



CITY OF TOPEKA

CITY CLERK
City Hall, 215 SE 7th St., Room 166
Topeka, KS 66603-3914
(785) 368-3940

Brenda Younger, M.M.C.
E-mail: byounger@topeka.org
Fax: (785) 368-3943
www.topeka.org

The following excerpt of minutes are from the June 4, 2019, December 3, 2019, and March 3, 2020, Governing Body Meetings regarding the operations of the Topeka Zoo.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, June 4, 2019. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen and Lesser -9. Mayor De La Isla presided -1.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held June 4, 2019, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brendan Wiley, Topeka Zoo Director, gave a brief overview of evaluating Zoo governance through a Public Private Partnership including the typical partnership roles; money savings; history of similar partnerships at other zoos; successes and preventing failures; plans for long term success and the next steps. He distributed the Zoo Governance Discussion Supplemental Information (**Attachment A**) and commented on the City of Topeka Zoo Budget versus the Friends Of Topeka Zoo (FOTZ) Budget. He stated the City would work towards a suitable management fee and define what action would be needed from the Governing Body to plan for long term success. He noted staff has met with two stakeholders who are interested in two projects after the completion of Kay's Garden.

Councilmember Emerson spoke in support of the Zoo; however, he expressed concern with public perception of how a private partnership relates to civic pride. He asked if more monetary donations would be received if a private organization operated the Zoo.

Brendan Wiley stated the Zoo would not be "privatized" and the City would still maintain ownership; however, the private-public partnership would allow a different operating model.

Councilmember Ortiz complimented the Zoo and staff for continued improvements. She asked for clarification on what was being proposed and why. She noted there would be advantages in receiving grants only available to non-profit organizations. She asked if the partnership was approved, how the ongoing projects would be affected; what are the City's assets; and what would the partnership agreement entail. She thanked FOTZ for thinking outside the box and proposing a solid operational model for the Zoo.

Doug Gerber, Deputy City Manager, stated an agreement or plan has not yet been determined; however, if there was support from the Governing Body, City staff in collaboration with FOTZ will begin drafting an agreement to be considered by the Governing Body.

Brendan Wiley stated the typical private-public partnership organizational structure consists of one executive leader with all other positions remaining the same with the intent of providing better employment opportunities in the long term.

Councilmember Jensen requested all scenarios be reviewed with the intent of creating a good solid agreement to be reviewed by the Governing Body. He questioned how FOTZ plans to manage all costs associated with the Zoo as well as contingency funding.

Councilmember Padilla spoke in support of the concept. He requested the Governing Body be allowed to review as well as be fully briefed on the details of the agreement when drafted.

Mayor De La Isla spoke in support of Zoo leadership and staff. She expressed concern with ensuring the agreement includes all details, even during difficult financial times so the City would be safeguarded and the Zoo would continue to be successful.

Councilmember Hiller commended the Zoo and staff and stated the idea appeals to her; however, she has many questions about how it would be structured and what the agreement would include.

Councilmember Lesser asked for clarification if all Zoo employees would transition to FOTZ and how the changes would be structured. He asked Mr. Wiley to comment on his commitment to a private-public partnership.

Brendan Wiley stated all employees would eventually be transitioned to FOTZ and an organizational chart has not been discussed at this point in the process. He stated he believes a private-public partnership would support the Zoo's growth and provide a solid operational model for both the City and FOTZ.

Councilmember Mays left the room.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 3, 2019. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Ortiz, Emerson, Padilla, Jensen, Dobler, Coen and Lesser -8. Deputy Mayor Clear presided -1. Absent: Mayor De La Isla -1.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held December 3, 2019, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brent Trout, City Manager, stated the purpose of the discussion was to provide the Governing Body an update on the opportunity that exists to modify the current operational partnership between the City and Friends of the Topeka Zoo (FOTZ) and exploring a City agreement with a non-profit organization to manage the full operation of the Topeka Zoo.

Doug Gerber, Deputy City Manager, reported the City of Topeka currently operates the Topeka Zoo through a public-private partnership with FOTZ and in the fall of 2018, FOTZ retained a consultant to assist both organizations with evaluating the direction of the partnership and future governance of the Zoo. He stated the recommendation to evaluate the form of governance of the Topeka Zoo took place in 2009, and the topic has been discussed every two or three years since then. He reported the recent conversation was initiated due to the level of growth the Topeka Zoo continues to experience.

