

Governing Body Minutes – March 19, 2024

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 19, 2024. 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, Valdivia-Alcala, Oritz, Banks, Kell, Miller, Dobler, Duncan and Hoferer -9. Mayor Padilla presided -1.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on March 19, 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 March 19, 2024, for attachment to the meeting minutes.

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

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

A PRESENTATION on the Topeka Planning and Development 2023 Annual Review was provided by Rhiannon Friedman, Planning and Development Department Director.

Councilmember Duncan requested rehabbed residential and commercial properties be included in the data report. He also inquired on board vacancies.

Councilmember Dobler requested exempt properties that have been issued new building permits be included in the data report.

Councilmember Hiller referenced the current data presented and asked if residential builds were being tracked and compared to the number of residential houses needed as outlined in the 2020 Topeka Citywide Housing Market Study and Strategy.

Director Friedman agreed all requests for more data sets could be created and distributed to the Governing Body. She noted the Development Services Division does a good job in making sure trade boards are filled with qualified members.

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9506 introduced by Councilmember Karen Hiller, approving a special event known as Fight Night, was presented.

MINUTES of the regular meeting of March 12, 2024, was presented.

Councilmember Hiller moved to approve the consent agenda. The motion seconded by Councilmember Miller carried unanimously. (10-0-0)

RESOLUTION NO. 9507 introduced by Interim City Manager Richard U. Nienstedt, in accordance with Section 18.60.010 of the Topeka Municipal Code, approving a Conditional Use Permit to allow operation of a Short-Term Residential Rental, Type II, providing lodging to transient guests currently zoned "R-2" Single-Family Dwelling District, and located at 116 SW The Drive, in the City of Topeka, Shawnee County, Kansas, was presented. (CU24/01)
(Council District No. 1)

Dan Warner, Planning Division Director, reported the request was consistent with the proposed use as outlined in the Land Use & Growth Management Plan 2040 and meets City of Topeka guidelines for conditional use permits. He stated a neighborhood information meeting was conducted on February 1, 2024, with no opposition expressed about the proposed use. He noted the Topeka Planning Commission and City Planning staff recommended approval.

Mayor Padilla stated 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 Hiller.

Councilmember Duncan asked if the request would expire in two years and if all other laws that apply to short-term rentals would remain intact.

Director Warner stated renewal would require administrative approval and all other laws would apply.

Councilmember Hiller moved to approve the resolution. The motion seconded by Councilmember Kell carried unanimously. (10-0-0)

RESOLUTION NO. 9508 introduced by Interim City Manager Richard U. Nienstedt, in accordance with Section 18.60.010 of the Topeka Municipal Code, approving a Conditional Use Permit for a "Public Utility Facility Type II" (sanitary sewer pump station) on property located at 3500 NE Sardou Avenue and zoned "R-1" Single-Family Dwelling District, all being within the City of Topeka, Shawnee County, Kansas, was presented. (CU23/06) (Council District No. 2)

Dan Warner, Planning Division Director, reported the original pump station that serves the terminal has outlived its design lifecycle and must be rebuilt to satisfy Kansas Department of Health and Environment (KDHE) minimum standards. He stated the Oakland Neighborhood

Improvement Association was notified of the request and did not express any opposition, and the Topeka Planning Commission and City Planning staff recommended approval.

Mayor Padilla stated 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 Ortiz moved to approve the resolution. The motion seconded by Councilmember Banks carried unanimously. (10-0-0)

ACCEPTANCE of Land Dedications in the Final Plat for Southland Subdivision No. 3, for the right-of-way dedication of SE Etzel Avenue and a portion of SE Bryant Street, which were previously recorded as access and utility easements in Southland Subdivision No. 2, was presented.

Dan Warner, Planning Division Director, reported the final plat consists of two lots, two tracts, and a public street for the development of 12 residential duplexes and a clubhouse for seniors. He stated the Planned Unit Development (PUD) master plan was approved by the Governing Body and recorded in February 2023, and the approved PUD master plan identified the street right-of-way as a tract for access and utilities to be dedicated by a major plat in the future. He continue to report the subdivision was platted in June 2023 as a minor subdivision plat and the

subdivision plat reflected Tract A as an access and utility easement. He noted a neighborhood information meeting was conducted on November 29, 2022, and the Topeka Planning Commission and City Planning staff recommended approval.

