

Governing Body Minutes – July 25, 2023

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, July 25, 2023. The Governing Body members of the City of Topeka met in special session at 6:00 P.M. with the following Councilmembers present: Councilmembers Hiller, Valdivia-Alcala and Hoferer -3. Councilmembers Emerson and Dobler participated remotely -2. Mayor Padilla presided -1. Absent Councilmembers Ortiz, Kell, Naeger and Duncan -4.

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 July 25, 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 July 25, 2023, for attachment to the meeting minutes.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

Councilmember Duncan entered the room.

Councilmember Ortiz joined the meeting virtually.

A PRESENTATION on addressing Homelessness in Topeka using the Path to Innovation Approach was provided by Innovation Coach Brianna Sylver, of Sylver Consulting.

Councilmember Kell joined the meeting remotely.

Councilmember Ortiz thanked Brianna Sylver for the presentation and expressed the importance of allowing input from Governing Body members and the community on a solution. She questioned if the core team of working group members has been established.

Brianna Sylver reported the core team stills needs to be developed and should consist of individuals that are engaged in the process and willing to conduct community outreach. She noted the amount of time to be committed from team members will vary and it will be crucial that all viewpoints are engaged.

Councilmember Ortiz stated she looks forward to consistent updates from all aspects of the process.

Councilmember Valdivia-Alcala thanked Brianna Sylver for the presentation. She reported she attended the April 6, 2023 Homeless Summit that involved over 45 agencies, and commented on the tense atmosphere of the Summit and the need for a mediator not a coach to help find a solution. She expressed the importance of working with the County and other community leaders as well as the need to slow the process down due to the lack of data that has been collected. She recognized she initially supported hiring a consultant to assist, however, she no longer supports this direction.

Councilmember Duncan referenced the pivot of the project plan by the former city manager in April 2023, and noted the change was not discussed with the Governing Body. He suggested the Consultant meet with each Governing Body member to help her better understand the direction to pursue and then create at least 4-6 options for the Governing Body to consider. He expressed his disappointment with the Consultant for not attending the April 6, 2023 Homeless Summit, as it would have provided her insight on those in attendance so she could

assist the Governing Body in make a determination on core team members. He asked if she would provide framework to the Governing Body on determining who will serve on the core team.

Councilmember Hiller stated she concurs with statements made by Councilmember Duncan. She stated the Governing Body would welcome the opportunity to contribute in a positive manner as well as provide input on core team members with the goal of moving the process forward. She stated she believes they should determine the needs of the homeless as well as the needs of community residents and business owners. She inquired if the data gathering process would provide guidance on gaps in the community.

Brianna Sylver stated if a mediator is what is needed than she would respect that decision and expressed the importance of the process moving forward in a positive way. She reported the framework on how to choose core team members was included in the scope of work of the contract and she would distribute it to the Governing Body.

Councilmember Valdivia-Alcala expressed concern with the lack of support by the Governing Body to utilize a mediator which in essence eliminates the ability for District 2 constituents and herself to provide input.

Mayor Padilla stated he understands there was a scope of work in place; however, they must be intentional with who serves on the core team as it will be a working group that will require a serious time commitment. He spoke to the confusion of the community and confirmed the end product should be a solution crafted by the community and the Governing Body.

Councilmember Duncan state he believes that simultaneously the Consultant could continue to work on building a core team by hiring a mediator to cover all points of view; the Governing Body and City Staff members can continue to have the tough conversations with the

public to determine primary concerns; and the Governing Body can address those concerns through changes to local ordinances and allocating funds to local resources.

Councilmember Valdivia-Alcala stated she could support the approach suggested by Councilmember Duncan if she could trust that a mediator would be utilized.

Councilmember Hiller stated the overall scope of work of what the City plans to do needs to be developed. She spoke to the importance of business owners as well as neighborhood residents knowing that they are being heard and all aspects of homeless issues are being addressed.

Councilmember Ortiz spoke to the Heartland Visioning initiative and the success of its mediator who was funded by the City and County. She spoke in support and expressed the importance of an impartial mediator that will come up with solutions as well as allocating funds to the Housing Trust Fund. She spoke to the importance of the core team members being impartial to the needs of the entire city.

