

Governing Body Minutes – November 1, 2022

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, November 1, 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, Kell, and Dobler -4; and Councilmembers Ortiz and Naeger participated remotely -2. Deputy Mayor Duncan presided -1. Absent: Mayor Padilla and Councilmember Emerson -2. (Council District 9: Vacant)

The resignation of Michael Lesser, Council District Representative 9, was effective 12:01 p.m. November 1, 2022,

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 November 1, 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 November 1, 2022, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Youth Pastor Elijah White, Central Park Christian Church, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

COMMITTEE APPOINTMENT recommending the reappointment of Johnathan Sublet to the Affordable Housing Review Committee for a term ending December 31, 2024, was presented. (*Council District No. 5*)

COMMITTEE APPOINTMENT recommending the reappointment of Harry Christian to

the Affordable Housing Review Committee for a term ending December 31, 2024, was presented. *(Council District No. 7)*

BOARD APPOINTMENT recommending the reappointment of Shawn Smith to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2024, was presented. *(Council District No. 7)*

BOARD APPOINTMENT recommending the reappointment of Walter Schoemaker to the Topeka Board of Zoning Appeals to fill an unexpired term ending December 31, 2025, was presented. *(Council District No. 7)*

BOARD APPOINTMENT recommending the reappointment of Bill Naeger to the Board of Mechanical Examiners for an unexpired term ending December 31, 2024, was presented. *(Council District No. 6)*

Councilmember Kell moved to approve the appointments. The motion seconded by Councilmember Dobler carried on roll call vote. Councilmember Naeger abstained. (6-0-1)

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9362 and City of Topeka Adoption Agreement No. 50370 for the State of Kansas Public Employees Retirement System Supplemental Defined Contribution Plan, was presented.

ORDINANCE NO. 20380 introduced by City Manager Stephen Wade, allowing and approving City expenditures for the period August 27, 2022 to September 30, 2022 and enumerating said expenditures therein, was presented.

RESOLUTION NO.9363 introduced by City Manager Stephen Wade authorizing initiation of eminent domain proceedings to acquire an easement for a stormwater improvement project in South Topeka, was presented. *(Project No. T-501081.11)*

MINUTES of the regular meeting of October 18, 2022, was presented.

Councilmember Dobler moved to approve the consent agenda. The motion seconded by Councilmember Hiller carried unanimously on roll call vote. (7-0-0)

PUBLIC HEARING

Public Hearing regarding the proposed petition filed by McDonalds's Corporation to vacate an easement on property located at 2880 SE California Avenue, Topeka, Kansas.

ORDINANCE NO. 20381 introduced by City Manager Stephen M. Wade relating to the vacation of the south 8 feet of a public utility easement along the north side of property located at 2880 SE California Avenue, excepting out an 8 x 16 foot portion needed for maintenance and repair of the City public asset, was presented. (*Council District No. 4*)

Deputy Mayor Duncan 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.

Bill Fiander, Planning and Development Director, reported the vacation request of the public easement was necessary for the completion of the restaurant.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Kell carried unanimously.

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Kell, Naeger, Dobler and Deputy Mayor Duncan -7.

RESOLUTION NO. 9364 introduced by the members of the Transient Guest Tax Committee comprised of Council Members Sylvia Ortiz, Tony Emerson, and Mike Lesser recommending renewal of contract with Visit Topeka, Inc. for tourism and convention services, was presented. (*City of Topeka Contract No. 50752*)

Stephen Wade, City Manager, stated Councilmember Ortiz would report on the item and Sean Dixon, Visit Topeka, Inc. President, was present for questions.

Councilmember Ortiz, Transient Guest Tax (TGT) Committee Chair, reported the Committee recommended approval of the contract by a vote of 3-0-0 on October 13, 2022.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (7-0-0)

ORDINANCE NO. 20382 introduced by City Manager Stephen Wade, concerning council districts, amending Section 2.15.090 of the Topeka Municipal Code and repealing original section, was presented.

Amanda Stanley, City Attorney, reported the ordinance was discussed at the October 11, 2022, Governing Body meeting and Staff recommends approval of the ordinance as presented, with an effective date of January 1, 2023.

