

## **Governing Body Minutes – March 21, 2023**

CYRUS K. HOLLIDAY BUILDING, Topeka, Kansas, Tuesday, March 21, 2023.

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, Valdivia-Alcala, Naeger, and Emerson -6. Councilmembers Ortiz, participated remotely -1. Deputy Mayor Dobler presided -1. Mayor Padilla and Councilmember Hoferer were absent -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](mailto:cclerk@topeka.org) by no later than 5:00 p.m. on March 21, 2023, 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 March 21, 2023, for attachment to the meeting minutes.

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

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

PRESENTATION on the 2023 City of Topeka Annual Minority Women Disadvantage Business Enterprise (M/W/DBE) Utilization Goal was presented by Leigha Boling, Contracts & Procurement Division Director.

Councilmember Valdivia-Alcala questioned the communication process for the speaking Spanish language community and requested the need for flexibility of dates, times and locations for citizens.

Councilmember Duncan asked if the City of Topeka plans to offer virtual workshops to be more accessible to vendors.

Division Director Boling stated the City of Topeka will provide virtual training opportunities on the City of Topeka's website in English and Spanish including step-by-step guides.

CONSENT AGENDA was presented as follows:

ORDINANCE No. 20412 introduced by City Manager Stephen Wade, allowing and approving City expenditures for the period December 31, 2022 to January 27, 2023 and enumerating said expenditures therein, was presented.

ORDINANCE No. 20413 introduced by City Manager Stephen Wade, allowing and approving City expenditures for the period January 28, 2023 to February 24, 2023 and enumerating said expenditures therein, was presented.

APPROVAL of a Public Works Engineering CONTRACT NO. 51148 between the City of Topeka and Alfred Benesch, in the amount of \$150,893 for the purpose of providing engineering services to include data collection, topographic mapping, and plans and specifications for construction bid letting, was presented.

MINUTES of the regular meeting of March 14, 2023, was presented.

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

ACCEPTANCE of Land Dedications in the Final Plat for Mission Ridge Subdivision No. 2, located on the southwest corner of SW 41st Street and SW Wanamaker Road, was presented.

Dan Warner, Planning Division Director, reported the approximate 22-acre property consists of 48 lots for residential duplexes. He noted it removes some of the green space

easements that were listed on the previous plat that related to buffering areas; however it is keeping a 40-foot detention easement on the plat. He stated it was approved by the Planning Commission on February 20, 2023, and the Governing Body must take action to accept the dedications of land for the public street rights-of-way and easements.

Councilmember Naeger moved to accept the dedications of land. The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. (8-0-0)

ORDINANCE No. 20414 introduced by City Manager Stephen Wade amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the southwest corner of SW Wanamaker Road and SW 41st Street FROM “PUD” Planned Unit Development with a “M-1” Two-Family Dwelling District use group and “PUD” with “O&I-1” Office and Institutional District and “C-2” Commercial District use groups TO “M-1” Two-Family Dwelling District to allow for residential duplex buildout, was presented. (Z23/01)  
*(Council District 7)*

Dan Warner, Planning Division Director, reported approval of the proposed zoning change would allow the entire property to be developed into duplex units as outlined in the final plat for Mission Ridge Subdivision approved in the previous agenda item. He stated this development addresses the City’s need for middle type housing which encompasses 20 units or less of duplex, triplex or quadplex units. He noted the project will have to be built to current City of Topeka stormwater standards.

Deputy Mayor Dobler announced prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered, must state that the communication occurred and

indicate that even in light of having engaged in the communication they were able to fairly, objectively, and impartially consider the measure based only upon the evidence provided on the record. The record includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

Ex parte Communication was declared by Councilmember Emerson and Deputy Mayor Dobler.

Councilmember Emerson moved to adopt the ordinance. The motion seconded by Councilmember Naeger carried unanimously.

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

ORDINANCE No. 20415 introduced by City Manager Stephen Wade amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on properties located at the northeast corner of SW Huntoon Street and SW Urish Road, from PUD Planned Unit Development with R-1 and R-3 Single Family Dwelling Districts and R-3 Single Family Dwelling District to RR-1 Rural Residential District, was presented. *(Z23/02) (Council District 9)*

Dan Warner, Planning Division Director, reported the surrounding area continues to slowly urbanize and approval would place the approximately 24-acre property back into a transitional state as a single-family residence with agriculture uses. He noted the owner intends to submit a subdivision plat at a later date to combine the properties into a single lot and vacate the roads that were dedicated with the previous development proposal; however, sanitary sewer would need to be extended with development. He stated the Planning Commission approved the

request on February 20, 2023.

Councilmember Emerson asked if the property was part of any active benefit districts.

