

## **Governing Body Minutes – October 5, 2021**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, October 5, 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 Councilmember Ortiz participating remotely -1. Mayor De La Isla presided -1. Absent: Councilmember Naeger -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](mailto:cclerk@topeka.org) by no later than 5:00 p.m. on October 5, 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](mailto:cclerk@topeka.org) on or before October 5, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Father Raymond May, Our Lady of Guadalupe Catholic Church, provided the invocation.

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20316 introduced by City Manager Brent Trout, allowing and approving City expenditures for the period July 31, 2021 through August 27, 2021, and enumerating said expenditures therein, was presented.

MINUTES of the regular meeting of September 21, 2021, was presented.

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

RESOLUTION NO. 9266 approving the issuance by the City of Wichita, Kansas of its health care facilities revenue bonds for the purpose of financing or refinancing the acquisition, construction, improvement and equipping of senior living health care facilities located in the City of Topeka, Kansas, was presented.

Brent Trout, City Manager, stated the City of Wichita notified the City of Topeka of their intent to issue health care facility revenue bonds in an amount not to exceed \$200,000,000 to finance improvements to various Presbyterian Manor senior living facilities one of which is located in Topeka. He stated K.S.A. 12-1741a, prohibits Wichita from issuing revenue bonds that finance facilities outside of the city unless: (1) Wichita receives the approval of the city where the facility is located (i.e. Topeka); or (2) the Topeka governing body takes no action within 7 days after its meeting considering the matter. He stated if approved, the bonds are special obligations of the City of Wichita, payable from rental payments by Presbyterian Manors, Inc. with no financial liability for payments by the City of Topeka.

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

ORDINANCE NO. 20317 introduced by Councilmember Sylvia Ortiz, concerning private towing of abandoned vehicles, adding new Section 10.25.080, was presented.

Councilmember Ortiz stated approval would allow towing companies to impose a lien on vehicles towed from private property and auctioned in accordance with State law if unclaimed by the vehicle owner.

Councilmember Duncan thanked Staff for placing more details in the ordinance and noted the fees listed in the ordinance are comparable to other Kansas municipalities.

Councilmember Ortiz moved to adopt the ordinance. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. The Mayor did not vote. (*The proposed ordinance involved a matter of home rule on which the Mayor has veto authority.*) (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Dobler, Duncan and Lesser -8.

RESOLUTION NO. 9267 introduced by City Manager Brent Trout, consenting to the establishment of Shawnee County Main Sewer District, No. 74, Lateral District No. 9, was presented.

Brent Trout, City Manager, stated the developer of the Sherwood Park Subdivision has filed a petition with the Shawnee County Board of Commissioners to establish a sewer district that would service the new subdivision. He stated as the sewer district would extend into city limits, State law requires consent by the City. He noted the petition has been reviewed by the appropriate City departments and Staff has no objection. He stated if the Governing Body consents, the Shawnee County Clerk will set the matter for a public hearing before the Shawnee County Commission which will decide whether to create the district.

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

ORDINANCE NO. 23018 introduced by City Manager Brent Trout, adopting the 2021 Standard Traffic Ordinance (STO) and local amendments thereto, amending Topeka Municipal Code Sections 10.15.010 and 10.15.020, was presented.

Brent Trout, City Manager, stated the ordinance was discussed on September 21, 2021, and a revised memorandum providing more detail was included in the agenda packet.

Councilmember Hiller stated she appreciates the update and narrative provided to the Governing Body in the memorandum.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. The Mayor did not vote. *(The proposed ordinance involved a matter of home rule on which the Mayor has veto authority.)*  
(8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Dobler, Duncan and Lesser -8.

ORDINANCE NO. 20319 introduced by City Manager Brent Trout, adopting the 37th Edition of the Uniform Public Offense Code (2021) (UPOC) and local amendments thereto, amending Topeka Municipal Code Section 9.05.080, was presented.

Brent Trout, City Manager, stated the ordinance was discussed on September 21, 2021, and Staff is recommending approval as presented.

Councilmember Emerson moved to adopt the ordinance. The motion seconded by Councilmember Lesser carried unanimously on roll call vote. The Mayor did not vote. *(The proposed ordinance involved a matter of home rule on which the Mayor has veto authority.)*  
(8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Dobler, Duncan and Lesser -8.

ORDINANCE NO. 20320 introduced by City Manager Brent Trout, concerning Governing Body meetings in January following general municipal elections, amending City of Topeka Code Section 2.15.020 and repealing original section, was presented.

