

Governing Body Minutes – April 11, 2023

CYRUS K. HOLLIDAY BUILDING, Topeka, Kansas, Tuesday, April 11, 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, Emerson, Kell, Duncan, Dobler and Hoferer -6. Councilmembers Valdivia- Alcala and Naeger participated remotely -2. Mayor Padilla presided -1. Councilmember Ortiz was absent -1.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on April 11, 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 on or before April 11, 2023, for attachment to the meeting minutes.

AFTER THE MEETING was called to order Rabbi Samuel Stern, Temple Beth Sholom, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Joseph Ledbetter to the Metropolitan Topeka Airport Authority Board for a three-year term ending April 11, 2026, was presented. (*Council District No. 3*)

BOARD APPOINTMENT recommending the reappointment of Ronald Mullins to the City of Topeka Board of Electrical Appeals for a term ending April 11, 2025, was presented. (*Council District No. 1*)

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BOARD APPOINTMENT recommending the appointment of Justine Greve to the Topeka Sustainability Advisory Board for a term ending April 11, 2025, was presented. (*Council District No. 6*)

Councilmember Duncan stated he would abstain from voting and would email comments to the City Clerk to be included with the minutes providing an explanation.

Councilmember Emerson moved to approve the appointments. The motion seconded by Councilmember Kell carried on roll call vote. Councilmember Duncan abstained. The Mayor does not vote. (7-0-1)

A PRESENTATION on the Topeka Sustainability Advisory Board Annual Update was presented by Michaela Saunders, Board Chair.

Councilmember Hiller questioned the Board's Vision and if it would require the assistance of City employees.

Councilmember Valdivia-Alcala thanked the Board for their hard work and considering the economic development and climate aspect of sustainability. She stated she would like to see a progressive city and those aspects need to be discussed when working with community partners. She questioned if sustainability efforts have been successful in regards to recent social media changes and suggested the Board make more presentations to Neighborhood Improvement Associations (NIAs).

Councilmember Naeger spoke in support of sustainability efforts of the Board. She stated she looks forward to the city being a more progressive sustainable community and making this initiative a top priority. She expressed her hopes of assigning at least one full-time City employee to assist with the initiative.

In response, Michaela Saunders reported the Board would prefer to utilize community

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partners as well as full-time City employee to assist with many sustainability initiatives including collaboration with area businesses to ensure future success. She stated Communications Director Gretchen Spiker has been very responsive to their requests and noted, there are many Earth Day initiatives scheduled on April 22, 2023.

AN UPDATE on the Shawnee County Department of Corrections Mental Health initiative was provided by Bryan Cole, Director of Shawnee County Department of Corrections.

Mayor Padilla thanked Director Cole for looking to the future and addressing the serious mental health issues through his service to the community. He suggested when designing the facility and programs to include City of Topeka Chief Diversity Equity and Inclusion (DEI) Officer, Ernestor De La Rosa.

Councilmember Kell questioned the amount of training new and veteran staff members receive as well as if veteran staff are willing to change their mindset as it relates to rehabilitation. He also asked if they work with the Topeka Veterans Affairs Medical Center to address veterans with mental health issues.

Councilmember Valdivia-Alcala thanked Director Cole for attending the March 29, 2023, City of Topeka Homelessness Summit and speaking to the seriousness of mental health issues as well as the homeless population in the Oakland area. She questioned the waiting list for the Larnard Kansas Correctional Mental Health Facility as well as the Osawatomie Kansas Correctional Facility, and if Shawnee County charges other counties to house their inmates. She expressed the importance of helping citizens understand how mental health affects everyone across the community not just in the Oakland area.

Director Cole reported Shawnee County Corrections employees receive over 80 hours of crisis training to the standards of the American Correctional Association along with very strict

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management and training requirements for the Shawnee County Juvenile Detention Center. He stated it was his responsibility to change the mindset of veteran employees and it is an understanding among his employees to treat inmates fair. He confirmed they have a good working relationship with the Topeka VA Hospital; and the average waiting list for the Larnard Facility is 30 inmates due to a shortage of beds; and the waiting list for the Osawatomie Facility is less. He noted it depends on the situation in regards to charging other law enforcement agencies; however, a \$100 per day per diem charge can be assessed.

AN UPDATE on the City of Topeka March 29, 2023, City of Topeka Homelessness Summit was provided by Stephen Wade, City Manager.