Councilmember Kell moved to adopt the ordinance. The motion was seconded by Councilmember Hiller.

Councilmember Hiller commended Redistricting Commission members and City Staff for implementing a great process that included quality input from citizens resulting in five map options to consider.

Councilmember Ortiz thanked Redistricting Commission members and City Staff for their work on the process. She stated she has been honored to serve the Oakland area neighborhood for the past 10 years, however, she understands adjustments had to be made based on population numbers.

Councilmember Dobler thanked Jeff Wagaman, District 7 appointee for his service on the Commission. He commended City Staff for their assistance and noted it takes a lot of work to get to the point of authorization by the Governing Body.

Councilmember Duncan thanked Redistricting Commission members and City Staff for their work on behalf of the Governing Body.

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Kell, Naeger, Dobler and Deputy Mayor Duncan -7.

RESOLUTION NO. 9365 introduced by City Manager Stephen Wade approving the 2023 award recommendations for the Topeka Dreams Neighborhood Improvement Initiatives Program, was presented.

Stephen Wade, City Manager, reported the program was discussed at the October 11, 2022, Governing Body meeting and Staff recommends approval as presented. He stated Bianca Burnett, Community Engagement Coordinator, was present for questions.

Councilmember Valdivia-Alcala stated she received an email from Laura Pederzani, Historic North Topeka West Neighborhood Improvement Association (NIA) President and Citizen Advisory Council (CAC) member, expressing concern with two projects being funded and not supported by the City. The Historic Holiday Park project and Hi-Crest Neighborhood Study. Ms. Pederzani also stated in the email, that the Neighborhood strongly believes road repairs needed right now are a much better use of funding; and questioned if the Governing Body would consider using the remaining fund balance of \$450,000 of the \$1.25 Million DREAMS 2 program funding for the road repairs in Historic North Topeka West. Councilmember Valdivia-Alcala asked if this was the only neighborhood that did not receive funding and if only \$800,000 of the \$1.25 Million has been allocated. She also inquired on the scoring process; the role of the CAC in the process; and who makes the determination if all funds are not used.

Bianca Burnett, Community Engagement Coordinator, confirmed the North Topeka West NIA was the only NIA that did not receive a recommendation for funding based on a scoring system conducted by the CAC; and lines 28 through 32 of the resolution outline funding allocations for the level 2 DREAMS Program totaling \$800,000. She provided a brief overview of the scoring process, total number of applications and the role of CAC.

City Manager Wade reported funding allocations were based on the number of projects (5) that could successfully be completed. He stated if an application for a proposed project falls outside the scope of City policy it generally would not be approved by the City even if approved by the CAC.

Councilmember Valdivia-Alcala thanked Staff for answering her questions and clarifying the circumstances. She stated it was not her intent to diminish the process and recognized the CAC as a vital link in the process. She stated due to the information that has been provided by Staff she would not be proposing the use of the excess DREAMS 2 Program fund balance.

Councilmember Duncan asked if the excess funding would be carried over to next year.

City Manager Wade stated a fund balance was not anticipated by Staff, and in this case the funds would not carry over because only the allocated fund amount would be bonded. However, this was a recommendation they could consider for next year.

Councilmember Duncan encouraged Staff to create a plan to address the issue and ensure a transparent process was in place for future allocation of funds.

Councilmember Hiller expressed her appreciation for the process and noted this was the first year of the program. She stated one of the concerns with the SORT Program was that the funds had to be spent with no flexibility and they did not what this same restriction with the DREAMS Program. She questioned if there would be a debriefing of the process with the CAC and noted it appeared all guidelines were followed.

Councilmember Valdivia-Alcala stated they understand how much funding needs to be allocated to underserved communities and she supports the idea of carry over funds; however, the City only has the capacity to complete a certain number of projects. She stated she believes the issue stems from the need for assistance with grant writing for NIA members.

City Manager Wade commended CAC for holding firm to the scoring system based on prioritization. He noted it was suggested by CAC meeting participants to allow lower scoring applicants to receive left over funding.

Councilmember Ortiz expressed the importance of applicants being educated as to why they were denied funding as soon as possible.