Ex parte communication was declared by Councilmember Ortiz.

Mayor Padilla stated 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 Kell moved to accept the dedications of land for public purposes and approve the final plat. The motion seconded by Councilmember Banks carried unanimously. (10-0-0)

DISCUSSION of the proposed 2025-2034 Capital Improvement Plan and 2025-2027 Capital Improvement Budget, was presented.

Richard U. Nienstedt, Interim City Manager, stated the CIB and CIP discussion would continue from the meeting of March 12, 2024, and Sylvia Davis, Utilities Director will provide an overview on of the 2025 Utility projects to include Water, Stormwater and Water Pollution Control.

Sylvia Davis, Utilities Director, provided an overview of the following programs:

- Water Main Replacement Program funding totaling \$12.5 million.
- Meter Vault Replacement Program funding totaling \$675,000 per year with 140 out of 203 large meter vaults have safety and/or testing concerns; and 32 vaults have been identified as high-priority for replacement.
- Water Treatment Plant Rehabilitation Program funding totaling \$1.175 million annually.
- Annual Water Programs to include Water Tower Rehabilitation totaling \$335,000; the Hydrant and Valve Rehabilitation and Replacement totaling \$270,000; and Water Plant Operation Equipment & Fleet totaling \$400,000 annually.
- Stormwater Conveyance System Program funding totaling \$3.25 million annually.
- Stormwater Pump Station Rehabilitation Program funding totaling \$1.25 million annually.
- Annual Stormwater Programs to include Levee Asset Repair and Rehabilitation totaling \$337,500; Drainage Correction Program totaling \$300,000; Stream & Channel Restoration, Stabilization & Rehabilitation totaling \$200,000; Stormwater Operations Equipment & Fleet Maintenance totaling \$300,000; and Best Management Practices Development & Construction totaling \$300,000 annually.
- Wastewater Pump Station Rehabilitation Program funding totaling \$2.2 million annually.
- Waterline Lining & Replacement Program funding totaling \$2.5 million annually.
- Sanitary Sewer Force Main Replacement Program funding totaling \$4.3 million annually.
- Sanitary Sewer Interceptor Maintenance & Replacement Program totaling \$6.0 million annually.
- Annual Wastewater Programs to include WPC Facility Rehabilitation Program totaling \$400,000; Odor Control Program totaling \$675,000; Inflow & Infiltration Program totaling \$525,000; and Wastewater Plant Operations Equipment & Fleet Maintenance totaling \$350,000 annually.

Councilmember Kell asked Staff to take into account the historical aspect of the Oakland Pump Station at Philip Billard Airport.

Councilmember Dobler referenced the City of Topeka recent Insurance Services Offer (ISO) Rating and stated the improvements the City was performing on the water system has a direct impact on that rating.

Director Davis continued to report on the following project previews:

- Central Zone Optimization budget totaling \$3.7 million
- West Zone Optimization budget totaling \$4.2 million
- West Intake Rehabilitation budget totaling \$6.8 million
- East Intake Rehabilitation budget totaling \$5.2 million

- West Filter Rehabilitation budget totaling \$5.1 million
- Active Water Projects authorized under a prior to CIP to include the West Plant Basin Rehabilitation, West Elevated Tank on Indian Hills Road, Polk-Quincy Viaduct Utility Relocation, Prairie Road Design & Construction totaling \$3.3 million in 2025 & 2026, SE California Avenue and SE 4th Street totaling \$5.0 million in 2026 & 2027;
- Active Stormwater Projects authorized under a prior to CIP to include Fairlawn Road from 22nd & Park to 28th Street; Polk-Quincy Viaduct Utility Relocation, Oakland Wastewater Treatment Plant: Emergency Repairs to Primary Digesters #4 and #5 totaling \$9.9 million in 2025,
- Active Wastewater Projects authorized under a prior to CIP to include North Topeka WWTP Nutrient Removal, Grant-Jefferson Pump Station, Shunga Pump Station, Oakland WWTP Sludge Thickening, Oakland Backup Generators, and Polk-Quincy Viaduct Utility Relocation

DISCUSSION regarding the establishment of a Ready (Unassigned) Reserve Fund to be comprised of unassigned General Fund reserves, was presented.

