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City Council Agenda

City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 28, 2010
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Karen A. Hiller	District No. 1	Deborah Swank	District No. 6
John Alcala	District No. 2	Robert E. Archer	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
Jack Woelfel	District No. 4	Richard Harmon	District No. 9
Larry Wolgast	District No. 5		

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council

Persons addressing the City Council will be limited to four (4) minutes of public address on a particular agenda item. Debate, question/answer dialogue or discussion between Councilmembers will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Council or the Council by affirmative vote of five (5) members may extend the four (4) minute limitation.

Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.

Citizens wishing to offer Public Comment may sign up by phoning the City Clerk's office at 368-3940.

To make arrangements for special accommodations please call 785-368-3940. A 48-hour advance notice is preferred.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th – Room 166 and on the City's web site at <http://www.topeka.org>)

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

"None scheduled at this time."

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Downtown Business Improvement District Advisory Board



[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Kim Schultz to the Downtown Business Improvement District Advisory Board for a term ending September 30, 2012. *(Council District No. 5)*

B. MINUTES of the regular meeting of September 21, 2010

C. APPLICATIONS:

5. UNFINISHED BUSINESS:

A. Ordinance - Animal Control



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 6.05.010, 6.05.020, 6.05.040, 6.05.080, 6.30.010, 6.30.050 and Section 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as repealing in its entirety Chapter 6.25 concerning pit bull dogs. **Final Reading.** *(The Public, Health and Safety Committee recommended "Do Pass" by a vote of 2-1-0 on September 21, 2010.)*

(Approval would amend animal control provisions to enhance public safety, protect animals and save taxpayer dollars. The new ordinance would resolve conflict of State and City laws; hold owners accountable for dangerous dogs; address all breeds of dangerous and hostile animals instead of specific breeds; and authorize at no expense to the taxpayer an innovative effort by private parties to sterilize and vaccinate feral cats.)

B. Ordinance - Real Property Assessment - Sewer Repair



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sewer repair to real property, or specifically described hereinafter, all pursuant to the authority found in Topeka Municipal Code Section 14.80.240 and Section 14.80.250 and K.S.A. 12-6a17. **Final Reading.**

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would grant permission to collect unpaid costs in the amount of \$6,834.)

6. NEW BUSINESS:

A. Final Plat - Greenridge Estates Subdivision No. 2 (P10/6)



[ATTACHMENTS](#)

A FINAL PLAT for Greenridge Estates Subdivision No. 2 located at the southwest corner of SW 29th Street and SW Auburn Road, outside the City's Municipal Service, but within the City's three-mile extraterritorial jurisdiction and all lying within unincorporated Shawnee County, Kansas. *(P10/6)*

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for 54 single-family residential lots, which is a 26 lot increase from the

original Greenridge Estates Subdivision, platted in 1963.)

B. Final Plat - Horseshoe Bend Subdivision No. 2 (P10/17)

 [ATTACHMENTS](#)

A FINAL PLAT for Horseshoe Bend Subdivision No. 2 generally located on the south side of the Kansas Turnpike, the centerline of the tract being approximately 1,330 ft. north of SE 45th Street and 2,300 ft. east of SW Topeka Blvd. (P10/17) (Council District No. 5)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for 52 additional lots of single-family detached dwellings.)

C. Final Plat - Shawnee Heights Fire District Station No. 22 (P10/15)

 [ATTACHMENTS](#)

A FINAL PLAT for Shawnee Heights Fire District Station 22 located at the SW corner of SE 2nd Street and SE Tecumseh Road, outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. (P10/15)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow development of a new un-manned fire station.)

D. Project Budget and Resolution - Kanza Fire Commerce Park Utilities Improvement Project No. T-861003.00

 [ATTACHMENTS](#)

A PROJECT BUDGET in the amount of \$3,126,000 and **A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. T-861003.00 which provides for the construction of water and sanitary sewer service to the new Kanza Fire Commerce Park more specifically described herein.

(Approval would authorize extension of water and sanitary sewer service to the new Kanza Fire Commerce Park. The project is generally located at SW 65th Street and University Boulevard and progresses south to Topeka Boulevard and Gary Ormsby Drive. The project would be funded with \$485,000 from an EPA Grant and \$2,641,000 from Growth Organization of Topeka/Shawnee County.)

E. Resolution - ARTSConnect Exemption

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Karen Hiller, granting to ARTSConnect for its second annual Arty Party fundraiser permission under the provisions of City of Topeka Code Section 9.15.020 for the possession and consumption of alcoholic liquor and/or cereal malt beverage on certain municipal property. (Council District No. 1)

(Approval would grant permission to ARTSConnect for the consumption and possession of alcoholic liquor and/or cereal malt beverage for its Arty Party special event to be held in the top level of Crosby Place Parking Garage, located at 108 SW 8th Street on October 2, 2010, between the hours of 6:00 p.m. and 11:00 p.m.)

F. Applications - Retail Cereal Malt Beverage License

APPROVAL of Retail Cereal Malt Beverage License Applications.

Voting Requirement: Majority of the Governing Body, including the Mayor.

(Pursuant to K.S.A. 41-2702 application for license must be approved by the Governing Body prior to the issuance of the license.)

G. Ordinance - Weekly Expenditures - September 6-12, 2010

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 6, 2010, through September 12, 2010, and enumerating said expenditures therein. First and Final Reading.

7. FIRST READINGS:

A. Ordinance - Accessory Uses Amendment (ACZR10/1)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning accessory uses for various zoning districts, amending Section 18.210.020 and specifically repealing said original section. First Reading. (ACZR10/1)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would amend the Accessory Use requirements in the Comprehensive Zoning Regulations including: restrictions on utilizing truck bodies and cargo containers in residential zoning districts; modifying storage and parking restrictions of large vehicles, boats, machinery, materials, and equipment in residential zoning districts; and clarifying permitted accessory uses in the industrial zoning districts.)

B. Ordinance - Accessory Uses Definitions Amendment (ACZR10/2)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 18.55.030 and 18.55.160, concerning definitions for zoning regulations and specifically repealing said original sections. First Reading. (ACZR10/2)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would indirectly amend the Accessory Uses section of our Zoning Regulations by clarifying that cargo containers are not allowed as accessory uses but can be temporary uses in residential neighborhoods while the other three definitions all relate to the parking of commercial vehicles in residential neighborhoods.)

8. MISCELLANEOUS:

-

9. PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL:

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 8, 2010

+ Back Print

DATE: September 28, 2010

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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No Attachments Available



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DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

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No Attachments Available



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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 31, 2010

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DATE: September 28, 2010
CONTACT PERSON: Mayor Bunten **DOCUMENT #:**
SECOND PARTY/SUBJECT: Downtown Business Improvement District Advisory Board **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Kim Schultz to the Downtown Business Improvement District Advisory Board for a term ending September 30, 2012. *(Council District No. 5)*

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

This is a statutory board and Mayor Bunten is recommending the appointment of Kim Schultz to the Downtown Business Improvement District Advisory Board for a term that would end September 30, 2012. A bio is attached for review. Approval must be by the Governing Body.

BACKGROUND:

KSA 12-1781 and Ordinances 18382. The purpose of the board is to monitor and oversee the provision of services established by Article II, Section 42, 36-40.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Schultz Bio - DBID](#)

Kim A. Schultz

EDUCATION

Washburn University – Graduated 2000 - Bachelor Degree in Accounting
Shawnee Heights High School

SPECIAL SKILLS

Accounting & Marketing Networking Computers Community Activism

WORK EXPERIENCE

Topeka Youth Project – Topeka, KS 08/07 to Present

Accountant – Maintain accounting records, bank reconciliations, and payroll.

Business Representative – Work with youth to help them find employment. Give lectures in schools to students about how they can make a positive impact in their community. Work with employers to help find them employees. Teach parts of the Jobs for Young Adults class. (From 11/09-6/10)

Job Bank Administrator – Maintain the TYP website, update the job bank website. Design advertisements for various businesses.

Accounting + - Topeka, KS 03/01 to Present

Maintain accounting records, bank reconciliations, payroll, social networking and marketing for small businesses and nonprofits.

Topeka Public Schools – Topeka, KS 10/00 to Present

Substitute teacher – I teach when teachers are absent primarily in elementary school.

Schultz Management LLC dba Field of Greens/The Break Room – Topeka, KS 2/03 to Present

Co-Owner – I am responsible for marketing, monthly newsletter, website, social networking and accounting. I have also worked at the restaurant when needed. We have been in Downtown Topeka since 2002

SPECIAL ACHIEVEMENTS

Developed an advertising campaign for downtown called "Discover Downtown"

COMMITTEES & ACTIVITIES

Member of DTI (Downtown Topeka Inc) and Topeka Chamber of Commerce

Member of the Great Overland Station –Railroad Festival Committee

Heartland Visioning – Community meeting facilitator, task force, C.R.E.A.T.e committee

Member of the Topeka Tourism Alliance

Friends of the Tinkham Veale - founding board member



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PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 14, 2010

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DATE: September 28, 2010
CONTACT PERSON: Norton N. Bonaparte, Jr. **DOCUMENT #:**
SECOND PARTY/SUBJECT: animals **PROJECT #:**
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 018 Animals
CIP PROJECT: No
ACTION OF COUNCIL: 09-21-10 First Reading **JOURNAL #:** 10
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 6.05.010, 6.05.020, 6.05.040, 6.05.080, 6.30.010, 6.30.050 and Section 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as repealing in its entirety Chapter 6.25 concerning pit bull dogs. **Final Reading.** (The Public, Health and Safety Committee recommended "Do Pass" by a vote of 2-1-0 on September 21, 2010.)

