

Governing Body Minutes – September 6, 2022

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, September 6, 2022. 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, Kell, Dobler, Duncan and Lesser -7; and Councilmembers Ortiz and Naeger participated remotely -2. Mayor Padilla 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 6, 2022, 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 6, 2022, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Joseph Ledbetter provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Toby Taggart to the Board of Building and Fire Appeals for a term ending September 6, 2024, was presented. *(Council District No. 1)*

BOARD APPOINTMENT recommending the appointment of Matthew Wilson to the Shawnee County Community Corrections Advisory Board for a term ending September 6, 2024, was presented.

BOARD APPOINTMENT recommending the appointment of Scott Sainato to the Shawnee County Juvenile Corrections Advisory Board for an unexpired term ending September

6, 2025, was presented. *(District 9)*

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

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9347 introduced by Councilmember Sylvia Ortiz, granting Agustin Munoz an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented. *(Council District No. 3)*

ORDINANCE NO. 20368 introduced by Interim City Manager William E. Cochran, allowing and approving City expenditures for the period June 25, 2022 to July 29, 2022 and enumerating said expenditures therein, was presented.

ORDINANCE NO. 20369 introduced by Interim City Manager William E. Cochran designating a portion of the Crosby Place Parking Garage as temporarily exempt from the provisions of K.S.A. 41-719(d) and Topeka Municipal Code Section 9.15.020(e) was presented. *(Council District No. 1)*

RESOLUTION NO. 9348 introduced by Councilmember Karen Hiller, approving a special event known as Lifehouse Poker Run was presented. *(Council District No. 1)*

RESOLUTION NO. 9349 introduced by Councilmember Sylvia Ortiz, granting Fellowship Hi-Crest an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented. *(Council District No. 3)*

APPROVAL of Development Traffic Engineering Services On-Call Consulting CONTRACT NO. 50605 to include developments; plan reviews, site plan reviews, traffic impact study reviews and various other requests from the City Planning Department that require traffic engineering expertise was presented.

APPROVAL of Non-Development Projects Traffic Engineering Services On-Call CONTRACT NO. 50606 with Alfred Benesch and Company to include on call traffic engineering services for non- development projects and various other requests that require traffic engineering expertise was presented.

APPROVAL of Non-Development Projects Traffic Engineering On-Call Services CONTRACT NO. 50607 with WSP USA Inc., to include on call traffic engineering services for non-development projects and various other requests that require traffic engineering expertise was presented.

RESOLUTION NO. 9350 introduced by Councilmember Karen Hiller granting Brew Bank an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented. *(Council District No. 1)*

RESOLUTION No. 9351 introduced by Councilmember Karen Hiller, approving a special event known as Brew Bank Birthday Bash was presented. *(Council District No. 1)*

MINUTES of the regular meeting of August 9, 2022, and August 16, 2022, were presented.

RESOLUTION NO. 9352 introduced by Councilmember Hannah Naeger granting Valley Park NIA an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions, was presented. *(Council District No. 6)*

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

PUBLIC HEARING

PUBLIC HEARING to consider comment from the public concerning the Governing Body's consideration whether to exceed the TMTA's revenue neutral rate of 3.852 and impose a proposed tax rate of 4.2 mills.

RESOLUTION NO. 9353 introduced by Interim City Manager William E. Cochran to levy a property tax rate on behalf of the Topeka Metro Transit Authority (TMTA) that exceeds the

Revenue Neutral Rate (RNR) was presented.

Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Senator Caryn Tyson spoke in opposition of increasing property taxes for city residents.

Upon no one else appearing, Mayor Padilla announced the public hearing was closed.

Councilmember Emerson asked for clarification on the process of conducting the public hearings scheduled on the agenda.

Amanda Stanley, City Attorney, stated the Governing Body will conduct the RNR public hearings, and then proceed to a roll call vote on whether or not they would like to exceed the revenue neutral rate by passage of a resolution. Once this matter is decided, they will proceed to conducting the operating budget public hearing, followed by approval of an ordinance adopting the budget on September 13, 2022.

Councilmember Hiller asked for confirmation that approval of the RNR resolutions only sets the mill levy cap.

City Attorney Stanley confirmed approval would only set the mill levy cap which could be lowered when the City's 2023 operating budget is approved.

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

PUBLIC HEARING

PUBLIC HEARING to consider comment from the public concerning the Governing Body's consideration of adopting a budget for 2023 that exceeds the RNR which is 36.623.

RESOLUTION NO. 5354 introduced by Interim City Manager William E. Cochran to levy a property tax rate that exceeds the City of Topeka's Revenue Neutral Rate was presented.

Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter. Upon no one appearing the public hearing was closed.

Councilmember Duncan stated he would vote in favor of the resolution; however, they are proposing a 2023 City of Topeka operating budget that lowers the mill levy and he will not vote for a budget that does not hold firm to this commitment.

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

PUBLIC HEARING

PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed City of Topeka 2023 Operating Budget.

Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Jeff Barker, Topeka Performing Arts Center (TPAC) Board of Trustees President, recognized Board members present at the meeting and expressed his gratitude to the Governing Body for supporting TPAC. He sought guidance from the Governing Body on how to address capital improvement needs and concerns, and stated he looks forward to engaging with each Governing Body member.

Senator Caryn Tyson expressed her appreciation to the Governing Body for their service. She spoke to the importance of not increasing taxes and approving a flat revenue neutral rate for 2023.

Joseph Ledbetter spoke in support of the 2023 proposed City of Topeka operating budget and decreasing the mill levy. He stressed the importance of fully funding the Police Department; not taking on increased debt; and selling City owned parking garages to potential developers to remove the burden of high maintenance costs and placing the buildings back on the tax roll.

