Governing Body Minutes – July 12, 2022

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, July 12, 2022. 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, Dobler and Duncan -5; and Councilmembers Valdivia-Alcala, Ortiz and Naeger participated remotely -3. Mayor Padilla presided -1. Absent: Councilmember Lesser -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 ccлерk@topeka.org by no later than 5:00 p.m. on July 12, 2022, 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 ccлерk@topeka.org on or before July 12, 2022, for attachment to the meeting minutes.

AFTER THE MEETING was called to order, Pastor Ben Ockree, Calvary Lutheran Church, provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the appointment of Joy Grimes to the Shawnee County Juvenile Corrections Advisory Board for an unexpired term ending July 14, 2025, was presented. (Other/Outside City Limits)

BOARD APPOINTMENT recommending the appointment of Alexis Simmons to the Topeka Human Relations Commission to fill an expired term ending July 12, 2024, was presented. (Council District No. 1)
Councilmember Dobler moved to approve the board appointments. The motion seconded by Councilmember Hiller carried unanimously on roll call vote. Mayor does not vote. (8-0-0)

PRESENTATION on the Impact Avenues Program was presented by Carrie Higgins, City of Topeka Housing Division Program Coordinator.

Councilmember Ortiz commented on the great aspects of the program and encouraged Staff to seek funding assistance from the State of Kansas as well as Shawnee County for the program. She thanked Cody Foster, Advisors Excel for their contributions.

Councilmember Kell stated he concurs with Councilmember Ortiz and requested Staff look at partnering with various organizations. He commented on the great opportunities that makes the program work.

Bill Cochran, Interim City Manager, stated the funding from Advisors Excel is available through June 2023 and Staff will be looking at all opportunities to secure future program funding.

Councilmember Duncan expressed the importance of securing funding sooner than later to continue a program that is working.

Mayor Padilla asked if the program provides transportation for participating families and if they track census data.

Program Coordinator Higgins stated they supply transportation as well as track many data sets as it relates to the families and program outcomes.

CONSENT AGENDA was presented as follows:

ORDINANCE NO. 20362 introduced by Interim City Manager William E. Cochran, allowing and approving City expenditures for the period April 30, 2022 to May 27, 2022, and enumerating said expenditures therein.
APPROVAL of CONTRACT NO. 50486 for a Public Works engineering contract with Professional Engineering Consultants, PA in the amount of $142,500 to provide design services that include engineering design and construction documents for SORT Project No. 601125.01 for Valley Park Neighborhood street improvements was presented.

APPROVAL of the following Cereal Malt Beverage license applications were presented:

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dollar General #1171</td>
<td>1001 SW Fairlawn Rd</td>
</tr>
<tr>
<td>Dollar General #2703</td>
<td>2500 SE California Ave</td>
</tr>
<tr>
<td>Dollar General #3085</td>
<td>2042 NW Topeka Blvd</td>
</tr>
<tr>
<td>Dollar General #3618</td>
<td>3401 SW Topeka Blvd</td>
</tr>
<tr>
<td>Dollar General #4046</td>
<td>190 SW 10th Ave</td>
</tr>
<tr>
<td>Dollar General #12745</td>
<td>2515 SE 6th Ave</td>
</tr>
<tr>
<td>Dollar General #13381</td>
<td>3410 SE 29th St</td>
</tr>
<tr>
<td>Dollar General #15245</td>
<td>4500 SE California Ave</td>
</tr>
</tbody>
</table>

Councilmember Kell moved to approve the consent agenda. The motion seconded by Councilmember Emerson carried unanimously on roll call vote. (9-0-0)

PUBLIC HEARING

In regard to the issuance of Taxable Industrial Revenue Bonds by Flywheel Capital, LLC in a principal amount of $24,500,000 and in regard to an exemption from ad valorem taxation of property constructed or purchased with the proceeds of such Bonds, was presented.

RESOLUTION NO. 9334 of the Governing Body of the City of Topeka, Kansas, determining the advisability of issuing taxable Industrial Revenue Bonds for the purpose of financing the acquisition, construction, installation, furnishing and equipping of a rental housing facility located in the city; and authorizing execution of related documents, was presented.