(Approval would amend animal control provisions to enhance public safety, protect animals and save taxpayer dollars. The new ordinance would resolve conflict of State and City laws; hold owners accountable for dangerous dogs; address all breeds of dangerous and hostile animals instead of specific breeds; and authorize at no expense to the taxpayer an innovative effort by private parties to sterilize and vaccinate feral cats.)

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Item #9

[Ordinance](#)

[Summary](#)

[Referral Sheet](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 6.05.010, § 6.05.020, § 6.05.040, § 6.05.080, 6.30.010, § 6.30.050 and § 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as repealing in its entirety Chapter 6.25 concerning pit bull dogs.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

Section 1. That section 6.05.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Animal shelter" means any premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this title.

(b) Dangerous dog shall mean any of the following:

(1) Any dog with a known propensity tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or

(2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any

30 public grounds or places; or on private property other than on the property of the
31 owner; or

32 (3) Any dog which, unprovoked, attacks or bites, or has attacked or
33 bitten a human being or domestic animal; or

34 (4) Any dog which was previously determined to be a vicious animal
35 pursuant to the previous Topeka City Code 18.8 or 6.05.080; or

36 (5) Any dog owned or harbored primarily for the purpose of dogfighting
37 shall only be considered dangerous if the dog is evaluated and dangerousness is
38 concluded by a licensed veterinarian or a dog trainer certified by the Certification
39 Council for Professional Dog Trainers with experience in evaluating dogs seized
40 in similar cruelty cases.

41 (6) Notwithstanding the definition of a dangerous dog above, no dog
42 may be declared dangerous if any injury or damage is sustained by a person or
43 animal who at the time such injury or damage was sustained, was committing a
44 willful trespass or other tort upon premises occupied by the owner or keeper of
45 the dog, or was teasing, tormenting, abusing or assaulting the dog or was
46 committing or attempting to commit a crime.

47 (7) No dog may be declared dangerous if an injury or damage was
48 sustained by a domestic animal which at the time such injury or damage was
49 sustained was teasing, tormenting, abusing or assaulting the dog. No dog may
50 be declared dangerous if the dog was protecting or defending a human being or
51 if the dog was protecting or defending her litter of offspring or offspring on the

owner's property, within the immediate vicinity of the dog from an attack or assault.

(8) Nothing in this Article shall be deemed to regulate or prohibit the lawful maintenance and use of dogs by law enforcement agencies or include actions by a law enforcement dog while on duty or while performing duties.

(bc) "Exposed to rabies" means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

(d) "Humane killing" means the painless administration of a lethal dose of an agent or method of euthanasia as prescribed in the Report of the American Veterinary Medical Association Panel on Euthanasia published in the Journal of the American Veterinary Medical Association, March 1, 2001 (or any successor version of that Report), that causes the painless death of an animal. Animals must be handled prior to administration of the agent or method of euthanasia in a manner to avoid undue apprehension by the animal.

(ee) "Humane Society" means the Helping Hands Humane Society in the city or any animal shelter contracted with the City of Topeka which is licensed by the State of Kansas.

(ef) "Owner" means any person owning, keeping, possessing or harboring any animal, or any person operating a kennel. A parent or legal guardian shall be deemed to be an owner of dogs owned or maintained by children upon their premises.

(eg) "Secure enclosure" or "secure six-sided enclosure" shall mean a pen, kennel or structure with secure sides, a secure top attached to the sides and a secure

bottom or floor attached to the sides of the pen or embedded in the ground no less than two feet. The secure enclosure must be at least ~~three~~ six feet from any public sidewalk or street. The secure enclosure, other than a residence, must be locked with a key or combination lock when animals are within the enclosure. If the secured enclosure is a residence, then all doors, windows or other means of egress shall be secured in a manner to prevent an animal from escaping. All secure enclosures must comply with all zoning and building regulations of the city. All secure enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(h) "Supervision" means within visual and auditory range of the owner.

(i) "Tether." When used as a verb, "tether" or "tethering" shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(fj) "Vicious" means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or ~~other~~ domestic animal.

Section 2. That section 6.05.020, Violations of title, mandatory minimum punishment, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Violations of title, mandatory minimum punishment.

The judge of the municipal court of the city shall, upon a conviction of any section in this title, other than TMC ~~6.05.080 and 6.25.050~~, sentence the owner, harborer or possessor of such animal as follows:

- 98 (a) Fine. A fine of not less than \$1.00 or more than \$499.00; or
99 (b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or
100 (c) Both Fine and Imprisonment. Both fine and imprisonment not to exceed
101 subsections (a) and (b) of this section.

102 Section 3. That section 6.05.040, Cruelty to animals, of The Code of the City
103 of Topeka, Kansas, is hereby amended to read as follows:

104 **Cruelty to animals.**

105 (a) It shall be unlawful for any person to recklessly or intentionally:

106 (1) ~~Intentionally kill~~ Kill, injure, maim, torture, burn or mutilate any animal,
107 ~~except for the hunting of wild or undomesticated animals under the provisions of~~
108 ~~TMC 6.05.070;~~

109 (2) Abandon or leave any animal in any place without ~~making~~ ensuring
110 provisions for its proper care;

111 (3) Have physical custody of any animal and fail to provide such food,
112 potable water, protection from the elements, opportunity for exercise adequate to
113 maintain health, or other care as is needed for the health or well-being of such
114 animal;

115 (i) Food. Food shall be wholesome, free from contamination, and
116 of sufficient quantity and nutritive value to maintain the animal(s) good
117 health. Animals shall be fed at least once a day except as dictated by
118 veterinary treatment, normal fasts or other accepted practices. All food
119 receptacles shall be kept clean.

120 (ii) Potable Water. Adequate fresh water shall be made available
121 to animals on a regular basis.

122 (iii) Protection from the elements. Natural or artificial shelter
123 appropriate to the local climatic conditions for the species concerned shall
124 be provided for all animals kept outdoors to afford them protection and
125 prevent severe discomfort of such animals. When sunlight is likely to
126 cause overheating, sufficient shade by natural or artificial means shall be
127 provided to allow all animals kept outdoors to protect themselves from
128 direct sunlight. Owners of animals kept outdoors or in an unheated
129 enclosure shall provide the animal with the following minimum standards
130 of shelter.

131 (a) It shall include a moisture proof and windproof
132 structure of suitable size to accommodate the animal and allow
133 retention of body heat and shall be made of durable material with a
134 solid floor.

135 (b) It shall be provided with a sufficient quantity of clean,
136 suitable bedding material consisting of hay, straw, cedar shavings,
137 or the equivalent, to promote insulation and protection against cold
138 and dampness and promote retention of body heat.

139 (4) ~~Have custody of an animal, as owner or otherwise, and fail to~~
140 ~~provide such animal with necessary protection from the elements as set forth~~
141 ~~below:~~

~~(i) Shelter from Sunlight. When sunlight is likely to cause overheating, serious bodily injury or death of the animal, sufficient shade shall be provided to allow the vertebrate animals kept outdoors to protect themselves from the direct rays of the sun.~~

~~(ii) Shelter from Cold Weather. Housing facilities shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below 40 degrees Fahrenheit. Such structure shall be provided with a sufficient quantity of suitable bedding materials, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Such shelter shall be so constructed to keep the animal dry and retain sufficient body heat to prevent serious bodily injury or death of the animal; or Knowingly leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as more than eighty (80) degrees Fahrenheit or less than thirty (30) degrees Fahrenheit as the heat or cold index taken in the vehicle shall create a legal, rebuttable presumption of violation of this act;~~

~~(5) Use of a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;~~

~~(6) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or~~

~~(7) Cause any physical injury other than the acts described in subsection (a)(1).~~

(5b)(i) It shall be unlawful for any person to Attach chains or other tethers,
restraints or implements directly to a dog or cat without the proper use of a collar,
harness, or other device designed for that purpose and made from a material that
prevents injury to the animal. No person shall:

(ii) ~~No person shall:~~

(A1) Continuously tether a dog or cat for more than fifteen (15) minutes
without supervision; ~~Continuously tether a dog for more than one continuous~~
~~hour, except that tethering of the same dog may resume after a hiatus of three~~
~~continuous hours, for up to three hours total time on tether per day; provided, that~~
~~for the purpose of tethering a dog, a chain, leash, rope or tether shall be at least~~
~~10 feet in length; or~~

(B2) Use a tether or any assembly or attachments thereto to tether a
dog or cat that shall weigh more than one-eighth of the animal's body weight, or
due to weight, inhibit the free movement of the animal within the area tethered; or

(C3) Tether a dog or cat on a choke chain or in such a manner as to
cause injury, strangulation, or entanglement of the dog on fences, trees, or other
manmade or natural obstacles; or

(D4) Tether a dog or cat without access to shade when sunlight is likely
to cause overheating, or appropriate shelter to provide insulation and protection
against cold and dampness when the atmospheric temperature falls below 40
degrees Fahrenheit, or to tether a dog without securing its water supply so that it
cannot be tipped over by the tether; or

(E5) Tether a dog or cat in an open area where it can be teased by persons or an open area that does not provide the dog or cat protection from attack by other animals; or

(F6) Tether ~~an animal~~ a dog or cat in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

~~(iii) The following definitions apply to words used in this section:~~

~~(A) When used as a verb, "tether" or "tethering" shall mean fastening a dog to a stationary object, pulley run line or a stake.~~

~~(B) When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, string, leather or nylon strap, or any other material used to fasten a dog to a stationary object, pulley run line or a stake.~~

(b~~c~~) Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in subsection (a) of this section and subsections thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such

209 veterinarian, that the animal is diseased or disabled beyond recovery for any useful
210 purpose, the humane killing thereof.