Upon no one else appearing, Mayor Padilla announced the public hearing was closed.

PUBLIC HEARING

PUBLIC HEARING regarding a proposed loan in an amount not to exceed \$27,433,000 to be taken by the City of Topeka from the Kansas Water Pollution Control Revolving Fund administered by the Kansas Department of Health and Environment (KDHE) pursuant to K.S.A. 65-163c et seq.

RESOLUTION NO. 9355 introduced by Interim City Manager William E Cochran, authorizing the filing of an application with the Kansas Department of Health and Environment for a Loan under the Kansas Water Pollution Control Revolving Fund Act was presented.

Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter. Upon no one appearing the public hearing was closed.

Councilmember Dobler asked Staff to explain why using a State Revolving Loan (SRF) fund would be more beneficial to the City as opposed to utilizing revenue bonds.

Rachelle Mathews, Administrative and Financial Services Deputy Director, reported the SRF Loan program currently offers an approximately 2% lower interest rate for a 20-year amortization loan compared to higher interest offered to the City with a market rate revenue bond over a 30-year loan.

Councilmember Emerson inquired on the possibility of refinancing higher interest rate revenue bonds through the SRF Loan program.

Deputy Director Mathews reported the program could not be used for refinancing and noted, the program requires financing of projects that have not yet begun or are in the early stages of the design process.

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

PUBLIC HEARING

PUBLIC HEARING regarding a proposed loan in an amount not to exceed \$39,105,205 to be taken by the City of Topeka from the Kansas Public Water Supply Loan Fund administered by the Kansas Department of Health and Environment (KDHE) pursuant to K.S.A. 65-163c et seq.

RESOLUTION NO. 9356 introduced by Interim City Manager William E Cochran authorizing the completion of an application with the Kansas Department of Health and Environment regarding a Loan under the Kansas Water Supply Loan Fund was presented.

Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter. Upon no one appearing the public hearing was closed.

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

ORDINANCE NO. 20370 introduced by the Policy and Finance Committee concerning employee residency requirements, amending City of Topeka Code Section 2.110.020, was presented. (*The Mayor did not vote because the ordinance involved a matter of home rule on which the Mayor has veto authority.*)

Bill Cochran, Interim City Manager, stated there have been several discussions on this subject matter and Staff is available for questions.

Councilmember Duncan, Policy and Finance Committee Chair, reported one language provision has been added to the ordinance as a result of the August 16, 2022, Governing Body meeting discussion. The provision includes a sunset date of December 31, 2027, and includes the statement, “Any person employed before December 31, 2027 shall not be required to be a bona fide resident of Shawnee County.” if in 2027, it is decided to reinstate the Shawnee County residency requirement.

Councilmember Valdivia-Alcala questioned if revenue loss projections have been generated as it relates to employees not living in city limits. She stated she understands the reasoning behind the proposal; however, she and her constituents do not support the proposal because it encourages employee tax dollars to be spent outside city limits. She inquired on the

possibility of the City implementing an earnings tax and/or similar specific type of tax on employees that live outside of city limits.

Interim City Manager Cochran stated a revenue study has not been conducted.

Amanda Stanley, City Attorney, reported there are variables that would have to be considered and researched; however, the City only has the power of taxation over the people they represent. She stated they do have the option to address this issue through negotiation of employee benefits on a nondiscriminatory basis, such a pay differential or bonuses instead of through taxation.

Councilmember Emerson stated he concurs with Councilmember Valdivia-Alcala as it relates to City employees being paid with city tax dollars and not spending those same dollars in the community. He stated he believes people tend to care more about the community they reside in.

Councilmember Kell stated he initially did not support the proposal; however, there are several residents that work outside the city and spend their money in Topeka so he believes it will be a “wash” as it relates to the number of city employees living outside city limits.

Councilmember Dobler expressed concern with filling critical positions for directors. He stated he would like to include a language amendment providing the City Manager the ability to waive the Shawnee County resident requirement for department directors. The amendment was read as follows:

“Notwithstanding subsection (b), the city manager may waive the county residency requirement for a department director if: (1) the position remains unfilled after 60 days from the date the position or vacancy was posted on the City’s web site; and (2) the human resources director determines that removing the county residency requirement may facilitate filling the position.”

Councilmember Dobler moved to approve the ordinance. The motion was seconded by Councilmember Duncan.

Councilmember Dobler moved to amend the ordinance as stated above. The motion was seconded by Councilmember Hiller.

Councilmember Kell suggested they change the critical response positions travel time from 45 minutes to one-hour allowing employees to reside near the Kansas City metro area.

Councilmember Naeger asked if the language amendment would allow for a certain amount of time for the employee to relocate if necessary.

Councilmember Dobler clarified relocation requirements are already outlined in the ordinance and his language amendment allows for a waiver regarding relocation requirements for directors.

The motion to amend the ordinance as distributed by Councilmember Dobler carried. Councilmember Valdivia-Alcala and Ortiz voted “no.” (8-2-0)

Councilmember Hiller distributed a handout proposing language amendments to the ordinance. She stated the intent of first amendment is to support the desire of City Council for all employees to live in city limits; and the intent of second amendment, relates to critical response position travel times and employees who work in job positions that require experiential knowledge of the city only to be gained by living in the city – both issues to be controlled by a job description tying the requirement to job duties and performance rather than an arbitrary measure. The amendments were read as follows:

- Amendment No. 1: Add the statement, “All employees are encouraged to live inside the city limits of the City of Topeka.” to Section (a).
- Amendment No. 2: Substitute the language in Section (d) with the following:
“Employees employed in critical response time positions, or any others that require immediate physical presence on an as-needed basis, may be required to live within a fixed maximum response time from an identified point of report. Such a requirement shall be

identified in the job description and will be a condition of employment. The amount of time allowed for the employee to establish such residence shall be established by the City Manager and provided to the employee in writing.