Brendan Wiley, Topeka Zoo Director, provided an overview of the timeline of events that led to the evaluation of Zoo operations. He spoke in support of the operational model they are working towards as it would provide relief to the general fund and allow the same people to perform the same duties. He reported the best practices transition has already begun and over the next five years, the new budget model would provide for more benefits; clarify fund raising parameters; provide clear direction for staff; and offer efficiencies in many other areas of operations. The timeline was as follows:

- 2009 - began working through compliance issues and recommendation to evaluate Zoo operations

- 2012 - consultant was hired to evaluate the form of governance of the Zoo
- 2013 - public-partnership was developed with FOTZ by transferring certain operations
- 2015- FOTZ began hiring employees
- 2016 - continue conversations with Zoo advisors in regards to what the Zoo operations model might look like
- 2019 - FOTZ hired part-time education staff and absorbed all expenses possible to relieve the general fund

Doug Gerber reported a Request for Quote (RFQ) for services was distributed across the nation and only one response was received from FOTZ; employment and compensation models for exiting employees along with a retirement model will be similar to the City's current employment model; and preliminary discussions have taken place with the AFT bargaining union. He stated they continue to develop asset lists and are requesting input from the Governing Body on the following:

1. The term of license agreement. Staff was considering 10-15 years. There are deed restrictions that will not allow for a lease agreement to be executed.
2. FOTZ Board representation. Staff was proposing two Governing Body member representatives and two City staff members (Director of Public Works and Director of Administrative and Financial Services)
3. Management Fee Model. Continue to allocate two mills of general fund dollars or some percentage of the general fund such as 2% which could steadily decline through the course of the license agreement.

Lisa Robertson, City Attorney, reported other action that would be required by the Governing Body includes amending all Topeka Municipal Code sections relating to the Zoo as well as all AFT Bargaining Union agreements if needed. She stated the license agreement would give permission for FOTZ to operate the Zoo.

Councilmember Hiller asked staff to comment on the management of assets and how it relates to the use of Capital Improvement funds.

Doug Gerber spoke to the importance of proper asset management and how it would relate to the continued use of capital funds for maintenance.

Lisa Robertson reported asset lists are being created and will be transitioned over to FOTZ through the term of the license agreement.

Doug Gerber reported the underlying ownership of the property will remain with the City.

Councilmember Emerson requested an email be distributed to the Governing Body outlining the pros and cons *i.e.* an analysis of each option presented by staff.

Councilmember Dobler spoke in support of a three-year term license agreement. He questioned if the FOTZ Board representation could be appointed members by the Governing Body, similar to other boards and commissions. He also asked staff to provide information on the City's liability and insurance requirements.

Councilmember Ortiz expressed the importance of making sure the transition of privatizing Zoo operations will be supported by the community as well as staff. She stated she would prefer funding for the Zoo decrease as it becomes fully privatized. She expressed concern with the City's liability as it relates to the public-private partnership.

Doug Gerber asked for an affirmation of direction by the Governing Body.

Brent Trout expressed the importance of the City having a partner such as FOTZ willing to address the financial challenges as well as provide the necessary resources to support a quality Zoo that will continue to grow.

Fred Patton, Kansas House of Representatives, District 50, spoke in support of the private-public partnership with FOTZ. He stated private-public partnerships are the way of the future by supporting the concept of doing more with less and the first step in making the Zoo better. He stated the partnership would allow for a boarder fund raising base and noted FOTZ has raised \$22 million over the past five years.

Deputy Mayor Clear expressed the importance of allowing the experts to operate the Zoo and suggested Governing Body members serving on the FOTZ Board provide guidance not directive.

Councilmember Hiller requested staff send examples of operational models so she can better understand the context of knowledge of how different concepts work.

Councilmember Emerson spoke in support of the private-public partnership if it saves money and improves operations. He expressed the importance of the license agreement details and concurs with Councilmember Dobler in regards to an initial short-term license agreement.

Councilmembers Dobler, Lesser and Jensen spoke in support of moving forward and evaluating the partnership with FOTZ.

Councilmember Hiller suggested Zoo entry fees be evaluated and addressed in the license agreement.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 3, 2020. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Valdivia-Alcala, Emerson, Padilla, Naeger, Dobler and Lesser -7. Mayor De La Isla presided -1. Absent: Councilmembers Ortiz and Duncan -2.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held March 3, 2020, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brent Trout, City Manager, reported a number of meetings have been conducted related to the consideration of changing the governance of the Topeka Zoo. He spoke in support of FOTZ managing the Topeka Zoo and noted staff would provide details on the process to date.