211 (ed) The owner of an animal killed pursuant to subsection (b) of this section
212 shall not be entitled to recover damages for the killing of such animal unless the owner
213 proves that such killing was unwarranted.

214 (de) Expenses incurred for the care, treatment or boarding of any animal taken
215 into custody pursuant to subsection (b) of this section, pending prosecution of the owner
216 of such animal for the crime of cruelty to animals, as defined in subsection (a) of this
217 section, shall be assessed to the owner as a cost of the case if the owner or custodian
218 is adjudicated guilty of such crime.

219 (ef) If a person is adjudicated guilty of the crime of cruelty to animals, as
220 defined in subsection (a) of this section, and the court is satisfied that an animal owned
221 or possessed by such person would be in the future subjected to such crime, such
222 animal shall not be returned to or remain with such person. Such animal may be turned
223 over to a duly incorporated humane society or licensed veterinarian for sale or other
224 disposition.

225 (g) The provisions of this section shall not apply to:

226 (1) Normal or accepted veterinary practices;

227 (2) Bona fide experiments carried on by any research facility that is in
228 compliance with the Animal Welfare Act (7 USC §2131-2159), and any
229 amendments thereto;

(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(4) Rodeo practices accepted by the Professional Cowboys Rodeo Association;

(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of domestic animals, by the owner thereof or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, law enforcement officer, animal control officer, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) The killing by any person of any domestic animal which is found outside on private, owned, or rented property on which the domestic animal is trespassing, and which the animal is found injuring, worrying, or posing an immediate threat to any person, domestic animal, or farm animal.

(8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, or trained police officer or animal control officer using a

electronic control device, when such animal is vicious or could not be captured
after reasonable attempts using other methods;

(9) Laying an equine down for medical or identification purposes;

(10) Normal or accepted practices of pest control, as defined in
subsection (x) of K.S.A. 2-2438a, and amendments thereto;

(11) Accepted practices of animal husbandry pursuant to regulations
promulgated by the United States department of agriculture for domestic pet
animals under the animal welfare act, public law 89-544, as amended and in
effect on July 1, 2006; or

(12) In situations where delay would result in unnecessary and
prolonged suffering of an injured or rabid animal, law enforcement officers may
utilize alternative means to euthanize such animal.

Section 4. That section 6.05.080, Vicious animals, of The Code of the City of
Topeka, Kansas, is hereby amended to read as follows:

~~Vicious animals~~Dangerous dogs.

~~(a) The animal control officer shall investigate each case of any animal
reported as being vicious and, if probable cause exists to believe the animal is vicious,
shall seize and impound such animal unless the owner agrees to impound the animal at
the owner's expense at any veterinarian in the city until the conclusion of any pending
municipal court charge regarding the animal. Impoundment expenses shall be assessed
as court costs against a convicted owner.~~

~~(b) The owner shall report immediately to the public health officer any animal which has actually bitten or scratched any person, regardless of the circumstances involved.~~

~~(c) Prohibited. It is unlawful for any owner, harborer, keeper or possessor who keeps any animal within the city limits to allow the following, and the same are declared to be public nuisances and prohibited:~~

~~(1) To permit such animal to attack or bite any person or animal that is not upon the premises of the owner, harborer, keeper or possessor.~~

~~(2) To permit such animal to attack or bite any person or animal that is upon the premises of the residence of such owner, harborer, keeper or possessor. It shall be an affirmative defense to this subsection (c)(2) of this section that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.~~

~~(3) To permit such animal kept by such owner, harborer, keeper or possessor within or upon the premises of any business establishment to attack or bite any person or animal upon such premises. It is an affirmative defense to this subsection (c)(3) of this section that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.~~

~~(d) Exceptions. The provisions of subsection (c) of this section shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, harborer, keeper or possessor of any animal~~

which attacks or bites a person engaged in physically attacking or striking such owner, harborer, keeper or possessor.

(e) ~~Complaint and Notice to Appear.~~

(1) ~~Any person who witnesses or has other personal knowledge that an act made unlawful by the provisions of this section has been committed in violation of such provisions may sign a complaint against the alleged violator.~~

(2) ~~Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person when such officer personally observes a violation of the provisions of this section or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this section have occurred.~~

(f) ~~Ex Parte Hearings and Court Orders. The municipal court of the city is empowered to hold ex parte hearings to determine whether there are reasonable grounds to believe that an animal may constitute a danger to any person if not impounded. After such hearing, if the court finds such reasonable grounds to exist, the court is empowered to enter orders, either on its own motion or on the motion of the city attorney, the city attorney's authorized representative, any police officer, reserve police officer or animal control officer, to seize and impound, or continue the impoundment of such animal until the completion of all trial and legal proceedings held in the municipal court of the city to determine whether there has been a violation of this section. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal~~

court within 14 days of such order to review the propriety of such impoundment. Costs of such impoundment shall be assessed to the owner, harborer, keeper or possessor of such animal.

~~(g) — Punishment. Upon a first conviction of a violation of this section, a person shall be fined not less than \$250.00 nor more than \$499.00. The person convicted must pay at least \$250.00 before the person is granted suspension or reduction of sentence. On a second or subsequent conviction of a violation of this section within seven years of the most recent conviction, a person shall be sentenced to not less than five days' imprisonment nor more than 30 days' imprisonment, and shall be fined not less than \$350.00 nor more than \$499.00. The person convicted must serve at least five days' imprisonment and pay at least \$350.00 before the person is granted suspension or reduction of sentence.~~

~~(h) — Destruction of Animal. Upon an initial conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harborer, keeper or possessor of such vicious animal to destroy such animal. Upon a second or subsequent conviction, the judge shall order the owner, harborer, keeper or possessor to destroy the animal.~~

~~(i) — Confinement of Animal. Upon conviction of a violation of this section, the judge of the municipal court shall order the owner, harborer, keeper or possessor of such vicious animal to confine such animal in a secure enclosure as defined in TMC [6.05.010](#)(e). If the owner, harborer, keeper or possessor takes the vicious animal off the property, the judge shall order the animal to be under the direct physical control of some person by use of a chain, leash or similar device, and the animal shall be muzzled by a~~

caged muzzle. Failure to comply with any such order shall be deemed a violation of this section and subject the violator to the penalties set forth in subsection (g) of this section.

~~(j) Microchipping of Animal. Upon conviction of a violation of this section, the judge of the municipal court shall order the owner, harborer, keeper or possessor of such animal to have an identification microchip implanted in such animal by the humane society or a licensed veterinarian no later than 15 calendar days after the conviction. The owner, harborer, keeper or possessor shall file proof of microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof to the city attorney's office. Failure of the owner, harborer, keeper or possessor of such animal to have the microchip implanted in the animal or to file acceptable proof of microchipping with the clerk of the municipal court within 20 days after conviction shall be punished as contempt of court. Upon the commencement of contempt proceedings against the owner, harborer, keeper or possessor of such animal, the municipal court shall issue an ex parte order directing animal control officers to seize the animal, which shall be held and shall not be released until the conclusion of the contempt proceedings.~~

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by section 6.05.010, the animal control officer or law enforcement officer may seize and impound such animal at the Humane Society unless the owner agrees to impound the animal at the owner's expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. If an animal is ordered to be impounded pursuant to

this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within 14 days of such impoundment to review the propriety of such impoundment and whether a bond may be posted. Impoundment expenses shall be assessed as court costs against a convicted owner and any bond may be applied to such costs.

(b) Dogs seized in connection with dog fighting shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. §§ 21-4311, 21-4316 and any amendments thereto.

(c) Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person who owns, harbors, keeps or possesses a dangerous dog when such officer has probable cause of an act or acts which are made unlawful by the provisions of this section have occurred.

(d) It shall be unlawful for any person to possess a dangerous dog or violate the provisions of this Title. Any person found guilty of violating the provisions of this Title shall be assessed, fined, and the animal disposed of, as provided below:

(1) If the municipal court judge determines that a dog is dangerous pursuant to this Article, the owner of the dangerous dog shall be required to comply with the following:

(i) Registration and microchipping. The owner shall annually register the dangerous dog with the City, on such forms designated by the

Police Chief, and shall have a microchip inserted into the dog by the Humane Society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner shall be responsible for maintaining with the Police Department the address of the owner and the dangerous dog. The owner shall notify the Police Department within seven (7) days of a change in address for the owner and dangerous dog.

(ii) Confinement. All dangerous dogs shall be confined in a secured enclosure. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secured enclosure. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling of the owner or outside the secured enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to

411 the dog or interfere with its vision or respiration, but shall prevent it from
412 biting any human or animal.

413 (iii) Sterilization. The owner shall pay for a licensed veterinarian
414 to spay or neuter the dangerous dog before it will be released to the
415 owner.

416 (2) Upon conviction of keeping a dangerous dog, the owner shall
417 comply with the provisions of this Article within fifteen (15) days. The owner shall
418 file proof of sterilization and microchipping, acceptable to the municipal court,
419 with the clerk of the municipal court no later than twenty (20) calendar days after
420 conviction. Upon receipt, the clerk of the municipal court shall provide a copy of
421 such proof to the legal department and the dog may then be released. If the
422 owner fails to comply with the provisions of this Article within the time provided,
423 the dog shall be destroyed. If the owner or keeper of the dog contests the
424 determination, he or she may appeal within fourteen (14) days of the finding to
425 the district court pursuant to law.