Bill Cochran, Interim City Manager, stated Flywheel Fairlawn, LLC is requesting the City issue Industrial Revenue Bonds (IRBs) to acquire and demolish the former Topeka Holidome to use as a workforce rental housing. He stated approval of this item requires six votes and Staff is available if there are questions.

07-12-2022
267
Mayor Padilla opened the public hearing and asked if there was anyone present who would like to speak to the matter.

Upon no one appearing, Mayor Padilla announced the public hearing closed.

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

ORDINANCE NO. 20363 introduced by Interim City Manager William E. Cochran amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 605 SW Fairlawn Road from “M-3” Multiple Family Dwelling District TO PUD Planned Unit Development (M-3 Multi-family Residential uses and C-2 Commercial District), was presented. (PUD22/03) (Council District No. 9)

Bill Cochran, Interim City Manager, stated the applicant is requesting a zoning change to accommodate the Fairlawn Flywheel, LLC new development and Staff is recommending 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 Ortiz.

Councilmember Emerson moved to adopt the ordinance. The motion seconded by
Councilmember Naeger carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9335 introduced by Interim City Manager William E. Cochran notifying the County Clerk of: (1) a proposed intent to exceed the revenue neutral rate for the Topeka Metro Transit Authority (TMTA); (2) the proposed tax rate; and (3) the date, time and location of the public hearing to consider adopting a budget that exceeds the revenue neutral rate, was presented.

Bill Cochran, Interim City Manager, reported approval of the resolution does not mean that the Governing Body is obligated to adopt a budget that includes exceeding the TMTA’s RNR.

Dr. Alan Bearman, TMTA Board Chair, stated they have reduced the cost of administrative fees over 14% and continue to seek cost efficient ways to provide for electric buses and micro transit in 2023, as well as they anticipate continued reduction in revenue from rider fares. He stated they are in a good place and will continue to offer great service, however, they remain concerned about increased fuel costs.

Councilmember Emerson stated he will support the resolution and hopes with the increase of property tax valuation they anticipate a reduction in the mill levy in 2023.

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

RESOLUTION NO. 9336 introduced by Interim City Manager William E. Cochran notifying the County Clerk of: (1) a proposed intent to exceed the revenue neutral rate for the City of Topeka’s 2023 budget; (2) the proposed tax rate; and (3) the date, time and location of the public hearing to consider adopting a budget that exceeds the revenue neutral rate, was presented.

Bill Cochran, Interim City Manager, reported approval of the resolution does not mean that the Governing Body is obligated to adopt a budget that exceeds the RNR.
Councilmember Emerson moved to approve the resolution. The motion seconded by Councilmember Dunca carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9337 introduced by the members of the Public Infrastructure Committee comprised of Council Members Tony Emerson, Neil Dobler and Mike Lesser recommending an amendment to Resolution No. 9318 which adopted the Capital Improvement Program for 2023-2032 and the Capital Improvement Budget for 2023-2025, was presented. *(Referred from the Public Infrastructure Committee by a vote of 3-0-0 on June 27, 2022)*

Bill Cochran, Interim City Manager, reported the Committee recommended approval by a vote of 3-0-0 on June 27, 2022.

Councilmember Hiller asked if Staff has a project in mind for 2023. She encouraged Staff to include advisory groups for Complete Street projects to help them better understand the full concept while ensuring the process is progressive and fully inclusive.

Braxton Copley, Interim Public Works Director, reported the purpose of the amendment is to correct the description of the Downtown Program Improvement Program, and Project 701024.44 has been corrected to include potential projects throughout the downtown and Tyler Street Project 701034.00 has been moved up from 2025 to 2023.

Councilmember Dobler moved to approve the resolution. The motion seconded by Councilmember Naeger carried on roll call vote. Councilmember Emerson abstained. (8-0-1)

RESOLUTION NO. 9338 introduced by the members of the Public Infrastructure Committee comprised of Council Members Tony Emerson, Neil Dobler and Mike Lesser recommending approval of certain public infrastructure projects in 2023 utilizing Citywide Half-Cent Sales Tax and ARPA funds, was presented. *(Referred from the Public Infrastructure Committee)*
Committee by a vote of 3-3-0 on June 27, 2022)

Bill Cochran, Interim City Manager, reported the Committee considered and approved the projects listed in the resolution by a vote of 3-0-0 on June 27, 2022.