Richard U. Nienstedt, Interim City Manager, asked if it was the consensus of the Governing Body to finish the work with the Consultant and hire a mediator.

Councilmember Valdivia-Alcala again spoke to the tension between all levels of the community and the need for her to serve on the core team to represent the issues of District 2 because she does not trust anyone else to fairly represent her constituents.

Councilmember Duncan stated he believes the mediation process would benefit all aspects of the process at this time due to the tension in the community.

Councilmember Kell spoke in support of having a City Staff member serve as a point person.

Mayor Padilla spoke in support of moving forward with the process as initially discussed while considering the scope of work and the hiring of a mediator. He spoke to the importance of moving forward in unity in way that gives everyone a voice.

Interim City Manager Nienstedt recognized the citizens and City Staff members that work with the homeless every day. He reported Staff continues to work to address the issue, however, a clear vision on public policy by the Governing Body is lacking. He stated he believes a “reset” would be helpful so everyone is on the same page and allow the Governing Body and the community to come up with solutions. He encouraged the Governing Body to continue moving forward and devising strategies. He questioned if this was a large enough issue that may be better addressed in a Special Committee of the City Council.

Councilmember Hiller stated she concurs with Councilmember Kell, and again spoke to the importance of developing a solid scope of work. She stated she will support moving forward or starting the process over.

Interim City Manager Nienstedt reported Staff was currently working on a solution for appointing a City Staff member as a point person for the process moving forward.

RESOLUTION NO. 9449 introduced by Interim City Manager Richard U. Neinstedt relating to the lease purchase of portable radios and accessories, was presented.

Rachelle Mathews, Administrative and Financial Services Director, reported approval was required by the Governing Body to authorize the execution of a lease purchase agreement beginning in December 2023.

Randy Phillips, Topeka Fire Chief, provided the history of the radio lease purchase program that began in 2018 with a 5-year subsequent lease approved in the CIP beginning in 2023, providing for a replacement plan for all Topeka Fire Department radios.

Councilmember Emerson questioned if City would receive any compensation for the old radios.

Chief Phillips reported the radios were purchased by the County, therefore, all radios will revert back to the County.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Duncan carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9450 introduced by Interim City Manager Richard U. Nienstedt amending the 2024-2033 CIP and the 2024-2026 CIB regarding the acquisition of portable radios for the Topeka Fire Department (Project No. 801015.00), was presented.

Richard U. Nienstedt, Interim City Manager, reported due to the approval of the previous lease purchase agreement the authorizing CIP and CIB must be amended.

Councilmember Ortiz moved to approve the resolution. The motion seconded by Councilmember Duncan carried unanimously on roll call vote. (9-0-0)

DISCUSSION related to the City of Topeka 2024 Operating Budget, was presented.

Richard U. Nienstedt, Interim City Manager, reminded the Governing Body this was one of the most important policy decisions they make as a Body setting priorities for citizens of Topeka. He provided an overview of the historical data of the City's Full-Time Equivalent (FTE) employees and reported the 2024 Budget has less FTE employees than the 2018 Budget prior to the COVID-19 pandemic.

Freddy Mawyin, Chief Financial Officer, reported the 2024 Budget as proposed has roughly 1% less the number of FTE employees than the City's proposed budgets for the last 13-14 years.

Adam Vaughn, City Budget Manager, stated the 2024 Budget was being presented as an outcome based budget highlighting Housing, Growth, and Community Appearance as the City's top priorities. He provided an overview of the Housing Priority indicators including the number of New Housing Units, Point in Time Count, and Properties Brought Back into Voluntary Compliance. He reminded the Governing Body of the \$1 million of General Funds earmarked homeless prevention efforts in general. He reported there were two new positions being proposed including the Equity Access Shelter (EAS) Housing Navigator and an Office Specialist.

Rhiannon Friedman, Planning and Development Department Director, provided an overview of homeless prevention services, goals and performance measures with a total budget of \$3,498, 950. Carrie Higgins, Housing Services Division, was present for questions.