“Employees who work in job positions that require experiential knowledge of the City that can only be gained by living in the community in addition to working in it may be required to live in the City as a condition of employment. Such a requirement shall be identified in the job description. The amount of time to establish such residence shall be addressed in a written document at onboarding.”

Councilmember Hiller moved to amend Section (d) of the ordinance by substituting the language as distributed. The motion was seconded by Councilmember Dobler.

Councilmember Emerson thanked Councilmember Hiller for the well thought out language amendments. He questioned which jobs would include the requirement of experiential knowledge.

Councilmember Hiller stated she was unsure which positions would have this requirement; however, she proposed the language because she understands the “why” people need to have this knowledge for certain positions and if so, she wanted this type of requirement to be performance based.

Councilmember Duncan expressed concern with the broad nature of the proposed language amendment and the inability of Councilmember Hiller, or the Governing Body as a whole, to define what that knowledge base is for certain positions. He questioned who they are to entrust to make that determination which will more than likely be challenged at a later date.

Councilmember Hiller stated she wanted to provide an opportunity to make that provision for job duties if it seemed essential when the ordinance is considered again in five years.

Councilmember Lesser inquired on the definition of a critical response position, if it includes police and fire personnel. He spoke in opposition of the language being open to more than one interpretation, and questioned if the second paragraph of the proposed amendment gives the City Attorney “pause” as it relates to possible union grievances. He asked if the City Manager would make the final decision on the matter.

City Attorney Stanley stated she believes “critical response person” is defined in the City’s personnel code and deals with persons who have to respond to emergencies within a certain time frame. The personnel code includes police and fire employees who must respond within 30 minutes and water employees within 45 minutes, also defined in applicable union agreements. She stated the broad language would provide for a lot of flexibility; however, the lack of detailed definitions is troublesome. She noted there would be a low risk of grievances with management and executive positions and the City Manager would make the final decision on what job this would apply.

Councilmember Kell spoke in support of the amendment and noted currently, the job descriptions he has reviewed does not mention a residency requirement.

Councilmember Hiller reported City Attorney Stanley assisted with the drafting and review of the language proposal, and the purpose of including the City Manager was for consistency and to remove the burden from department directors. She stated by including response time in the job description it provides notice for all union and nonunion employees.

Interim City Manager Cochran reported the residency requirement is not currently included in job descriptions because there is an overall City of Topeka residency policy as well as a critical response policy for applicable positions, already in place.

Councilmember Dobler asked Councilmember Hiller if the City Manager by default, would be responsible for the determining certain jobs descriptions as it relates to the experiential knowledge.

Councilmember Hiller stated she was advised by the City Attorney that it would be the City Manager by default.

Mayor Padilla spoke in support of amendments presented by Councilmembers Dobler and Duncan because he believes both offer the simplest solution to the employment challenges of the

City. He stated he would not support the amendments proposed by Councilmember Hiller because he believes it creates confusion and makes the process more difficult than necessary. He noted the full intent of removing the residency requirement is to increase the employee base to fill positions.

Councilmember Lesser questioned the necessity of the language amendment and referenced the term “discretion” in the ordinance and how it could be applied in certain instances which accomplishes what is being proposed with the additional language amendment by Councilmember Hiller.

City Attorney Stanley confirmed the term “discretion” could be defined and used in a broad manner to accomplish different things.

Councilmember Hiller stated the current ordinance language limits allowance of response times only to critical response time for public safety positions; however, there are now other positions that have response time requirements. She reported the second paragraph language amendment would incorporate those other positions that may have response time requirements to better reflect the current job duties of the position at the discretion of the City Manager.

City Attorney Stanley clarified the ordinance that was originally being proposed only related to critical response times of public safety positions; however, the current motion being considered would apply to all critical response time positions.

Councilmember Hiller made a friendly amendment to strike the language on lines 41-46 of the proposed ordinance and substitute it with the following language. The second concurred.

“Employees employed in critical response time positions, or any others that require immediate physical presence on an as-needed basis, may be required to live within a fixed maximum response time from an identified point of report. Such a requirement shall be identified in the job description and will be a condition of employment. The amount of time allowed for the employee to establish such residence shall be established by the City Manager and provided to the employee in writing.

The motion to amend the ordinance by striking the language on lines 41-46 of the proposed

ordinance and substituting it with the above stated language carried. Mayor Padilla and Councilmembers Valdivia-Alcala, Naeger and Ortiz voted “no.” (6-4-0)

Councilmember Hiller moved to amend Section (a) of the ordinance by adding the statement, “All employees are encouraged to live inside the city limits of the City of Topeka.” The motion was seconded by Councilmember Duncan.

Councilmember Dobler stated he was opposed to omitting the statement “must be a bona fide resident of the state of Kansas.

Councilmember Duncan suggested the language state “All employees must be bona fide residents of the state of Kansas and are encouraged to reside inside the city limits of the City of Topeka.”

Councilmember Dobler spoke in support of the language amendment suggested by Councilmember Duncan.

Councilmember Hiller stated she omitted the language to avoid losing good employees, as they have in the past, and because the ordinance does not allow for any exceptions if the need arises.

Councilmember Kell stated he understands the intent of the amendment and believes it would accommodate exceptions if needed.