Councilmember Dobler stated he has requested the establishment of a fund comprised of excess unassigned General Fund reserves balance. He reported the City has fought for many years to keep the unassigned fund balance at 15%. However, that has not been the case over that past 4-5 years with the excess 2023 unreserved General Fund balance being 27.55% and the anticipated 2024 excess unreserved General Fund balance being 23.74%. He referenced City of Topeka Reserve Policy Resolution No. 8824 requiring the City maintain a minimum unassigned fund balance of 15% and a suggested target rate of 20%. He stated he would propose that the annual reserve balance be maintained at 20% when possible and any funds over and above the 20% balance be placed in an “Unassigned Reserve Fund” to include usage guidelines as developed my Staff. He stated Staff provided several good examples of how the 2023 Excess General Fund reserves could be used at the March 12, 2023 Governing Body meeting and reported, the general concept of his proposal was to better manage the excess funds and include the following policy expectations:

- Funds to be used for equipment replacement, capital projects that do not require bonding, emergencies, disaster recovery and other qualified items that Staff may bring forward for consideration.
- Each funding request must be considered separately by the Policy & Finance Committee before separately considered by the Governing Body.
- Funding requests should be made throughout the year, and not necessarily all at once.
- The establishment of the fund should add to emergency reserves to be used as needed. Examples would be the emergency situations that took place in 2008 and 2020.

Councilmember Ortiz asked if the 20% reserve balance would have an impact on the City's bond ratings.

Rachelle Mathews, Interim Finance Director, reported 15% is the minimum set by rating agencies so maintaining a 20% reserve balance would be one contributing factor towards a good rating; however, it does not guarantee the City keeps the good bond rating.

Richard U. Nienstedt, Interim City Manager, spoke in support of the suggested policy and believes it would be a good way to manage reserve funds.

Councilmember Hiller stated she would not oppose voting on items separately including the list of items presented at the March 12, 2024 Governing Body meeting, or in other ways if that was the will of the Governing Body. She reported Finance provided her with an Income and Expense Summary for business as usual for years 2024-2027, and the projection for 2027 was a 19% fund balance, which does not include anticipated 3% pay increases for the major part of the City's workforce. She asked Governing Body members to keep these projections in mind and understand that the higher percentages would only be for the next 1-2 years. She suggested the items be approved by the Public Infrastructure Committee instead of Policy & Finance Committee because most of the funding requests are related to infrastructure.

Councilmember Duncan spoke in support of the proposed policy because it would allow the Governing Body time to consider each request in detail. He noted there has always been excess surplus funds above the 20% target since he has served on the City Council.

Mayor Padilla stated he concurs with Councilmember Duncan and believes the proposed process would be more transparent by approving requests separately.

Councilmember Hiller reminded the Governing Body that staff shortages have contributed to the increase in percentages; however, she hopes this has begun to change. She stated even through a 5% vacancy credit will be included in the 2025 Proposed Operating Budget this issue needs to be considered.

Councilmember Banks requested more information on what type of equipment would be eligible for the use of excess funds.

Councilmember Dobler stated it may include equipment that would need to be purchased on an emergency basis; however, the policy speaks more to larger equipment that would normally have to be financed with bonds such as Fire Department equipment.

PUBLIC COMMENT was submitted by Rachelle Hamilton (Attachment A) and provided by the following individuals:

Melissa Weikel, Topeka Justice Unity Ministry Program (JUMP) member asked the Governing Body to move forward with the Affordable Housing Trust Fund process and to appoint members to the review committee. She stated they believe that all people have the right to have access to safe affordable housing. She noted the housing costs continue to rise and the Housing Trust Fund needs to be implemented to help with the cost of inflation and address the needs outlined in the 2020 Topeka Citywide Housing Market Study and Strategy.

Cassie Martin spoke to the lack of affordable transportation being offered by the Topeka Metro as well as the need to address policy service gaps such as expanded service hours and reduced service fees.

Henry McClure spoke to the development of Malls across the country and the risk Topeka-Shawnee County runs concerning high real estate taxes per square foot. He expressed the lack of will by local government agencies to do conduct business with small business owners.