426 (e) Dangerous Dog At-Large. Any dog that has been found to be a
427 dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or 6.05.080,
428 that is not confined or registered as required pursuant to this Article shall be impounded
429 by an animal control officer or a law enforcement officer. Upon conviction, in addition to
430 all costs for impoundment, the owner or keeper shall pay a fine of at least two hundred
431 fifty dollars (\$250.00) but not more than four hundred and ninety nine dollars (\$499.00).
432 For a second offense within twenty-four (24) months, in which the dog is not confined or
433 registered as required pursuant to this Section, in addition to all costs for impoundment,

the owner or keeper shall pay a four hundred ninety-nine dollars (\$499.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

(f) Dangerous Dog - Attack on Human. If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or 6.05.080, shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon conviction the owner shall pay a fine of at least four hundred and ninety nine dollars (\$499.00) and not more than one thousand dollars \$(1000.00) and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

(g) Dangerous Dog - Attack on other animal. If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or 6.05.080, shall kill or wound, or assist in killing or wounding, any domestic animal, upon conviction the owner shall pay a two hundred fifty dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The judge shall have no authority to suspend the fine or any portion thereof.

(h) It shall be a an affirmative defense to the above subsections (f) and (g) that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.

(i) The impounded dog shall not be destroyed pending any appeals of convictions under the above sections (e), (f) and (g). The dog shall remain impounded

457 pending the determination of the complaint. If the court shall find that there shall not
458 have been a violation, such dog shall be released to the custody of the owner. In
459 addition to the fines provided in this Section, the Municipal Judge shall have the
460 authority to sentence the person adjudicated guilty of this Article to serve up to a
461 maximum of six (6) months in jail.

462 (i) Notwithstanding any other provision of this Article to the contrary and
463 irrespective of whether the dog has been declared dangerous pursuant to this Article,
464 the Municipal Judge may order any dog destroyed if the Municipal Judge determines
465 that the dog is an immediate threat to public health and safety and that confinement and
466 registration of the dog by the owner or keeper of the dog as provided in this Article will
467 not adequately protect public health and safety. No person shall harbor, own, or
468 possess a dog that is an immediate threat to public health and safety. In making such
469 determination the Municipal Judge may consider the severity of the attack and such
470 other relevant information. The Municipal Judge shall have the authority to sentence the
471 person adjudicated guilty of this section to serve up to a maximum of six (6) months in
472 jail and to pay a fine not to exceed \$1,000.00.

473 Section 5. That section 6.25.010, Definitions, of The Code of the City of
474 Topeka, Kansas, is hereby repealed.

475 **Definitions.**

476 ~~The following words, terms and phrases, when used in this chapter, shall have~~
477 ~~the meanings ascribed to them in this section, except where the context clearly~~
478 ~~indicates a different meaning:~~

479 ~~“Pit bull dog” means and includes:~~

~~(a) The Staffordshire bull terrier breed of dogs;~~

~~(b) The American Staffordshire terrier breed of dogs;~~

~~(c) The American pit bull terrier breed of dogs;~~

~~(d) Dogs which have the appearance and characteristics of being predominantly of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier or American Staffordshire terrier.~~

~~The registration of a dog with a kennel or dog association at any time as a pit bull or any of the dogs listed under this definition shall constitute prima facie evidence the animal is regulated by this chapter.~~

Section 6. That section 6.25.020, Exemptions, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Exemptions.~~

~~The provisions of this chapter shall not apply to the transportation of pit bull dogs through this city when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.~~

Section 7. That section 6.25.030, Failure to comply with chapter – Penalty, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Failure to comply with chapter – Penalty.~~

~~It shall be unlawful for the owner, keeper or harborer of a pit bull dog to fail to comply with the requirements and conditions set forth in this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of~~

~~such animal and the permit providing for the keeping of such animal, resulting in the immediate removal of the animal from the city.~~

Section 8. That section 6.25.040, Prohibition, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Prohibition.~~

~~Except as provided in this chapter, no person shall own, keep or harbor any pit bull dog in the city.~~

Section 9. That section 6.25.050, Penalty for violation of division, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Penalty for violation of chapter.~~

~~Any person violating or permitting the violation of any provision of this chapter shall, upon conviction in the municipal court, be fined a sum not less than \$200.00 and not more than \$499.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 179 days. In addition, the court shall order the registration and permit for the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter.~~

Section 10. That section 6.25.060, Costs to be paid by responsible persons, of
The Code of the City of Topeka, Kansas, is hereby repealed:

~~Costs to be paid by responsible persons.~~

~~Any reasonable costs incurred by the animal control officer in seizing,
impounding, confining or disposing of any pit bull dog, pursuant to the provisions of
TMC [6.25.070](#), [6.25.080](#), [6.25.200](#) or [6.25.240](#), shall be charged against the owner,
keeper or harbinger of such animal and shall be collected by the city treasurer.~~

Section 11. That section 6.25.070, Notice of keeping dangerous animals, of
The Code of the City of Topeka, Kansas, is hereby repealed.

~~Notice of keeping dangerous animals.~~

~~Upon the written complaint of any person that a person owns or is keeping or
harboring a pit bull dog in violation of this chapter in the city, the animal control officer,
hereinafter ACO, or his authorized designee shall cause the matter to be investigated;
and if, after investigation, the facts indicate that such person named in the complaint is
in fact the owner or is keeping or harboring any such pit bull dog in the city, the ACO
shall forthwith send written notice to such person requiring such person to safely
remove the dog from the city within five days of the date of the notice. Notice as
provided in this section shall not be required where such pit bull dog has previously
caused serious physical harm or death to any person or has escaped and is at large, in
which case the ACO shall cause the dog to be immediately seized and impounded,
according to the provisions of TMC [6.25.080](#), or killed if seizure and impoundment are
not possible without risk of serious physical harm or death to any person.~~

547 Section 12. That section 6.25.080, Seizure and impounding, of The Code of the
548 City of Topeka, Kansas, is hereby repealed.

549 ~~**Seizure and impounding.**~~

550 ~~(a) The ACO or his authorized designee shall forthwith cause to be seized and~~
551 ~~impounded any pit bull dog where the person owning, keeping or harboring such animal~~
552 ~~has failed to comply with the notice sent pursuant to TMC [6.25.070](#). Upon its seizure~~
553 ~~and impoundment, the animal shall be delivered to a place of confinement, which may~~
554 ~~be with any organization which is authorized by law to accept, own, keep or harbor pit~~
555 ~~bull dogs.~~

556 ~~(b) If, during the course of seizing and impounding a pit bull dog, the animal~~
557 ~~poses a risk of serious physical harm or death to any person, such person when~~
558 ~~authorized by the ACO may render the dog immobile by means of tranquilizers or other~~
559 ~~safe drugs; or, if that is not safely possible, then the animal may be killed. (~~

560 Section 13. That section 6.25.090, Appeals—Fee – Notice, of The Code of the
561 City of Topeka, Kansas, is hereby repealed.

562 ~~**Appeals — Fees — Notice.**~~

563 ~~(a) Any person aggrieved by or dissatisfied with any of the following decisions,~~
564 ~~rulings, actions or findings may, within 10 days thereafter, file a written notice or~~
565 ~~statement of appeal from such decision, ruling, action or finding to the municipal court~~
566 ~~for an administrative hearing thereon:~~

567 ~~(1) The determination that an animal is a pit bull dog under TMC [6.25.010](#) and~~
568 ~~[6.25.040](#).~~

569 ~~(2) The denial of a permit under TMC [6.25.210](#).~~

(3) ~~The denial of a renewal of a previously issued permit under TMC [6.25.270](#).~~

(4) ~~The revocation of a previously issued permit under TMC [6.25.280](#).~~

(5) ~~The temporary suspension of any permit or portion thereof under TMC [6.25.280](#).~~

(b) ~~An administrative fee of \$10.00 shall be paid to the municipal court clerk and is required for each appeal to the municipal court under this section, and no appeal shall be set for hearing until such fee has been paid.~~

(c) ~~The filing of an appeal under this section shall not stay any action taken pursuant to this chapter.~~

Section 14. That section 6.25.100, Appeals—Administrative hearing, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Appeals — Administrative hearing.~~

~~The hearing on the appeal provided for in TMC [6.25.090](#) shall be conducted by a municipal court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions or findings of the ACO and/or the city treasurer were within the scope of their authority, supported by substantial evidence, and not arbitrary or capricious in nature. The court shall make specific findings of fact and conclusions of law in each case.~~

Section 15. That section 6.25.110, Subpoena power, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Subpoena power.~~

~~Pursuant to its role as administrative judge, the court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and, in~~

connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued under this section or to testify in any matter regarding which the person may be lawfully questioned, the court may order such person to comply with such subpoena and testify; and failure to obey the court's order may be punished by the court as contempt.

Section 16. That section 6.25.120, Appeal of decision of municipal court judge - District court, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Appeal of decision of municipal court judge - District court.~~

~~Any aggrieved party may appeal the decision and findings of the municipal court judge pursuant to K.S.A. 60-2101(d). However, the filing of an appeal under this section shall not stay any action taken pursuant to this chapter.~~

Section 17. That section 6.25.130, Leash and muzzle, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Leash and muzzle.~~

~~No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts or buildings. In addition, all pit bull dogs on leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.~~

615 Section 18. That section 6.25.140, Confinement—Generally, of The Code of the
616 City of Topeka, Kansas, is hereby repealed.

