 2021, was presented.

Councilmember Emerson moved to approve the consent agenda. The motion seconded by Councilmember Padilla carried on roll call vote. Councilmember Valdivia-Alcala voted “no”. (9-1-0)

RESOLUTION NO. 9263 introduced by City Manager Brent Trout amending Resolution of Advisability and Authorization No. 9211 which provides street improvements for Aquarian Acres Subdivision No. 9 as more specifically described herein, was presented.

Brent Trout, City Manager, stated in February 2021, the Governing Body approved a street and storm sewer improvement project for Aquarian Acres Subdivision No. 9 providing streets for 16 parcel lots. He reported at the time it was approved, the project costs were estimated at \$520,000; however, the costs have increased to \$657,000.

Jeff Laubach, SBB Engineering, stated the cost of asphalt increased approximately 30% as well as there were increases to the cost of paving and concrete.

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

RESOLUTION NO.9264 introduced by City Manager Brent Trout, establishing a date for a public hearing concerning the adoption of a plan pursuant to the Neighborhood Revitalization Act K.S.A. 12-17, 114 et seq., was presented.

Brent Trout, City Manager, stated approval would set the public hearing date on October 12, 2021. He reported the item was initially brought to the Governing Body in June 2021 and since that time, Staff has met with other taxing entities to determine if there were objections to the Plan. He noted there are a few changes Staff would be willing to propose that are related to development that needs to take place in order to continue in the program.

Bill Fiander, Planning and Development Director, reported Staff received comments from taxing entities as well as from Frank Meade who is in the process of developing a self-storage facility near SE 21st Street and SE Croco Road. He noted in the past, a precedent has been set to allow multi-phase developments to stay in the program until fully complete. Staff recommends the properties owned by Mr. Mead located at 3528 SE Cypress and 3526 SE 21st Street, the Menninger Tower Site, and housing developments in Tax Increment Finance (TIF) areas be

included in the Plan, and transfer the remaining funds in the Neighborhood Revitalization Program (NRP) fund to the Topeka Housing Trust Fund.

Councilmember Duncan asked if the proposed changes are incorporated in the Plan being presented.

Bill Fiander reported all changes will be included in the Plan when presented to the Governing Body for consideration at the October 12, 2021, Governing Body meeting.

Frank Meade commented on the increased costs associated with project materials and the difficulties related to keeping reliable labor employees. He thanked the Governing Body for allowing him more time to complete the development.

Councilmember Emerson thanked Bill Fiander and the Planning Staff for finding a solution and working with Mr. Mead on his development.

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

RESOLUTION NO. 9265 introduced by City Manager Brent Trout to demolish the White Lakes Mall structure, was presented.

Brent Trout, City Manager, stated the deteriorated condition of the White Lakes Mall structure located at 3600 SW Topeka Boulevard has been pending for some time and Staff felt that it was time for the Governing Body to consider moving forward with the demolition of the building.

Bill Cochran, Chief of Staff, stated a resolution is being presented to the Governing Body for consideration due to the amount of money involved with demolishing the building. He reported although the property has a condemnation and demolition order in place, Staff continued to work with a developer and was confident the property would be sold and

developed; however, the developer made the determination that the endeavor would not be profitable at this time.

Marcus Clark thanked the Governing Body for considering the resolution and agrees with the demolition of the building. He stated he hopes the demolition will serve as a signal to all property owners that the City is ready to take action to regain its community pride.

Henry McClure stated the best way for the area to recover is to demolish the building and providing a clean slate for new economic development.

John Parker Jr., Mainline Printing Inc. Chief Operating Officer, spoke on behalf of the Parker family and strongly urged the Governing Body to approve the demolition of the portion of the building connected to their facility. He stated he has watched the Mall deteriorate rapidly in the last few years, which has become a significant safety hazard for his employees. He thanked the City for moving forward with the demolition.

Joseph Ledbetter spoke in support of the demolition. He referenced the memorandum included in the agenda packet discussing the current condition of the building along with the administrative order directing the owner to demolish the building within 30 days, which did not happen. He commented on the dangers of the building to surrounding neighborhoods and businesses. He asked the Governing Body to approve the resolution.