Councilmember Hiller questioned if the new Housing Navigator position was being proposed due to a gap in services.

Housing Division Director Higgins reported when the City launched the EAS program the "care" piece of the program was missing, and the new position would address the need to spend additional time with individuals.

Budget Manager Vaughn provided an overview of the proposed Eviction Defense Service, a service that takes place prior to an eviction happening. He stated the proposal consists of the City partnering with a non-profit agency that would be able to provide the service for the City.

Amanda Stanley, City Attorney, stated the Eviction Defense Service was a recommendation of the Strategic Equitable City Enforcement of Property Maintenance Standards Assessment that was conducted by May 8 Consulting (Karen Black). She reported she was asked by former City Manager Stephen Wade to determine which area non-profits could support this service and develop potential costs as a place holder in the proposed 2024 Budget, allowing Staff

the next six months to investigate how many cases a year would be acceptable; and if the Governing Body would prefer a full-time attorney assigned to the work or a part-time attorney for a pilot program. She reported Kanas Legal Aide has a good idea of what this type of program would cost for the City of Topeka depending on the model chosen. She noted a full-time attorney would cost approximately \$84,000 annually.

Councilmember Valdivia-Alcala spoke in support of the service. She thanked Staff for proposing a service that will be a great help to those in need.

Councilmember Hiller stated the Public Health and Safety Committee will continue to work through this recommendation as well as others and report back to the Governing Body.

Randy Phillips, Topeka Fire Chief, provided an overview of Fire Prevention Investigation services, goals and performance measures with a total budget of \$487,186.

Councilmember Valdivia-Alcala inquired on the arson fire reduction performance measure and if there was a specific plan in place. She asked if the Topeka Fire and Police Departments are sharing data with the Property Code Division and if so, can she receive a report on the data. She spoke in support of all City Departments sharing the cost to improve data sharing sources.

Topeka Fire Chief Phillips reported there was not a specific plan, however, they monitor trends and continue to develop partnerships with other agencies to help manage and reduce arson instances. He stated the Fire Department has begun implementing a new reporting system that will be compatible with other City departments systems and will improve data sharing efforts.

Councilmember Hiller expressed the importance of improving the data sharing process as it will be an effective tool for managing vacant properties. She stated she looks forward to the outcome.

Budget Manager Vaughn stated the Social Services Grants Committee process has been combined with Other Community Grants funding in the 2024 Budget. He reported on outside agency funding details as well as the goals of the service with a total budget of \$878,000. He noted due to some savings in the 2023 General Fund they were able to give an additional \$45,000 to the Social Services Grant Committee for 2024 allocations; and the 2024 proposed Budget provides for an additional \$57,000 in General Funds to be allocated for the 2025 Social Services Grant process.

Budget Manager Vaughn announced the Housing Priority Presentation was complete. He highlighted other services related to the Housing Priority including Fire Prevention Public Education, the Franchise Fee Rebate Program, Housing Rehab and Repair, and the Topeka Land Bank. He asked the Governing Body if there were any questions on the remaining services.

Councilmember Valdivia-Alcala cautioned Staff against the inaccuracy of the Point in Time Count as it relates to the importance of obtaining actual numbers to determine the amount of funding that was needed.

Councilmember Hiller suggested when the City pays an administrative fee to an outside party or has a designated FTE to manager a program it should be reflected in the budget book for clarification.

Councilmember Emerson questioned the low number of USD 501 Topeka Public Schools elementary schools that received Fire Prevention Education services in the past couple of years.

Topeka Fire Chief Phillips stated Fire Education Officers were not allowed in the schools as they were still under COVID-19 pandemic restrictions during those years; however, the goal for 2024 is to provide education to all elementary schools.

Upon hearing no questions, Budget Manager Vaughn stated the presentation would continue on the Growth Priority.

Freddy Mawyin, Chief Financial Officer, reported the indicators of the Growth Priority include the City of Topeka Population, the Topeka Gross Domestic Product, and the total Jobs and Average Annual Wage in Topeka.

Topeka Fire Chief Phillips provided an overview of the Emergency Medical Service (EMS) and Advanced Life Support (ALS) services, goals and performance measures with a budget totaling \$1,198,424.

