

Governing Body Minutes – December 21, 2021

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 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, Padilla, Naeger, Dobler and Duncan -5; and Councilmember Valdivia-Alcala, Ortiz and Lesser participated remotely -3. Mayor De La Isla presided - 1. Absent: Councilmember Emerson -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 December 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 December 21, 2021, for attachment to the meeting minutes.

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

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

A SERVICE RECOGNITION CEREMONY was conducted for Mayor Michelle De La Isla and Councilmember Michael Padilla.

BOARD APPOINTMENT recommending the reappointment of Kelsey Savage to the Topeka Tourism Business Improvement District Advisory Board for a term ending December 31, 2023, was presented.

BOARD APPOINTMENT recommending the reappointment of James Parrish to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2023, was presented.

BOARD APPOINTMENT recommending the reappointment of Robert Bausch to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2023, was presented. (*Council District No. 5*)

BOARD APPOINTMENT recommending the appointment of Kelly Magerkurth to the Topeka Sustainability Advisory Board for a term ending December 22, 2023, was presented. (*Council District No. 6*)

Councilmember Dobler moved to approve the board appointments. The motion seconded by Councilmember Padilla carried unanimously on roll call vote. The mayor does not vote. (8-0-0)

A SERVICE RECOGNITION and Special Thank You was presented to Mayor Michelle De La Isla from Dr. Tiffany Anderson, Topeka Public Schools Superintendent and Dr. Aarion Gray, Director of Instructional Services Topeka Public Schools.

PRESENTATION of the 2021 Stephanie Mott Award was presented to Mayor Michelle De La Isla by Topeka Human Relations Commissioner Jennifer Goetz.

A SERVICE RECOGNITION of the Shawnee County COVID Incident Response Team was presented by Mayor Michelle De La Isla.

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9281 introduced by City Manager Brent Trout authorizing initiation of eminent domain proceedings to acquire easements for a street and utility improvement project at NW Tyler Street (Lyman to Paramore) Project Nos. T-701019.00; 701034.00, was presented.

RESOLUTION NO. 9282 introduced by City Manager Brent Trout authorizing initiation of eminent domain proceedings to acquire easements for a street improvement project at SW 12th Street - Project No. T-701016.00, was presented.

RESOLUTION NO. 9283 introduced by City Manager Brent Trout authorizing initiation of eminent domain proceedings to acquire property for a street improvement project at SE California (37th to 45th)(Project No. T-701021.00), was presented.

ORDINANCE NO. 20333 introduced by City Manager Brent Trout removing certain real property from the Dynamic Core Redevelopment District, was presented.

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

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

APPROVAL of amendments to the Governing Body Rules and Procedures, was presented. *(The Policy and Finance Committee recommended approval by a vote of 3-0-0 on December 3, 2021)*

Councilmember Duncan, Policy and Finance Committee Chair, stated in light of the need for electronic participation in Governing Body and Council Committee meetings, the Policy and Finance Committee considered amendments to allow electronic participation, with certain limitations. He stated the initial proposal was to allow electronic participation in Governing Body meetings for emergencies, disabilities and personal matters. However, the number of times for personal matters was limited to three in a calendar year, starting on January 1, 2022. He stated electronic participation in Committee meetings was at the discretion of the chairperson. He stated in conjunction with these changes, the Legal Department recommended changes that are consistent with current practice relative to motions to reconsider and motions to amend an

item previously adopted or rescind prior action. He stated legal also recommended that items referred by the Governing Body to a Council Committee or initiated by a Committee could come back to the Governing Body as either a discussion or an action item. He stated the changes were presented at the August 17, 2021, Governing Body meeting and referred back to Policy and Finance Committee to consider additional changes to be discussed in the committee setting specifically as it relates to the inclusion of the public input process for online meeting forums. He stated the ordinance does not address how the Governing Body wants to handle public comment moving forward regarding electronic means. He stated that needs to be a discussion of the Governing Body to be placed on an agenda in 2022. He stated this item should be brought back to the Governing Body in 30-60 days. He stated the ordinance change would 1) Allow Councilmembers to attend meetings virtually 3 times a year; and 2) Allow committees to meet in any form they wish, virtual or in person.

Councilmember Duncan moved to approve the amendments as presented. The motion was seconded by Councilmember Naeger.

