

## **Governing Body Minutes - December 20, 2022**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 20, 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, Kell, Duncan, Dobler, Emerson, and Hoferer -6; and Councilmember Naeger, Ortiz, Valdivia-Alcala participated remotely -3. 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](mailto:cclerk@topeka.org) by no later than 5:00 p.m. on December 20, 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](mailto:cclerk@topeka.org) on or before December 20, 2022, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Pastor Curtis Pitts, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Melina Stewart to the Topeka Landmarks Commission for a term ending December 31, 2025, was presented. (*Council District No. 6*)

BOARD APPOINTMENT recommending the reappointment of Mark Burenheide to the Topeka Landmarks Commission for a term ending December 31, 2025, was presented. (*Council District No. 1*)

BOARD APPOINTMENT recommending the reappointment of Dave Frederick to the Topeka Landmarks Commission for a term ending December 31, 2025, was presented. (*Council*

*District No. 1)*

Councilmember Naeger 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:

ORDINANCE No. 20398 introduced by City Manager Stephen Wade, amending City of Topeka Code Section 2.15.090, concerning redistricting and repealing original section, was presented.

MINUTES of the regular meeting of December 13, 2022, was presented.

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

CONTRACT NO. 50881 a three year Labor Agreement between the City of Topeka and Development Services Division of AFSCME Council 61, Local 1294, was presented.

Stephen Wade, City Manager, reported a tentative agreement has been reached and ratified by bargaining unit members and Staff was recommending approval.

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

ORDINANCE No. 20399 introduced by City Manager Stephen Wade, providing for a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka until December 31, 2023, and replacing the franchise ordinance codified at City Code Appendix B, Article 11 that will expire December 31, 2022, was presented.

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

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Kell, Naeger, Dobler, Duncan, Emerson, Ortiz, Hoferer, and Mayor Padilla (10-0-0).

RESOLUTION No. 9377 introduced by City Manager Stephen Wade authorizing execution of a loan agreement with Kansas Department of Health and Environment ("KDHE") from the Kansas Water Pollution Control Revolving Fund Act. The 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., was presented.

Steven Wade, City Manager, reported approval would authorize Staff to proceed with the execution of a loan agreement with KDHE for the purposes of permanently financed Waste Water utility project if it becomes available before the end of the year.

Councilmember Dobler asked Staff to clarify if these are completed projects that would normally be funding with utility revenue bonds and if the SRF loans would provide an opportunity for lower interest rates.

Rachelle Matthews, Interim Administrative and Financial Services Director, reported at this time a 20 year interest rate for a SRF Loan would be 2.32% compared to a similar revenue bond market rate loan at 4.0% interest rate.

City Manager Wade stated the City would save approximately \$14 million by utilizing the SRF Loan program.

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

RESOLUTION No. 9378 introduced by City Manager Stephen Wade authorizing execution of a loan agreement with Kansas Department of Health and Environment ("KDHE") from the Kansas Public Water Supply Loan Fund. The loan agreement is not to exceed 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., was presented.

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

A RESOLUTION introduced by City Manager Stephen Wade determining the advisability of a sales tax exemption in connection with the issuance by the City of Topeka, Kansas of its Health Care Facilities Revenue Bond (Brewster Place) Series 2022A and Series 2022B, for the purpose of Financing Improvements to the health care and retirement facilities owned and operated by the Congregational Home, was presented.

Steven Wade, City Manager, reported the Governing Body has previously approved the IRBs for Brewster Place and the applicant was now requesting the City submit an application for sales tax exemption for the materials needed in the project.

Councilmember Duncan asked if the exemption would apply during the entire term of the bond; if it would only apply to City sales tax; and if the applicant was also requesting an exemption from the State of Kansas. He inquired on the internal process of the City and questioned if these types of requests are standard practice for the City and automatically granted or if determination was based on each applicant.

Rachelle Matthews, Interim Administrative and Financial Services Director, reported the exemption would be through the construction period only and a time limit would be set as part of the application to the State of Kansas.

City Manager Wade reported a sales tax exemption was granted for the 6th and Fairlawn Project and noted the sales tax exemption was usually applied for in conjunction with the IRBs, however, it was overlooked when the applicant applied for this project.

