

Governing Body Minutes – January 2, 2024

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, January 2, 2024. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M.

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 January 2, 2024, 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 January 2, 2024, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Marcus Miller Jr., provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

A SWEARING IN CEREMONY was conducted for the following elected officials by Karan Thadani, Municipal Court Judge:

- Christina M. Valdivia-Alcala, Council District No. 2
- David Banks, Council District No. 4
- Marcus D.L. Miller, Council District No. 6
- Spencer Duncan, Council District No. 8

ROLL CALL commenced with the following Governing Body member present:

Councilmembers Hiller, Valdivia-Alcala, Ortiz, Banks, Kell, Miller, Duncan, Dobler and Hoferer -9. Mayor Padilla presided -1.

SERVICE RECOGNITION of Deputy Mayor Neil Dobler was presented by Mayor

Padilla.

CONSENT AGENDA was presented as follows:

APPROVAL of a Public Works Engineering Contract NO. 51844 between the City of Topeka and Alfred Benesch and Company in an amount not to exceed \$123,780 for engineering services, was presented.

APPROVAL of a Municipal Court Contract between the City of Topeka and Cook & Associates, in an amount not to exceed \$190,000 for court appointed legal counsel services, was presented.

Councilmember Valdivia-Alcala requested Item 2B, a Municipal Court Contract with Cook & Associates be pulled from the consent agenda to be considered separately.

Mayor Padilla announced the contract would be removed from the consent agenda and placed on the agenda as Action Item 3B.

MINUTES of the regular meeting of December 19, 2023, was presented.

Councilmember Dobler moved to approve the consent agenda as amended. The motion seconded by Councilmember Ortiz carried unanimously. (10-0-0)

ELECTION of a Deputy Mayor to serve a one-year term pursuant to Topeka Municipal Code Section A2-26(c), was presented.

Mayor Padilla stated according to Governing Body Rules & Procedures 4.1 (b) council members who have served the longest period of time and have not previously served as Deputy Mayor will automatically be nominated; therefore, Councilmember Valdivia-Alcala would automatically be nominated to serve as Deputy Mayor.

Councilmember Valdivia-Alcala accepted the nomination to serve as Deputy Mayor.

Upon no further nominations, Mayor Padilla declared nominations closed.

Councilmember Dobler moved to approve the nomination of Councilmember Valdivia-Alcala to serve as the Deputy Mayor. The motion seconded by Councilmember Kell carried unanimously. (10-0-0)

APPROVAL of CONTRACT NO. 51825 a Municipal Court Contract between the City of Topeka and Cook & Associates, in an amount not to exceed \$190,000 for court appointed legal counsel services, was presented.

Richard U. Nienstedt, Interim City Manager, reported Cook & Associates was the only firm that responded to the City's Request for Proposal (RFP) for public defender services and the current contract with the vendor has expired. He asked the Governing Body to approve the contract.

Karan Thadani, Municipal Court Judge, stated the contract expired December 31, 2023, and Kevin Cook was notified the contract would be on the January 2, 2024 agenda for consideration. He reported if the contract was delayed the City would be in jeopardy of not having court appointed legal counsel for defendants.

Councilmember Valdivia-Alcala stated it was not her intent to delay consideration of the contract and understands negotiations caused the contract to be presented to the Governing Body at the last-minute. She stated she would vote in opposition of the contract and believes approval would be a mistake. She provided a brief overview of two separate occasions where a certain public defender placed her entire family and household in danger due to statements he made that were morally insensitive and unprofessional. She continued to explain that the first incident took place in a public setting; and it was her understanding the second incident took place in open court proceedings where judges, people of color and public defenders were present. She stated she did not file a formal complaint at the time because it was her understanding there would be

repercussions of the behavior; however, it appears this was not the case due to the increase in service fees that was negotiated.

Mayor Padilla asked Judge Thadani if he could work around a delay of approval.

Judge Thadani reported the next court appointed attorney docket would take place on January 9, 2024. He noted between now and January 9th he would have to request continuance on a number of cases.

Councilmember Hiller asked if Judge Thadani could speak to the claim made by Councilmember Valdivia-Alcala

Mayor Padilla asked City Attorney Stanley if it would be appropriate to delay consideration of the contract for one week to allow for inquiry or investigation of the matter.

Amanda Stanley, City Attorney, stated she would defer to Judge Thadani regarding the inquiry that was made and the investigation that was conducted. She noted in addition to the court appointed attorney docket, domestic violence defendants also need court appointed attorneys as well as several other cases would have to be delayed.

Judge Thadani reported the contract had not been updated in three years and the current negotiated contract being considered has been scrutinized by Staff. He stated the work associated with the approximate 450 domestic violence cases over the past year generates a lot of extra time outside the court room. He stated the original proposal for services was \$209,000 annually; however, the overall fee was reduced to \$190,000 for one-year and includes two, one-year renewals.