Brent Trout, City Manager, stated in 2015, State law established the commencement dates for governing body terms of office as the second Monday in January, following the November elections. He stated as such, the City amended its Tuesday meeting ordinance to change the second Tuesday meeting in January to the second Monday so that new governing body members could be sworn in. He stated in 2019, State law changed to allow cities to establish, by resolution, commencement dates for governing body terms of office. He stated in 2020, the governing body adopted a resolution and an ordinance establishing a commencement date of the first Tuesday in January; therefore, it is no longer necessary to meet on the second Monday in January.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. The Mayor did not vote. (*The proposed ordinance involved a matter of home rule on which the Mayor has veto authority.*)  
(8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Padilla, Dobler, Duncan and Lesser -8.

DISCUSSION regarding the finalization of the City's ARPA funding project list, was presented.

Brent Trout, City Manager, stated the agenda item is the initial spending proposal and first discussion on the draft project list and activities supported by the American Rescue Plan Act (ARPA). He reported the purpose of the presentation is to give the Governing Body options on how the funds can be spent. He noted there would be additional discussions prior to adopting a final plan in December 2021. He provided an overview of the recommended projects in the

categories of the Public Health Response to COVID-19 Emergency and Negative Economic Impacts.

Councilmember Valdivia-Alcala referenced the Negative Economic Impacts category. She explained the \$10,000 allocated to the Math Crisis Center with Salvation Army program would assist Topeka Public Schools District children seeking tutoring services. She requested more information on the Job Training Program including a detailed presentation on how the funds will be spent and encouraged Staff to include community stakeholders in the process. She inquired about the Broadband Digital Literacy Program and referenced digital hubs in underserved communities.

Councilmember Hiller asked if there is an assumption that the Job Training Program and the COVID Basic Needs Assistance is needed, and does that need exist at the present time.

Brent Trout reported the COVID Basic Needs Assistance and Job Training Program are activities supported by ARPA. He reported both activities could be considered a need in the community; however, that is a decision to be made by the Governing Body. He stated the City plans to work with existing technical colleges and is willing to consider working with local companies in need of job training assistance. At this time, he has not had conversations with the local colleges and envisions childcare to be included as part of the Job Training Program.

Councilmember Dobler stated that he believes this discussion is a good start to the allocation of ARPA funding; however, he wants to see the anticipated outcomes before spending is approved and have an opportunity to review those outcomes on an annual basis.

Councilmember Ortiz requested that childcare services be offered during job training and when applying for jobs.

Mayor De La Isla referenced the External Audit Support listed under the Negative Economic Impacts category and reported some cities are hiring a consultant to review how ARPA funds can be expended to avoid unintentional misuse of funds due to the broad language of the Federal guidelines as well as conducting a third party audit.

Councilmember Valdivia-Alcala expressed concern with reducing the amount of funding for North Topeka Arts and Entertainment District (NOTO) from \$50,000 to \$30,000. She reported that she received a document from Thomas Underwood, NOTO Executive Director, outlining organizational goals and operational needs. She noted she plans to meet with Mr. Underwood and NOTO businesses to discuss and develop their budget based on the amount they requested. She reminded the Governing Body only 1 or 2 businesses in NOTO received COVID relief funds; NOTO continues to wait for the City to demolish a building in the District that is considered a public health and safety issue; NOTO receives no Transient Guest Tax funding; and NOTO is the 3<sup>rd</sup> most popular tourist destination in Shawnee County. She encouraged the Governing Body and City Staff to consider NOTO as a thriving area of the city.

Mayor De La Isla reminded the Governing Body the proposed list is not final and she suggested they look at the long term community impact of each project.

Brent Trout continued the discussion and reported calculations have determined the amount of revenue loss for the City of Topeka at over \$10 million; however, he is recommending that they only consider utilizing \$6 million for revenue loss projections. He provided an overview of recommendations for the use of Revenue Loss Funding.

Councilmember Emerson referenced the Polk-Quincy Viaduct Utilities Relocations listed as a project option under the Infrastructure Category and questioned if there would be a lot of other utility costs associated with the project.

Brent Trout stated the utility project amounts will not count towards the City's \$20 million commitment for the Polk-Quincy Viaduct Project which is the reason it has been included in the proposed list of projects. He reported many of the issues related to mill and overlay to prepare for the Polk-Quincy Viaduct Project will be covered by the \$20 million funded through general obligation bonds.

