

Governing Body Minutes – December 13, 2022

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 13, 2022.

AFTER THE MEETING was called to order Pastor Jeanette Cook, Oakland Church of Nazarene, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

OATH OF OFFICE for Michelle Hoferer, Council District 9 representative, was conducted by Karan Thadani, Administrative Court Judge.

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, Kell, Duncan, Dobler and Hoferer -5; and Councilmember Naeger and Valdivia-Alcala participated remotely - 2. Mayor Padilla presided -1. Absent: Councilmembers Emerson and Ortiz -2.

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 13, 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 December 13, 2022, for attachment to the meeting minutes.

Stephen Wade, City Manager, introduced Chief Diversity Equity and Inclusion (DEI) Officer, Ernestor De La Rosa and announced Mr. De La Rosa would begin employment in January 2023.

Chief DEI Officer De La Rosa thanked the Governing Body for allowing him to serve. He stated he looks forward to creating meaningful partnerships in the community.

BOARD APPOINTMENT recommending the appointment of Dene' Mosier to the Topeka Tourism Business Improvement District Advisory Board for a term ending December 31, 2023, was presented. (*Council District No. 6*)

BOARD APPOINTMENT recommending the reappointment of Scott Brunner to the Topeka Housing Authority Advisory Board to fill an unexpired term expiring on December 13, 2026, was presented. (*Council District No. 8*)

BOARD APPOINTMENT recommending the appointment of Linda Shove-Morgan to the Topeka Tourism Business Improvement District Advisory Board for a term ending December 31, 2024, was presented.

BOARD APPOINTMENT recommending the appointment of Tamra Cortez to the Gage Park Improvement Authority to fill a term ending December 13, 2025, was presented. (*Council District No. 6*)

BOARD APPOINTMENT recommending the appointment of Keith Warta to the Gage Park Improvement Authority to fill a term ending December 13, 2025, was presented. (*Council District No. 5*)

Councilmember Kell moved to approve the appointments. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. The Mayor does not vote. (7-0-0)

CONSENT AGENDA was presented as follows:

RESOLUTION No. 9376 introduced by City Manager Stephen Wade, declaring the entire boundary of the City of Topeka for 2023, was presented.

APPROVAL of Public Works Engineering CONTRACT NO. 50869 between the City of Topeka and Alfred Benesch and Company in an amount not to exceed \$115,635 for engineering services, was presented.

MINUTES of the regular meeting of December 6, 2022, was presented.

APPROVAL of the following Cereal Malt Beverage license applications were presented:

<u>Business Name</u>	<u>Address</u>
Arturo's Mexican Restaurant	105 SE 10 th Ave
El Changarro Mexican Restaurant	2601 SW 6 th Ave

Councilmember Duncan moved to approve the consent agenda. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. (8-0-0)

PUBLIC HEARING

Public hearing to consider a petition filed by Agree Central, LLC to vacate a partial public utility easement located at 1717 SW Wannamaker Road.

ORDINANCE No. 20393 introduced by City Manager Stephen Wade relating to the partial vacation of a 16 foot wide public sanitary sewer easement located within Lot 1, Block A, West Ridge Mall Subdivision No. 13 located at 1717 SW Wanamaker Road, was presented. (V220E/03) (Council District No. 9)

Stephen Wade, City Manager, reported approval would allow for the preferred alignment of a private sanitary sewer service line to facilitate the new construction of an automobile repair business located on the property.

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 asked where the easement would be located relative to SW Wannamaker Road.

Bill Fiander, Planning and Development Director, reported the easement would be located at the rear of the property.

Councilmember Dobler moved to adopt the ordinance. The motion seconded by Councilmember Duncan carried unanimously. (8-0-0).

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdiva-Alcala, Kell, Naeger, Dobler, Duncan, Hoferer, and Mayor Padilla -8.

ORDINANCE No. 20394 introduced by City Stephen Wade, amending City of Topeka Code Section 3.40.030 establishing a service fee levy for 2023 relating to the Capital City Downtown Business Improvement District and specifically repealing said original section, was presented.

Steven Wade, City Manager, reported that an overview of the 2023 program of services and budget has been provided in the agenda packet and DTI was recommending the current service fee imposed on downtown businesses remain at the same level as 2022. Ashley Giliphan, Downtown Topeka, Inc. President, was present for questions.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Dobler carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdiva-Alcala, Kell, Naeger, Dobler, Duncan, Hoferer, and Mayor Padilla -8.