Councilmember Emerson spoke in support of the language proposed by Councilmember Duncan and asked Councilmember Hiller if she would accept the language in the form of a friendly amendment to her motion.

Mayor Padilla spoke in support of language that includes a state of Kansas residency requirement.

Councilmember Hiller accepted the friendly amendment. The second concurred.

Councilmember Emerson asked if the Human Resources Department could implement a

way to take preference of qualified candidates that are city residents for all city positions, without including specific language in the ordinance.

City Attorney Stanley stated if Councilmember Emerson would like to include city residency as an official preference in the ordinance language it could be included in Section (a). She suggested the following language to be considered - with the caveat of allowing discretion:

“Section (a) City employees. All employees must be bona fide residents of the state of Kansas and are encouraged to reside inside the city limits of the city of Topeka, when all other qualifications have been considered, preference will be given to a city resident, if possible.”

Councilmember Emerson directed the City Manager at his discretion, to give a city resident preference after all other qualifications have been considered when hiring for all city positions.

The motion to amend Section (a) of the ordinance by adding the statement, “All employees must be bona fide residents of the state of Kansas and are encouraged to reside inside the city limits of the City of Topeka.” carried. Councilmembers Valdivia-Alcala, Ortiz and Naeger vote “no.” (7-3-0)

Councilmember Duncan reported that he spoke with Staff to confirm, as well as he believes there would not be an issue with filling the two positions of Municipal Court Judge if they were required to reside in Shawnee County. He asked the City Attorney to draft language to be considered as amendment.

City Attorney Stanley drafted the following language to be considered:

“Subsection (b): Department directors; municipal court judges; city manager. Department directors and municipal court judges must be bona fide residents of Shawnee County. The City Manager must be a bona fide resident of the City of Topeka.”

Councilmember Duncan moved to amend the ordinance beginning on line 17 as stated by the City Attorney. The motion seconded by Councilmember Kell carried. Councilmember Valdivia-Alcala and Ortiz voted “no.” (8-2-0)

Councilmember Ortiz stated she understands the dynamics of the new virtual work environment; however, she believes in order for the city to increase their pool of applicants they must address the issue of increasing salaries to current market rates. She spoke in opposition of eliminating the residency requirement and noted constituents continue to express their support of a residency requirement for City employees.

The motion to adopt the ordinance as amended carried. Councilmembers Valdivia-Alcala and Ortiz voted “no.” The Mayor did not vote. (7-2-0) (*The proposed ordinance involves a matter of home rule on which the Mayor has veto authority.*)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Emerson, Kell, Naeger, Dobler, Duncan and Lesser -7. Noes: Councilmembers Valdivia-Alcala and Ortiz-2.

RESOLUTION NO. 9357 introduced by Interim City Manager William E. Cochran requesting the Board of Commissioners, Shawnee County, Kansas, to make the finding required by K.S.A. 12-520c to annex land not adjoining the City located on the east side of SE Croco Road, south of SE 37th Street, was presented.

Bill Cochran, Interim City Manager, stated a request from the developer has been made for the City of Topeka to annex the development. He reported the developer has been preparing for the annexation of property for over year and has been in constant communication with the City; therefore, Staff is recommending approval to move forward with the process and request approval by Shawnee County.

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

ORDINANCE NO. 20371 introduced by Interim City Manager William E. Cochran, imposing a real estate lien, pursuant to K.S.A. 12-808c, upon certain lots and pieces of ground in Shawnee County, Kansas, to pay the cost for utility services where such payments to the City have not been made due

to neglect, failure or refusal to pay was presented.

Bill Cochran, Interim City Manager, reported this is an annual ordinance approved by the Governing Body for the purpose of collecting utility bills owed to the City.

Councilmember Kell inquired on the costs associated with collecting the debt.

Nicole Malott, Deputy Utilities Director, stated the Staff time associated with processing delinquent accounts was minimal.

Councilmember Emerson moved to adopt the ordinance. The motion seconded by Councilmember Dobler carried unanimously. (10-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Emerson, Kell, Naeger, Dobler, Duncan, Lesser and Mayor Padilla -10.

APPROVAL of CONTRACT NO. 50609, Amendment No. 1 to Contract No. 48905, which is the current labor agreement covering 2022-2023 between the City of Topeka and the Water Pollution Control division, as represented by the United Workers of Environmental Trades of Topeka, was presented.

Bill Cochran, Interim City Manager, reported Staff is recommending approval of the contract that has been reviewed and discussed by the Governing Body.

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

Interim City Manager Cochran thanked union representatives Rick Wilson and Andy Sample for working with the City's negotiating team in approving the contract.

DISCUSSION with POSSIBLE ACTION regarding the Townsite Parking Garage was presented.

Bill Cochran, Interim City Manager, reported Staff seeking guidance from the Governing Body on how to proceed with the parking garage, and noted the Public Infrastructure Committee recommended approval of \$1.2 million to address improvement needs of the parking garage.

Councilmember Hiller asked if the \$1.2 million has already been approved in the budget or if they would have to determine a funding source.

Stephen Wade, Administrative and Financial Services Director, reported the funding was approved as part of the Capital Improvement process for 2022 and will be expended from Parking Fund reserves because the 2022 bonding cycle has closed. He stated in 2023, they will use bonds to replenish Parking Reserve funds.

Councilmember Duncan asked Staff what they are recommending regarding the parking garage.

Interim City Manager Cochran reported Staff recommends that the City keep the parking garage in their inventory and invest funds to make the necessary improvements.