Kevin Cowan, Gilmore & Bell, P.C., confirmed the applicant usually applies for the exemption at the time of the IRB application. He reported it has been standard practice to file for a sales tax exemption with past IRBs requested, and granted with only a few exemptions. He noted the approval of the Midland Care IRB did not make a request because they separately qualify for a sales tax exemption on their construction projects as a health care hospital. He reported this action all relates to the IRBS being issued by the City as the bond issuer as well as the project qualifying for sales tax exemption from State and local levels.

Councilmember Duncan referenced recent discussions on increased utility rates and the importance of the City being fiscally responsible. He inquired on the amount of sales tax lost by the City if approved.

Councilmembers Kell and Emerson expressed concern with the financial impact on the City regarding loss of sales tax.

City Manager Wade replied the original IRB request was for \$47 million with the assumption half of the funds would be used for materials. He stated the City collects 1.5% in sales tax, resulting in approximately \$350,000. He noted the estimate was based on rough math while making gross assumptions related to the percentages tied to the cost of construction materials.

Upon no motion being made by the Governing Body, Amanda Stanley, City Attorney, reported the Governing Body could move to the next item on the agenda or defer the resolution to a date certain.

City Manager Wade requested the resolution be deferred until January 10, 2023.

Councilmember Emerson moved to defer the resolution until January 10, 2023. The motion seconded by Councilmember O'Leary carried. Councilmember Valdivia-Alcala voted "no." (9-1-0)

RESOLUTION No. 9379 introduced by City Manager Stephen Wade establishing the City of Topeka's policy for Rural Housing Incentive Districts, was presented.

Stephen Wade, City Manager, reported Staff was recommending approval of the proposed policy vetted by the State of Kansas Commerce Department, the Public Infrastructure (PI) Committee as well as comments from the Governing Body. He stated the economic incentive policy would assist the City in addressing the serious need of affordable housing, spur development and attract workforce to the city.

Councilmember Emerson, Public Infrastructure Committee Chair, reported the Public Infrastructure Committee recommended approval of the policy by a vote of 3-0-0 on December 8, 2022. He stated the Committee vetted the policy with City Manager Wade; Rhiannon Friedman, Director of City Development and Economic Growth, as well as the Kansas Department of Commerce. He expressed the importance of the policy as it relates to lowering the cost of housing at every level while paying great dividends to the City. He thanked Staff for their work on the policy.

Councilmember Dobler stated he concurs with Councilmember Emerson and spoke in support of the policy. He reported approximately 250 housing units are constructed in the city annually, and there should be at least 500 (including apartment buildings) being built annually causing a current deficit of 3,000 affordable housing units at this time. He commended Staff for developing a good policy.

Councilmember Hiller spoke in support of the proposed economic incentive policy that incorporates comprehensive finance tools with broad language. She referenced the 6,000 vacant units that currently exist in the city and asked if the policy would apply to both new construction and renovation projects. She asked for clarification if the policy could be applied to neighborhood revitalization areas as a whole and not just the structures or if it would only apply to big developments with multi-family structures or subdivisions.

Amanda Stanley, City Attorney, reported renovation would be limited under State law to items such as second floors of downtown apartments. She continue to report that it was not designed for generalized renovation, neighborhood revitalization zones or neighborhood tax increment finance districts. She noted it was created for new developments and not necessarily for an individual.

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

ORDINANCE No. 20400 introduced by City Manager Stephen Wade, concerning departments and established positions, creating a new section and amending Sections 2.20.020, 2.20.040, 2.20.050, 2.105.010, 2.105.030, 2.105.040, 2.105.050 and Section 3.30.460 of the Topeka Municipal Code, was presented.

Stephen Wade, City Manager, reported the Governing Body has approved a budget item for a new office of Diversity, Equity and Inclusion (DEI) to include the Department of Human Resources and the Division of Community Engagement. He stated as part of this reorganization, the Director of the Department of Administrative and Financial Services will be known as the Chief Financial Officer, and the Director of Information Technology will be known as the Chief Information Officer. He noted the change in titles was a "nod" to the private sector and intended to attract more recruits.

Councilmember Duncan stated he reviewed the DEI Officer job description and understands what the position encompasses; however, he questions if the changes need to be made in the Topeka Municipal Code at this time, or if the changes could be handled administratively to allow for flexibility if needed.

City Manager Wade reported the DEi Officer has a background in human resources; the changes support consistency internally and externally; and the City Attorney has advised that changes related to the creation of a department or division needs to be codified.