Scott Gales, spoke on behalf of the Bring Back the Boulevard community group that is working towards revitalizing the area. He stated they are excited about having a clean slate to work with for future development in the area.

Matt Pivarnik, Greater Topeka Partnership President and CEO, thanked the Governing Body for being aggressive and working towards addressing commercial blighted properties in the city through the demolition of the White Lakes Mall.

Councilmember Valdivia-Alcala referenced the many memories associated with the White Lakes Mall and Topeka Boulevard; however, she believes it is time to move forward with the demolition of the building and not risk losing Mainline Printing Inc. as an established community business partner.

Councilmember Hiller referenced the proposed cost of the demolition (\$2.5 million) stated in the resolution. She asked Staff to clarify for the public what the demolition of the building means, what options may be available for redevelopment as it relates to the property being in bankruptcy status, the prospects of the property being sold, and if the prospective buyer “fell through” would the City be able to find a buyer to pay off the lien.

In response, Bill Cochran reported the following:

- The cost to demolish the building is estimated to be between \$1.5 and \$1.7 million. Staff requested additional funding in case it is needed to avoid potential delays as they move through the demolition process.
- The property is under contract; however, the development plan in place will not financially work for the developer. He noted the developer may come to the City with a plan within the next few months.
- Demolition fees can be rolled into the acquisition fees when the property is purchased and the development incentives are applied. The Request for Proposal (RFP) includes as many precautions as possible for the City’s protection in the investment moving forward.
- Acquisition fees will be added to the sale of the property enabling the City to recoup expended monies.

Brent Trout stated he spoke to the developer regarding the purchase of the property and they stated there are too many unknowns at this time due to the condition of the building site to move forward with the deal. He stated having the site cleared should increase the chance of development.

Councilmember Padilla thanked Staff for their work on this issue and spoke in support of the resolution.

Mayor De La Isla thanked Councilmember Padilla for his efforts in assisting with the situation. She stated Mainline Printing Inc. deserves to have a safe working environment for their employees.

Councilmember Ortiz thanked Councilmember Padilla for his commitment to resolving the issue and inquired on the next steps in the process.

Bill Cochran reported after the asbestos study is completed by the Kansas Department of Health and Environment, the water will be removed from the basement of the building which will take 7-10 days, followed by release of bid to remove the asbestos with the demolition phase scheduled to begin in December 2021. He noted an asbestos study was completed by the Greater Topeka Partnership and Mainline Printing, Inc. and he is checking to see if that study could be used which would reduce the timeline by 30-45 days. He stated he would forward the finalized timeline to the Governing Body.

Councilmember Emerson expressed his appreciation to Bring Back the Boulevard community group members, the Parker family (Mainline Printing, Inc.) and Councilmember Padilla for helping resolve the issue.

Councilmember Naeger shared memories of the White Lakes Mall and thanked Staff and constituents who have worked to help move forward with a plan to revitalize the area.

Councilmember Lesser spoke in support of the resolution and thanked Staff, the Parker family for their Mainline Printing, Inc. business, Chief of Staff Bill Cochran and Councilmember Padilla for their help in providing a new beginning for the property and area.

Councilmember Dobler spoke in support of the resolution and thanked City Manager Brent Trout and Chief of Staff Bill Cochran for their work in moving forward with the demolition. He expressed his appreciation to the Topeka Fire Department for their actions in

2020, preventing a fire at the mall from spreading to the Mainline Printing, Inc. facility. He stated he hopes this is the first step in revitalizing the area north of the White Lakes Mall.

Councilmember Duncan stated he supports moving forward with the demolition and believes this action is a good investment for the city in a prime area of the community.

Bill Cochran expressed his appreciation to the Parker family. He stated because of the contributions Mainline Printing, Inc. makes to the community the demolition should occur.

Councilmember Padilla moved to approve the resolution. The motion was seconded by Councilmember Emerson.