Jason Tyron, Business Services Division Director, provided an overview of the status of the Townsite Plaza Parking Garage including the asset summary, the capital repair budget totaling approximately \$1.7 million; and provisions related to the ownership and/or sale of the parking garage.

Councilmember Dobler questioned if the \$618,000 generated in revenue was year-to-date; if they fund the much needed repairs could they still look at retaining the garage long-term; and if the City makes improvements to the garage would it effect the ability to sale the building at a later time.

Division Director Tryon reported they anticipate year-to-date revenue is approximately 55% of what will be collected for the year.

Interim City Manager Cochran stated he believes it would be feasible to make improvements to the garage and remain open to the possibility of selling it at a later time.

Amanda Stanley, City Attorney, stated there could be some limitations on the sale of the garage if improvements are financed with bonds.

Councilmember Lesser moved to direct the City Manager to work with City Attorney to list the Townsite Plaza Parking Garage for sale, as is condition by sealed bids, with a minimum bid of \$1.5 million dollars. The motion was seconded by Councilmember Dobler.

Councilmember Kell stated the occupancy of the garage has recently increased and he believes making the improvements would be a good way to revitalize the garage. He expressed concern with private ownership increasing parking rates to an unreasonable amount and having a negative impact on the revitalization of the garage.

Councilmember Emerson expressed concern with the fairness of a sealed bid process as it relates to the owner having the first right of refusal.

Councilmember Lesser stated Councilmember Emerson makes a valid point, however, his intent of the motion is to keep the best interest of the City in mind by securing the best purchase price possible as opposed to negotiating with only one party.

Interim City Manager Cochran reported if a sealed bid process is the desire of the Governing Body, Staff would enter into negotiations with the person that has right of first refusal and attempt to negotiate a fair market price of \$1.5 million, if this is not possible, Staff would then move forward with the sealed bid process, to be sold in as is condition with a minimum sealed bid of \$1.5 million.

Councilmember Dobler questioned if the City would be required to accept the highest bid to sale the garage.

City Attorney Stanley stated she would have to conduct more research regarding the bid process for parking garages. She reported, that depending on how the bids are structured in regards to accepting the highest bid or not, the City could conduct a sealed bid system to establish a fair market value and then allow the person with the right of first refusal to match the highest bid. In theory, the person could say no, forcing the appraisal process outlined in the contract.

Councilmember Hiller expressed the importance of the City controlling and supporting the parking system as a whole including parking garages and on street parking. She stated she believes it is premature to sale any of the garages and noted, the Townsite Plaza garage would generate revenue for the City and help manage the price of parking overall. She referenced the next item on the agenda, a discussion on the Uptowner Garage, and requested Staff provide a timeframe of when they could present the entire parking package to the Governing Body for consideration. She reported downtown businesses and residents need to be given the opportunity to provide input as they continue to work on plans to address parking. She stated she would not support the sale of the Townsite Plaza Garage at this time; however, she would support making needed improvements in the amount of \$1.2 million.

Councilmember Duncan stated he was not opposed to selling some of the parking garages; however, he is not prepared at this time to sale the Townsite Plaza Parking Garage because he needs more information to make an informed decision.

The motion to direct the City Manager to work with City Attorney to list the Townsite Plaza Parking Garage for sale, as is condition by sealed bids, with a minimum bid of \$1.5 million dollars failed. Mayor Padilla and Councilmembers Hiller, Ortiz, Emerson, Kell, Naeger and Duncan voted “no.” (3-7-0)

Councilmember Emerson stated he was not opposed to exploring the possibility of selling the Townsite Plaza Parking Garage in the future; however, he needs more time to consider this option. He questioned if there was a need to make repairs in the next 30-60 days and noted any repairs that are made should help the sale of the garage in the long-term.

Division Director Tryon stated he would not categorize any of the repairs as needed in the next 30 days; however, they are running the risk of dissatisfied customers.

Interim City Manager Cochran reported the biggest issues right now are directly related to

the replacement of the entire lighting system of the garage, improvements which he believes would benefit the sale of the garage in the long-term.

Councilmember Dobler spoke in support of making improvements to the garage in the amount of \$1.2 million to be paid for with Parking Reserve Funds. He stated he would oppose the use of revenue bonds until they determine if they want to sale the garage or not.

Councilmember Lesser questioned why the need to repair over sixty light fixtures in the Townsite Plaza Parking Garage would not be considered an immediate safety concern.

Division Director Tyron stated he would consider the lack of lighting to be a serious concern and the City makes every effort to replace bulbs as needed; however, the bulbs are difficult to procure.

Councilmember Lesser reminded the Governing Body of the 10-year maintenance projection cost of \$5.6 million that would also need to be financed with bonds if the City keeps ownership the garage.

Mayor Padilla stated he believes the City has an obligation to make the repairs and help ensure the safety of parking garage customers.

Councilmember Lesser expressed the importance of making a decision and noted, they began discussing the issue over 180 days ago. He referenced the continued concerns expressed by the owner and tenants and spoke in support of expending \$1.2 million from Parking Reserve funds to make the repairs and address immediate safety concerns.

Councilmember Dobler inquired on the status of request for proposals regarding the City's parking garages.

Interim City Manager Cochran reported the RFP from 3rd party management closed on August 31, 2022, and Staff is compiling the information which includes the RFP for the selling of the garages as well as the overall parking system.

Councilmember Dobler stated he looks forward to hearing from Staff on the overall parking issue.

Councilmember Hiller asked how soon Staff could have options for the Governing Body to consider and closure on the entire parking plan.