Division Director Warner stated he was not aware of any improvement districts slated for the area.

Deputy Mayor Dobler referenced the portion of SW Huntoon Street as it relates to the proposed property and asked if it was intended to be included in the Capital Improvement Plan (CIP).

Braxton Copley, Public Works Director, stated he would have to report back to the Governing Body on the status of any CIP improvements

Deputy Mayor Dobler announced prior to proceeding with the vote, each member of the Governing Body who has engaged in ex parte communication with any individual either in favor of, or against, the matter being considered, must state that the communication occurred and indicate that even in light of having engaged in the communication they were able to fairly, objectively, and impartially consider the measure based only upon the evidence provided on the record. The record includes the Planning Commission minutes, the Staff report and its attachments, the public comments made during the Planning Commission hearing and similar relevant information related to the matter.

No ex parte communication was declared by Governing Body members.

Councilmember Naeger moved to adopt the ordinance. The motion seconded by Councilmember Ortiz carried unanimously.

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

RESOLUTION No. 9394 introduced by City Manager Stephen Wade temporarily suspending Governing Body Rule 2.11 for the March 28, 2023 strategic planning special meeting, was presented.

Stephen Wade, City Manager, reported the strategic planning special meeting work session would consist of multiple iterations of small group work for the first hour and half, it would not easily or effectively be broadcast and for that reason, Staff recommends that portion of the work session not be televised. He noted the last portion of the meeting would be televised.

Deputy Mayor asked if the meeting will be appropriately noticed and open to the public as required by the Kansas Open Meetings Act (KOMA).

City Manager Wade confirmed the meeting would be properly noticed and open to the public.

Councilmember Emerson moved to approve the resolution. The motion seconded by Councilmember Ortiz carried on roll call vote. (8-0-0)

RESOLUTION No. 9395 introduced by the Public Infrastructure Committee comprised of Councilmembers Tony Emerson, Neil Dobler and Michelle Hoferer amending the 2023-2032 CIP and the 2023-2025 CIB increasing the project budget for Project No. 701048.01, was presented. (*Polk- Quincy Utility Relocation*).

Stephen Wade, City Manager, stated the increase of authorized funding was for utility relocation tied to the Polk-Quincy Viaduct project construction and was presented to the Public Infrastructure Committee for consideration.

Councilmember Emerson, Public Infrastructure Committee Chair, reported the request to increase funding was mainly due to inflation costs; however, Committee members believe the

project timeline seems aggressive for this amount of work. He spoke in support of the resolution as presented.

Councilmember Hiller expressed concern with the project amount discrepancy and noted it increased 20% in two weeks from \$3.87 million to \$4.95 million. She stated she understands the rising costs due to inflation; however, fundamentally the project was an unfunded Federal mandate to the City of Topeka, and paying approximately \$25 million for the project places an incredible burden on the citizens as well as the City as an organization. She suggested City leaders approach the State of Kansas and request funding assistance.

City Manager Wade reported Staff has had conversations with the State of Kansas, and the City has reached their limit on their ability to get more funding from the State. He stated the difference between the two amounts was due to the cost to issue revenue bonds instead of general obligation bonds. He noted it has been determined utility relocations become a part of the greater infrastructure providing for different bonding considerations.

Councilmember Duncan reminded the Governing Body the State of Kansas was already absorbing over \$300 million for this project, including any increases for the project over the next several years. He noted it was frustrating that the amount would be over \$20 million; however, it was a good investment. He questioned the spaces underneath the new viaduct and if Staff has considered the need for utility connections in these areas.

Sylvia Davis, Utilities Director, reported Staff has reviewed the areas; however, because there is no permanent plan in place they cannot guarantee that new lines will not have to be adjusted at some point in the project. She noted there was a lot of available service lines in the area.

Councilmember Naeger moved to approve the resolution. The motion seconded by Councilmember Ortiz carried on roll call vote. Councilmember Valdivia-Alcala voted “no.” (7-1-0)

RESOLUTION No. 9396 introduced by City Manager Stephen Wade, declaring the necessity to repair, alter, reconstruct, enlarge or improve the City’s water, water pollution, and/or stormwater utility system through improvement Projects authorized by resolution and providing Notice of Intention authorizing the issuance of revenue bonds in the manner required by K.S.A. 10-1201 et seq., was presented.

Stephen Wade, City Manager, stated the resolution would authorize the intent to issue revenue bonds tied to the Polk-Quincy Viaduct project as discussed in the previous agenda item for an amount not to exceed \$27,090,560.

Councilmember Emerson, Public Infrastructure Committee Chair, recognized the use of revenue bonds to finance this portion of the project. He asked if issuing the bonds would impact utility rates for customers.

