

## **Governing Body Minutes – December 14, 2021**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 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, Padilla, Dobler, Duncan and Lesser -5; and Councilmember Valdivia-Alcala, Ortiz, Emerson and Naeger participated remotely -4. 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](mailto:cclerk@topeka.org) by no later than 5:00 p.m. on December 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](mailto:cclerk@topeka.org) on or before December 14, 2021, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Shampayne Lloyd, Shampayne Lloyd Ministries, and Topeka Police Department Champlain, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Cassandra Taylor to the Board of Building and Fire Appeals for a term ending December 31, 2023, was presented.

*(Council District No. 7)*

BOARD APPOINTMENT recommending the reappointment of Christine Steinkuehler to the Topeka Landmarks Commission for a term ending December 31, 2024, was presented.

*(Council District No. 1)*

BOARD APPOINTMENT recommending the reappointment of David Heit to the Topeka Landmarks Commission for a term ending December 31, 2024, was presented. *(Council District No. 6)*

BOARD APPOINTMENT recommending the reappointment of Donna Rae Pearson to the Topeka Landmarks Commission for a term ending December 31, 2024, was presented. *(Council District No. 1)*

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

CONSENT AGENDA was presented as follows:

RESOLUTION NO.9278 introduced by City Manager Brent Trout, declaring the entire boundary of the City of Topeka for 2021, was presented.

APPROVAL of a Public Works contract for Professional Engineering Services between the City of Topeka and Dalrymple Consulting, Inc. to aid the City in addressing Capital Projects, was presented. *(Contract No.49982)*

APPROVAL of a Public Works contract for Professional Services between the City of Topeka and Fracta to provide Software as a Service regarding Event 2444 Water Distribution Pipeline Failure Determination Technology Solution, was presented. *(Contract No. 49993)*

MINUTES of the regular meeting of December 7, 2021, was presented.

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

APPROVAL of a Real Estate Agreement between QSR Real Estate, LLC and the City of Topeka in the amount of \$51,000 to purchase the property located at SE 30th Street and SE Powell Street, Topeka, Kansas, was presented.

Brent Trout, City Manager, stated approval would authorize the purchase of the tract of land for construction of a future water tower to serve the SE Zone Water Tower.

Councilmember Lesser moved to approve the real estate agreement in the amount of \$51,000. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (10-0-0)

ORDINANCE NO. 20331 introduced by City Manager Brent Trout, providing for a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka until December 31, 2022, and replacing the franchise ordinance codified at City Code Appendix B, Article XI that will expire December 31, 2021, was presented.

Brent Trout, City Manager, reported approval would authorize the agreement for one-year, expiring December 31, 2022.

Councilmember Duncan asked when the last time any of the associated fees were changed.

Brent Trout reported fees were changed two years ago.

Councilmember Lesser moved to adopt the ordinance. The motion seconded by Councilmember Padilla carried unanimously on roll call vote. (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. 9279 introduced by City Manager Brent Trout, authorizing Improvement Project No. T-601132.00 that provides for street improvements for Sherwood Park Subdivision No. 9 as more specifically described herein, was presented.

Brent Trout, City Manager, stated RMD Development, LLC has petitioned the Governing Body to establish a benefit district in Sherwood Park Subdivision No. 9.

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

ORDINANCE NO. 20332 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 on property located at 3245 SW Topeka Boulevard from C-4 Commercial to Planned Unit Development (PUD) with C-4 Commercial uses and warehouse or storage uses as defined by chapter 18.55 of the Topeka Zoning Code on 12.7 acres, was presented. (*PUD 21/03*) (*Council District No. 5*)

Bill Fiander, Planning and Development Director, reported the request to change the zoning is not tied to a master plan; however, all conditions of the zoning are included in the proposed ordinance and the request is consistent with the Land Use and Growth Management Plan. He stated the zoning would allow for warehouse and self-storage and prohibit outdoor storage or truck parking as a use. He noted the Planning Commission and Planning Staff recommend approval of the request.

Councilmember Emerson asked if the applicant is agreeable to the stipulations outlined in the ordinance.

Councilmember Padilla inquired about the regulation of truck traffic related to entering and exiting the property.

Bill Fiander stated the applicant agrees with the stipulations of the ordinance and there will be restricted access through the residential neighborhood as well as Staff has the authority to address compliance issues related to truck traffic if needed.

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 Lesser.