617 **Confinement—Generally.**

618 ~~All pit bull dogs shall be securely confined indoors or in a secure and locked pen,~~
619 ~~kennel, or structure, except when leashed and muzzled as provided in TMC [6.25.130](#).~~
620 ~~Such pen, kennel or structure must have secure sides and a secure top attached to the~~
621 ~~sides. All structures used to confine registered pit bull dogs must be locked with a key or~~
622 ~~combination lock when such animals are within the structure. Such structure must have~~
623 ~~a secure bottom or floor attached to the sides of the pen or the sides of the pen must be~~
624 ~~embedded in the ground no less than two feet. All structures erected to house pit bull~~
625 ~~dogs must comply with all zoning and building regulations of the city. All such structures~~
626 ~~must be adequately lighted and ventilated and kept in a clean and sanitary condition.~~

627 Section 19. That section 6.25.150, Confinement – Indoors, of The Code of the
628 City of Topeka, Kansas, is hereby repealed.

629 **Confinement—Indoors.**

630 ~~No pit bull dog may be kept on a porch, patio or in any part of a house or~~
631 ~~structure that would allow the dog to exit such building on its own volition. In addition, no~~
632 ~~such animal may be kept in a house or structure when the windows are open or when~~
633 ~~screen windows or screen doors are the only obstacle preventing the dog from exiting~~
634 ~~the structure.~~

635 Section 20. That section 6.25.160, Signs, of The Code of the City of Topeka,
636 Kansas, is hereby repealed.

637 **Signs.**

~~All owners, keepers or harborers of pit bull dogs within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.~~

Section 21. That section 6.25.170, Microchipping – Destruction of dog, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Microchipping – Destruction of dog.~~

~~(a) In addition to any other requirements, it shall be unlawful to own, harbor, keep or possess a pit bull dog in the city unless a microchip is implanted in the dog identifying the owner thereof. The owner, harborer, keeper or possessor of any pit bull dog shall have an identification microchip implanted in the dog by the humane society or a licensed veterinarian no later than 10 weeks after the dog is born in the city, or, for dogs exceeding 10 weeks of age, no later than 15 calendar days after the animal is brought into the city. This microchipping requirement shall apply regardless of whether the owner, harborer, keeper or possessor of the dog has obtained a permit for the dog pursuant to TMC [6.25.200](#). If a pit bull is sold or given away, the new owner, harborer, keeper or possessor of dog shall comply with this section.~~

~~(b) The owner, harborer, keeper or possessor shall file proof of microchipping acceptable to the animal control manager with animal control no later than 20 calendar days after the microchip is implanted in the animal. Failure to comply with this provision shall constitute a misdemeanor. Upon the commencement of a proceeding for violation of this subsection, the municipal court shall issue an ex parte order directing animal control officers to seize the dog, which shall be held and shall not be released until the~~

conclusion of the proceedings. The cost of any transportation, impoundment or microchipping of the dog shall be assessed to the owner, harborer, keeper or possessor of the dog. No animal shall be released from confinement until a microchip has been implanted.

(c) Notwithstanding the provisions of TMC [6.05.080](#)(h), if the owner, harborer, keeper or possessor of a pit bull dog is convicted of violating TMC [6.05.080](#)(c) involving the dog, the judge shall order the owner, harborer, keeper or possessor to destroy the dog within 15 days of the conviction, and to file proof of the destruction of the dog, acceptable to the municipal court, with the clerk of the municipal court no later than 15 days after conviction. Failure of the owner, harborer, keeper or possessor to file acceptable proof shall be punished as contempt of court.

Section 22. That section 6.25.180, identification photographs, of The Code of the City of Topeka, Kansas, is hereby repealed.

Identification photographs.

All owners, keepers or harborers of pit bull dogs must provide to the city treasurer two color photographs of the animal clearly showing the color and approximate size of the animal.

Section 23. That section 6.25.190, Reporting requirements, of The Code of the City of Topeka, Kansas, is hereby repealed.

Reporting requirements.

All owners, keepers or harborers of pit bull dogs must, within 10 days of the incident, report the following information in writing to the city treasurer, as applicable:

(a) The removal from the city or death of a pit bull dog.

~~(b) The birth of offspring of a registered pit bull dog.~~

~~(c) The new address of the pit bull dog owner should the owner move within the city limits.~~

Section 24. That section 6.25.200, Required – Impoundment of nonpermitted dogs, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Required – Impoundment of nonpermitted dogs.~~

~~(a) No person harboring or having the charge, custody or possession of any pit bull dog shall allow such dog to remain within the city unless and until he has first secured a permit so to do and complies with all terms and conditions of such permit; and, in addition thereto, such dog shall at all times be so confined, controlled and restrained in such manner that the life, limb or property of any person lawfully entering such premises shall not be endangered.~~

~~(b) Failure to obtain a permit when required by subsection (a) of this section after written notification by the animal control officer or his authorized designee shall be adequate grounds for the officer to impound the pit bull dog until a permit is obtained. If no permit is obtained within 10 days, the pit bull dog will be subject to summary destruction.~~

~~(c) The provisions of this section shall not apply to persons in possession of pit bull dogs otherwise prohibited by city ordinance or regulation.~~

~~(d) The permit required by this section shall be in addition to any other permits or licenses required of the person or pit bull dog by city ordinance or state or federal law.~~

Section 25. That section 6.25.210, Keeping without a permit prohibited – Restrictions to issuance, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Keeping without a permit prohibited – Restrictions to issuance.~~

~~Except as provided in this subdivision, no person shall have, keep, maintain, possess or control within the city any pit bull dog described without first applying to and receiving a permit from the city treasurer; provided, that no permit shall be granted except with such conditions attached as shall, in the opinion of the person approving such permit, reasonably ensure the public health, safety and general welfare, and, in any event, no permit shall be granted for any animal at any particular location except upon an explicit finding by the ACO or his authorized designee that the issuance thereof will not be contrary to the public health, safety and general welfare.~~

Section 26. That section 6.25.220, Application, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Application.~~

~~An application for any permit required pursuant to this chapter shall be made to the city treasurer in writing and upon a form furnished by the city treasurer. The application shall be verified by the person who desires to have, keep, maintain, possess or control, in the city, the pit bull dog for which a permit is required, and shall set forth the following:~~

~~(a) Name, address and telephone number of the applicant.~~

~~(b) The applicant's interest in such pit bull dog.~~

~~(c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.~~

~~(d) The number and general description of all pit bull dogs for which the permit is sought.~~

~~(e) Any information known to the applicant concerning vicious or dangerous propensities of all such pit bull dogs.~~

~~(f) The housing arrangements for all such pit bull dogs with particular details as to safety of structure, locks, fencing, etc.~~

~~(g) Safety precautions proposed to be taken.~~

~~(h) Noises or odors anticipated in the keeping of such pit bull dogs.~~

~~(i) Prior history of incidents involving the public health or safety involving any of the pit bull dogs.~~

~~(j) Proof of insurance as provided by this chapter to cover those who may be injured or killed by the pit bull dog.~~

~~(k) A statement, signed by the applicant, indemnifying the city and its agents and employees for any and all injuries that may result from the pit bull dog.~~

~~(l) Any additional information required by the ACO at the time of filing such application or thereafter.~~

Section 27. That section 6.25.230, Fee, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Fee.~~

~~The fee for a permit application shall be \$20.00 for one pit bull dog, plus an additional \$5.00 for two or more pit bull dogs. The total fee shall not exceed \$25.00 for~~

~~any one permit application and is nonrefundable. Such fee shall be payable to the city treasurer at the time of filing the permit application. Accretions by natural birth shall not require additional permits during the period of a valid permit.~~

Section 28. That section 6.25.240, Temporary permits – Powers of animal control officer, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Temporary permits – Powers of animal control officer.~~

~~The animal control officer may, following application for a permit and pending final disposition of such application, grant a temporary permit for the maintenance within the city of any such pit bull dog upon such conditions as the ACO shall, in the ACO's sole discretion, require when, in the ACO's opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare; but no such pit bull dog shall be otherwise kept or maintained within this city or permitted to occupy any premises within this city except while such a regular or temporary permit is in full force and effect. Provided, however, that any law enforcement officer or the ACO, or authorized deputy, shall take possession of any dog described under TMC [6.25.010](#) for which a permit has not been issued and keep such dog until the proper permit has been secured by the owner or keeper and all fees and costs have been paid and all laws and permit conditions complied with.~~

Section 29. That section 6.25.250, Term and renewal, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Term and renewal.~~

~~No permit required by this chapter shall be granted for a period in excess of one year. An application for renewal of any permit shall be made not less than 45 days prior~~

773 ~~to the expiration thereof, and shall be accompanied by the same fee as required upon~~
774 ~~making the original application.~~

775 Section 30. That section 6.25.260, Inspections for renewal, of The Code of the
776 City of Topeka, Kansas, is hereby repealed.

777 **~~Inspections for renewal.~~**

778 ~~Prior to the annual renewal of any permit issued under this chapter and at least~~
779 ~~once not more than six months after the issuance of any such permit or after its~~
780 ~~renewal, the animal control officer or his designated representative shall inspect the~~
781 ~~premises subject to such permit to determine whether the person to whom it has been~~
782 ~~issued is continuing to comply with all of the conditions specified in this chapter. If the~~
783 ~~ACO determines during any such inspection that any of the conditions therein specified~~
784 ~~are being violated, the ACO shall recommend denial of a renewal of any such permit, or~~
785 ~~shall recommend revocation of such permit if such violation is not corrected within the~~
786 ~~period of time directed.~~

787 Section 31. That section 6.25.270, Revocation, of The Code of the City of
788 Topeka, Kansas, is hereby repealed.

789 **~~Revocation.~~**

790 ~~The city treasurer, upon recommendation of the animal control officer, may, for~~
791 ~~good cause, revoke any permit or modify any terms or provisions thereof and may, if it~~
792 ~~is reasonably necessary to protect against an immediate threat or danger to the public~~
793 ~~health or safety, suspend any permit or portion thereof, without hearing, for a period not~~
794 ~~to exceed 30 days. Failure to comply with any of the provisions of this chapter shall be~~
795 ~~sufficient grounds for revocation.~~

796 Section 32. That section 6.25.280, Commercial establishments, of The Code of
797 the City of Topeka, Kansas, is hereby repealed.