The Presentation continued with the Building Permits and Plan Review Services. Budget Manager Vaughn reported a new Office Specialist Position was being proposed for the Building Permits and Plan Division.

Rhiannon Friedman, Planning and Development Director, provided an overview of the Building Permits and Plan Review services, goals and performance measures with a total budget of \$1,126,356. She also provided an overview of the Land Use Planning service, goals, and performance measures with a total budget of \$999,982.

Mayor Padilla commended Staff for creating a new land coordinator position.

Councilmembers Hiller spoke in support of moving forward with neighborhood asset profiles.

Dan Warner, Planning Division Director, reported the completion of neighborhood profiles would fall under the duties of the City's Neighborhood Planning Analyst; however, they need more feedback and direction on the type of format to be used.

Councilmember Valdivia-Alcala spoke in support of moving forward with neighborhood asset profiles and plans. She requested that each Council District Representative be provided an opportunity to review the profile and plans so they could provide vital input.

The Presentation continued on Economic Development Services. Budget Manager Vaughn reported two new positions were being proposed including a Management Analyst and the Deputy Director of Economic Development.

Chief Financial Officer Mawyin provided an overview of the Economic Incentive services and goals with a total budget of \$2,952,838.

Councilmember Emerson thanked Staff for working to make Topeka more developer friendly and increase development activity. He referenced the Administrative Fee associated with economic development incentives and noted, the review of incentives were currently handled by an outside entity. He questioned the need for the Management Analyst position.

Chief Financial Officer Mawyin reported the purpose of the review of the incentive by an outside entity was to allow them to conduct the “but for” test to ensure it will be beneficial to the community as well as determining the appropriate incentives to be offered to the developer.

Planning and Development Director Friedman stated the new Management Analyst position would handle the detailed timelines associated with the many economic development incentives offered by the City.

Councilmember Duncan asked Staff to confirm the number of Tax Increment Finance (TIF) Districts located in the City as there are only three listed in the Budget book.

Budget Manager Vaughn announced the Growth Priority presentation was complete. He highlighted other services related to the Growth Priority including Utilities Asset Management, Diversity Equity and Inclusion, Fire Operations Suppression, Fire Prevention Inspections,

Parking, Finance Special Projects and Innovation, Transient Guest Tax, and Transportation Planning. He asked the Governing Body if there were any questions on the remaining services. He reported after each budget discussion a Supplement addressing questions would be distributed to the Governing Body and posted on the City's website.

Interim City Manager Nienstedt requested Governing Body Members share their proposed changes as soon as possible to allow Staff time to make changes to the budget accordingly.

Councilmember Dobler left the meeting.

PUBLIC COMMENT was submitted via email by William Brandlin (Attachment A) and provided by the following individuals:

William Brandlin spoke in opposition of the Eugene and Parmont PUD23/02 zoning case. He referenced the Golden vs. Overland Park factors that are to be considered by the Governing Body. He spoke to the effects of the proposed development and recapped the effect it would have on the neighborhood character, floodplain and drainage as well as the incorrect data used to determine the need for a traffic study.

Mary Peters, Topeka JUMP member, spoke in support of the moving forward with the activation of the Housing Trust Fund Review Committee in order to provide affordable housing for those in need. She noted the activation of the Fund could help address the unsheltered population.

Chris Deister referenced the homeless discussion at the July 18, 2023 Governing Body meeting and stated he believes each Governing Body remains compassionate about finding a solution. He distributed a handout outlining what he believes would provide a solution to the homeless problem in Topeka.

Bjorn Garbick provided an overview of the circumstances surrounding the dog at large citation he received. He asked the Governing Body to decriminalize the charges and to view www.uncoffthepup.com for more details on his situation.

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

Brenda Younger, City Clerk, announced the meeting of August 1, 2023 was cancelled pursuant to Resolution No. 9380.

Robert U. Nienstedt, Interim City Manager, stated he would continue to work on the homelessness efforts. He encouraged Governing Body members to highlight outstanding youth in the community.