Community Engagement Coordinator Burnett reported all applications will be shared with NIAs as well as they plan to start the process much earlier next year.

Councilmember Kell commended the CAC for following a scoring system and he believes the Governing Body should support the recommendations of the CAC as proposed.

Councilmember Dobler moved to approve the resolution. The motion seconded by Councilmember Hiller carried unanimously on roll call vote. (7-0-0)

RESOLUTION NO. 9366 introduced by City Manager Stephen Wade, relating to the City of Topeka's legislative agenda for the 2023 legislative session, was presented.

Deputy Mayor Duncan, Policy & Finance Committee Chair, reported there were two updates discussed by the Committee including an update to the liquor law to allow for expansion of hours beyond special permitting for common consumption areas which has been added to the League of Kansas Municipal Policy and supported by other cities. He asked City Attorney Stanley to provide an overview of the second proposed update.

Amanda Stanley, City Attorney, reported the update was suggested by the City of Topeka Prosecution Division related to mandatory imprisonment statutes for Driving Under the Influence (DUI). The update proposes to eliminate the mandatory jail time and give discretion at the local level for prosecutors to adequately review cases and make sure the appropriate sentence will be issued accordingly.

Deputy Mayor Duncan spoke in support of the inclusion and believes it was not the intent of the Kansas State Legislature to complicate situations or make life more difficult for individuals. He reminded the Governing Body the City's Legislative Agenda was considered a living document and could be revised as needed.

Councilmember Hiller thanked the Committee for their hard work. She expressed her appreciation to City Attorney Stanley for reviewing the Changing Our Culture of Property Maintenance initiatives and proposing to revise local ordinances instead of proposing to change State law. She asked to whom they should direct proposed legislative agenda changes to.

Deputy Mayor Duncan reported they should send all suggestions to the City Manager so he can contact the City's Lobbyist. He noted they would continue to review initiatives and proposals at the State level so the City remains informed.

Councilmember Valdivia-Alcala moved to approve the resolution. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (7-0-0)

ORDINANCE NO. 20383 introduced by City Manager Stephen Wade, concerning procedures for prosecuting International Property Maintenance Code (IPMC) violations in Municipal Court, amending Topeka Municipal Code sections 2.40.040, 2.40.130, 2.40.180, 2.40.210, 8.60.070, 8.60.110 and 8.75.040 and repealing original sections and creating new sections 2.40.405 and 2.45.050, was presented.

Amanda Stanley, City Attorney, reported approval of the ordinance would clarify the responsibility of legal entities in municipal court; establish an appeal process to the district court from decisions of an administrative hearing officer; and impose higher fines for habitual violators of the IPMC.

Councilmember Ortiz referenced habitual offenders and questioned if approval of the ordinance would be more aggressive than current law.

City Attorney Stanley stated most cases take approximately 9 to 12 months before elevating to the Municipal Court level, which rarely happens.

Councilmember Valdivia-Alcala stated approval of the ordinance would provide a more just process for those in need and deals with landlords who do not take care of their properties.

Councilmember Hiller referenced the Changing Our Culture of Property Maintenance Initiative and reported this ordinance as well as the ordinance addressing Municipal Court Costs and Fees considered next on the agenda, would be the first two policy changes being proposed. She stated approval of the ordinance should ensure the appropriate people and organizations are being notified.

Councilmember Duncan stated the change in law allows Municipal Court and Code Compliance to address loop holes in the system while holding habitual offenders accountable.

Councilmember Dobler moved to adopt the ordinance. The motion seconded by Councilmember Kell carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Kell, Naeger, Dobler and Deputy Mayor Duncan -7.

ORDINANCE NO. 20384 introduced by City Manager Stephen Wade, concerning municipal court costs and fees, amending Sections 2.40.010 and 3.25.130 of the Topeka Municipal Code and repealing original section, was presented.

Amanda Stanley, City Attorney, reported approval of the ordinance would impose court costs in the amount of \$72 for dismissals of International Property Maintenance Code violations only.

Councilmember Hiller reported the City of Topeka currently has two additional layers of compliance authority to address code issues to encourage compliance before proceeding to action

in Municipal Court. She noted Code Compliance Officers can grant extensions and the City also has an Administrative Hearing process in place.