798 **~~Commercial establishments.~~**

799 ~~(a) A commercial establishment possessing pit bull dogs for the purpose of sale~~
800 ~~or display may replace such dogs with others of the same kind, but the number of each~~
801 ~~shall not be in excess of the number thereof allowed by the terms of its permit. Such~~
802 ~~establishments may, in the discretion of the animal control officer, be granted a permit~~
803 ~~for those such numbers which do not exceed the maximum number such establishment~~
804 ~~estimates will be maintained by it in this city at any one time during the period of the~~
805 ~~permit. Such permit shall require the immediate notification of the ACO upon the~~
806 ~~acquisition of any pit bull dog having a prior history of any incident involving the public~~
807 ~~health or safety, or resulting in any bodily injury or property damage.~~

808 ~~(b) Upon the sale of any pit bull dog, the commercial establishment shall~~
809 ~~immediately send notification of the sale along with the name and address of the buyer,~~
810 ~~the method of transporting the dog, the path of travel of such transportation, and the~~
811 ~~destination of such dog to the ACO.~~

812 Section 33. That section 6.30.010, Definitions, of The Code of the City of
813 Topeka, Kansas, is hereby amended to read as follows:

814 **Definitions.**

815 The following words, terms and phrases, when used in this chapter, shall have
816 the meanings ascribed to them in this section, except where the context clearly
817 indicates a different meaning:

818 “Cat” means any domestic or wild cat.

819 “Ear-tipped feral cat” means a cat that is unsocialized to humans and has a
820 temperament of extreme fear or resistance to contact with humans that exhibits a
821 straight-line cutting of the tip of its left ear to indicate that it has been sterilized and
822 vaccinated against rabies.

823 “Neutered male” means any male cat which by operation has been made infertile
824 or one that has been certified by a licensed veterinarian as being naturally infertile.

825 “Owner” means any person owning, keeping, harboring or possessing any cat or
826 any person operating a kennel.

827 “Secure enclosure” means any structure secure on four sides, top and bottom,
828 and equipped with a gate or door that has a lock that secures the gate or door from
829 being opened by anyone other than the owner, harborer, keeper or possessor of the cat
830 as set forth in TMC 6.30.030(a).

831 “Spayed female” means any female cat which has been operated upon to
832 prevent conception.

833 “Veterinary hospital” means any establishment maintained and operated by a
834 licensed veterinarian for the diagnosis and treatment of diseases and injuries of cats.

835 Section 34. That section 6.30.050, Required, of The Code of the City of
836 Topeka, Kansas, is hereby amended to read as follows:

837 **Required.**

838 No person shall own, keep or harbor within the corporate limits of this city any cat
839 over six months of age without first obtaining a permit therefor from the city
840 ~~treasurer~~chief of police, or agent authorized by the city ~~treasurer~~chief of police, who

may issue such permit when proper application is made in writing. This permit requirement shall not apply to ear-tipped feral cats.

Section 35. That section 9.05.080, Uniform Public Offense Code, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Uniform public offense code.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city of Topeka, Kansas, that certain code known as the “Uniform Public Offense Code,” Edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except Sections 4.3 (“Prostitution”), 4.4 (“Promoting Prostitution”), ~~and 4.5 (“Patronizing A Prostitute”),~~ and 11.11 (“Cruelty to Animals”) which are specifically deleted and omitted. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped “Official Copy as adopted by Ordinance No. 18821,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of Ordinance No. 18821 and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

The Uniform Public Offense Code, Edition of 2006, is hereby further amended by adding the following exception to Section 10.6:

Exception: Operation of a bow and arrow is permitted in accordance with the provisions set forth in TMC [6.05.070](#).

Section 36. That original § 6.05.010, § 6.05.020, § 6.05.040, § 6.05.080, 6.30.010, § 6.30.050 and § 9.05.080 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 37. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 38. All ordinances, resolutions or rules, or portions thereof, inconsistent with the provisions of this ordinance are hereby rescinded or repealed.

Section 39. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

Summary: Dangerous Dogs and Animal Cruelty

Proposed Ordinance

IMPROVE SAFETY – SAVE TAX DOLLARS – SAVE ANIMALS

Issues

- I. Cruelty to Animals: There are currently two different ordinances covering the same topic of Cruelty to animals, TCC 18-4 and U.P.O.C. 11.11. The court, prosecution, defense bar and citizens have been wrestling with reconciling the conflicting provisions of these two ordinances, and some otherwise valid cases have been dismissed due to these conflicts.
 - a. The new section is intended to incorporate the best of both ordinances. It closely follows the state statute/U.P.O.C to provide consistent rules and enforcement.
 - b. Topeka provisions controlling tethering are maintained but modified to improve enforcement and better protect animals.
 - c. Provisions for intentionally killing an animal is maintained however particularly cruel tortures of animals resulting in death, i.e. malicious, will have to be filed in District Court.
- II. More Effective Provisions for Dangerous Dogs
 - a. Breed Specific Legislation, i.e. targeting a particular breed such as Pit Bull dogs has generally been discredited as ineffective and expensive.
 - i. Since 1965 there have been 11 fatal dog attacks in Kansas, by 8 different breeds of dogs.
 - ii. Studies show that cities with breed specific laws are not any safer. Stronger laws against aggressive and dangerous dogs which hold the owners responsible are seen as more effective.
 - iii. Any breed of dog can be made vicious, and conversely, Pit Bulls can be excellent and safe pets.
 - iv. Mixed breed dogs make the breed specific legislation difficult to enforce. Absent cost-prohibitive DNA testing, it is difficult to prove beyond a reasonable doubt the breed. (one study using DNA showed 84% of dogs in a shelter were mislabeled).
 - v. Over the past 9 years the TPD's budget for operating Animal Control has run over budget almost \$30,000 per year, for a total of \$272,751.55
 1. The vast majority of these budget overruns are caused by dogs being held as unlicensed pit bulls
 2. These are not dogs that exhibited vicious behavior, just running loose or otherwise in violation of our breed specific ordinances.
 3. The money that could be better spent on dangerous dogs.

- vi. Helping Hands Humane Society (HHHS) frequently has to kill hundreds of adoptable dogs of other breeds in order to comply with our contract and provide individual kennels for 'held' pit bulls.
- vii. Current Breed Specific ordinances have proven ineffective in reducing the number of pit bulls in Topeka.
- viii. Economic impact can be negative as certain dog shows and events avoid cities with breed specific ordinances.
- b. The propose ordinance replaces the current 'Vicious' approach with a broader 'Dangerous Dog' approach based on the City of Lawrence's ordinances.
 - i. The emphasis is on protecting the public and holding the owner accountable for the dog's actions.
 - ii. The ordinance would direct resources to animals that are proven to show hostile and dangerous actions, rather than against all members of a breed, regardless of their temperament.
 - iii. Current 'Breed Specific' language would be repealed.
- c. The proposed ordinance would require and promoting Sterilization
 - i. 97% of fatal dog attacks nationwide were by non-sterilized animals.
 - ii. Pet overpopulation is a major problem. Thousands of animals are euthanized every year by HHHS.
 - iii. Policies promoting the sterilization of pets will enhance public safety, save funds and avoid the problems of overpopulation.

III. Feral Cats

- a. Undomesticated Cats reproduce and expand wherever there is shelter and food available. Traditional efforts to trap and adopt these animals have been unsuccessful for two reasons:
 - i. As the population just expands to fill any locations with food and shelter.
 - ii. Feral cats are rarely adopted, being wild animals. So after the expense of trapping and storing for the statutory minimum, the animals are destroyed, all at taxpayers' expense.
- b. The ordinance adopts a procedure used successfully in other jurisdictions authorizing a program, not at taxpayer expense, where feral cats are trapped, neutered, vaccinated and their ears cropped to aide in ready identification. The cats are then released in their original locations, preventing other cats from filling the space, but not reproducing. In 3-4 years this approach should show reductions in feral cat numbers as well as enhance safety due to vaccinations.

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

**Name of
Committee:**

Public Health and Safety

Title:

Ordinance amending City of Topeka Code Sections 6.05.010, 6.05.020, 6.05.040, 6.05.080, 6.30.010, 6.30.050 and 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as repealing in its entirety Chapter 6.25 concerning pit bull dogs.

**Date referred
from Council
meeting:**

N/A

**Date referred
from
Committee:**

9/21/10

**Committee
Action:**

Councilmember Harmon moved to recommend to the full Council Do Pass of the ordinance. Councilmember Hiller seconded the motion. Motion approved 2-1. Councilmember Ortiz voted no.