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

Councilmember Ortiz announced the Harlem Globetrotters would appear in Topeka March 20, 2024. She commended Blake Redd for providing 32 years of service to the Topeka Fire Department. She thanked Finance Department Staff members for their assistance with the Capital Improvement Plan and Budget.

Councilmember Kell commended Blake Redd for providing 32 years of service to the Topeka Fire Department. He commented on the great downtown events that occurred on Marcy 16, 2024 in celebration of St. Patrick's Day.

Councilmember Dobler stated he recently visited Grand Rapids, Michigan, and the city was under a Boil Water Advisory. He reminded citizens these types of issues happen to all cities across the nation.

Mayor Padilla thanked Public Safety employees for their efforts in keeping citizens safe during the St. Patrick's Day Parade on March 16, 2024.

Councilmember Kell moved to recess into executive session for a time period not to exceed 2 hours to discuss applicants for city manager as allowed under KSA 75-4319(b)(1). The open meeting resumed in the City Council Chambers. The following staff was deemed necessary to assist the Governing Body in its deliberation, Interim City Manager Richard U. Nienstedt, Assistant City Attorney Nick Jefferson, Human Resources Manager Shelby Harvel, SBG Vice President of Executive Recruiting Marsh Reed, and any other staff he found necessary. The motion

seconded by Councilmember Miller.

Mayor Padilla asked all those in favor of recessing into to an 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. Councilmember Ortiz voted “no.” (9-1-0)

At the conclusion of the executive session, 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 9:53 p.m.

(SEAL)

Brenda Younger City Clerk

Tonya L. Bailey

From: Rachelle Hamilton <r.hmltn92@gmail.com>
Sent: Tuesday, March 19, 2024 10:20 AM
To: ccagendas@lawrenceks.org; City Clerk
Subject: City camping bans

This message originated from outside your organization

i This message needs your attention

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

Powered by Mimecast

Hello, I would like to give written comment for the city council meeting tonight:

I continue to hear about city council continuing to pass and uphold ordinances which prohibit camping in town. This is unacceptable.

LEGALLY:

WHEREAS in the case of §Martin v. Boise, it was found to be UNCONSTITUTIONAL, according to the 9TH CIRCUIT COURT, to prohibit camping, as it is seen as CRUEL AND UNUSUAL PUNISHMENT towards the homeless population

WHEREAS §Martin v. Boise came before the US SUPREME COURT and the court declined retrial

THEREFORE the ruling on the case stands throughout the United States, that camping restrictions are UNCONSTITUTIONAL

THEREFORE all statutes and ordinances which contradict this ruling are UNLAWFUL, INVALID, and ILLEGAL TO ENFORCE and any government officials enforcing the statutes or ordinances can be held IN CONTEMPT OF COURT and will be subject to FINES and INCARCERATION.

SUBJECTIVELY:

Besides the fact that these camping bans are illegal, they do nothing to actually "solve" your so-called "homeless problem." This is a perfect example of a sorry, inhumane attempt to address the unpleasant symptoms we are experiencing in society with no interest or inclination to heal the underlying illness which causes those symptoms.

Quite frankly, I have been out doing the footwork that every single one of the elected representatives should be doing- and that is talking to people. ALL of the

people in your district. Get to know them all as people and not just statistics; it's not like your district is that big. Once you start talking to your constituents, not with the goal of selling ballots, but with the intent to understand what people are actually going through and what they need. By the way, most of those people won't know what they need. They don't have the perspective of the bigger picture to really know.

But that's what your job is.

They depend on you to talk to enough people that you start to see a bigger picture and begin to understand what's going on and what can feasibly be done about it.

As I mentioned previously, I have been making it a point to talk to as many people as possible, especially ones in situations that are less than ideal, be it their fault or otherwise that they find themselves there, and I've been doing this intentionally for about a decade now. I've come up with a few ideas in that time, and while I understand they're working ideas right now, I assure you that they would be far more effective at creating the kind of society we can all be proud of.

Opening the doors of our community buildings 24/7 so that people can have access to water and shelter when they need it would go a long way. Personally I believe these could function as a location for constituents to be able to get in touch with their most local representative - although I would advise representatives to also make their rounds with house calls to those they represent whenever possible.