Councilmember Valdivia-Alcala stated she will not be able to support the amendments at this time due to the COVID-19 pandemic. She stated elected officials should have the latitude to choose if they want to attend the Governing Body meetings in person.

Councilmember Ortiz stated she struggles with allowing electronic participation only three times per year; however, she understands Councilmember Duncan's intent. She commended Councilmembers who have been out of town on business and still attended Governing Body meetings virtually.

Councilmember Naeger stated she has the same concerns; however, the Governing Body has the option to continue to suspend the Governing Body rules to allow for more than three

virtual meetings a year.

Councilmember Duncan stated the change only applies to when the Governing Body Rules are not suspended.

Councilmember Lesser referenced Governing Body Rule 2.3 and requested that virtual meeting attendance be allowed at all times.

Mayor De La Isla stated she was able to attend many Governing Body meetings due to attendance being allowed virtually. She suggested suspending the Governing Body rules to allow the remote attendance to continue until the number of COVID-19 pandemic cases decrease.

Councilmember Hiller thanked the Committee for their work. She referenced the requirement of six Governing Body members being physically present as it relates to the meeting quorum requirement. She appreciates the section of the Governing Body rules that references Robert's Rules of Order and how they have a less formal process.

Councilmember Dobler asked when the suspension of rules end.

Amanda Stanley, City Attorney, reported the suspension of rules end on January 5, 2022.

Councilmember Naeger suggested amending to remove the language allowing only three virtual meetings per year and approve the current document.

Councilmember Duncan withdrew his motion to approve. The second concurred.

Councilmember Dobler stated the Governing Body can revisit the virtual attendance to remove the language stating three times a year and make it unlimited.

Councilmember Duncan stated removing the language of allowing more than three electronic participation will resolve the public comment participation issue.

Councilmember Dobler asked the City Attorney to draft amendment language to allow

unlimited electronic participation.

City Attorney Stanley read the following to be considered by the Governing Body: To amend Rules 2.3 for electronic participation to state, Governing Body members shall be allowed to participate in an unlimited number of meetings electronically provided there is an arrangement for the voice of the remote participant to be heard by all persons at the primary or central meeting location commencing January 1, 2022.

Councilmember Hiller inquired about Section 2.2(a) stating six (6) members of the governing body shall constitute a quorum and be necessary for the transaction of business as well as any other language stating the same throughout the document.

City Manager Stanley confirmed the in-person requirement would be deleted with approval of the amendment.

Councilmember Ortiz expressed concern with approving agenda items added at a Governing Body meeting without being scheduled on a routine agenda. She moved to amend the Rules to include language that would not allow non-action items to be voted on unless the governing body votes to first suspend the rule pursuant to Rule 6.3(h). The motion seconded by Councilmember Duncan carried unanimously on roll call vote. (10-0-0)

Councilmember Duncan confirmed with City Attorney Stanley the change complies with State laws that exist to allow the Governing Body to hold virtual meetings with electronic participation.

Councilmember Emerson joined the meeting.

The motion made by Councilmember Dobler to amend the Governing Body Rules and Procedures as presented and include the following amendments carried unanimously on roll call vote (10-0-0)

2.2 Quorum; Voting:

- (a) Six (6) members of the governing body shall constitute a quorum and be necessary for the transaction of business.

5.3 Agenda Contents:

- Non-action Items. Non-action items include discussions, public hearings, and any other agenda items that do not require action. Non-action items may not be voted on unless the governing body votes to first suspend the rule pursuant to Rule 6.3(h).

APPROVAL of the City of Topeka Digital Equity and Inclusion Statement of Commitment 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 Dobler reported the item was discussed at the December 11, 2021 Governing Body meeting and is a Statement of Commitment by the City.

Councilmember Dobler moved to approve the City of Topeka Digital Equity and Inclusion Statement of Commitment as recommended by the Public Health and Safety Committee. The motion seconded by Councilmember Dobler Padilla unanimously on roll call vote. (10-0-0)

RESOLUTION NO. 9284 introduced by City Manager Brent Trout, authorizing the use of excess funds from the General Fund Balance, was presented.

Brent Trout, City Manager, explained the resolution would designate the surplus money for expenditures that are identified in the 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 Naeger moved to approve the resolution. The motion was seconded by Councilmember Duncan.

Councilmember Duncan made a friendly amendment to state “All of the above referenced uses of excess unreserved fund balances meet one or more of the conditions stated in Resolution No. 8824.” He stated the numbers are an estimated balance and not an actual balance and the provision ensures the projects meet the criteria.