Councilmember Kell asked if the City plans to take the “Gold Standard Approach” in regards to implementation of housing solutions.

Councilmember Valdivia-Alcala spoke to the eye-opening experiences discussed at the Summit. She expressed her hope of a solid commitment from all agencies in attendance and questioned how the Not in My Backyard (NIMBY) concept would be handled in different areas of the city. She spoke on behalf of Oakland residents and clarified, the majority of them are not asking to remove the Topeka Rescue Mission or the homeless population; however, there is a great need to separate the different contributors of homelessness and base solutions and answers on each one. She spoke to the need for positive actions and working together with District 2 citizens and noted, she would continue to advocate for Oakland residents and the need to have ordinance changes to revise laws until a solution is found.

Councilmember Hiller thanked the City for hosting the Summit. She questioned how the City’s Homeless Initiative would segue with the City’s contract with Sylver Consulting, LLC, to help provide solutions for the City’s homeless population.

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City Manager Wade stated there was a desire to truly look at best practices with solutions and results and noted, he was pleased with the amount of agencies pledging assistance. He reported a core team would be assembled by May 1, 2023, comprised of 20 individuals of community and City Staff focusing on the gaps in the community, implementation and operation of low bearer shelters as well as transitional housing. He stated in regards to changing the City's ordinance concerning public camping, it was the opinion of Staff that heavy restrictions on public camping will push even more homeless population into neighborhoods.

Mayor Padilla thanked City Manager Wade for organizing the Summit as it was informative and cleared up assumptions to help make needed changes and adjustments. He spoke in support of creating a core team to insure sustainability in addressing homeless issues.

CONSENT AGENDA was presented as follows:

APPROVAL of a Professional Engineering Design CONTRACT NO. 51197 between the City of Topeka and Bartlett and West, Inc., in the amount of \$99,560 for the purpose of providing engineering design services for Street Rehabilitation Project T-841091.09, was presented.

APPROVAL of a Professional Engineering Design CONTRACT NO. 51205 between the City of Topeka and Bartlett and West, Inc., in the amount of \$270,700 for the purpose of performing engineering services on Back-up Power for Ultra Violet Disinfection Process Project No. T-291090.00, was presented.

APPROVAL of a Professional Engineering Design CONTRACT NO. 51199 between the City of Topeka and Professional Engineering Consultants, P.A. for an amount not to exceed \$209,622 for professional engineering services on Street Improvement Project T-701031.00, was presented.

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APPROVAL of a professional engineering CONTRACT NO. 51198 between the City of Topeka and Alfred Benesch and Company, for an amount not to exceed \$119,627 to provide professional engineering services for Summerfield Neighborhood Street Improvement Project T-841091.02, was presented.

MINUTES of the special meeting March 28, 2023; and the regular meeting of April 4, 2023, was presented.

Councilmember Emerson left the meeting.

Councilmember Kell was out of the room.

Councilmember Duncan moved to approve the consent agenda. The motion seconded by Councilmember Naeger carried unanimously on roll call vote.

Councilmember Dobler abstained. (7-0-0)

RESOLUTION No. 9399 introduced by City Manager Stephen Wade, authorizing the use of excess funds from unreserved fund balances, was presented.

Stephen Wade, City Manager, reported there was a need for a technical change on line 31 of the resolution to change the name of the fund from Economic Innovation Fund to the Economic Development Fund as required by TMC 3.25.140. He stated the fund would serve as the umbrella fund for the Topeka Housing Trust Fund and the Land Bank Fund if approved, or similar such items. He highlighted the eight items being proposed and noted, the \$3 million in design fees was being proposed to save money by allowing the City to utilize State of Kansas Revolving Loan funds through the spending of cash, with final bonding reimbursing the fund.

Councilmember Dobler asked if each project would be approved by Governing Body.

Councilmember Hoferer asked if these allocations are one-time expenditures or ongoing funds.

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City Manager Wade stated projects are approved by the Governing Body and these would be considered ongoing funds.

Councilmember Hiller asked if approval of the resolution would allow the use of cash instead of bonding and was it anticipated the affordable housing trust fund would be supplemented with private funds. She questioned how the potential trust fund will be achieved and if the City will have input on how the \$250,000 will be spent. She stated there are many resource needs associated with the City's Changing Our Culture of Property Maintenance and expressed her appreciation for creating the Economic Development Fund allowing them more time to discuss the Land Bank and Topeka Housing Trust Fund proposals.