Councilmember Valdivia-Alcala questioned why the changes were being proposing before the DEi Officer has begun employment with the City and if the DEi Officer has experience with the entire role of the Community Engagement Division. She asked how many positions City Manager Wade plans to hire.

City Manager Wade stated DEi Officer direct reports would include the Human Resources Director and the Community Engagement Director. He noted he has no plans for additional staff at this time; however, as they move through the needs analysis of the organization he may take a current open position and shift it to a different division and/or department.

Councilmember Ortiz spoke in opposition of the Human Resources director reporting to the DEi Officer instead of the City Manager. She stated she believes the title changes are unnecessary.

Councilmember Valdivia-Alcala state she believes the change in duties was premature and they need to make sure the DEi Officer can handle the duties already assigned. She suggested making changes in year two of employment.

Councilmember Dobler spoke in support of the changes and noted it was the duty of the City Manager to make personnel decisions not the Governing Body.

Councilmember Duncan stated he would support the proposal because it addresses specific concerns they raised when the Governing Body hired City Manager Wade as well as making the changes now so the individual understands their duties and responsibilities.

Councilmember Hiller stated she concurs with Councilmember Duncan and the new structure being proposed by the City Manager.



Mayor Padilla spoke in support of the proposed changes and believes it was not the intent of the City Manager to be disruptive but instead, to be more in line with a professional run organization. He stressed the importance of the new DEI Officer understanding exactly what the expectations and duties are for the position.

Councilmember Valdivia-Alcala stated it was not her intent to try and control the City Manager as it relates to his duties. Her comments are based on her right to express her opinion as an elected official regarding a proposed ordinance change.

Councilmember Kell moved to adopt the ordinance. The motion seconded by Councilmember Dobler carried. Councilmembers Valdivia-Alcala, Ortiz and Hoferer voted "no." The Mayor does not vote. *The proposed ordinance involves a matter of home rule on which the Mayor has veto authority.* (6-3-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Kell, Naeger, Dobler, Duncan and Emerson -6. Noes: Valdivia-Alcala, Ortiz and Hoferer -3.

DISCUSSION concerning potential utility rate changes for infrastructure maintenance, was presented. *(Continued from the meeting of December 13, 2022)*

Danielle Twemlow expressed concern with increased utility rates. She stated she believes the rate proposal should have been mentioned during the 2023 budget discussions. She questioned the need for a drastic decision and expressed the importance of paying down bonded debt as well as more discussion with Shawnee County to make sure it was mutually beneficial for both the City and County as it relates to use of ARPA dollars. She called on citizens and City officials to address all the socio economic barriers instead of just continually increasing rates.

Sandra Lassiter stated it would appear the estimated increase would be much higher than being discussed. She questioned the need to rush the decision if it would not be implemented for a

year. She spoke to the need to settle the issues with streets and make decisions in the best interest of the citizens. She requested to meet the new City of Topeka DEI Officer.

Mayor Padilla stated all requests to meet the DEI Officer should be forwarded to the Mayor's Office.

Stephen Wade, City Manager, reported Staff was asking for approval at this time because the current rate ends in 2023, in addition bond ratings are released in August, and if no provisions are in place for rate increases there will be a serious risk of bond rating downgrade. Approval at this time would allow large commercial users to include rate increases in their 2024 fiscal year budget; and moving forward with rate increases allows the City to secure funding for regulatory requirements. He continued to report on the following

- In 2019, the initial ask for rate increases was for six years and at that time, it was projected an 8% increase in water rates would be needed in 2024, 2025 and 2026; however, this was pre-pandemic and pre-inflation that they are currently experiencing.
- He stated he was not comfortable moving forward with projects without having proper funding in place.
- He corrected his statement made at the December 13, 2022 Governing Body meeting relating to inflation percentages as follows:
  - o They are expecting a 10% increase in compensation personal in 2024 and 2025 and a 3% increase in 2026.
  - o They are projecting a 20% increase in chemical costs in 2024 and 2025 and a 3% increase in 2026.
  - o They are projecting and a 3% increase across the board in 2024, 2025 and 2026.
- He provided an overview of the gradually increasing water main break rates and stated without investment in the replacement system they expect breaks to increase.
- He stated a Question & Answer Sheet was distributed via email to the Governing Body on December 20, 2022.
- He announced two public input sessions have been scheduled to discuss utility rates. December 28, 2022, from 6:00 - 7:00 p.m. and January 4, 2023, from 12:00 p.m. - 1:00 p.m. at the Cyrus K. Holliday Building First Floor Conference Room, 620 SE Madison Street, Topeka. The public input sessions will be available in-person or virtually. He requested all questions be emailed to [citymanager@topeka.org](mailto:citymanager@topeka.org).