Councilmember Duncan referenced the Lead Service Line Removal project in the amount of \$5 million included in the Water and Sewer Infrastructure category. He asked Staff if this was the actual cost of the project.

Brent Trout reported specific project amounts have not been finalized; however, the \$45 million proposed will help ensure a large portion of funding will be available to be used towards fixing water, sewer and stormwater issues. He will meet with Staff to finalize specific program/project locations to the extent possible as the exact numbers for the Polk-Quincy Viaduct utilities have not been finalized. In reference to the Lead Service Line Removal project, Staff is in the process of identifying the locations of lead line pipes; however, he believes the amount will be greater than \$5 million. He noted if the Congressional Bill related to the Safe Drinking Water Act currently being considered by Congress is approved, the City may receive federal funding to assist with replacement of lead service lines, providing an opportunity to use the \$5 million of ARPA funds towards another program/project. A more detailed list of projects will be provided to the Governing Body.

Councilmember Duncan stated he would feel more comfortable seeing a targeted project list to ensure funds are spent on specific projects that have been prioritized. He questioned why some of the projects are also being included in the Capital Improvement Plan (CIP) and why ARPA funds are not being tracked separately.



Brent Trout stated projects will be listed in the CIP for budgeting purposes. The projects will be listed in the CIP as specific cash projects, funded by specific funding sources (grants), providing for a better tracking system in the overall CIP.

Councilmember Duncan suggested that CIP and ARPRA funds not be intermingled.

Councilmember Hiller stated she agrees the specific project and source of funding should be clearly identified in the CIP for tracking purposes. She stated she concurs with the statements related to long-term impacts and outcomes to ensure strategic investments. She asked if the utility projects included on the list would be in addition to what is included in the CIP or would the project amounts offset the revenue expenses approved.

Brent Trout stated these projects would likely come before the Governing Body for approval as a revenue bond need and will be paying the projects with the ARPA funding instead of issuing bonds for projects. He stated some of the projects may not be completed until 4-6 years from now, allowing the City to complete projects at this time with cash, with the intent to reduce the amount of bonds sold in the coming years.

Councilmember Dobler requested that all ARPA funded project budgets be brought before the Governing Body for approval, allowing for an improved tracking system.

Brent Trout continued the discussion by providing an overview of the Premium Pay for Essential Workers, Social Programs and Infrastructure and Broadband Infrastructure categories. At this time, an additional \$600,000 has been proposed for Police and Fire Management as well as other essential workers. The Social Programs amount is an amount that he thinks is necessary with any leftover funding being allocated to utility type projects. Broadband Infrastructure is difficult because the City does not have a specific need for any type of built broadband

infrastructure because it is provided by private entities. He noted funding has been proposed for digital literacy efforts.

Councilmember Hiller inquired on the remaining balance of CARES Act funds the City received and asked if the City would receive a portion of the ARPA funding received by Shawnee County.

Brent Trout reported the remaining \$2.5 million of CARES Act funds have already been expensed and has no spending due date and is not included in the ARPA funding proposal. The City would not receive a portion of Shawnee County's ARPA funding. Phase 1 of the ARPA funds have to be encumbered by December 31, 2024 and spent by December 31, 2026.

Johnathan Sublet stated at times the City's infrastructure can go unnoticed and more funding is needed. He spoke on behalf of the Hi-Crest neighborhood and requested some of the ARPA funds be used to invest in the Hi-Crest area. He asked the Governing Body to consider his request.

Matt Sabala stated ARPA funding provides a unique return on investment opportunity by investing in the Hi-Crest community providing a long-term economic impact for the City.

Joseph Ledbetter stated he supports ARPA funds being used for redevelopment in the Hi-Crest neighborhood. He stated the streets on the west side of Adams Street are still in need of mill and overlay repairs. He suggested the \$3.3 million slated for the City Hall Ventilation Project be used for street repairs; and allocate some of the ARPA funds to affordable housing incentives and the Property Maintenance Division. He expressed concern with the lack of detail being provided for utility projects and would suggest using those funds strategically so it will have a lasting impact on the community.

Councilmember Dobler expressed his appreciation for comments made by Johnathan Sublet and Matt Sabala. He referenced the approximate \$14 million generated annually in sales tax funds which are specifically used for street repairs. He suggested the ARPA funding slated to be used for mill and overlay and curb and gutter projects be designated to the Intensive Care and At Risk Neighborhoods.