Comments:

Amendments:

**Members of
Committee:**

Sylvia Ortiz (Chair), Karen Hiller and Richard Harmon

**Agenda Date
Requested:**

The Ordinance is scheduled for second reading on the September 28, 2010 Council meeting agenda.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 14, 2010

+ Back Print

DATE: September 28, 2010

CONTACT PERSON: Nicole Malott **DOCUMENT #:**

SECOND PARTY/SUBJECT: Childers, Belinda A. - **PROJECT #:**
1025 SW Lincoln Street /
Real Property
Assessment

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 126 Special Assessments

CIP PROJECT: No

ACTION OF COUNCIL: 09-21-10 First Reading **JOURNAL #:** 10

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sewer repair to real property, or specifically described hereinafter, all pursuant to the authority found in Topeka Municipal Code Section 14.80.240 and Section 14.80.250 and K.S.A. 12-6a17. Final Reading.

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would grant permission to collect unpaid costs in the amount of \$6,834.)

POLICY ISSUE:

None.

STAFF RECOMMENDATION:

Approval of this Real Property Assessment pursuant to Topeka Municipal Code.

BACKGROUND:

Officials of the City of Topeka's Public Works Department found that settlements or collapses in public streets, easements, alleys or rights-of-way resulted from an inadequate or defective private service line and/or the wye connection to the City's sewer line serving the property 1025 SW Lincoln Street.

Owner of property failed to repair said private service line and/or wye connection and to repair the public right-of-way, requiring the water pollution control division to cause the private sewer line and/or wye connection to be repaired and the damage to the public right-of-way to be repaired.

Owner of property has been provided a statement of costs associated with the repair work and has neglected, failed or refused to pay said costs.

Item #10

BUDGETARY IMPACT:

Collection of unpaid costs in the amount of \$6,834.00.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., assessing the costs of sewer repair to real property, more specifically described hereinafter, all pursuant to the authority found in Topeka Municipal Code § 14.80.240 and § 14.80.250 and K.S.A. 12-6a17.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS,

that:

Section 1. The officials of the City of Topeka's Public Works Department found that settlements or collapses in public streets, easements, alleys or rights-of-way resulted from an inadequate or defective private service line and/or the wye connection to the City's sewer line serving the following described property:

Owner	Address	Parcel ID #	Amount
Belinda A. Childers	1025 SW Lincoln Street	0973604008012000	\$6834.00

Section 2. Owner of property described in Section 1 above failed to repair said private service line and/or wye connection and to repair the public right-of-way, requiring the water pollution control division to cause the private sewer line and/or wye connection to be repaired and the damage to the public right-of-way to be repaired.

Section 3. Owner of property described in Section 1 above has been provided a statement of costs associated with the repair work and has neglected, failed, or refused to pay said costs.

Section 4. The property described in Section 1 is hereby assessed a service assessment pursuant to the provisions of TMC § 14.80.240 and § 14.80.250 and K.S.A. 12-6a17 in the dollar amount listed in Section 1 above.

Section 5. All service assessments may be paid in one installment or over a period not to exceed three (3) years in equal annual installments.

Section 6. All unpaid installments shall be certified by the City Clerk to the County Clerk.

Section 7. No suit to set aside a service assessment shall be brought after the expiration of thirty (30) days from the publication of the ordinance fixing the assessment.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the Governing Body_____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

May 18, 2010

+ Back Print

DATE: September 28, 2010

CONTACT PERSON: David Thurbon/Bill Hoover **DOCUMENT #:** P10/6

SECOND PARTY/SUBJECT: William and Allen Homes, Inc and David A. Bussard, et. al. **PROJECT #:** N/A

CATEGORY/SUBCATEGORY 017 Plats/002 Final

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A FINAL PLAT for Greenridge Estates Subdivision No. 2 located at the southwest corner of SW 29th Street and SW Auburn Road, outside the City's Municipal Service, but within the City's three-mile extraterritorial jurisdiction and all lying within unincorporated Shawnee County, Kansas. (P10/6)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for 54 single-family residential lots, which is a 26 lot increase from the original Greenridge Estates Subdivision, platted in 1963.)

POLICY ISSUE:

Consistent with the City of Topeka Subdivision Regulations.

STAFF RECOMMENDATION:

The Planning Commission recommended that the final plat phase of **Greenridge Estates Subdivision No. 2** be **APPROVED** by a vote of **7-0-0** at their **May 17, 2010** meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See staff report.
- Governing Body options:
- **Accept** the plat as presented for recording with the Shawnee County Register of Deeds; or,
- **Reject** the plat so it would **not** be eligible for recording with the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

Item #11

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[staff report](#)

[aerial](#)

[Plat- Pg. 1](#)

[Plat- Pg. 2](#)

[Planning Commission Minutes](#)

[Planning Commission Minutes](#)

May 17, 2010
Agenda Item # G-5

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Greenridge Estates Subdivision #2 - [P10/6]

OWNER/DEVELOPER: David A. Bussard, William and Allan Homes Construction, Inc., Wanda Sisco, Konza Classics LLC, Shelly Jarvis, Jon L. & Priscilla F. Sapp, John Michael & Heather Calvert, Carol A. & J.W. Smith, Golden Key Realty Inc. (all owners), and Susan E. Conrardy (purchaser under contract)

ENGINEER/SURVEYOR: Bartlett & West Engineers

GENERAL LOCATION: On property located at the southwest corner of SW Auburn Road and SW 29th Street

JURISDICTION: Class "B" subdivision located within the City's three-mile extraterritorial jurisdiction, outside the City's Municipal Service Area and within unincorporated Shawnee County, but lying adjacent to a major traffic thoroughfare.

ANNEXATION: Annexation is not required since the property lies outside the Municipal Service Area and will not receive City water or sanitary sewer service. However, Class "B" Subdivisions are required to consent to annexation per City Subdivision Regulations. The owners of record have granted their written consent to annexation with recording of the final plat.

Area (acres)	# of Lots	Residential Density	Proposed Land Use	Zoning
18.65	54	2.9 DUs/acre	Single-Family Dwellings	PUD (R-1) *See Background
Pending Zoning Case: N/A				
Design: The plat is an irregular shaped tract, surrounding by existing single-family residential lots that front on to SW 29 th Street and Auburn Road. This plat has 330' and 333' of frontage along SW 29 th Street and SW Auburn Road, respectively. This is the first phase of a replat of Greenridge Estates Subdivision and increases the number of lots within the first phase from 28 lots that were platted in 1963 to a total of 54 lots. It proposes future street connections to the west and south by means of SW 29 th Terrace, SW 30 th Street, and SW Whitney Avenue.				

BACKGROUND: The master preliminary plat for Greenridge Estates Subdivision #2 was approved by the Planning Commission on March 15, 2010 to be developed in four (4) phases, as depicted on that preliminary plat.

This final plat is the first of these four phases. This is partial replat of the original Greenridge Estates Subdivision that was platted in 1963. The original subdivision consisted of 113 lots to be served by on-site septic systems. The single-family residential lots that are left out of the preliminary plat, located along SW 29th Street and SW Auburn Road, were already constructed between 1978 and 2006 and these lot lines were never reconfigured. The primary reason for this platting action is due to a lawsuit resulting from a Planned Unit Development approved by Shawnee County in 2006. This Master PUD Plan has since been removed from the records of the Shawnee County Register of Deeds due to a summary judgment on April 15, 2010, which required its removal. The primary purpose of that PUD was to reconfigure the original platted lot lines, which significantly increased the density without replatting the lots through the City subdivision process and, thereby, had the effect of exempting the City from its subdivision authority for properties within its three-mile extraterritorial jurisdiction. As shown on the 2009 aerial,

May 17, 2010
Agenda Item # G-5

two residences have been constructed on the same platted lots, which is a violation of the City Subdivision Regulations. The Master PUD Plan increased the density of the undeveloped area to 171 lots from the originally proposed 100 lots for this same area. This resulting change in residential density from 1.7 to 2.9 DUs/acre for the entire preliminary plat is a fairly significant increase and requires the existing subdivision be re-platted and approved by the Planning Commission and Governing Body.

SERVICES AND FACILITIES:

1. WATER SERVICE: The development is to be serviced by Shawnee County Rural Water District No. 1 with all water connections being at developer expense by means of connection to existing water mains along SW 29th Street and SW Auburn Road.
2. SEWAGE DISPOSAL: The development is to be serviced by Shawnee County by the Sherwood Regional Treatment Plant with all connections being at developer expense.
3. WASTEWATER PLAN SERVICE AREA: The property is located within the Secondary Urban Service Area which does not require service by a sanitary sewer system as reflected by the Shawnee County Wastewater Management Plan. However, the subdivision will receive full sanitary sewer service by connection to the Sherwood Regional Treatment Plant. The proposal is in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The Drainage Report as submitted by the Consultant to the City of Topeka Department of Public Works has not been approved for the final plat, per memo dated May 3, 2010. The applicant will have to satisfy Engineering staff's comments as indicated in the attached memo. The City Engineer requires the lots south of Block E be included within this final plat, as these lots are proposed on the master preliminary plat for a drainage detention basin. The applicant also needs to clarify as to whether a second easement is necessary allowing this basin to discharge. The Drainage Report as submitted to the Shawnee County Department of Public Works has been approved, per memo dated January 25, 2010.
5. STREET PLAN/ACCESS: The Preliminary Street Plans as submitted by the Consultant to the Shawnee County Department of Public Works were approved with the County approval of the Planned Unit Development plan in 2006. The street design has not been changed and remains as platted and dedicated with the original Greenridge Estates Subdivision. However, considering some residences have already been constructed within this phase, a note should be added that indicates, "No additional building permits shall be issued until all streets are installed, a street benefit district has been approved, and/or the streets are under contract for construction." Key access points to the subdivision are from off of SW 29th Street and SW Auburn Road. The final plat allows for a future street connection with the unplatted properties to the south through the future extension of SW Whitney Avenue. However, by not including that segment of SW Whitney connecting to the south boundary of the master preliminary plat into this final plat, there are no assurances this connection to the south boundary line will be made in the future. It is shown on the preliminary plat as a part of Phase 3, but the street is physically separated from Phase 3. Staff recommends including this segment of Whitney Avenue into this plat along with the lots adjoining it to the east (in order to take in the drainage detention facility). SW 30th Street still needs to have a temporary turnaround easement (T.T.E.) dedicated until its future extension. This plat should vacate the existing 30' right-of-way of SW 30th Street Terrace. However, this still needs to be indicated on the final plat.
6. FIRE DISTRICT: Mission Township Fire
7. STREAM BUFFER: A Type II stream crosses the corner of the property, which for properties located within the City of Topeka would require a 50-foot buffer width on each side perpendicular to the waterway as measured from the centerline of the channel. However, since this property is not located within the city limits,

May 17, 2010
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the Stream Buffer Ordinance #17837 does not apply.