Mayor De La Isla asked all those in favor of approving the resolution to indicate so verbally by saying “yea” and those opposing the resolution to indicate so verbally by saying “no.” After the voice vote occurred, Mayor De La Isla announced the resolution was approved unanimously on voice vote. (10-0-0)

DISCUSSION concerning the adoption of the 37th Edition of the Uniform Public Offense Code (2021) (UPOC) and local amendments, amending Topeka Municipal Code Section 9.05.080, was presented.

Amanda Stanley, City Attorney, reported the Kansas State Legislature updates various laws and the City’s municipal court has the authority to prosecute misdemeanors and other offenses, but only if the City adopts them as the local code. She stated the League of Kansas Municipalities (LKM) prepares and publishes the Uniform Public Offense Code (UPOC) on an annual basis in July, following the legislative session. She stated the UPOC is a codification of all relevant statutory changes and the City now practices adopting these changes as soon as possible after publication in order to stay consistent with state law. She stated this is also necessary for the Topeka Police Department’s Records Division reporting system. She stated the

system is used to report crime statistics to the FBI, which will not function properly unless the most current versions of the statutes are adopted and used. She stated the City is currently utilizing the 35th edition of the UPOC and the request is to adopt the 37th edition. She referenced significant changes to the laws that include offenses regarding firearms and new criminal offenses that were created.

Councilmember Duncan asked if the City is required to adopt the public offense code changes.

Amanda Stanley stated the City is required to adopt the firearms law. She stated there are some offenses the City has the option to not adopt such as the State's dangerous animal ordinance since the City has its own ordinance.

Councilmember Hiller inquired on the City adopting some of the new changes and if other amendments "carry forward" each time a different UPOC edition is adopted.

Amanda Stanley stated all of the local amendments are carried forward from previous years.

Councilmember Duncan inquired on the Federal laws relating to the Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor.

Amanda Stanley reported in 2020, a federal law was enacted that requires retailers to sell to those that are 21 years and older and the State of Kansas followed suite.

DISCUSSION concerning the 2021 Standard Traffic Ordinance (STO) and local amendments amending Topeka Municipal Code Sections 10.15.010 and 10.15.020, was presented.

Amanda Stanley, City Attorney, stated the League of Kansas Municipalities (LKM) prepares and publishes the Standard Traffic Ordinance (STO) on an annual basis in July

following the legislative session. She stated all relevant statutory changes are codified and the City now practices adopting these changes as soon as possible after publication in order to stay consistent with state law. She stated this is also necessary for the Topeka Police Department's Records Division reporting system. She stated the system is used to report crime statistics to the FBI, which will not function properly unless the most current versions of the statutes are adopted and used. She stated there were no changes in 2020, but there were changes in 2021 including new alcohol to-go laws; however, the State did not address the transportation of the alcohol. She stated she is requesting the Governing Body adopt the 48th edition of the Standard Traffic Ordinance and referenced the following significant changes:

- A new section addressing funeral processions
- New traffic code that protects utility workers to include the "Move Over Law"
- Failure to comply with a traffic citation

DISCUSSION concerning private towing of abandoned vehicles adding new Topeka Municipal Code Section 10.25.080, was presented.

Brent Trout, stated the item was brought forward by Councilmember Ortiz at the request of a business owner.

Councilmember Ortiz introduced Darrel Arrendondo, private business owner, and requested he provide an explanation for the request.

Darrel Arrendondo reported the request was based on the lack of ability for private tow operators to sell or dispose of vehicles that are not claimed by vehicle owners due to the absence of a city ordinance regulating allowable charges for towing, storage and other related services by State statute. He referenced the towing prices the City can control and suggested it match the non-preference towing list. He reported there are other towing companies that support the proposed ordinance.

Councilmember Duncan asked if the business can currently dispose of the vehicle and if fees are being charged to the vehicle owner.

Councilmember Hiller asked if the issue relates to vehicles not being sold and the ability to reimburse fee charges.