Councilmember Duncan commended Staff for listening to the directive of the Governing Body to use American Rescue Plan Act (ARPA) funds in areas of the city that have been neglected and need improvements.

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

APPROVAL of the Summary of Recommendations from the Police and Community Special Committee, was presented. (The Police and Community Special Committee recommended approval of the recommendations as amended by a vote of 3-0-0 on June 29, 2022.)

Bill Cochran, Interim City Manager, reported the Recommendations were discussed at the July 5, 2022, Governing Body meeting.

Debbie Harrod spoke in support of the Topeka Police Department and the difficult job and situations they face every day.

Danielle Twemlow spoke to the process and the need to make sure sufficient research of the process occurs. She stated the recommendations supplies no plan or action steps, timeframes, measurability, structures and substance. She stated she believes that the Governing Body needs to make sure they review this item in a comprehensive manner and make sure steps are in place.

Ariane Davis spoke to incidents between Topeka Police Officers and African American citizens. She expressed concern with the lack of accountability from the Independent Police Auditor and the excessive time it took the Special Committee to make recommendations as well as the lack of discipline for police officers. She asked the Governing Body to again begin discussions
on the Police and Community Relations Committee recommendations.

Angela Lee stated she concurs with comments made by Ariane Davis. She stated she wants the opportunity to be included in the discussion and creating policies. She expressed the importance of being proactive, and facing the problems of the Topeka minority murder victims and take the politics out of the problem and help find a solution.

Daniel Martin stated the Governing Body should serve as the voice of the community and do what is best for the community. He questioned the ethics of the professionals involved in the recent police shooting of Chris Kelly, an Iraq War veteran with no criminal record – making the shooting unethical. He asked the Governing Body to revisit the issue by involving the community and implementing the necessary policies to stop the police violence.

Dr. Glenda Overstreet stated she believes the Committee has not received comments from the public for approximately two years. She expressed her disappointment in the Governing Body for not understanding what it means to be a member of the community and solving community policing issue. She expressed the vital importance of holding police officers accountable and having an effective independent citizen review board. She stated she believes a member of the community should have served on the Special Committee.

Councilmember Kell commented on the number of meetings over the last two years and the importance of moving forward with the recommendations made by the Special Committee. He suggested creating a permanent standing Council Committee that would include one council member, the chief of police and nine Council appointees as well as many community partners.

Councilmember Ortiz, Police and Community Special Committee Chair, reported at the beginning of the process there was extensive public input. She stated the process took 18 months because they had to research and study the issue. She stated the Topeka Police Department made
no recommendations they only answered questions. She reported the Governing Body as a whole, understands the mental health crisis happening in the community, as well as the importance of diverse people serving on the citizen review board. She stated there has to be a starting point for these recommendations and this is a good start. She encouraged those that expressed concern with public input to serve on the citizen review board and asked everyone to get involved in any way possible to give the IPA more investigative power.

Councilmember Ortiz moved the Governing Body adopt the recommended report and direct the City Manager to implement the recommendations. The motion was seconded by Councilmember Duncan.

Councilmember Valdivia-Alcala commented on the format of the summary of recommendations and questioned why it was not presented as a comprehensive report; the lack of mental health information included in the Summary of Recommendations; and if Ed Collazo, IPA, made a presentation of the overview of the IPA position and the complaints received. She reported the Human Relations Commission (HRC) stated that the Committee did not allow them to participate in the process and requested HRC Meeting Minutes from 2020 to present to be provided to her. She asked City Attorney Stanley for clarification regarding an email sent to her about the Governing Body’s ability to view personnel issues as it relates to subpoena power for the Fraternal Order of Police (FOP) compared to the independent citizen review board. She asked if the grievance process is the same for all City of Topeka unions. She referenced an email received from Blue Shield Community Group that support the Summary of Recommendations, a group that was allegedly involved with the January 6, 2021 storming of the United Stated Capital. She commented on the gun violence statistics of African Americans by police officers and believes this issue falls well beyond an “us versus them” issue. She stated racial issues and affordable housing
are still occurring, and the Governing Body still cannot talk about the deep racial inequities of the community. She stated she believes it is disrespectful to move forward with the recommendations.