Hannah Uhlrig, Public Works Deputy Director, reported the proposal for management of the parking garages will likely happen in October based on the directive of the Governing Body. She stated Staff could recap the proposal presented to the Governing Body in July 2022 of the financials based on selling as part of the proposal; however, there will be a great deal of information to discuss.

Councilmember Hiller stated it was her hope to finalize a plan by March 2023. She commended the Public Infrastructure Committee for their work and asked for confirmation that of the repairs listed as part of the \$1.2 million of improvements are a one-time expense.

Division Director Tyron reported recommendations were based on the engineering report to avoid having to make the same repairs multiple times.

Councilmember Hiller move to approve \$1.2 million to be expended from the Parking Reserve Fund for repairs as listed to the Townsite Plaza Parking Garage. The motion was seconded by Councilmember Emerson.

Mayor Padilla suggested a friendly amendment to include a timeline with the approval of funds.

Councilmember Dobler offered a friendly amendment to include the statement, "Project funding will not be bonded without express approval of the Governing Body."

Interim City Manager Cochran stated Staff will develop a timeline to make the repairs as soon as possible.

Councilmember Hiller accepted the friendly amendments. The second concurred.

The motion to approve \$1.2 million to be expended from Parking Reserve funds for repairs as listed to the Townsite Plaza Parking Garage, to be completed as soon as possible, and ensure project funding would not be bonded without express approval of the Governing Body carried unanimously on roll call vote. (10-0-0)

DISCUSSION regarding repairs to the Uptowner Parking Garage was presented.

Bill Cochran, Interim City Manager, reported the Public Infrastructure Committee unanimously voted to expend \$600,000 from cash reserves to remediate immediate life safety issues of the Uptowner Parking Garage so it remains operational. He stated a presentation on the structure of the garage would be provided at the September 13, 2022, Governing Body meeting and will include the overall process of repairing the garage beyond the \$600,000 one-time repairs.

Joseph Ledbetter expressed concern with not having access to the income from the property and noted it was his understanding the City only receives a small monthly administrative fee from the owner. He referenced options the City could consider such as negotiating a certain percentage of the revenue generated or privatizing the maintenance of the garage; however, there remains very little incentive to keep the garage as part of the City's inventory. He spoke in support of creatively working with private developers to find a feasible option for the Uptowner Parking Garage and using the \$600,000 to address necessary repairs to other parking garages.

Councilmember Emerson asked if the management agreement has expired.

Interim City Manager Cochran confirmed the contract has expired and they are currently operating on an informal agreement due to the parking discussions that are taking place by the Governing Body. He reported it was anticipated if the City makes the investment to make the repairs, the City will retain ownership of the garage and begin conversations with current management as well as the tenants to rent spaces in the garage at market rate.

Councilmember Emerson requested Staff provide projections on the rental rate as well as

revenue projections prior to the September 13, 2022, Governing Body meeting.

Hannah Uhlrig, Public Works Deputy Director, reported the current market rate would be established similar to other parking garage fees and revenue projections and proposed fees could be provided to the Governing Body prior to the September 13, 2022, Governing Body meeting.

Councilmember Hiller stated it was her understanding a notice was given to tenants asking them to vacate the garage due to safety issues. She asked if the \$600,000 of repairs would allow the City to actively assume management of the garage, and in good faith, lease out parking spaces at the market rate.

Interim City Manager Cochran reported the City was informed that their proposed timeline of repairs could not be met by the individual managing the garage; therefore, a notice to vacate by the end of August 2022 was issued. He stated the parking garage will remain vacant until the Governing Body makes a decision on the property.

Councilmember Dobler stated there is a bigger conversation that needs to take place in the future; however, at this time they need to take care of the life safety issues. He stated it would cost at least \$5 million to fully rehab the garage, or close the garage and demolish it at a cost of \$2.5 million. He referenced the need for parking in that area due to the amount of office buildings located in the general vicinity as well as potential future development. He noted if they approve expending \$600,000 for improvements it would ultimately lead them to the next decision of spending \$5 million to fully rehab the garage, while keeping it operational, which he believes makes a lot of sense because at some point, parking will have to be provided in that area by the City or a private developer.

Mayor Padilla stated he concurs with Councilmember Dobler and questioned how much it would cost for a developer to build a new garage if it was demolished.

Councilmember Kell expressed the importance of having a firm contract in place as it

relates to ensuring improvements are being made by the management company if that is the direction the Governing Body chooses.

Interim City Manager Cochran reported a new parking garage would cost approximately \$20 million for a developer. He reported the City would retain ownership of the garage by the end of September 2022, and it is expected that improvements will be made as needed moving forward. He noted the Uptowner Parking Garage is an important part of the future of downtown Topeka, and it makes sense for the City to make the investment, address the life safety issues of the garage, take ownership of the garage, and work with the current manager and tenants.

Mayor Pallia stated he believes the placement of the garage makes the need for more strategic planning to take place as it relates to the overall development of downtown.

DISCUSSION concerning the adoption of the 38th Edition of the Uniform Public Offense Code (2022) (UPOC) and local amendments, amending Topeka Municipal Code Section 9.05.080, was presented.

Amanda Stanley, City Attorney, reported the proposed adoption of codified changes for the UPOC as published by the League of Kansas Municipalities (LKM) are designed to provide a comprehensive public offense code for Kansas cities. She stated there were not significant changes proposed this year; however, a memo has been provided to the Governing Body outlining the changes. She reported Staff has chosen not to remove UPOC Provision 11.15 permitting a dangerous animal to be at large as they believe this provision works well with the City's dangerous dog ordinance and fills a gap that is needed by providing the ability to address other types of dangerous animals. She noted a more comprehensive City ordinance to address all types of dangerous animals would be considered by a Council committee, and those recommendations would be sent to the Governing Body for consideration. She continued to report, that the rest of the changes being proposed are standard in nature, and the City will carry over the exemptions from

last year dealing with smoking and others items that need local amendments.