ORDINANCE No. 20395 introduced by City Manager, Stephen Wade, amending City of Topeka Code Section 3.65.035 establishing a service fee levy for 2023 relating to the Topeka Tourism Business Improvement District and specifically repealing said original section, was presented.

Stephen Wade, City Manager, reported that an overview of the 2023 program of services and budget has been provided in the agenda packet and the Lodging Association was recommending the current service fee imposed remain the same as 2022. Kurt Young, Topeka Lodging Association Executive Director, was present for questions.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Duncan carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Kell, Naeger, Dobler, Duncan, Hoferer, and Mayor Padilla -8.

ORDINANCE NO. 20396 introduced by City Manager Stephen Wade, concerning the Civil Service Commission, amending Section 2.120.030 of the Topeka Municipal Code and repealing original section, was presented.

Stephen Wade, City Manager, reported a request was made to increase the number of Commissioners from five to seven and change the quorum requirement from three to four voting members.

Councilmember Hiller referenced the Final Recommendations from the Police & Community Relations Special Committee dated July 12, 2022. She inquired on the status of advancing Recommendation No. 5 – Civilian Input in Training; and Recommendation No. 6 – Civilian Oversight (*citizen concerns not resolved through other methods*). She stated she has no issues with expanding the board; however, she questioned who would assume the duties as needed.

Mayor Padilla recognized the increased work of the Commission. He stated he meets with the Commission on a regular basis to ensure they are able to complete the basic duties they are currently responsible for and any additional duties would need to be reviewed as in relates to the details and time commitment, followed by consultation with the full Commission.

Councilmember Valdivia-Alcala stated she would not support approval of the ordinance because she believes it was evident in the Police & Community Relations Special Committee meeting minutes and video that citizens want an independent citizen review board. She expressed concern with the lack of transparency in the process.

Mayor Padilla stated he has worked to be as transparent as possible and it was never the intent to replace one for the other.

Councilmember Dobler asked if Commission members must reside in city limits.

Amanda Stanley, City Attorney, stated city residency was a requirement.

Councilmember Dobler moved to adopt the ordinance. The motion seconded by Councilmember Duncan carried. Councilmember Valdivia-Alcala voted “no.” The Mayor does not vote. (6-1-0) *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, Kell, Naeger, Dobler, Duncan and Hoferer -6. Noes: Valdivia-Alcala -1.

PUBLIC HEARING

Public hearing for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

AN APPROPRIATION ORDINANCE No. 20397 introduced by City Manager Stephen Wade, approving and adopting certain amendments to the operating budget for the City of Topeka for the year 2022 and appropriating the amounts for the purpose as set forth therein, was presented.

Adam Vaughn, Senior Financial Analyst, provided an overview of the amendments.

Stephen Wade, City Manager, reported spending authority must be approved by the Governing Body and could not exceed the amended amounts.

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 Hiller referenced Neighborhood Revitalization funds being deposited in the Topeka Housing Trust Fund which was not yet active. She asked what they are expecting in regards to the Opioid settlement; and would there be another source of funding available to help cover the items that was previously purchased with Neighborhood Revitalization funds. She also inquired on the reimbursement of rehabilitation grant dollars by home owners.

Senior Financial Analyst Vaughn reported there was approximately \$30,000 in the Opioid Settlement Fund.

Amanda Stanley, City Attorney reported the City could receive up to \$1 million or more over time; however, amounts will depend on how the law suit proceeds.

City Manager Wade reported there have only been preliminary discussions on the Opioid Funds at this time.

Councilmember Duncan referenced the Topeka Housing Trust Fund dollars and stated he plans to present a proposal for the use of those dollars in 2023.

Bill Fiander, Planning and Development Director, stated there was not a substitute fund that replaces the Neighborhood Revitalization Fund and the leftover program funding recovered from the mid to late 2000s was used to build housing in partnership with Habitat for Humanity Topeka and Cornerstone of Topeka, Inc. He reported Neighborhood Revitalization funds are different from reimbursed housing rehab grant funds which are reprogramed and used for housing services.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Duncan carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdiva-Alcala, Kell, Naeger, Dobler, Duncan, Hoferer, and Mayor Padilla -8.

DISCUSSION concerning potential utility rate changes for infrastructure maintenance, was presented.