In response, Darrel Arrendondo stated the ordinance would allow them to follow the same process they are currently utilizing in accordance to the non-preference list; however, it would include specific language required to file a possessory lien affidavit. He reported the City ordinance language needs to match State statute language in order to satisfy Kansas Highway Patrol requirements to obtain vehicle titles or paperwork in order to sell or to dispose of vehicles.

Councilmember Duncan inquired about fines and fees and stated he would be interested to know how Shawnee County determine the fee amounts. He stated he wants to ensure the fees are not set too high and have maximum set limits. He noted State law requires a two-part notification to the Topeka Police Department.

Amanda Stanley stated she would amend the ordinance to include the Shawnee County fines and fees that would be charged.

Brian Wheelles, Interim Police Chief, stated a list of vehicles towed are maintained by Shawnee County through the communication dispatch center and fees are administered by the businesses. He stated the tow process is centralized at the Shawnee County Communications Center.

PUBLIC COMMENT was provided by the following individuals:

Kristin Miller thanked the Governing Body for approving the resolution to demolish the White Lakes Mall. She referenced recent infrastructure investments occurring in the Hi-Crest

neighborhood and the need to work towards minimizing crime. She asked the City to address the water and sewer line issues in the Hi-Crest area.

Pastor Gabriel Pennington, Southern Hills Mennonite Church, spoke in support of the Topeka Housing Trust Fund and the need for continued momentum. He requested that \$5 million of American Rescue Plan Act (ARPA) funding be allocated to the Housing Trust Fund, acting as a solid source of funding, until there is sustainable funding source established in the future.

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

Brent Trout, City Manager, announced five new police recruits started the Topeka Police Academy on September 20, 2021, and eight new police officers will graduate from the Academy on October 14, 2021; and ten firefighter recruits started the Topeka Fire Academy on September 20, 2021. He also announced the next Governing Body meeting will be held in the City Council Chambers on October 5, 2021.

Councilmember Emerson reported approximately 3 to 4 years ago the City inspected almost every sewer line in the Hi-Crest neighborhood and discovered some of the houses were built with Orangeburg pipes, a compressed paper product that eventually deteriorates, causing significant issues in that area. He acknowledged the 150th Anniversary of the Topeka High School.

Councilmember Naeger announced Our Modern Manor Showhouse Tours are taking place from September 24-26, 2021, supporting efforts of the Child Care Aware program of Eastern Kansas and noted tickets could be purchased at <https://east.ks.childcareaware.org>. She

thanked the Topeka High School Student Council and Historical Society for the gift she received as a guest speaker for the Topeka High Seniors Class of 2022.

Councilmember Duncan announced A Chorus Line will perform at the Topeka Performing Arts Center on September 25, 2021. He expressed his appreciation for the street work that has been completed in District 8.

Councilmember Hiller announced there were four remaining Change the Property Maintenance Culture Meetings left to occur. She stated Staff has received many great ideas on how to get the community where they want to be in regards to property maintenance. She referenced the Kansas Diversity Equity and Inclusion Summit 2021 hosted by the Greater Topeka Partnership, and thanked Councilmember Valdivia-Alcala for attending the Summit. 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 reminded those that live in the Garfield and Lundgren neighborhood area to attend the property maintenance meetings. She stated the feedback received from the Topeka Housing and Racial Virtual Planning Summit participants is that the type of dialogue that is occurring is long overdue and urged the City of Topeka to address the social inequities in the community.

Councilmember Emerson moved to recess into executive session for a period of 45 minutes to discuss an individual employee's performance, as authorized KSA 75-4319(b)(1). To aid in the discussion, the following individuals were present: Members of the Governing Body, Human Resources Director, Jacque Russell and City Attorney, Amanda Stanley. No action was anticipated when the meeting resumed in open session. The motion seconded by Councilmember Padilla carried unanimously on voice vote. (10-0-0)

Following a 45-minute time period, the meeting reconvened into open session and Mayor De La Isla announced no action was taken during the executive session.

NO FURTHER BUSINESS appearing the meeting adjourned at 8:40 p.m.

(SEAL)

Brenda Younger
City Clerk