Councilmember Hoferer thanked City Staff for their efforts on storm debris cleanup.

Councilmember Hiller thanked Staff for the organized efforts in cleaning up homeless encampments. She announced the For The Culture KS Fest would take place on July 28-30, 2023, at Everyg Plaza located at 630 S. Kansas Avenue, Topeka.

Councilmember Valdivia-Alcala asked citizens to check on the elderly, pets and garden plants during the extreme hot weather. She commented on the Fiesta Mexicana events and the impact it has on the culture and history of the community.

Councilmember Kell thanked City employees for assisting with storm debris cleanup and homeless encampment cleanups. He also advised to look after neighbors and elderly during the extreme hot weather.

Mayor Padilla announced the India Mela will be held on August 11, 2023 at Everyg Plaza located at 630 S. Kansas Avenue, Topeka. He encouraged citizens to learn about the different cultures in the Topeka community.

NO FURTHER BUSINESS appearing the meeting adjourned at 9:32 p.m.

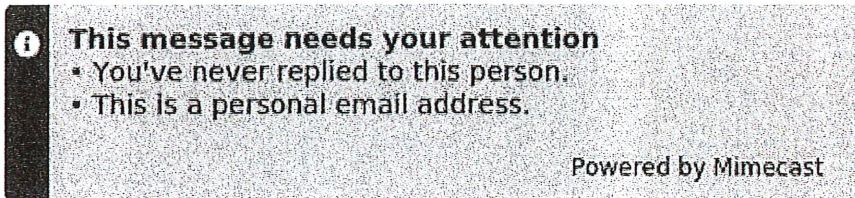
(SEAL)

Brenda Younger City Clerk

Tonya L. Bailey

From: WILLIAM BRANDLIN <graybeard18@yahoo.com>
Sent: Monday, July 24, 2023 9:18 AM
To: Michael Padilla; Karen A. Hiller; Christina Valdivia-Alcala; Sylvia Ortiz; Tony Emerson; Brett Kell; Hannah Naeger; Neil Dobler; Spencer Duncan; Michelle A. Hoferer; Amanda L. Stanley; City Clerk
Subject: PUD 23/02 Recap

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Good Morning -

Thank you, all of you, for your patience and consideration in reading and listening to the long list of reasons why PUD 23/02 should be voted down in its entirety by the Governing Body.

The residents, myself included, appreciate your objectivity and common sense regarding PUD 23/02.

I would like to recap what has been said and written over the last 11 weeks. You have two weeks to consider the negative effects of PUD 23/02 before the Governing Body votes on its' lack of merit.

I say two weeks because August 8, 2023 was the date Mike Hall, of the Topeka Planning Office, gave me for the Governing Body vote.

I would also like to respectfully remind the Governing Body that what has been said and written in the previous 11 weeks represents the opinions and concerns of 100% of the Topeka residents affected by PUD 23/02 and that a very similar rezoning proposal of the PUD 23/02 parcel was denied by the Governing Body in 2006.

(A) Neighborhood Re-characterization

The "*substantial conformance*" standard used in both Planning Staff Reports and in the Planning Commission deliberations fails in the areas of **(1)** population density, where PUD 23/02 has twice that of the existing neighborhood, **(2)** the PUD lot size per residential unit is one third the lot size of the existing neighborhood, **(3)** PUD 23/02 residents are 100% transient renters where the existing neighborhood residents are 100% non-transitory property owners, **(4)** the existing neighborhood is single story ranch style architecture while PUD 23/02 is not even close to that particular architectural style and **(5)** 100% of the surrounding area zoning is R-1 Single Family...none is the PUD proposed M-2 Multi Family zoning.

There is no "substantial conformance" between the existing neighborhood and proposed PUD 23/02 neighborhood.