Stephen Wade, City Manager, reported increases are being proposed for years 2024, 2025 and 2026. He stated the discussion was taking place one-year in advance because there are several businesses that set their budgets mid-year (July 1 or October 1) and advance notice, would allow businesses as well as citizens to prepare for the potential rate increase. He reported the proposed rate increases are being proposed due to (1) Inflation (2) Existing Debt Service (2) Regulatory

Requirements and (4) Deferred Maintenance. He stated they need to sustain existing operations and maintenance activities amid increasing inflation they have seen in commodities and contracted services; address the City's frequent water service disruptions; and ensure they can maintain safe drinking water, as well as meet regulatory requirements for stormwater and wastewater. City Utilities are responsible for maintaining over \$3.6 billion in assets and in an effort to address service disruptions Staff was proposing to replace some of the infrastructure closer to a 150-year replacement cycle. He noted at a very basic level, utilities would need to invest \$36 million annually for a 100-year cycle and they know that would not be feasible. The City has approximately \$70 million of water lines that are in need of repair and/or replacement. He highlighted the following:

- The impact of increases in 2023 would be \$93 for city utilities for the average city of Topeka family. The proposed rates, will increase that amount in 2024, by approximately \$9.
- The rate assistance program will be increased from 500 households to 1,250 annually.
- How rates compared to other area cities such as Kansas City, Lawrence, Olathe and Overland Park, Kansas.
- Several different models were explored in an attempt to keep rates low. They are minimizing the City's cash levels while meeting bond thresholds to lower the rates being requested.
- The proposed rate increases would keep the City in compliance with regulatory requirements.
- The proposed rate increases would allow \$28 million to be used towards water main replacement.

Councilmember Hiller stated the Governing Body has received a fair amount of responses from citizens related to offsetting proposed increases with Federal Infrastructure dollars. She clarified she was not suggesting this; however, she would like Staff to address how much the City anticipates it will receive and how it will be used specifically as it relates to the \$28 million in needed water main replacements.

Councilmember Naeger asked the City Manager to comment on how ARPA funds are being used and how it relates to the utility rate discussion.

Councilmember Kell stated his main concern was addressing deferred maintenance and stressed the importance of maintaining and replacing water lines as scheduled because it has a direct impact on households. He spoke to inflation and the effect it has on services and materials for any industry and water line replacement in the future.

City Manager Wade, stated they have actively applied for grants through the State of Kansas, the Environmental Protection Agency (EPA) as well as the Federal Government and have received none to date. He reported the City has applied for water treatment, lead line replacement, energy efficiencies and water system infrastructure resilience; and they will continue to seek grant funding to help reduce the fiscal burden of the \$70 million of deferred maintenance needs. In reference to the use of ARPA funds, after analysis the impact to rates was negligible, therefore, a recommendation was made to instead use ARPA money for General Obligation debt avoidance since the impact to property taxes was greater.

Councilmember Dobler inquired on the efficiencies study conducted on the Utilities Department approximately three years ago based on benchmarks of other cities.

City Manager Wade reported comparisons were conducted of other communities and the City of Topeka did compare favorably, however, he was uncertain of the depth of the survey.

Utilities Director Davis stated the survey could not be considered a numbers to numbers comparison as it did not provide the in depth review that was anticipated. She reported the consultant had a difficult time retrieving prudent information from industries that operate similar water systems.

Councilmember Dobler requested a copy of the study and asked how inflation was calculated.

City Manager Wade reported the City was experiencing a 20% increase in chemicals, a projected 10% increase in labor costs with a 30% increase year over year.

Councilmember Dobler requested in preparation of the December 20, 2022, utility rate discussion, he would like increases separated out by Water, Wastewater and Stormwater, the number being used towards inflation, existing debt, and regulatory requirements as well as deferred maintenance. He referenced the unstable financial environment and expressed concern with forecasting massive inflation increases over the next four years based on assumptions. He spoke to the difficulty of implementing rate increases year over year, however, he believes it something the Governing Body should seriously consider.