City Manager Wade reported Capital Federal Bank has donated \$500,000 in matching funds to date, and the remaining \$250,000 needed to reach the \$1 million Topeka Housing Trust Fund goal will be achieved upon approval of the proposed resolution. He stated the Topeka Community Foundation (TCF) will oversee the \$1 million as an assurance to private donors and eliminate the potential risk of using the funds for City operations in future years by other governing bodies. He noted the stipulations outlined in Ordinance No. 20300 adds a layer of security for donors.

Councilmember Duncan stated the City of Topeka Housing Trust Fund has been created; and at the request of private donors, the Fund needs to be activated. He stated he believes this action would create a firm stepping stone to begin work on the development piece.

Councilmember Dobler referenced the intent of the Governing Body and noted they did not anticipate excess revenue would be available allowing them to reach the \$1 million goal to jump-start the affordable housing initiative. He expressed his appreciation to City Manager Wade

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for using \$8.5 million in reserve funds to address serious needs while keeping within the 15% reserve fund balance cap as required by City policy.

Councilmember Kell asked for assurance that the funds would be used for affordable housing.

City Manager Wade stated the agreement with TCF would have the same parameters as the ordinance and could only be used for affordable housing.

Councilmember Valdivia-Alcala expressed concern with the funds be managed by TCF and her disappointment with the City of Topeka not being trusted to manage the funds.

Councilmember Duncan believes it has nothing to do with trust and more of a promise to private donors that funds will be used for housing now and in the future.

Councilmember Emerson join the meeting remotely.

Councilmember Hiller stated it may be necessary to create other avenues to allocate funds to the General Fund to allow for other needed programs as well as the ability to give general unrestricted donations.

Councilmember Duncan proposed to amend line 31 of the resolution by deleting “Economic Innovation Fund” and inserting “Economic Development Fund” and requiring all contracts between the City of Topeka and the Topeka Community Foundation be authorized by the Governing Body.

Councilmember Duncan moved to approve the resolution as amended. The motion seconded by Councilmember Kell carried on roll call vote. Councilmember Emerson abstained.

(8-0-1)

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ORDINANCE No. 20416 introduced by City Manager Stephen Wade concerning utility rates, amending Sections 13.05.020 through 13.05.090 of the Topeka Municipal Code and repealing original sections, was presented.

Patrick DeLapp spoke in opposition of increasing utility rates due to the amount of Utility Reserve funds that area available. He questioned why Utility Department Standard Operating Procedures have not been published.

City Manager Wade reported utility rates have been discussed for nearly four months and as a result of those discussions, they are spending down Utility Fund reserves and reducing the minimum cash on hand to 180 days as required by bond covenants and restrictions.

Councilmember Emerson questioned how it would impact the City if the 180-day restriction was violated; and if the City would receive more favorable bonding interest rates if the days of cash on hand was higher than 180.

City Manager Wade reported if the 180-day restriction was violated the City would default on the loan and the amount of cash on hand days would factor into the City's bond ratings.

Councilmember Dobler recognized the many discussions over the past four months resulting in a less than 7% rate increase compared to the initial over 9% as well as improvements to program assistance. He spoke to the difficulty in supporting these types of increases to residents, especially those in the lower income bracket. He requested Staff provide the Governing Body an update on program assistance in six months, and reminded residents the increase supports a fundamental service including clean drinkable water. He expressed his appreciation to Staff for their hard work and helping the Governing Body find a fair compromise.

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Councilmember Kell spoke in support of the lower percentage being proposed and the importance of addressing deferred maintenance. He referenced large percentage increases for other utilities and commended Staff for their great work in providing a fair proposal.

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

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

Mayor Padilla commended City Manager Wade and Staff for working to find a fair solution.

DISCUSSION regarding the Topeka Land Bank Pilot Program, was presented.

Councilmember Duncan reported since the discussion at the April 4, 2023, Governing Body meeting he has received some ideas to consider; therefore, he will delay presenting a final proposal until the end of May 2023.

Councilmember Valdivia-Alcala questioned why the proposal was not being considered by the Policy & Finance Committee. She stated she talked with a couple of the organizations that were listed on the Implementation Plan Community Committee and was informed they were not asked to participate in discussions.