Councilmember Padilla moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (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.

APPROVAL of Changing the Culture of Property Maintenance in Topeka 2022-2026 Goals and Challenges; and 2022-2025 Initiatives as recommended by the Public Health and Safety Committee, was presented. *(The Public Health and Safety Committee recommended approval by a vote of 3-0-0 on November 8, 2021.)*

Councilmember Hiller, Public Health and Safety Committee Chair, thanked all those involved in the process and noted both documents were discussed at the December 7, 2021, Governing Body meeting.

Councilmember Ortiz thanked everyone for their hard work on the initiative. She referenced past experiences and expressed concern with the initiative of having Neighborhood Improvement Associations (NIAs) distributing friendly letters to property owners to address issues before Property Maintenance becomes involved. She suggested having the City continue the practice of sending the initial letter and then have the NIA follow up with the property owner.

She stated she hopes citizens will participate in the initiatives and help change the culture of property maintenance in Topeka.

Councilmember Hiller stated all lists were built from neighborhood residents that attended the public input sessions, including the suggested items listed under Item 7 of the Initiatives 2022-2025 Document, which specifically relates to retail parking lots and trash. She noted it would be an option for neighborhoods to address issues, not a requirement.

Steve Vogel distributed an email to the Governing Body on December 14, 2021 concerning urban decay. He expressed concerns about landlords not complying with City Codes as it relates to their rental properties. He stated some landlords believe they are being unfairly targeted, when in fact they are not, and he fully supports efforts to hold landlords accountable.

Councilmember Lesser commended the Committee for their work. He stated the majority of feedback he receives from constituents relates to the lack of accountability by landlords.

Councilmember Hiller thanked Mr. Vogel for his comments and his plans to help with the initiatives.

Councilmember Hiller moved to adopt the Public Health and Safety Committee Report, adopting, by reference, both the Changing Our Culture of Property Maintenance Guiding Principles, Goal and Challenges 2022-2026 and the Changing Our Culture of Property Maintenance Initiatives document, and directing the City Manager to implement, beginning January 1, 2022. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (10-0-0)

Councilmember Hiller stated the strategy was set up to for the purpose of helping those who need assistance in addressing property issues.

DISCUSSION regarding the recommendation by the Public Health and Safety Committee to approve a City of Topeka Digital Equity and Inclusion Statement of Commitment, was presented. *(The Public Health and Safety Committee recommended approval by a vote of 3-0-0 on November 8, 2021.)*

Councilmember Hiller, Public Health and Safety Committee Chair, reported a working group of stakeholders was formed by Councilmember Dobler when the issue was first introduced to the Public Health and Safety Committee in August 2020.

Councilmember Dobler reported the discussion started with the onset of the COVID-19 pandemic shut down and the realization that there was an extensive need to help citizens understand how to access high speed internet. He recognized the ad hoc committee members and their ongoing efforts to make the initiative happen through the collaboration of programming and community assistance initiatives.

Councilmember Hiller noted there has been a formal commitment made by each organization that is represented by ad hoc members to assist with initiatives.

Councilmember Naeger commended Councilmember Dobler and all the community members involved in the work to push broadband access for all kids in Topeka.

DISCUSSION concerning compulsory retirement, amending Chapters 2.30 and 2.35 of the Topeka Municipal Code, was presented.

Brent Trout, City Manager, reported the matter was initially discussed by the Governing Body in April 2021. He stated there was a request to bring this item back for discussion and potential action and Staff supports the request to re-instate the language into Code.

Matthew Bergmann, IAFF Local #83 and FOP Lodge No. 3 Legal Counsel, spoke in support of the ordinance and to reinstate the requirements in the Topeka Municipal Code representing approximately 400 bargaining unit employees.

Aaron Freeman, IAFF Local #83 President, spoke in support of the ordinance.

Councilmember Dobler stated the ordinance being introduced only reinstates compulsory retirement and does not make any other changes. He noted the proposed ordinance has been reviewed and approved by Fire and Police Management, the Fraternal Order of Police (FOP) as well as IAFF Local Union #83.

Councilmember Duncan asked why the Police and Fire Chief positions were exempt or why there is not a secondary retirement age included for these positions. He stated he is still struggling with this concept and believes aged employees have a wealth of institutional knowledge that would be useful to serve in a different capacity.

Councilmember Hiller stated she remains troubled using an arbitrary age cutoff as it relates to fitness for duty.