Requiring churches to keep their doors unlocked 24/7 in order to earn their tax break. Originally churches were exempt from taxes because they provided care and shelter and guidance as well as childcare to the needy. Due to pressure from corporate America a few years back, the churches locked their doors, citing "theft" (of free things?) as their reason to discontinue their real charity work. Now the church is only open on Sundays to collect tithe but are providing very few if any services for the people, while still contributing nothing to taxes. It has turned into a huge scam. Of course the government cannot tell a church what to do, but it can outline stipulations to qualifying for tax exemption and I believe the most important one is just to keep the doors unlocked so that people have access to shower and food before work while they try to get back on their feet.

Water should be provided by the city, at no charge, to the people. It is not wise for each citizen to be able to dig their own water well in a densely populated area, lest we cause structural damage to the ground and find ourselves falling into the aquaphor. And houses which have no running water tend to deteriorate faster due to the mold, pests, and decomposition which happen in places not kept clean.

Regardless, in America we citizens have the right to LIFE. According to the public school system's science class, humans require FOOD, WATER, and SHELTER in order which to survive. According to the transitive property that the public school's math class, that means that as a citizen of the United States, we have the right to food water and shelter. The government of course gets no rights, ever, and so they do not have the right to force citizens to have the food water or shelter that they may be trying to provide. However, in situations where it is IMPRACTICAL or IMPOSSIBLE for civilians to provide their own vital resources for themselves, then for the government to NOT PROVIDE those resources, is to PREVENT the people from accessing those resources, which means they have had their right to LIFE violated.

Homesteading laws should be easier to understand and have less of a grey area about acquiring them. When a house sits empty, property values decrease and the opportunities for destructive squatting increase.

If a house sits vacant for a year or two (or even five years, but that time frame can be decided later) and a person wishes to move into the structure as their only place of residence, having no other land in their name and having no expectation of inheritance or trust, AND have the blessings of their new neighbors OR agree to do so much work to the property would be a great start to outlining rules for that, and makes home ownership attainable for any American willing to put in the elbow grease to get it.

Another factor into your "problem":

BANKS are not people and do not have PERSON HOOD, and THEREFORE have no rights. THEREFORE they have no rights to PROPERTY and should not have the authority to evict any person from his or her home, as citizens do have PERSON HOOD and THEREFORE retain their rights to PROPERTY.

Finally, it is important for me to note that in the decade I've spent talking to people, I have come across a very disturbing trend. And that is, that in exactly every single case where the person had been doing just fine one minute and then almost the next minute found they couldn't keep up with their life in some way,

the root cause of them falling off the wagon, if you will (even when one gentlemen didn't see this as his root cause, what he blamed his situation on was a direct consequence of) the family having some interaction with the police, and the police violated one of usually the same four rights by enforcing unconstitutional statutes which should have never even been written, and the family never quite caught back up to square after enduring the unlawful punishment that was given to them. I am not exaggerating on how many people this has affected this way (of course some suffered worse than others). I have met and listened to the stories of probably thousands of people who have been affected in this way, and these people were not "criminals." They had no malicious intent. Often they did not even commit a "crime" which is defined in the Constitution as "A VIOLENT ACTION WITH A VICTIM" (notice there is no such thing as a victimless crime in America).

The privately owned, profit driven internment camp style prisons are INHUMANE, and only compound the mental disorders and other underlying factors which causes citizens to have criminal behavior.

Justice should also be handled by the church.

WHEREAS the scripture existed long before the state did, THEREFORE the scripture gets to dictate what the church has authority over. I have yet to come across any scripture or oral tradition from any religion that wasn't mostly a big book of how to handle situations of justice. And so, WHEREAS the CONSTITUTION gives us SEPARATION OF CHURCH AND STATE, THEREFORE, the CHURCH has the authority to handle situations of JUSTICE, and the STATE must stay SEPARATE from it.

Thank you for your time, feel free to email me with any and all feedback and questions. Honestly what might be even better would be a time set up to go over these things in person when its appropriate for actual reciprocative conversation instead of the public comment session. I'm not afraid of debate and would love the opportunity to have an actual discussion on these issues so that we can start to make real, tangible progress on the right side of history. Kansas politics have a history of being on the cutting edge; I see no reason to break that trend.

Sincerely,
Rachelle Hamilton