Councilmember Duncan reminded the Governing Body this subject matter has been considered over a long period of time and involved many stakeholders. He asked Councilmember Valdivia-Alcala to email him the names of individuals so that he may discuss the proposal with them.

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Councilmember Kell spoke in support of discussing the proposal at the Governing Body meeting level in the same manner utility rates were discussed and noted, he believes the initiative may otherwise die in Committee.

Councilmember Valdivia-Alcala stated she supports the land bank idea; however, she wants to insure that all partners involved have had the opportunity to vet the proposal.

PUBLIC COMMENT was submitted via email by Patrick DeLapp and Councilmember Spencer Duncan (*Attachment A*) and provided by the following individuals:

Patrick DeLapp referenced a personal experience where he was over charged for his water meter services and the associated claim was denied. He spoke to the lack of legal authority of the Water Department to collect past due water bills that are subject to the Fair Debt Collections Act. He spoke to the importance of how the City responds to these type of issues and requested his water service be reinstated and harassment by the City of Topeka cease.

Anton Ahrens, Topeka Justice Unity & Ministry Project (JUMP) Chair, thanked the Governing Body for approving funding for the Topeka Housing Trust fund. He requested the Board of Trustees be formed immediately as well as Request for Proposals for affordable housing be released. He invited the Governing Body to celebrate the Trust Fund reaching the \$1 million threshold on May 1, 2023, at Lee Arena located at 1 Expocentre Drive, Topeka, at 7:00 p.m.

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

Brenda Younger, City Clerk, provided an overview of the April 18, 2023 Governing Body meeting agenda.

Stephen Wade, City Manager, announced in honor of Earth Day on April 22, 2023, the 40th Annual Get Down & Get Dirty Community Event would be held on May 1, 2023. He also

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announced SW Gage Boulevard at SW 10th Street is open for traffic and thanked citizens for their patience during construction.

Councilmember Kell thanked Topeka Justice Unity & Ministry Project (JUMP) for their support on the important issues. He announced the annual State of Kansas Holocaust Commemoration on April 18, 2023, at 1:00 p.m. at the Ramada Topeka Hotel & Convention Center, located at 420 SW 6th Street, Topeka.

Councilmember Naeger thanked constituents for allowing her to serve as the District 6 representative; however, she will not run for the seat again in 2024. She stated she plans to remain active in the community after her term expires.

Councilmember Dobler thanked Councilmember Naeger for her service and her keen observations of the important issues. He thanked City Manager Wade and City Staff for their many hours of work to run the many scenarios of consideration concerning utility rate increases.

Councilmember Duncan thanked the many individuals that attended his Open Office Hours on April 8, 2023, from 9:00 a.m. to 11:00 a.m. at the Fairlawn Plaza Mall informational booth.

Councilmember Hiller thanked Councilmember Naeger for her service and great contribution. She expressed her appreciation to City Staff for their work on the Utility Rate proposal and to the Topeka Justice Unity & Ministry Project (JUMP) members for participating in the housing discussions.

Councilmember Valdivia-Alcala announced the We Are The Keepers Earth Day Celebration & Kaw River Clean Up on April 22, 2023, at the Oakland-Billard Park located at 801 NE Poplar, Topeka, led by Artist Mona Cliff with activities including a Water Blessing, the Kaw River Clean Up, picnic and art activities. She also announced this will be the third year for the

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Oakland Gardens, a Community of Growers, located at 1020 NE Forest Avenue, Topeka. She asked volunteers to call 785-845-6867 or visit their Facebook page at <https://www.facebook.com/TopekaOaklandGardens/> for more information. She expressed concern with the chronic unsheltered in Oakland and North Topeka and noted, there continues to be movement with Oakland neighborhoods and urged the Topeka Rescue Mission to work with community neighbors and the Neighborhood Improvement Association (NIA) to help determine alternatives to the problem.

Mayor Padilla acknowledged Councilmembers for attending the ribbon cutting ceremony for the South Topeka Boulevard entry sign on April 11, 2023. He expressed his appreciation for the great public-private partnership and noted, this could happen in all areas of the City with those willing to participate in successful public-private partnerships.