Councilmember Hiller stated she is not comfortable with the HVAC City Hall repairs and what the cost would cover and what would still remain. She stated she would rather have language that states “facilities” instead of HVAC. She questioned if any of the projects do not develop by the end of the year if the Governing Body would like to spend the money elsewhere.

Brent Trout stated the funds for the Menninger Tower project is an incentive being provided to the developer. He stated if that project does not occur the funds will revert back to the Reserve Balance.

Councilmember Hiller made a friendly amendment to replace the term “facilities” with HVAC.

Councilmember Emerson inquired about the funds for Menninger Tower not being specific.

Brent Trout suggested adding the language of “Menninger Tower - Utilities Installation” and “Demolition of homes and Businesses”

Councilmember Lesser suggested if the Menninger Tower does not move forward that those funds be used for street projects.

Councilmember Dobler made a friendly amendment to the language stating “funds not under contract to be spent by the end of 2022 will roll into street repair projects by 2023.”

Brent Trout referenced the purchase of a City street patch truck in the amount of \$200,000 and reported the patch truck may have an eighteen month delivery time and one may be loaned to the City - which needs to be clarified by Staff.

The motion to approve the resolution as amended carried unanimously on roll call vote.
(10-0-0)

ORDINANCE introduced by Councilmember Neil Dobler, concerning compulsory retirement, amending Chapters 2.30 and 2.35 of the Topeka Municipal Code, was presented.

Councilmember Dobler stated he had two Councilmembers request to postpone consideration of the agenda item to allow more time for discussions.

Councilmember Duncan stated there has been positive discussions regarding the proposed amendments and suggested revisiting the item in 30 days on February 1, 2022.

Councilmember Duncan moved to defer the ordinance until February 1, 2022. The motion was seconded by Councilmember Dobler.

Councilmember Valdivia-Alcala asked what the issue is related to delaying approval.

Councilmember Duncan stated the compulsory retirement has been looked at by positions that are considered “boots on the ground.” He stated there are administrative roles that need to be addressed and the Governing Body should address employee requests.

Councilmember Dobler requested the item be heard before the Policy and Finance Committee in January 2022.

Councilmember Duncan reported the Committee would add the item to their January agenda.

The motion carried unanimously on roll call vote. (10-0-0)

DISCUSSION regarding the City of Topeka DREAMS Proposal, was presented.

Brent Trout, City Manager, stated the concept of the DREAMS program was developed from a grass roots citizen effort that was brought to Staff by Councilmember Hiller. He stated the concepts were reviewed by Staff and developed in the proposal. He stated the purpose of the change from using SORT every year to a combined SORT and DREAMS program every other year, is intended to support improving neighborhoods in need of the most support with SORT and supporting neighborhoods that need some projects completed but would otherwise not utilize SORT. He stated the programs utilize the same amount of funding designated for capital improvements and housing and the DREAMS year grants will be spread to multiple neighborhoods versus a single neighborhood participating in the SORT program. He stated the spreading of the funding will allow for more capital improvements in neighborhoods. He reported the concept is being presented at this time in anticipation of the budget cycle in order to guide capital improvement planning.

Mike Spadafore, President of Historic Old Town Neighborhood Improvement Association (NIA), stated he supports the concept. He stated he was part of the Neighborhood Initiatives work group that has worked on the DREAMS program the last two years. He stated he looks forward to continuing to work with City Staff to implement more components of the DREAMS program.

Councilmember Ortiz asked when the request for proposals would be released. She asked if Staff plans to meet with the neighborhood improvement associations and applicants.

Brent Trout stated beginning in January through March 2022 neighborhoods would create their DREAMS list, and then starting in June through April 2022 Staff would meet with the

neighborhoods. He stated this would allow them to see what the cost would be and help them formulate the grant. He reported they would submit their applications for the program in July 2022 and Staff will meet with the applicants.

Councilmember Valdivia-Alcala stated she looks forward to the program coming to fruition. She stated it is imperative that Staff becomes familiar and does the homework on both models of the grants.

Councilmember Hiller thanked Staff for working on this grant program. She requested the checklist and the full DREAM package be distributed to the public and a presentation providing an update to the Governing Body meeting in January or February of 2022.