City Manager Wade stated the debt service amount for the addition revenue bonds would be offset and or reimbursed by the General fund.

Councilmember Kell moved to approve the resolution. The motion seconded by Councilmember Emerson carried on roll call vote. Councilmember Valdivia-Alcala voted “no.” (7-1-0)

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

Stephen Wade, City Manager, stated he would address specific questions posed at the March 14, 2023, Governing Body meeting as it relates to finding a way to rebate the PILOT



Program fees back to the Utilities Fund as well as reducing stormwater fees. He reported the following:

- In regards to PILOT Program fees, Staff has determined and can support the rebate of \$2 million from the General Fund on annual basis from PILOT Program fees back to the Utilities Fund, with the rebate in essence, covering the debt service on the \$27 million of notice of intent to issue revenue bonds approved in the previous agenda item, holding the Utilities Fund harmless for the debt.
- In regards to Stormwater fees, Staff spent a significant amount of time reviewing the request from a standpoint of reducing fees overall as well as reducing fees for just residential customers. He reported the pro forma for 2024 and 2025 anticipates the City already budgeting to operate at a loss, and the way to cover that loss is to spend down reserves, and because this would increase the deficit Staff would not recommend reducing Stormwater fees.

Sylvia Davis, Utilities Director, highlighted the following key components as to way the City should continue with the proposal to increase Stormwater rates as it relates to deferred maintenance for levies and stormwater conveyance systems:

- In reference of deferred maintenance for stormwater conveyance, a large rehab project for failing infrastructure remains under Fairlawn Road as well as critical repairs to electrical components at the Quincy Stormwater Pump Station. She stated historically funds are not set aside for stormwater pump station rehab.
- In reference to deferred maintenance of levies, the City is partnering for the cost share of planned repairs for the Solider Creek Levy in conjunction with the North Topeka Drainage Project Levy to protect over 6,000 residents and 3,000 buildings totaling \$1.65 billion in property values. She noted only \$750,000 of City Utility funding was available for the \$4 million project.

City Manager Wade reminded the Governing Body these project repairs are part of the deficient the City already has and not system upgrades.

Councilmember Duncan inquired on the balance of the Utility Reserve Funds and if Staff has considered reducing those funds to help reduce rates.

City Manager Wade confirmed the spending down of the \$7 million gap is coming from the 2024 projected Utility Reserve funds in an effort to keep rates down.

Nicole Malott, Deputy Utilities Director, reported Utility Reserve Funds are based on “days of cash on hand” as opposed to a percentage of reserves. She stated the proposal would spend Utilities cash down to 220 days in 2024, and 207 days in 2026 (rate covenant is 180 days). She noted the anticipated 2024 Utilities Reserve Fund yearend balance was \$35 million.

Deputy Mayor Dobler stated \$35 million seems like a large amount; however, it is a small portion of the City’s \$300 million of utility debt.

Councilmember Hiller asked Staff to explain the “Readiness to Serve Charge” that is being proposed.

Utilities Director Sylvia Davis stated essentially Staff was proposing to transition from the “Base Rate” to the “Readiness to Serve Charge” that would encompass the cost of billing collection, customer service, maintaining and operating water meter infrastructure and the Advanced Meter Infrastructure (AMI) system, providing public fire protection including fire hydrants etc. – all costs that were traditionally captured in Base Rate. She clarified this transition would capture a charge from every property whether or not they are actively using the service and noted it was a common practice used by many local and national communities.

Deputy Mayor Dobler asked Staff to clarify what properties would be included with this charge and if it would include a charge for stormwater.

City Manager Wade noted base rates for water and wastewater are mandated by the Topeka Municipal Code. He stated if there was a meter on the property tied into the water system a Readiness to Serve Charge would be assessed; and a charge for stormwater would be assessed on all residential and commercial properties.

Councilmember Hiller expressed concern with the collection of the Readiness to Serve Charge of those who do not pay and the amount of customer service time it may require. She asked if the ordinance language should include low income funding assistance.

City Manager Wade stated the City could collect delinquent or unpaid utility bills through assessment of annual property liens.

Councilmember Kell expressed concern with removing service meters as it relates to causing fire hazards with some large commercial buildings.

Deputy Director Malott stated it was illegal to remove meter service from commercial buildings with fire suppression lines.

Deputy Mayor Dobler spoke in support of transitioning to the Readiness to Serve Charge to help with the cost of maintaining infrastructure in a similar manner as other communities.

Councilmember Ortiz asked City Manager Wade to confirm the cost to relocate utilities for the Polk-Quincy Viaduct project. She asked if it would cause utility rates to increase.