Doug Gerber, Deputy City Manager, provided an overview of the process and reported Lisa Robertson, City Attorney, has drafted a license and management agreement and meetings with labor union representatives are complete. He stated a number of issues were identified as a result of one-on-one meetings with members of the Governing Body. He reported a comprehensive question and answer document will be compiled and presented to the Governing Body in the future. He reported questions relate to the following:

- Ownership of Facility and Animals
- Protection for all Parties Involved
- Amount of Outstanding Debt
- Board Representation
- Employee Transition

He noted there seems to be general support to move forward with the proposal with a time table of continued discussions with the AFT Employee Bargaining Unit; finalizing the financial information in the document as it relates to the Capital Improvement Plan; finalizing the asset list; finalizing ownership in regards to the City and/or FOTZ, or hybrid that works best for both. He stated there would be at least one or two more discussions before staff would request action from the Governing Body and if it was agreed to move forward, action items may be presented in

May or June, and include approval of the license and management agreement, amending the Topeka Municipal Code, and changes to the AFT Bargaining Unit Agreement.

Councilmember Valdivia-Alcala spoke in opposition of the draft agreement. She referenced Article 7, Section 7.2 – Bargaining Unit Employees; and Section 7.4(a) – Oversight of Zoo Employees – Responsibility. She asked staff to clarify the two sections.

Doug Gerber reported in the general sense; the ideal for the agreement would be that employees transfer from the City to FOTZ with the assurance employees will be treated fairly and appropriately. He noted the three employees that are close to retirement (3 years or less) under the KPERS Retirement System would have the option to remain City employees until retirement, with FOTZ honoring the terms of the agreement.

Councilmember Valdivia-Alcala expressed concern with the private/public partnership as it relates to the human resources component for employee protection; the potential for new employees to receive lower starting wages over time; and the competitive wages and benefits being proposed seem low. She asked if the City could consider utilizing the “Choose Topeka” program being offered by the Greater Topeka Partnership. She asked Brendan Wiley, Topeka Zoo Director, to list the top three reasons why he supports the proposal.

Brendan Wiley, Topeka Zoo Director, reported employees would not be members of a City bargaining unit; however, FOTZ would have protections in place similar to current City of Topeka employment systems including a human resources partner. He stated all budget models anticipate wages currently being paid, and the expectation was to hire qualified employees with competitive wages. He reported the top three reasons he supports the proposal include (1) budget compression; (2) the City cannot sustain operational growth parallel to infrastructure needs; and (3) the current funding source does not fit the user base.

Councilmember Valdivia-Alcala questioned residency requirements of the City as it relates to the management and license agreement and the governance of the Zoo. She asked Mr. Wiley if he resides in Shawnee County as well as if he was a registered voter.

Brendan Wiley stated he meets the City of Topeka residency requirement.

Mayor De La Isla questioned the legal bearing of the residency questions and cautioned Councilmember Valdivia-Alcala against asking certain types of questions that may result in putting the City in a difficult position.

Councilmember Valdivia-Alcala challenged the ruling of the chair and stated she believes the questions are germane to the topic. She stated she continues to have questions about this particular issue and requested the City Attorney clarify how the topic was not relevant to the discussion.

Lisa Robertson, City Attorney, stated the topic being discussed was governance of the Topeka Zoo and the management and license agreement. She stated direct questions about residency do not relate to the license agreement, and perhaps, should be discussed at a different time.

Councilmember Valdivia-Alcala expressed her opposition to the ruling and stated she believes the topic needs to be addressed, especially if the proposal was not approved. She stated she inquired further on the residency information because the forms provided to her by City Manager Trout appear to reflect compliance of the City’s residency requirement by all directors; however, there was no way of knowing on an annual, bi-annual or tri-annual basis if a director was still living in Shawnee County. She noted one of the items used to verify residency was proof of voter registration.

Brent Trout confirmed proof of voter registration was only one of the many items allowed to be presented for proof of residency.

Mayor De La Isla respectfully requested the discussion topic remain on governance of the Topeka Zoo and the management and license agreement. She requested the City’s residency

policy be discussed on a future agenda.

Councilmember Valdivia-Alcala again expressed her opposition to the ruling. She stated she believes the residency requirement was germane to the topic being discussed.