DISCUSSION concerning the established annual goals for the utilization of Minority, Women and Disadvantaged (M/W/DBE) Businesses Enterprises as part of the objectives set forth in the TMC 3.30.460(b)(3), was presented.

Brent Trout stated during the last three years, the members of the Program Review Committee have worked to develop the Program Review Committee Regulations document. He stated the document outlines the purpose, objectives and goals related to the utilization and participation of minority business enterprises, women business enterprises, and disadvantaged business enterprises (M/W/DBE). He stated the Committee is responsible for establishing and presenting annual goals to the City Manager for the utilization of M/W/DBE businesses as part of the objectives set forth in the TMC 3.30.460(b)(3). He stated the City Council shall consider goals for the City's minority business enterprise, women business enterprise and disadvantaged business enterprise utilization in conjunction with the annual setting of budget priorities. He stated Staff has provided information related to the program and the goals. He stated the Governing Body received an amended document this evening and the correct number is

41.017%.

Councilmember Duncan asked if the goals are consistent with the Federal grants program.

Leigha Boling, Director of Contracts & Procurement, confirmed the contracts have individual goals outside of these goals.

Councilmember Emerson asked if these are primary contract awards.

Leigha Boling stated these are the primary contractors. The City's current bidding system captures the primary contractors and the primary contractor is required to list the subcontractors and suppliers.

Councilmember Hiller stated it appears that it refers to projects that have already been bid. She asked if the small jobs of negotiated work were included in the numbers.

Leigha Boling referenced Exhibit A of the memo provided to the Governing Body. She reported the bid dollars for the awards are included, but the overall dollars also include the smaller vendors that are paid outside of the bidding process.

PUBLIC COMMENT was provided by the following individuals:

Debra Hays referenced a yard/fire hazard constructed at 5112 SW 33rd Street. She requested the City stop allowing the attachments being built at this location.

Mike Bell referenced the DREAMS program. He stated he served on a neighborhood initiatives work group that met in August through December of 2020. He stated the group worked towards addressing issues in low to moderate income neighborhoods. He stated the DREAMS program is set to address the issues as well as include factoring in the affordable housing trust fund. He thanked all of those involved in the process.

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

Brent Trout, City Manager announced Administrative offices will be closed on December 24, 27 and 31, 2021. He thanked Mayor De La Isla, Governing Body members, Chief of Staff, Department Directors and City employees for their assistance while he served as City Manager. He also thanked City partners and citizens for the opportunity to serve as the City Manager for the last four years.

Governing Body members commended City Manager Brent Trout and Mayor Michelle De La Isla for their service to the City of Topeka.

Councilmember Duncan reminded everyone that the budget committees will meet early next year and each Governing Body member is to nominate a member of the public to the committee. He stated vaccination and masks are good in certain situations, to be mindful of COVID-19.

Councilmember Naeger thanked the owners of Josey Baking Company, who have chosen to close their business in order to spend time with their families. She thanked the Evergy lineman who worked nonstop in order to restore power to homes in the community after the recent wind storm.

Mayor De La Isla thanked many individuals and the citizens of the community who trusted her. She thanked Councilmember Duncan for his hard work regarding policies. She stated it has been a humbling honor to serve the community. She urged people take care of themselves in regards to the COVID-19 virus.

Councilmember Padilla moved to recess into executive session for a period of 30 minutes to discuss a contract considered privileged under the attorney-client relationship, pursuant to

KSA 75-4319(b)(2). To aid in the discussion, the following individuals were present: Members of the Governing Body; City Attorney, Amanda Stanley; Human Resources Director Jacque Russell; and Senior Assistant City Attorney Mary Kuckelman. No action was anticipated when the meeting resumed open session in the City Council Chambers. The motion was seconded by Councilmember Naeger.

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 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; Chief of Staff, Bill Cochran; Human Resources Director Jacque Russell; City Attorney, Amanda Stanley; and Senior Assistant City Attorney Mary Kuckelman. No action was anticipated when the meeting resumed open session in the City Council Chambers. The motion was seconded by Councilmember Naeger.

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.

Amanda Stanley, City Attorney, read the following to be considered by the Governing Body: “To approve an employment agreement with William Cochran and the City of Topeka. The employment agreement would appoint him as Interim City Manager and is available under the Kansas Open Records Act.”

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

NO FURTHER BUSINESS appearing the meeting adjourned at 9:35 p.m.

(SEAL)

Brenda Younger
City Clerk