City Manager Wade reported the debt service amount for the additional revenue bonds needed for the Polk-Quincy Viaduct project would offset and/or reimbursed by the General fund and have no impact on utility rates.

PUBLIC COMMENT was provided by the following individual:

Chris Deister commended the City of Topeka for their efforts in repairing streets and byways. He questioned if the City has attempted to hold the company responsible for providing poor-quality product that caused city streets to fall to disrepair legally liable or if the Statute of limitations has run out. He encouraged the City Manager to continue to watch funds for all the citizens

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

Stephen Wade, City Manager, reported due to the uncertainty of the sales tax issue from Kansas Senate lawmakers as well as on-going utility rate discussions, he would request to delay presentation of the Capital Improvement Plan (CIP) to the Governing from April 1, 2023 to April 18, 2023.

Councilmember Naeger announced Punctuating the Period, a campaign designed to fight period poverty through raising awareness and providing needed supplies. She reported MB Piland was partnering with Topeka Public Schools, USD 501 to collect menstrual products for Topeka Public Schools students. She encouraged citizens to visit [www.mbpiland.com/25](http://www.mbpiland.com/25) for more information.

Councilmember Duncan reported House Bill No. 2059 will likely move forward and if amended, it would amend the Kansas Club and Drinking Establishment Act provisions related to common consumption areas to remove the requirement that a city or county require the portions of common consumption areas on public streets or roadways be blocked from motorized traffic during events. He also reported that half of the ARPA Funding Grants have been distributed and commended City of Topeka Staff members for their efficient processes.

Councilmember Hiller announced the City of Topeka Changing Our Culture of Property Maintenance Mowing Program would host Public Information Sessions on March 30, 2023 at 5:30 p.m. at Central Park Community Center, located at 1534 SW Clay Street; and on April 3, 2023 at 11:30 a.m. at Hillcrest Community Center, located at 1800 SW 21<sup>st</sup> Street, Topeka. She

noted a Public Informational Session for the Spanish speaking community would be held April 10, 2023 at 5:30 p.m. at Salvation Army, located at 1320 SE 6<sup>th</sup> Avenue, Topeka.

Councilmember Valdivia-Alcala commented on the chronically mentally ill and expressed the need for another mental health facility in Topeka, and reported the unsheltered harassment in District 2 continues with no resolution. She expressed her frustration on behalf of Northeast Topeka regarding the lack of understanding of the chronic unsheltered and those suffering from mental illness. She announced a community meeting to discuss these issues would be held on March 29, 2023 at 6:00 pm at the Lundgren Elementary School located at 1020 NE Forest Avenue, Topeka.

Councilmember Emerson thanked Councilmember Duncan, City Attorney Amanda Stanley and City Manager Stephen Wade for advocating for the City of Topeka at the State Capitol. He stated in reference to public comments made by Dr. Chris Deister regarding street repairs, the City was now using a durable aggregate mix; and the company that provided the faulty material was no longer in business and the Statute of Limitation has run out. He announced the success of Milk & Honey Coffee Co. located at 2200 SE 29<sup>th</sup> Street, Topeka.

Councilmember Kell announced the 2023 World Baseball Classic which run from March 8-21, 2023.

Deputy Mayor Dobler announced the 2023 NAMIWalks Kansas event bringing awareness to mental health on March 25, 2023, from 11:00 a.m. to 2:00 p.m. at the Sports Center 6545 located at SW 10<sup>th</sup> Avenue, Topeka. He added the Fellowship Hi-Crest College & Career Scholarship has opportunities to help students pursue education and career paths. The scholarship application deadline is April 30, 2023, and for additional information visit their website at <https://fellowshiphcrest.churchcenter.com/registrations/events>. He thanked Braxton Copley,

Public Works Director, for providing a presentation on street repair projects throughout the city at a recent District 7 Neighborhood Homeowners Association Meeting.

Amanda Stanley, City Attorney, stated pursuant to Resolution No. 8831, the City Manager shall present the Capital Improvement Plan (CIP) to the Governing Body by no later than April 1<sup>st</sup>; therefore, she would request the Governing Body suspend the Governing Body Rules and Procedures as allowed by Rule 9.1 to add an item to the agenda, that would allow the City Manager to present the CIP at a later date for consideration.

Councilmember Kell moved to suspend the Governing Body Rules & Procedures as allowed by Rule 9.1 to add an item to the agenda for consideration. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (8-0-0)

Councilmember Kell moved to add and approve an item to the March 21, 2023 agenda, authorizing the City Manager to present the CIP to the Governing Body no later than April 18, 2023. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (8-0-0)

NO FURTHER BUSINESS appearing the meeting adjourned at 7:43 p.m.

(SEAL)

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Brenda Younger City Clerk