Councilmember Dobler moved to recess into executive session not to exceed 30 minutes to discuss employer/employee negotiations relating to one or more unions as justified by KSA 75-4319(b)(3). The meeting will resume in the Cyrus K. Holliday Building First Floor Conference Room. The following staff was requested to assist the Governing Body in its deliberations: City Manager Wade and any other staff he deemed necessary. The motion was seconded by Councilmember Duncan.

Mayor Padilla asked all those in favor of recessing into two executive session to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” The motion carried on voice 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.

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Councilmember Dobler moved to recess into executive session not to exceed 30 minutes for consultation with the City Attorney to discuss attorney-client privileged matters regarding a particular case involving ongoing litigation as justified by K.S.A. 75-4319(b)(2). The open meeting will resume in the Cyrus Holliday First Floor Conference Room. The following staff was requested to assist the Governing Body in its deliberations: City Manager Wade, City Attorney Stanley, and other staff he deemed necessary. The motion seconded by Councilmember Kell.

Mayor Padilla asked all those in favor of recessing into two executive session to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” The motion carried on voice 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 9:03 p.m.

(SEAL)

Brenda Younger City Clerk

Attachment A

Tonya L. Bailey

From: Patrick DeLapp <coffeepeppy@att.net>
Sent: Tuesday, April 11, 2023 2:52 PM
To: City Council; City Clerk
Subject: Water increase

Follow Up Flag: Follow up
Flag Status: Flagged

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This message needs your attention

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

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I do not support this at all. They have far more reverse than City our size at 280 days of back funding for daily operations. We have this much reserve just to look like we are rich to get a better bond rating? How many days does your family have un reserves or rainy days funds? 30 days? 60 Days? 90 Days?

They are way to secreative in policies and operations. Why dont they publish the Standard Operational Procudeces, like other departments have? (its because thy can then change them at will, to fit what ever issue they are facing. Seen them do that to council before.

A problem was had, safety and heath committee wanted a change, they made it the change taking care of it internally in the SOP. Sent the committe the changes. Then when it was time to use that change, no one could find it. Luckily I still had my copy of that change and supplied it back to them.

You do remember the time council had to issue a subpoena for records to get information. This was not an open records request, but an actual subpeonea which Council has the authority to do. (issue was around employee theft of used material, old pipes, copper, brass ect..Metal scrap dealer turned them, because they were putting the \$\$ in their own pockets)

As far as Engerineering life of the pipes, they may well last longer than that,

Did you know that in your house the engineering life of you ligh switch is only 10 years. A duplex outlet is 20 years. Fiberglass bathtub/shower combos use to be only 12 year engineering life? (fiberglass tubs have since improned so it up to 20 years now.) Have you planned or bugeted for this crisis your own house is facing.

We have this much reserve just to look like we are rich to get a better bond rating?

Then there is the issue of well gaming the public.

-if last occupant owed on the water bill they would sneek the water usage, but not the sewer or other charges onto the next persons bill. When caught they would claim it was a data entry problem and make a correction. I always try to encorage people to ask for the meter.

-Then had en employee falsely claiming people where stealing water, ang giving them a \$100 fine. Late was found not to even existing his truck to look. Did we repay those people ththat he wronged? Bet not, it likely just went into the departments budget.

This departments has ALWAYS made money ! They don't need an increase at this time. Please vote NO. Pat DeLapp

Brenda Younger

From: Spencer Duncan
Sent: Tuesday, April 11, 2023 8:36:01 PM
To: Brenda Younger
Cc: Amanda L. Stanley
Subject: Appointments Abstain Explanation - for the record

The following are my comments to be included in the minutes for April 11, 2023 regarding my abstention on appointments:

Joe Ledbetter is an invaluable asset to Topeka. The positive impact he has had on neighborhoods and the good he has done to improve the lives of citizens is incalculable and has few comparisons. Mr. Ledbetter is qualified to serve on MTAA and I am confident he is up to the task.

I have no objections to Mr. Ledbetter having a contract with the city to provide consulting and other services to the City Manager. He is qualified to do this work and the City Manager has full authority to hire anyone who he believes can benefit the mission of the city.

I abstained on this vote solely out of a concern that these two roles could create a conflict, as the city and MTAA work on various issues and negotiate contracts and agreements. This conflict would be no fault of Mr. Ledbetter and with his experience I believe he will work to avoid conflicts. However, the issue itself is avoidable and I thought it important to include my concern in the record.

Councilmember Spencer Duncan
Representing District 8
785-207-8985
sduncan@topeka.org