Councilmember Kell questioned why there was a decrease in water line breaks in 2018 and 2019. He stated numbers show they cannot not continue to delay repairs because breaks will

continue to increase. He spoke to the financial struggles of all citizens and the direct effect infrastructure needs have on citizens. He suggested they look at all possible funding sources.

Sylvia Davis, Utilities Director, reported the decrease in breaks was due to heavy rain in years 2018 and 2019.

Councilmember Emerson asked how much the City would receive in Federal Infrastructure funding.

City Manager Wade reported the majority of federal funds was being used to subsidize the State of Kansas State Revolving Fund (SRF) Loan Program, a program the City of Topeka plans to utilize. He also reported the State plans to enhance lead line replacement funding through reduced interest rates along with the potential of principal loan amount forgiveness. He noted the City was actively applying for grants as they become available.

Councilmember Valdivia-Alcala expressed the importance of conducting public input sessions prior to discussing major issues such as utility rates. She stated she continues to receive complaints from constituents speaking in opposition of the increases and questioned if the City has applied for RAISE Grant funding. She expressed concern with the City continually being denied grant funding. She spoke to what she believes would be the actual proposed rate increase of 35.1% over the next three years, and the effect it will have on the high number of those living in poverty and those living on a fixed income and expressed the importance of increasing the living wage rate inside city limits. She stated she would not support any type of increase and they need to find other funding possibilities and options to support the cost of infrastructure needs.

City Manager Wade replied the City applied for RAISE Grants earlier in the year and there may be more funding available in 2023. He stated at times, the City receives feedback as to why grants are denied; however, the City grant writer has been attending training to help improve processes.

Councilmember Kell commended Staff for their efforts in seeking grants and speculated that other cities are receiving grants because the need was greater. He expressed the importance of the Governing Body finding the balance between funding repairs and realizing costs savings where they can.

Councilmember Dobler stated that utility rate discussions have been the most difficult issue for every City Council to address for a very long time. He referenced the Rural Housing Incentive District (RHID) Policy recently approved, providing a tool to assist with the affordable housing problem and ultimately addressing the need to generate more revenue to pay for infrastructure needs. He referenced the Question & Answer Sheet distributed to the Governing Body on December 20, 2022 by City Manager Wade and expressed his disappointment in the information being provided in the documents specifically as it relates to negative bond rating impacts and risking SRF funding opportunities. He asked if the State of Kansas has ever denied the City a SRF Loan.

Rachelle Matthews, Interim Administrative and Financial Services Director, reported she was not aware of the City being denied; however, they have not applied for a SRF loan in 20 years.

Councilmember Hiller questioned how much revenue was being generated from commercial verses residential customers and if it was proportional. She referenced pages 38 and 39 of the 2021 Garnett Fleming Benchmark Water Study listing the high, medium and low priority programs. She stated she believes this would be a good place to start as it relates to the City creating an asset management plan based on other comparable cities.

City Manager Wade reported the City moved away from the practice of charging a minimum use charge in 2015 to a base rate system and generally speaking, this means that customers that use less water will pay less, allowing them to have more control over their bill.

Nicole Malott, Utilities Deputy Director, provided an overview of commercial and residential service revenue percentages.

Utilities Director Davis stated they have plans in place along with a priorities list; however, it will take a long time to bridge the needs gap while attempting to move from a 170-year replacement cycle to 150-year cycle.

City Manager Wade stated the proposed plan allows the City to make progress in the repair of infrastructure needs.

Councilmember Valdivia-Alcala expressed the importance of breaking down the rate increases so citizens truly understand the cost per household. She stated she understands the need to attract businesses; however, they need to be mindful of revenue loss such as granting tax breaks to large businesses. She spoke in opposition of rate increases and believes the process is being rushed.

Councilmember Kell asked if vacancy credit funds could be used to finance infrastructure repairs.