Councilmember Dobler questioned if the Municipal Court Judge has the authority to waive the \$72 fee in certain cases.

City Attorney Stanley confirmed the Municipal Court Judge would have the authority to dismiss the court fee due to financial hardship.

Councilmember Valdivia-moved to adopt the ordinance. The motion seconded by Councilmember Naeger carried unanimously. (7-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Ortiz, Kell, Naeger, Dobler and Deputy Mayor Duncan -7.

PUBLIC COMMENT was provided by the following individuals:

Jennifer Lee-Davis referenced the many suggestions and changes provided by citizens regarding police reform. She expressed her disappointment and anger with the lack of action by the Governing Body regarding suggested changes.

Danielle Twemlow spoke to the urgency of transparency regarding recent homicides and responses from the United States Department of Justice. She stated the community needs to know what the process looks like including the scope and depth of the review if the City wants to gain community trust. She also stated she believes it appears the Governing Body does not care about what the community thinks or believes is a priority.

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

Councilmember Hiller expressed her appreciation to Staff and announced the 12th Street Project was near completion. She announced the opening of Bethany Gardens located at 835 SW Polk Street. She referenced the “Using the Capital for Communities Scorecard” webinar held on

October 31, 2022, helping to boost social impact and equity. She referenced the fresh approach to fundamental concepts of Diversity Equity & Inclusion (DEI) in the Reconstructing Inclusion Book written by Amri B. Johnson. She reminded citizens to vote on November 8, 2022.

Stephen Wade, City Manager, recognized City employees Maria Anderson, Community Engagement Digital Navigator; John Munoz, Topeka Police Officer; and James Cuevas, Topeka Police Department, for their upcoming graduation from the Latino Leadership Collaborative on November 19, 2022. He thanked Veronica “Ronnie” Padilla and Sylvia Davis, Utilities Director, for their assistance with the program.

Brenda Younger, City Clerk, announced District 9 Vacancy applications would be accepted beginning November 7, 2022 until November 21, 2022 from 8:00 a.m. to 5:00 p.m. in the City Clerk’s Office located at 215 SE 7th Street, Room 166, Topeka. She stated detailed information and the application form was available online at www.topeka.org.

Councilmember Valdivia-Alcala encouraged citizens to vote on November 8, 2022. She expressed deep concern with the number of homicides and critical injury incidents involving Topeka Police Officers. She reported she contacted the United States Department of Justice (DOJ) on October 14, 2022, and has received no response to date. She stated she would report back as soon as the DOJ contacts her.

Councilmember Kell announced the Veteran’s Day Parade on November 11, 2022, and recognized and thanked all Veterans that have served and continue to serve. He reminded citizens to vote on November 8, 2022.

Councilmember Naeger encouraged citizens to vote on November 8, 2022, and stated detailed voting information could be found online at www.snco.us.election/vote.

Deputy Mayor Duncan thanked Councilmember Michael Lesser for serving as the District 9 Council representative and commended him for his dedicated service. He referenced the Equity

Access Shelter program and thanked Staff and Councilmember Valdivia-Alcala for implementing a program that provides assistance to the unsheltered population while being creative and maximizing funds through strong committed community partners. He announced the American Rescue Plan Act (ARPA) funding for social services in the amount of \$10 million would be discussed with possible action at the November 15, 2022, Governing Body meeting with the hope organizations can begin their programs/projects in January 2023.

Councilmember Kell moved to recess into executive session not to exceed 15 minutes to discuss employer/employee negotiations relating to a union, AFT, as authorized by KSA 75-4319(b)(3). The following staff was necessary to assist the Governing Body in its deliberations: City Manager Wade and any other staff he deemed necessary. The motion was seconded by Councilmember Dobler.

Deputy Mayor Duncan 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, Deputy Mayor Duncan announced the motion carried unanimously on voice vote. (7-0-0)

Following a 15-minute time period, the meeting reconvened into open session and Deputy Mayor Duncan announced no action was taken during the executive session.

NO FURTHER BUSINESS appearing the meeting adjourned at 8:05 p.m.

(SEAL)

Brenda Younger City Clerk