(B) Traffic Study

The Planning Staff Report and Planning Commission offered no substantive response to the Governing Body's request for a traffic study. Instead they sent back **(1)** traffic data from a totally dissimilar traffic area which was located outside of the relevant boundary area where the PUD 23/02 access point to Rochester Road would be located. This traffic data artificially and misleadingly increased the daily traffic flow numbers on Rochester Road resulting in a misleading statistic which inaccurately resulted in the PUD 2/02 traffic flow being a lower percentage of the daily traffic flow on Rochester Road than it actually is. This enabled the Planning Staff to come up with an inaccurate and substantially lower percentage increase for the traffic PUD 23/02 would add on Rochester Road. **(2)** A reference was made in the Planning Staff Report to a Shawnee County planned Rochester Road improvement scheme. This unapproved, unfunded and yet to be considered or approved by any legislative body project is scheduled for completion in 2031 with a three year construction period covering sometime in 2029 thru sometime in 2031. Far fetched and Hail Mary are the words that first come to mind.

Ladies and gentlemen, this traffic data submitted is inaccurate and misleading and was manufactured by the Planning Staff to make the data fit the original and second Staff Report baseless conclusions.

(C) Floodplain and Drainage

All of the data that the Planning Staff and Planning Commission has relied on regarding the floodplain and drainage issues is based upon possibly out of date floodplain maps and the *historic reality* that the PUD 23/02 parcel of land was underwater in both of the heavy rainfalls of 1996 and 2005/2006.

(D) Golden vs. City of Overland Park

The Planning Staff and Planning Commission both tout their criteria for decision making as Golden vs. City of Overland Park. The PUD 23/02 conclusions drawn by Planning Staff and Planning Commission, as they relate to Golden vs. City of Overland Park are inaccurate for the following reasons. **(1)** *The re-characterization test* is failed for the multiple reasons listed in **(A)** above, **(2)** the *zoning test* fails because all of the surrounding area is zoned R-1...none is zoned M-2 as the PUD 23/02 proposal hopes for...once again, please refer to **(A)** above, **(3)** the *suitability test* of the PUD 23/02 property for the uses to which it has been restricted (which is R-1) has never been opposed by anyone at any time as long as the re-characterization standards are met. The possibility that the developer made a bad investment in R-1 zoned property or the possibility that the developer does not have the financial strength to develop the property as R-1 are not factors indicating that a rezoning to M-2 is called for. PUD 23/02 is developer maneuvering in order to gain the zoning result that he needs to develop the property. The developer knew that the PUD 23/02 property was zoned R-1 when he bought it. He should be required to abide by the current R-1 zoning. **(4)** *The extent to which removal of the restrictions will detrimentally affect the nearby property test* is failed due to the failure of the re-characterization tests as noted in **(A)** above, the failure of the traffic tests noted in **(B)** above, statistically proven decreased property values for the existing neighborhood and statistically proven increased crime rates due to renters vs. property owner occupancy factors. **(5)** The *vacancy length test* is failed because PUD 23/02 has been zoned for R-1 for at least 50 years. The previous owner (Mr. Ireland) farmed the PUD 23/02 parcel for as long as he owned it. The possible bad business decision or the possible financial instability of the developer are no reasons to change the zoning for which the City of Topeka has long considered to be R-1. As stated earlier, the PUD 23/02 rezoning effort is an attempt by the developer to circumvent rezoning laws to make up for previous bad business decisions or current financial instability. If we are wrong about, let the developer provide verifiable financial data to refute our contentions. The proof of developer financial stability should have been obtained by the Planning Staff and demanded by the Planning Commission before PUD

23/02 long before any approvals were recommended. **(6)** The *relative gain to the public test* fails because, even though there may be a need for more rental housing in Topeka, this need should not be fulfilled using the PUD 23/02 parcel, since 5 of 6 criteria of the Golden Case to be considered by the Governing Body fail...specifically, the *re-characterization test*, the *nearby zoning test*, the *suitability test*, the *removal of existing zoning test*, and the *length vacancy test* and **{all in (D) above}**.

Please consider the communications you have received from us over the last 11 weeks and ask yourself what denies the simple conclusion that PUD 23/02 100% benefits the developer and is 100% detrimental to the residents of the existing neighborhood.

Too much data manipulation by the Planning Staff, too many unanswered questions from the developer, too much disregard for the concerns of the Governing Body by the Planning staff and Planning Commission and zero existing neighborhood input in the approval process from the Planning Staff and the Planning Commission.

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