Councilmember Wade stated the flocculation of the use of vacancy credits has to do with change in leadership from time to time. He noted any leftover eligible funding would be used towards cash payments on capital projects as opposed to borrowing.

Councilmember Duncan asked Staff to make all maps and models of infrastructure repair priorities available to the public.

Mayor Padilla stated he concurs with comments made by Councilmember Dobler and expressed the importance of looking at the larger contributing factors that have brought them to this point.

PUBLIC COMMENT was submitted via email by Joseph Ledbetter (*Attachment A*) and provided by the following individual.

Erma Forbes distributed a handout representing the interest of The Gil Carter initiative related to homeless campsites in their immediate surroundings located at 2600-2620 SE 23rd Street. She stated relocation would be the best solution or provide job training. She asked the Governing Body to help her find a solution.

**ANNOUNCEMENT BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;**

Stephen Wade, City Manager, referenced upcoming severe cold weather conditions and thanked Valeo Behavioral Health Care, Shawnee County Emergency Management and United Way for partnering with the City to provide shelter and resources for the homeless population. He announced United Way was seeking volunteers.

Councilmember Valdivia-Alcala referenced an article printed in USA Today on December 19, 2022, outlining plans of the Biden-Harris Administration to reduce unsheltered homelessness. She encouraged the City to be aggressive in obtaining any federal program funding that may be available over the next two years as a result of the initiative. She reminded Staff that she had requested a presentation before the end of the year on the chronic unsheltered in Topeka.

Councilmember Kell thanked Councilmember Hiller for inviting him to the Topeka United Event as it was very informative. He asked residents to take care of pets during the upcoming severe cold weather and report any animals in danger to the City's Animal Control Division.

Councilmember Naeger expressed her appreciation for the extensive discussion on the utility rates and stated she hopes they can find a compromise that all can support.

Councilmember Dobler expressed his appreciation to State and Local street workers for their work during severe weather conditions.

Councilmember Duncan thanked all City employees for their hard work as the year comes to a close. He announced John Boyd, Shawnee County Director of Planning and Development, was

retiring and thanked Mr. Boyd for his service to the community. He expressed appreciation to the Governing Body for allowing him to serve as Deputy Mayor.

Councilmember Hoferer reported she attended a meeting on the 17th Street Project and thanked City Public Works and Engineering Staff for their insight. She stated the next meeting would be held in the spring of 2023 to discuss the next phase of project. She encouraged citizens to remain engaged in the process as the project will bring significant changes to many property owners.

Councilmember Hiller welcomed Councilmember Hoferer. She thanked City of Topeka EAS Staff members for their assistance in placing a family in need.

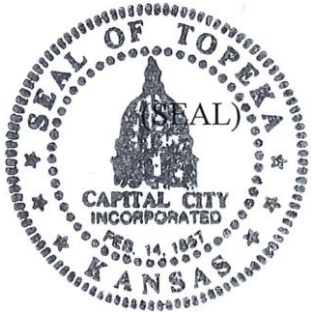
Mayor Padilla thanked all those who have contributed to the success of the City as an organization, specifically its employees. He announced the Public Safety Team was accepting community partners interested in joining their efforts.

Councilmember Kell moved to recess into executive session not to exceed 30 minutes for consultation with the city attorney to discuss attorney-client privileged matters regarding specific litigation and contractual issue and liability as justified by K.S.A. 75-4319(b)(2). The open meeting will resume in the City Council Chambers. The following staff were present to assist the Governing Body in its deliberations: City Manager Wade, City Attorney Stanley, Chief of Litigation Shelly Starr; and Human Resources Director Jacque Russell and any other staff deemed necessary. The motion seconded by Councilmember Dobler carried.

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 did not vote. (9-0-0)

Following a 30-minute time period, the meeting reconvened into open session and Mayor Padilla announced no action was taken during the executive session.

NO FURTHER BUSINESS appearing the meeting adjourned at 8:18 p.m.



*Brenda Younger*  
Brenda Younger City Clerk



**Brenda Younger**

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**From:** Joe Ledbetter <joe\_ledbetter@yahoo.com>  
**Sent:** Tuesday, December 20, 2022 6:18 PM  
**To:** City Council; City Clerk; Tony Emerson; Sylvia Ortiz; Neil Dobler; Spencer Duncan; Mayor  
**Subject:** I support the Rural Housing Incentive District

Thank you!

Sent from myiPhone