Councilmember Valdivia-Alcala stated she has received approximately 15 questions from constituents across the city and she believes there was a lack of understanding regarding how devastating the increase will be to residents. She spoke to the uncertainty of the proposal without feedback from citizens and Governing Body members and believes folks do not know what is happening because not enough attention has been given to it and she believes the rush to get the rate increase approved before the holiday was wrong. She referenced US figures for inflation that are hitting people on fixed incomes, and stated the proposed increases are too large of a jump and Staff needs to look at other funding opportunities such as cash reserves, grants, SPARK or Federal Infrastructure funding. She referenced the 2020 City of Topeka Housing Study that reflects the median household income of \$50,066; the median income for seniors was 29% less than the general population; and 25% of Topeka residents make \$25,000 or less annually. She recognized the increased number of households for the rate assistance program, however, more information continues to surface regarding the large number of households that will have their utilities shut off in 2023. She stated she believes this will increase the housing cost burden which was already at

33%. She stated he understands the need for infrastructure improvements but she also understands the importance of using all available funding sources before placing the burden on residents.

Councilmember Kell requested the number of waterline breaks over the past year and the amount of time it takes to fix each break, the time period between when a break was reported and when it was repaired, a copy of the priority chart for repairs; the cost per break, and if waterlines are not replaced on schedule the anticipated number of breaks that may occur.

Councilmember Valdivia-Alcala stated she will send all questions she received to the Governing Body. She requested answers to the questions by the December 20, 2022, Governing Body meeting.

Laura Pedarzani stated the problem of infrastructure repairs was an old problem that continues to be deferred and rate increases have been occurring since 2017. She questioned why the City continues to attempt to address the problem with rate increases instead of creating a sustainability plan. She expressed concern with the lack of transparency in the process and believes there should be a better way to move forward with seniors, Low to Moderate Income customers and those with disabilities. She clarified she was not suggesting to defer the problem but instead, create a sustainable plan. She urged the Governing Body to consider implementing a citywide living wage.

PUBLIC COMMENT was submitted via email by ShaMecha Simms (*Attachment A*).

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

Brenda Younger, City Clerk, provided an overview of the December 20, 2022 Governing Body Meeting Agenda.

Stephen Wade, City Manager, commented on the great conversations that resulted from the Bloomberg Core Team Workshops held December 12-13, 2022.

Councilmember Kell announced December 3, 2022, was International Day of Disabled Persons, aiming to promote the rights and well-being of persons with disabilities in all spheres of society. He urged people to be aware of the struggles that are not visible to the human eye.

Councilmember Naeger reminded everyone this can be a difficult time of the year for many people. She encouraged those in need of help to call the 988 Suicide and Crisis Lifeline or contact <https://988lifeline.org>.

Councilmember Duncan urged citizens to check on neighbors during the upcoming cold weather. He announced on December 23, 2022, the Topeka Performing Arts Center (TPAC) would present The Kready Holiday Spectacular at 6:30p.m. He also announced on December 14, 2022, he would appear on the KNST morning show.

Councilmember Hiller announced Topeka United will host Peace: A Multicultural Holiday Evening, a free admission event on December 14, 2022, at Topeka First United Methodist Church located at 600 S.W. Topeka Boulevard.

Mayor Padilla thanked Larry Gawronski, Topeka Performing Arts Center (TPAC) Executive Director for his service and recognized his enthusiastic support of the arts. He thanked Staff for their attention to detailed presentations and commended the Governing Body for seeking additional information to ensure they are doing their due diligence in providing routine services in the most cost effective manner.

NO FURTHER BUSINESS appearing the meeting adjourned at 7:16 p.m.

(SEAL)

Brenda Younger City Clerk


Brenda Younger

From: Brenda Younger
Sent: Tuesday, December 13, 2022 4:55 PM
To: 'ShaMecha Simms'; City Clerk
Subject: RE: 12/13 Public Comment: Utilities Increase

Received – I will forward to the Governing Body.

Thank you.

From: ShaMecha Simms <sl.simms@yahoo.com>
Sent: Tuesday, December 13, 2022 4:47 PM
To: City Clerk <cclerk@Topeka.org>
Subject: 12/13 Public Comment: Utilities Increase

 **This message needs your attention**

- You've never replied to this person.
- This is a personal email address.

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Greetings Council Members:

I'm reaching out to ask, along with other members of the community, for more time to properly understand and subsequently address the utilities increase being proposed by The City.

We understand infrastructure fixes are needed (and welcome!) but little has been provided in the way of an explanation of what funds are available to The City from state and federal pockets to address this before moving to a hike.

An opportunity to engage this more deeply with the public is needed.

Thank you for your time,

ShaMecha King Simms

“It is only when people live in an environment in which they are not required to exert supreme effort into just keeping alive that they seem able to select ends besides those of mere physical survival.”
— Howard Thurman

<http://www.shamechasimms.com>
Ms./She/Her