Brent Trout stated if there is a question on whether an individual is capable of performing their duties, the employee no matter their age, will be required to perform a fitness for duty assessment.

Councilmember Naeger stated it is really important to consider the emotional stress as it relates to the service being performed.

Councilmember Dobler asked City Manager Trout if both Fire and Police Department Command Staff as well as administrative and union members all support the proposed language.

City Manager Trout reaffirmed that the language is supported by both Police and Fire Department personnel.



Councilmember Lesser stated that all levels of Police and Fire Department employees have expressed their support of the proposed ordinance. He spoke in support of implementing an age limit due to the physical strains of the jobs being performed.

Councilmember Emerson stated he does not understand what problem the proposed ordinance is trying to solve and questioned why the issue was not addressed during labor negotiations.

Brent Trout stated the item was discussed in April 2021, and pursuant to the Governing Body Rules and Procedures it could not be considered for six months. He reported the ordinance provides a tool to address those that may not be capable of performing service after a certain age.

Councilmember Emerson stated he would support the ordinance as presented unless both Unions agreed to annual physicals as well as an annual fitness for duty assessments. He noted the ultimate goal should be that public safety employees are safe and have the ability to perform their jobs no matter their age.

DISCUSSION of potential year-end expenditures due to the estimated \$3.5 million of General Fund savings experienced during the 2021 Fiscal Year was presented.

Brent Trout, City Manager, reported the City has been notified that cost for demolition of the White Lakes Mall will be absorbed by the property owner in the amount of \$2.5 million. He stated Staff is requesting the Governing Body consider using the excess funds to fund the projects outlined in the proposed resolution. He listed the projects as follows:

- AED Units \$215,000;
- Demolition \$325,000;
- Menninger Tower \$400,000
- HVAC, City Hall \$1,500,000
- Patch Truck \$200,000
- Code consultant \$82,000
- Infill sidewalks \$400,000
- Huntoon/Arvonía \$357,000 and the Total Amount of \$3,479,000

Councilmember Lesser asked for more details related to the Menninger Tower affordable housing initiative. He inquired if incentives will be tied to the \$400,000 being allocated from the City for utility improvements and if those utility improvements could be used for other developments if the Menninger Tower project does not move forward.

Brent Trout stated the proposed plan for Menninger Tower would provide 60 apartments for senior housing to include renovation of the building. He reported the organization is working towards obtaining financing to include tax credits and private funds; the development agreement will outline all requirements; the utilities can be used for future developments; however, if the \$400,000 allocated specifically for the project is not used it would be placed back into reserves for use in the future for a different purpose.

Councilmember Hiller asked Staff to identify if the projects listed are already budgeted or if they are new or unexpected projects. She asked for more detail on the projects, specifically the HVAC improvements for the City Hall building.

Brent Trout stated the projects were identified as opportunities that can be moved forward with the use of reserve funds instead of being included in the 2022 City operating budget.

Councilmember Emerson asked if the Menninger project does not move forward would the funding be locked. He requested Staff look at the area along 29<sup>th</sup> Street from SW Washburn Avenue to SE Adams Street, an area that badly needs mill and overlay work completed. He asked Staff to also look at the area on North Topeka Boulevard near Highway 24.

Councilmember Dabler questioned why the SW Huntoon Street and SW Arvon Place project was included in the list as it was completed three years ago.

Brent Trout reported the funds listed for the Huntoon and Arvon Place project are needed to reconcile the project.

Councilmember Duncan stated he does not want to use ARPA funding for City Hall HVAC improvements. He stated he will generally support the project list as presented; however, in the future, he would like to have a more broad conversation as it relates to using excess funding to lower the mill levy or providing the funds to the Utility Department for the purpose of lower utility fee rates for customers.

Councilmember Padilla commended Staff for the increased mill and overlay projects that have really improved overall street conditions. He referenced the poor condition of the SW 29<sup>th</sup> Street and Topeka Boulevard intersection and suggested it be considered for improvements. He thanked Councilmember Duncan for encouraging the Governing Body to think outside of the box to solve funding issues in order to get things done.

PUBLIC COMMENT was provided by the following individuals:

John Rush stated he still has not received a response from the City regarding the helicopter incident in June 2021. He believes the City Manager is not telling the truth about what happened as it relates to the City's liability.