Councilmember Ortiz reported the summary document format was approved by consensus of the Committee; an entire committee meeting was dedicated to discussing mental health issues; no presentation was made by Mr. Collazo that she is aware of; and the HRC did not contact the Committee.

Amanda Stanley, City Attorney, stated the City Charter allows the Governing Body to have legislative ability only and the administrative function belongs to the City Manager. She stated the FOP as a union, have a due process right to defend themselves. She stated it is common for all unions and not just the FOP. She stated the Civil Service Commission is the only Board that has subpoena power as stated in Topeka Municipal Code.

Councilmember Duncan stated he does not view this as a final action as there will be opportunities to bring more changes and ideas from the Governing Body and community. He stated he does not want to give up on good directives in the summary, such as making the Crisis Intervention Team (CIT) a priority for the police department, the initial training process and ongoing training for all officers to include civilian oversight. He believes he can support the recommendations and still continue to have the hard conversations.

Councilmember Kell requested to work with the City Attorney in the future to create a standing committee that would include one council person, the chief of police and nine council appointees as well as community groups.

Councilmember Naeger expressed her appreciation to all the people involved in the process. She stated she concurs with Councilmember Duncan and asked how as a Body, do they make this is a formal action and the first step helping solve the issues.
Councilmember Duncan stated as an elected officer each have the power to bring forth ordinances or issues to address concerns.

Councilmember Hiller moved to request a progress report in 6 months with full review of the report by the Governing Body and public comment scheduled in the 7th month with the intent of internal accountability and next steps in activating the proposals outlined in the recommendations. The motion was seconded by Councilmember Kell.

Councilmember Dobler inquired on the Civil Service Commission powers regarding grievances and requirements to serve on the board. He inquired on when the Independent Police Auditor position was created.

City Attorney Stanley stated the City Code indicates the Civil Service Commission can act as the final step of grievance. She stated a police officer can chose to utilize the Civil Service Commission or griev to the Human Resources Director. She stated she does not believe most police officers chose to utilize the Civil Service Commission. She reported on the requirements to serve on the Commission as stated in Topeka Municipal Code are as follows, “To be eligible for appointment as a commissioner an individual may not be an employee of the city and shall have at least three years of experience in a responsible position requiring knowledge of the legal issues involved in the hiring or disciplining of employees. The City Manager shall designate a representative of the City to serve as a nonvoting member of the Civil Service Commission. This nonvoting member will serve as a technical advisor to the commission.”

Interim City Manager Cochran stated he believes the IPA position was created in 2018 for the purpose of providing independent oversight and review of police actions and use of force. He stated the IPA position contract is scheduled to be renewed in September 2022, and he has been in conversations with the Mayor and City Attorney in working towards making this full-time position
with an office located at City Hall.

Councilmember Valdivia-Alcala expressed concern with the intent of the amendment made by Councilmember Hiller. She believes it reverts back to the beginning of the process in 2020, when the Governing Body has the power to make changes at this time.

Mayor Padilla asked for clarification on the motion being considered.

City Attorney Stanley clarified if the amendment by Councilmember Hiller was accepted as a friendly amendment, the motion would be that the Governing Body adopt the recommended report and direct the City Manager to implement the recommendations and request a progress report in 6 months with full review of the report by the Governing Body and public comment in the 7th month.

Councilmember Ortiz stated she would not accept the friendly amendment. She asked the Governing Body to support approval of the recommendations as it is a good starting point and thanked City Staff who have worked hard on the recommendations and everyone who has provided public input.

The motion to request a progress report in 6 months with full review of the report by the Governing Body and public comment scheduled in the 7th month failed. Councilmember Valdivia-Alcala, Ortiz, Emerson, Naeger, Dobler and Mayor Padilla voted “no.” (3-6-0)

Mayor Padilla stated throughout the entire process he has tried to keep a low profile due to the fact he served as a former police officer which he believes was seen as a “bad mark” against him by some members of the community. He noted he has been an advocate for equity, equality and diversity his entire career. He reported he encouraged Councilmembers Ortiz and Hiller to lead the discussions during committee meetings and his participation in the meetings were meant to give value and updated information to misinformation that got in the way of the efforts to bring
true change. He stated true change occurs incrementally in how they perform their job and it is important to see that the Governing Body is on the right path. He stated he will support the recommendations and every effort the City Manager, Governing Body and Directors make to implement the recommendations.