Councilmember Miller moved to approve the contract. The motion was seconded by Councilmember Duncan.

Councilmember Hoferer asked how the contract was crafted and if Kevin Cook was the only public defender or if he had associate attorneys that also provided services.

Judge Thadani reported Kevin Cook was responsible for securing the contract and paying sub-contractors. He reported there were two other attorneys and one administrative assistance paid in monthly installments.

Councilmember Hoferer asked if the attorney in question was one of the three attorneys paid by Cook & Associates.

Judge Thadani stated Kevin Cook was the attorney in question.

Councilmember Banks expressed deep concern with a professional in the City's Municipal Court system being allowed to make these type of statements and still be considered by the Governing Body to provide services. He spoke in opposition of approving the contract and using tax payer money to pay for the services.

Councilmember Duncan expressed his frustration with Staff and the need to do a better job of allowing the Governing Body sufficient time to consider and approve agenda items. He reported he has serious concerns related to the information provided by Councilmember Valdivia-Alcala; however, as a Governing Body they need to make sure they protect the people who cannot afford to hire a private attorney. He spoke to the faith he has in Judge Thadani regarding the investigation, and encouraged him to take the necessary steps to address any ethic violations that may have occurred.

Councilmember Duncan offered a friendly amendment that all contract extensions must be approved by the Governing Body. The seconded concurred.

Councilmember Miller stated he sympathizes with the valid concerns raised by Councilmember Valdivia-Alcala; however, a delay in approving the contract would require adjustments for a lot of defendants and slow down court proceedings.

Councilmember Hiller asked if there have been more incidents as described by Councilmember Valdivia-Alcala that have occurred in the City's Municipal Court room by any person employed by Cook & Associates.

Judge Thadani stated as a Judge and as an attorney he was bound by ethics and takes it very seriously. He reported the alleged comments that were made in an open court room did not take place, the comments took place in a closed meeting that falls under the Health Insurance Portability and Accountability Act (HIPAA) protection. He noted this type of behavior would not be tolerated in court.

Councilmember Valdivia-Alcala stated she would not belabor or argue the subject matter at a Governing Body meeting; however, she would like to have a personal conversation with Judge Thadani about the subject matter. She referenced emails that she has received that did not state the information was protected under HIPAA.

Councilmember Ortiz questioned who was violating the HIPAA law as it relates to closed session court cases and requested all emails referenced by Councilmember Valdivia-Alcala be distributed to the entire Governing Body. She stated she believes an ethical violation has occurred.

City Attorney Stanley clarified the Alternative Sentencing Court docket consists of two sessions including an open session to the public and a closed session that only includes a Valeo Behavior Health representative, prosecutor, judge and defense counsel. She noted an ethical violation would only take place if statements were made about a person's mental health condition or substance abuse.

Councilmember Valdivia-Alcala reminded the Governing Body that one of the incidents took place at a public event hosted by the Greater Topeka Partnership where HIPAA regulations would not apply.

The motion to approve the contract as amended carried. Councilmembers Valdivia-Alcala and Banks voted “no.” (8-2-0)

PUBLIC COMMENT was provided by the following individual.

Henry McClure referenced his conversation with Chuck Engle, the person heading the charge of “Bring Back the Boulevard” initiative, a volunteer organization dedicated to revitalizing S.W. Topeka Boulevard. He expressed concern with the relationship between Jim Klausman and the Greater Topeka Partnership (GTP) and the high administrative fees being paid to GTP.

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

Brenda Younger, City Clerk, provided an overview of January 9, 2024 Governing Body Meeting Agenda.

Councilmember Miller thanked his constituents for allowing him to serve as the District 6 representative.

Councilmember Dobler congratulated new and re-elected councilmembers and stated he looks forward to serving with them.

Councilmember Duncan announced the Property Tax Rebate Program to help lessen the property tax burden for qualifying Topeka residents who are 65 and older. He stated more detailed information could be found on the City’s website at www.topeka.org/finance/property-tax-rebate-program .

Councilmember Hiller welcomed new and re-elected councilmembers. She expressed her pride with Governing Body members and stated she looks forward to the upcoming year.

Councilmember Valdivia-Alcala expressed her condolences to the families of Ygnacio Ramirez and Joe Oliva.

Councilmember Ortiz thanked Sylvia Davis, Utilities Director, for her assistance in repairing the SE 9th Street water main break. She welcomed new and re-elected councilmembers.

Councilmember Banks thanked Governing Body members for the warm welcome and feelings of acceptance he has received.

Councilmember Kell congratulated new and re-elected councilmembers. He announced his “Get Fit Topeka” Facebook page promoting a network of support for healthy living.

Mayor Padilla expressed his excitement of the upcoming year with the Governing Body and their search for a permanent city manager. He also expressed the importance of praising the good work of City staff members and Governing Body members.

NO FURTHER BUSINESS appearing the meeting adjourned at 6:52 p.m.

(SEAL)

Brenda Younger City Clerk