DISCUSSION concerning the 2022 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, reported the proposed adoption of codified changes for the STO as published by the League of Kansas Municipalities (LKM) are designed to provide a comprehensive traffic offense code for Kansas cities. She stated a memo has been provided to the Governing Body outlining the changes. She reported the majority of changes were technical in nature with one exception to Section 30, Driving Under the Influence of Intoxicating Liquor or Drugs and Penalties. She stated House Bill 2377, amends the penalties for driving under the influence by removing the minimum requirement of imprisonment for a first conviction of DUI while implementing a mandatory 5-day imprisonment that the City cannot waive, for a second conviction of driving on a suspended license, a common offense. She stated while Staff understands the Governing Body does not have the authority to address the issue, Staff is asking the Governing Body if given the opportunity, to consider supporting changes at the State level.

Mayor Padilla asked if the equity issue with Section 30 could be addressed through the City's Lobbyist.

City Attorney Stanley confirmed it could be addressed as part of the City's 2023 Legislative Agenda and noted it would have an impact on a lot of people.

Councilmember Duncan stated the Policy & Finance Committee would consider the issue when they discuss the City's 2023 Legislative Agenda in October.

PUBLIC COMMENT was provided by the following individuals and submitted via email by Tara Wallace and Joseph Ledbetter:

Jonathan Sublet, Fellowship Hi-Crest Church Servant Pastor, spoke to his commitment to the Topeka and Hi-Crest community and expressed his disappointment in the ARPA funding

application process.

Jill Rice, Hi-Crest Neighborhood Improvement Association President, expressed her concern with the ARPA funding application process and comments made about Fellowship Hi-Crest Church. She stated she believes their organization was not afforded the same opportunity to answer questions about their application as other organizations were that applied for ARPA funding.

Tricia Sublet stated she believes Fellowship Hi-Crest Church and the SENT Agency were not provided the same opportunity as other organizations to explain their mission, and she was simply asking for the same opportunity as others. She referenced misinformation being stated about SENT and the Fellowship Hi-Crest Church.

Chris Hartman referenced the request made by SENT for \$600,000 for the Fremont Hill Housing project and asked the Governing Body to reconsider the request for approval. He questioned the transparency of the entire ARPA application process and confirmed the Hi-Crest Fellowship Ford Center is not part of the SENT organization.

Nikki Ramirez-Jennings, SENT Executive Director, expressed concern with the misinformation being stated regarding the SENT Agency and the Hi-Crest Fellowship Church. She referenced comments made by a Council Committee member that she believes was inappropriate. She implored the Governing Body to reach out to SENT and Hi-Crest Fellowship Church representatives to confirm information.

Brail Watson spoke in support of the SENT Agency and the services and resources the organization provides the community. He expressed concern with the ARPA funding application standards and process regarding approval of the guidelines, and requested the Governing Body consider approving funding for SENT and the Hi-Crest Fellowship Church.

Cassandra Von Bon expressed concern with no council representation from the south and

east of the city regarding approval of ARPA funding allocations. She provided the reasons the projects were rejected and stated she believes SENT and Hi-Crest Fellowship Church should have been afforded the same opportunity to answer questions as other organizations.

Sandra Lassiter thanked local law enforcement for their respect, empathy and mutual understanding of how different cultures handle certain situations. She thanked the Governing Body for their service.

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

Brenda Younger, City Clerk, provided an overview of the September 13, 2022, Governing Body meeting agenda.

Bill Cochran, Interim City Manager, congratulated Sylvia Davis, Deputy Utilities Director, for being awarded the “Women Who SPARK (WWS) Award,” which aims to close the gender gap in energy and utility innovation by recognizing women for their innovation, leadership and mentoring. He announced the Topeka Police Department would host public input sessions on police training practices from 6:00 p.m. – 8: 00 p.m. on September 4, 2022 at the Washburn Tech East, located at 2014 SE Washington Street; and on September 22, 2022, at Washburn University, located at 1700 SE College Avenue, Henderson Room 112. He encouraged citizens to get their flu and Covid-19 vaccines.

Councilmember Valdivia-Alcala reported the Oakland Community Garden will be planting 10 fruit trees to harvest over the next few years and thanked Evergy for supplying native plants for the garden. She referenced the ARPA funding allocation process and comments she made at the Committee level. She stated she believes the Freemont Hill Project did not qualify for ARPA funding and the Ford Project did not meet the criteria as required by Federal guidelines. She thanked Councilmember Duncan for his work in reviewing the ARPA funding applications.

Councilmember Ortiz commented on the positive things the SENT Agency is doing for the community.

Councilmember Emerson expressed his appreciation to the representatives of the SENT organization and stated he would discuss the ARPA funding application process with Committee members.

Councilmember Kell announced September is Suicide Awareness and Pain Awareness month and asked those that are able to be there for those in need.

Councilmember Naeger announced September is Childhood Cancer Awareness month. She urged citizens to find ways to volunteer or donate by contacting the National American Cancer Society at www.cancer.org or for a local childhood cancer foundation contact “Team Blake” at www.foreverteamblake.com.

Mayor Padilla thanked citizens and Council Committee members for their input and work on the ARPA funding applications.

Councilmember Emerson moved to extend the Governing Body meeting past 10:00 p.m. The motion was seconded by Councilmember Kell.