Sammy Williams spoke in support of using the Menninger Tower for veteran housing. He spoke about the plans he has in place and asked for an opportunity to present the Menninger Tower proposal for consideration by the Governing Body.

Tre'jor Hopkins thanked the Governing Body for their work. He stated he resides in District 3 and appreciates the road improvements, however, east and southeast Topeka are in need of more road improvements.

PJ Carter, Black Lives Matter Foundation Topeka Chapter President, expressed concern with the need for increased oversight and accountability of the Topeka Police Department as well as the importance of repairing the distrust and neglect felt by the community.

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

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

Councilmember Duncan encouraged citizens and Governing Body members to listen to the Ballots & Brews Podcasts hosted by Angel Ramirez, a forum where citizens can discuss municipal government operations.

Councilmember Lesser commended Angel Ramirez for hosting the Ballots & Brews Podcasts and the contributions he makes to the community. He commented on the great accomplishments of the late Senator Robert J. Dole.

Councilmember Hiller announced on December 15, 2021, Topeka United will host “Peace: A Multicultural Holiday Evening at First United Methodist Church, located at 600 SW Topeka Boulevard.

Councilmember Emerson congratulated the Washburn University Women’s Volleyball team for placing second in the Division II College National Volleyball Championship.

Councilmember Padilla thanked Downtown Topeka Plaza for broadcasting local sports and stated he hopes it will continue. He encouraged those that are able to donate to the Salvation Army 2021 Red Kettle Campaign to do so.

Councilmember Naeger reminded everyone to be mindful of students out of school on the Christmas Holiday break.

Mayor De La Isla encouraged citizens to participate in the Topeka Zoo Lights event. She stated Governing Body members will receive an Accelerator for America packet regarding the use of ARPA funding. She encouraged Governing Body members to utilize

EducationSuperHighway, a national non-profit with the mission to close the digital divide and help support municipalities in maximizing broadband funding.

Councilmember Dobler moved to recess into executive session for a period of 10 minutes to discuss the acquisition of real property for public works, pursuant to KSA 75-4319(b)(6). To aid in the discussion, the following individuals were present: Members of the Governing Body, City Manager, Brent Trout; Chief of Staff, Bill Cochran; Public Works Director, James Jackson; Interim City Engineer, Robert Bidwell; Right of Way Agent, Thomas Allen and City Attorney, Amanda Stanley. No action was anticipated when the meeting resumed open session in the City Council Chambers. The motion was seconded by Councilmember Duncan.

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. (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.

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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. (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. 0

Councilmember Dobler moved to recess into executive session for a period of 30 minutes to discuss matters related to an individual employee, pursuant to 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 open session in the City Council Chambers. The motion was seconded by Councilmember Padilla.

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. (10-0-0)

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 Padilla moved to recess into executive session for a period of 30 minutes to discuss matters related to an individual employee, pursuant to 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. The motion was seconded by Councilmember Duncan.

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. (10-0-0)

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 Padilla moved to introduce a resolution for consideration. The motion was seconded by Councilmember Lesser.

Amanda Stanley, City Attorney read the following resolution to be considered by the Governing Body:

RESOLUTION NO. 9280 introduced by Deputy Mayor Michael Padilla concerning the designation of an Interim City Manager.

WHEREAS, the Governing Body has accepted City Manager Brent Trout’s resignation which is effective on December 31, 2021, at 5:00 p.m.; and

WHEREAS, as the City Manager is responsible for administering the affairs of the City by entering into contracts and performing other duties set forth in the Topeka Municipal Code, it is necessary to appoint an Interim City Manager to continue administering the affairs of the City until such time as the Governing Body appoints a permanent City Manager; and

WHEREAS, TMC A2-51 and A2-53 authorize the Governing Body to appoint a City Manager who serves at the pleasure of the Governing Body.

NOW THEREFORE, BE IT RESOLVED THAT THE GOVERNING BODY, hereby authorizes William Cochran to serve as Interim City Manager beginning December 31, 2021, at 5:01 p.m. Mr. Cochran will serve at the pleasure of the Governing Body or until such time as a permanent City Manager is employed.

The motion to introduce and consider the resolution as read by the City Attorney carried on roll call vote. Councilmembers Valdivia-Alcala, Ortiz and Mayor De La Isla voted “no.”

(7-3-0)

NO FURTHER BUSINESS appearing the meeting adjourned at 9:05 p.m.

(SEAL)

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Brenda Younger  
City Clerk