Mayor De La Isla stated discussions will continue by the Governing Body in upcoming weeks on the allocation of ARPA funding.

PUBLIC COMMENT was submitted via electronic mail by Joseph Ledbetter. (*Attachment A*) and provided by the following individuals:

Sandra Lassiter expressed concern with the progress of the 12<sup>th</sup> Street Improvement Project. She reported Tennessee Town residents have voiced their concerns to her about how the project is being handled and the lack of driveway access for some residents. She asked when these issues would be resolved.

Teresa Miller referenced a property located at 2007 NW Tyler, in which the property was purchased to build three homes. She expressed concern with the proposed rezoning of the property and reported a large dirt pit located on the property, which she believes will cause water drainage issues as well as a public safety issue.

Joseph Ledbetter referenced a letter he wrote to the City five years ago about property maintenance issues. He stated he would like to see the ARPA funds allotted for street projects and to be allocated towards the Intensive Care and At Risk Neighborhoods. He stated the previous effort of improving the Hi-Crest infrastructure had a lasting effect and increased home values.

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

Kelly Bogner, Assistant City Clerk, provided an overview of the October 12, 2021, Governing Body meeting agenda.

Mayor De La Isla announced the City of Topeka has been nominated for the Evergy Energy Vision Award for the Wastewater Division Biogas project.

Councilmember Duncan expressed the importance of carbon monoxide detectors in homes and reminded residents to install the detectors if needed. He requested Staff provide the Governing Body a presentation on the City's protection plan against cyber-attacks.

Councilmember Lesser stated he concurs with Councilmember Duncan and believes it would be a good time to provide a presentation as cyber-attacks seem to be more frequent.

Councilmember Hiller requested that the public be educated on the status and expectations of the 12<sup>th</sup> Street Improvement Project. She thanked everyone who promoted the Property Maintenance Public Input Meetings.

Brent Trout stated information will be provided on the 12<sup>th</sup> Street Improvement Project during the Public Works Quarterly Report on October 19, 2021.

Councilmember Valdivia-Alcala stated the City needs to help communities feel that the City is in partnership with them. She announced the Oakland Community Garden is closed for the season and they are working on completing the harvest.

Councilmember Emerson thanked Councilmember Lesser, Property Maintenance Staff members Mike Haugen and John Schardine as well as Topeka Police Officers for assisting with placement of the homeless population in suitable housing.

Mayor De La Isla announced that The Greater Topeka Partnership will host the Momentum 2027 kickoff meeting on October 7, 2021 at 1:00 p.m. at the Sunflower Foundation Building located on Menninger Hill.

Councilmember Emerson moved to recess into executive session for a period of 30 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 was seconded by Councilmember Dobler.

Mayor De La Isla asked all those in favor of recessing into executive session to indicate so verbally by saying "yea" and those opposing to indicate so verbally by saying "no." After the voice vote occurred, Mayor De La Isla announced the motion carried unanimously on voice vote. (9-0-0)

Following a 30-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 30 minutes to continue discussion on 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 was seconded by Councilmember Dobler.

Mayor De La Isla asked all those in favor of recessing into executive session to indicate so verbally by saying "yea" and those opposing to indicate so verbally by saying "no." After the

voice vote occurred, Mayor De La Isla announced the motion carried on voice vote.

Councilmember Ortiz voted “no”. (8-1-0)

Following a 30-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 9:05 p.m.

(SEAL)

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Brenda Younger  
City Clerk

# Attachment A

## Kelly L. Bogner

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**From:** Joe Ledbetter <joe\_ledbetter@yahoo.com>  
**Sent:** Tuesday, October 05, 2021 6:37 PM  
**To:** City Clerk; City Council; Tony Emerson; Michael Lesser; Neil Dobler; Spencer Duncan; Michael Padilla; Sylvia Ortiz; Michelle De La Isla  
**Subject:** Covid money. ARPA funds Discussion.

**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.

I was hoping for this to be in a Committee of the whole. I have a lot of questions. I feel we need to do a lot to incentivize housing and house building in Topeka. I want to see specifics on utilities projects. I want exact Timelines and Specific projects and addresses. I don't want to see broad brush descriptions which could turn into mush like CIP votes that no one remembers years later when implemented , or the scope that is not what was discussed years before. This needs to be nailed down with specifics before any vote. I believe the Utilities Dept does not have the capacity under current leadership to handle these proposed projects in a quick effective timelines. Thank you.

Joseph Ledbetter JD , MPA  
Sent from my iPhone