Councilmember Hiller requested staff provide clarification on the proposed direction of the City. She asked if the City wanted to hire a management company to run a City owned zoo; or will the City provide start up and reversion rights for a new company to run their own zoo. She stated it was her understanding FOTZ wanted full separation of the Zoo from the City so they were free to grow the Zoo and raise funds without being burdened by municipal government regulations; however, the documents presented by staff do not reflect this.

Brendan Wiley reported the Vision has not changed; however, since the license agreement has come to fruition the direction of the conversation may have changed. He reported there have been some deed restrictions that have surfaced and the City was proposing to hire a mission based organization to help excel the growth potential of the Topeka Zoo.

Councilmember Hiller stated she continues to have questions such as insurance requirements by both entities and noted the City was self-insured. She asked if the City was expecting a net gain or to reposition what the City already has in place.

Brendan Wiley stated the Community would receive a net gain with the intent over time for the cost and/or liability of the City to become fairly stable with additional support secured through FOTZ.

Doug Gerber confirmed the Vision has not changed; however, in terms of other conversations staff has had with the Governing Body, there have been other suggested alternatives given for consideration as discussions continue.

Councilmember Lesser explained different types of insurance protections and noted very few entities self-insure. He stated there are details that need to be worked through regarding protection for the City and FOTZ, and how it relates to common practice with these types of agreement proposals or partnerships. He recognized there are a number of issues that need to be worked through; however, he believes the license agreement was a good place to start.

Councilmember Dobler stated he struggles with voting on the proposal until a master plan has been drafted for Gage Park providing him the understanding of how the zoo fits in the overall plan for the area. He stated he would support an initial 5-year term agreement with the ability to revise as needed as opposed to the 15-year term currently being proposed in the agreement.

Councilmember Naeger stated she concurs with Councilmember Dobler. She encouraged staff to work with Shawnee County to develop a Gage Park Master Plan.

Doug Gerber reported approximately two years ago, Shawnee County began moving forward with a Gage Park Master Plan and the City was prepared to contribute funding towards the plan; however, since that time Shawnee County has put those efforts on hold. He assured the Governing Body that staff understands the importance of integrating the two master plans.

Brent Trout reported it may be a few months before Shawnee County will begin to engage in the drafting of a Gage Park Master Plan as they are currently working on a Family Park Master Plan.

Brendan Wiley stated the Zoo's current master plan mainly consists of the renovation and/or rehabilitation of the zoo, addressing an extensive amount of repair to old infrastructure. He noted the next master plan would address future expansion within the fence boundary of the zoo.

Councilmember Hiller questioned the expected timeline for the proposal.

Doug Gerber reported initially the ideal timeframe to move forward with the proposal would be in conjunction with, or prior to, the adoption of the 2021 City of Topeka Operating Budget; however, given the recent discussions, this may not be accomplished based on how

conversations progress in regards to a Gage Park Master Plan.

STATE OF KANSAS)
SHAWNEE COUNTY)

I, Brenda Younger, City Clerk of the City of Topeka, Kansas, County of Shawnee, do hereby certify that the above and foregoing is a true and correct copy of an excerpt of the minutes from the regular meeting of the Governing Body, held on Tuesday, June 4, 2019, December 3, 2019 and March 3, 2020, at 6:00 P.M., as the same appears on record in the office of the City Clerk.



Brenda Younger
Brenda Younger, M.M.C.
City Clerk

	FOTZ 2018	FOTZ 2017	2013 Zoo Budget
Conservation Expenses	25,261.39	20,054.71	-
Docent Supplies	1,000.00	3,871.14	-
Concession Expenses	62,837.88	40,411.35	29,046.86
Seasonal Staff	159,683.86	160,297.71	47,352.88
Janitorial Supplies	4,150.97	3,808.47	4,000.00
Website and Online Store Marketing and Printing			
	252,934.10	228,443.38	80,399.74

City of Topeka Zoo Budget	2016 Budget	2016 Actual	2017 Budget	2017 Actual	2018 Budget	2018 Actual
Revenue	524,389.00	533,335.00	533,104	467,332	580,000	574,506
Expense	2,364,797.00	2,375,174.00	2,499,978	2,610,591	2,595,276	2,630,937
Difference	(1,840,408.00)	(1,841,839.00)	-1,966,874	-2,143,259	-2,015,276	-2,056,431
3 yr avg based on budget		(1,940,853.00)				
3 yr avg based on actual		(2,013,843.00)				
Average annual growth 2016 to 2017 and 2017 to 2018		115,240.00	4.74%			