The motion to move the Governing Body adopt the recommended report and direct the City Manager to implement the recommendations carried by roll call vote. Councilmember Valdivia-Alcala voted “no”. (8-1-0)

PUBLIC COMMENT was provided by the following individuals:

Regina Platt expressed her disappointment with the feeling of citizens being reprimanded for speaking up. She spoke to the vital importance of taken action steps to make a change and do what matters to the community in a way everyone is being heard and valued.

Dr. Glenda Overstreet expressed her disappointment in the Governing Body approving the recommendations as proposed. She asked the Governing Body to continue to work on the process and engage the community and step out of their comfort zone.

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

Brenda Younger, City Clerk, provided an overview of the July 19, 2022, Governing Body Meeting agenda.

Bill Cochran, Interim City Manager, announced the Fiesta Mexicana kickoff was held on July 9, 2022 at Evergy Plaza. He also announced the Country Stampede would take place from July 14-16, 2022 at Heartland Motorsports Park. He stated the demolition of the vacant Falley’s Market building located near SE 6th and SE Tefft Streets has begun.

Councilmember Kell thanked the citizens for speaking up to the recommendations and the
good that will be implemented. He asked citizens to get involved in the community and to stay involved.

Councilmember Naeger announced that July 12, 2022 is the deadline to register to vote in the August 2, 2022 primary election.

Councilmember Duncan reminded citizens that at times he may disagree with a specific idea; however, he still agrees with the overall concept.

Councilmember Hiller thanked all involved with the Police and Community Special Committee, and applauded Councilmember Ortiz for her guidance. She requested the Interim City Manager provide a report on Police and Community Special Committee recommendations in the future.

Councilmember Valdivia-Alcala spoke to the deliberations by the Governing Body as it relates to the recommendations of the Police and Community Special Committee. She expressed the importance of volunteering as it relates to taking action steps that matter and make a difference. She expressed her hope of much success for the 2022 Fiesta Mexicana.

Councilmember Ortiz thanked Gosser’s Auto Electric, Inc. for 50 years of service in the city. She expressed her appreciation for the demolition of the vacant Falley’s Market building on SE 6th Street. She announced the Chase Middle School located at 2250 NE State Street will host the Gibbs Elite Basketball Academy from July 11-14, 2022 for 6th, 7th and 8th grade students. She announced that the Fiesta Mexican kickoff event was very successful and commented on feeling welcome no matter the color of your skin.

Mayor Padilla commended community organizers for creating the 2022 Fiesta Mexicana, an event that encourages a common feeling of welcome for all cultures. He announced the Hazel and Robert Gomez mural located at the Topeka LULAC Senior Center at 1502 NE Seward Avenue
in the Oakland neighborhood. He stated there are still areas of improvement needed in the community, however, a lot of good is also happening.

Councilmember Dobler moved to recess into executive session for a period of time not to exceed 15 minutes to discuss matters related an individual employee, pursuant to KSA 75-4319(b)(1). To aid in the discussion, the following individuals were present: Members of the Governing Body; Interim City Manager Cochran and any other staff he deems necessary. No action was anticipated when the meeting resumed open session in the City Council Chambers. The motion was seconded by Councilmember Kell.

Mayor Padilla asked all those in favor of recessing into executive session to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” After the voice vote occurred, Mayor Padilla announced the motion carried on voice vote. (9-0-0)

Following a 15-minute time period, the meeting reconvened into open session and Mayor Padilla announced no action was taken during the executive session.

Councilmember Emerson moved to recess into executive session for a period of time not to exceed 10 minutes to discuss matters related an individual employee, pursuant to KSA 75-4319(b)(1). To aid in the discussion, the following individuals were present: Members of the Governing Body; Interim City Manager Cochran and any other staff he deems necessary. No action was anticipated when the meeting resumed open session in the City Council Chambers. The motion was seconded by Councilmember Duncan.

Mayor Padilla asked all those in favor of recessing into executive session to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” After the voice vote occurred, Mayor Padilla announced the motion carried on voice vote. (9-0-0)

Following a 15-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 9:20 p.m.

(SEAL)

Brenda Younger,
City Clerk