Mayor Padilla asked all those in favor of extending the Governing Body meeting past 10:00 p.m. to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” After the voice vote occurred, Mayor Padilla announced the motion carried on voice vote. Councilmember Ortiz voted “no.” (9-1-0)

Councilmember Kell moved to recess into executive session not to exceed 1 hour to discuss candidates for city manager as allowed under KSA 75-4319(b)(a). The following individuals were present to aid the governing Body: Paul Bossert and City Attorney, Amanda Stanley. The open meeting would resume in the City Council Chambers. The motion was seconded by Councilmember Dobler.

Mayor Padilla 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 Padilla announced the motion carried on voice vote. Councilmember Ortiz voted “no.” (9-1-0)

Following a one-hour time period, the meeting reconvened into open session and Mayor Padilla announced no action had been taken.

Councilmember Duncan moved that Paul Bossert with assistance from City Attorney Amanda Stanley, proceed to negotiate with a particular candidate for the position of city manager. The motion seconded by Councilmember Emerson carried unanimously on roll call voted. (10-0-0)

NO FURTHER BUSINESS appearing the meeting adjourned at 9:54 p.m.

(SEAL)

Brenda Younger City Clerk

Attachment A



September 6, 2022

Topeka City Council
215 SE 7th Street, Room 255
Topeka, KS 66603

Re: Policy and Finance Committee ARPA Application Decision

Greetings Members of the Topeka City Council,

I am the owner and operator of Tara D. Wallace, LLC. I am also the founder and CEO of Lighthouse Therapeutic Community Outreach Foundation, a non-profit organization.

I was born and raised in Topeka. Pine Ridge Manor to be exact. I come from a very large, close-knit family that is giving, supportive, and hardworking. When I returned home in 2010, it was to give my son the same fulfilling experience I had growing up. Seeing East Topeka as a mere shell compared to what I remember as a child was eye-opening. Instead of complaining about what was or was not, I got to work because that's what old school Pine Ridge does, we put in work.

I started graduate school at Washburn, joined the Shawnee County Suicide Prevention Coalition and became the Community Outreach Chair. I developed the Shawnee County Suicide Prevention Coalition's Annual Teen Resiliency Event to educate 100 high schoolers about bullying, peer pressure, self-esteem, and the warning signs of suicide. Before the pandemic we met for 3 consecutive years and will resume this program in 2023.

After graduation I became a community outreach specialist for Family Service and Guidance Center. My assignment to an underserved community brought me full circle to the community where I was raised. While there I coordinated the inaugural African American Foster Care/Adoption Coalition Conference to educate over 300 foster parents, adoptive parents, helping professionals, and child welfare workers about factors contributing to the disproportionality of minorities in the child welfare system of Kansas.

I have provided continuing education to over 650 educators, parents, and professionals on the topics of autism, culture, diversity, equity, inclusion, acceptance and belonging, ethics, trauma, relationships, and dismantling privilege across the country and overseas.

I served as the last chair of the East Topeka Council for Momentum 2022 and hosted the first Seat at the Table Community Dialogue for the Greater Topeka Partnership.

I served on the Governor's Child Welfare System Task Force – Protective Services and Family Preservation Work Group to develop recommendations regarding the future of child welfare in Kansas. I have testified before the Kansas legislature on issues related to childcare subsidies and food assistance, establishing the office of the child advocate, experiences of children and families within the child welfare system, and the issues solo practitioners have experienced managed care organizations.

As a clinical social worker I provide trauma therapy to children which includes responding to the physical, mental, and emotional needs of their family members who are impacted by that same trauma. Kansas reimbursement policies and regulations dictate that I provide most of these services to their families at no cost. In response to these needs, and many others resulting from the pandemic, I formed Lighthouse TCO Foundation to offset that cost. The requirements of the ARPA Grant did not allow me to apply for funding under this non-profit. However, the non-profit functions much like my for-profit business in that it allows me to provide therapy to children that do not have insurance.

Lighthouse TCO also provides free classes to educate children and their families about conditions outside of the standard ACEs which negatively influence their lives. It uses yoga, art, music, and many other creative and effective ways to help them cope with stressors unique to their environment.

As an individual whose very existence has been an affront to those perpetuating the public health crisis of racism that I seek to dismantle in the lives of my clients, I am not surprised by the decision of the Policy and Finance Committee. To reject my request to place critically needed support services directly in an area where they are needed most speaks volumes about why there is a need for the work I do to exist no matter who acknowledges it. The questions posed by the committee could have easily been answered if due diligence had been done with my application as it had on the other applications moved forward.

To quote Councilwoman Valdivia-Alcala, “the underserved, minority community” showed up to share with you “the most vital needs, empty spots,” and I might add, the most vulnerable people in Topeka. We also see how you have chosen to respond.

The soul is dyed the color of its thoughts. Think only on those things that are in line with your principles and can bear the light of day. The content of your character is your choice. Day by day, what you do is who you become. Your integrity is your destiny - it is the light that guides your way.

Respectfully,

A handwritten signature in black ink, appearing to read 'Tara D. Wallace, LSCSW', written in a cursive style.

Tara D. Wallace, MSW, LSCSW, CTF-CBT, RYT, SLC

Brenda Younger

From: Joe Ledbetter <joe_ledbetter@yahoo.com>
Sent: Tuesday, September 6, 2022 6:31 PM
To: City Clerk; Brenda Younger; Mayor; City Council
Subject: Uptowner parking garage

Repairs: I would like to see parking revenue from the Uptowner garage to go directly to the City if we proceed with these proposed repairs on this garage. Thank you. Joseph Ledbetter

Sent from my iPhone