8. SCHOOL DISTRICT: 437- Auburn/Washburn School District
9. PARKS/OPEN SPACE: The Parkland Development Fee Ordinance # 19323 will apply to the net increase in newly platted lots. This property is located within Parkland Fee District #6 requiring a fee of \$300 per new unit. Therefore, a total fee of \$7,800 shall be required for the 26 new single-family residential lots. This is the net increase from the 28 lots that were platted in 1963 as a part of the original subdivision. This payment shall be paid to the Planning Department in its entirety prior to releasing the final plat for recording or the developer may enter into an agreement with the City to pay the fee in installments, per Ordinance #19323.

WAIVER/VARIANCE TO STANDARDS: None

CAPITAL IMPROVEMENT PLAN (CIP): The current City and County CIP's indicate no projects planned for this area.

CONFORMANCE TO COMPREHENSIVE PLAN: This area is just outside the Planning Area and the Southwest Planned Growth Area of the Land Use and Growth Management Plan – 2025, which establishes residential densities up to 3 DUs/ acre. At 2.9 DUs/acre, this proposal does meet this established density. The Model Neighborhood Concept in the plan, which establishes guidelines for locating land uses on a neighborhood scale, indicates an intersection of two arterials, such as this, should be developed as a regional commercial center. The concept also indicates that lots fronting on arterials should be minimized and access should be taken off of a collector street to further limit access points on arterial streets. Single-family residential lots should not front on arterial streets. Therefore, this subdivision design is not in conformance to these Comprehensive Plan guidelines. Under the Model Neighborhood Concept, a significant portion of this area would be appropriate for commercial land uses with limited access on to arterials and all access points from collector streets. However, accepted planning principles dictate that established patterns of zoning and land use are a basic factor in making land use decisions. This area was originally platted and approved in 1963, and subsequently partially developed for single-family residential land uses prior to the adoption of the current Comprehensive Plan. Therefore, although the proposal is not consistent with the Comprehensive Plan, other factors mentioned above are controlling in this instance.

STAFF ANALYSIS:

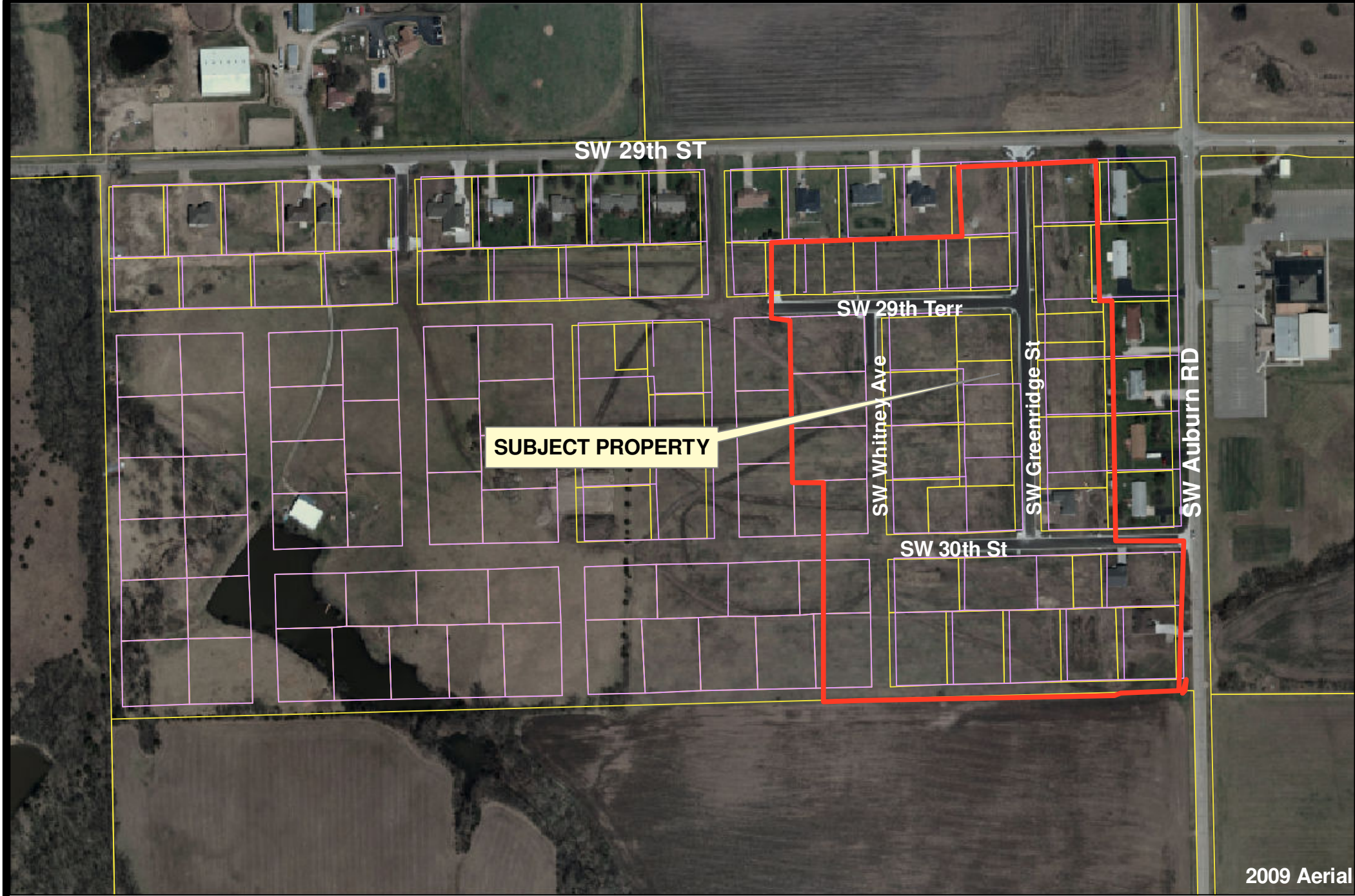
The overall design conforms to the established standards and provisions of the Subdivision Regulations relative to design criteria, although it does not conform to design guidelines indicated in the Land Use and Growth Management Plan- 2025. The subdivision will be compatible with adjacent development, but may overburden existing storm water infrastructure facilities if the proposed detention basin on the lots south of Block E, as shown on the preliminary plat, is not included within this final plat, as required by the City Engineer. Based upon the above findings and staff analysis and due to the pre-existing plat for this property, the Planning Department recommends the final plat phase of Greenridge Estates Subdivision #2 be **APPROVED**, subject to the following conditions:

1. Approval and acceptance of the Drainage Report by the City of Topeka Department of Public Works, which includes revising this final plat to include Lots 5-8, Block M, Greenridge Estates Subdivision and the drainage detention facility easement on those lots (i.e. Lots 12 & 13, Block M, Greenridge Estates Subdivision #2 preliminary plat).
2. Including the segment of SW Whitney Avenue adjoining Lots 5-8, Block M that connects to the south boundary line into the final plat and phase 1 of the preliminary plat.
3. Submitting copies of the revised master preliminary plat showing revised phasing and final plat to staff prior to the plat being placed on the City Council agenda.

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4. Clarifying ownership, responsibility, and maintenance of the "S.A" (i.e. sign area easements) on Lot 9, Block E and Lot 10, Block A.
5. Adding final plat note: "No additional building permits shall be issued until all streets are installed and/or all the streets are under contract for construction."
6. Revising "West" on all street names to "SW".
7. Depicting a temporary turnaround easement (T.T.E.) at the present platted terminuses of SW 30th Street until the future extensions of this street.
8. Removing street name for "West 30th Street Terrace". The 30' right-of-way should be vacated for that segment adjacent to Lot 11, Block E. Indicating this right-of-way will be vacated and extending the lot lines of Lot 11, Block E southward.
9. Adding note to final plat regarding square footages of all dedicated right-of-way, utility, and drainage easements or submitting this information as a separate attachment.
10. Revising Certificate of Approvals signature blocks to state, "Doug Bassett, Chairman, Topeka Planning Commission" and "David F. Thurbon, Secretary, Topeka Planning Commission"

Prepared by:
Annie Driver, Planner



P10/6 Green Ridge Estates Subdivision #2

A FINAL PLAT FOR :

GREENRIDGE ESTATES No. 2

A TRACT OF LAND IN THE NORTH 1/2 OF THE NORTHEAST 1/4
OF SECTION 14, TOWNSHIP 12 SOUTH, RANGE 14 EAST OF THE
6TH P.M., SHAWNEE COUNTY, KANSAS AND A PARTIAL REPLAT
OF GREENRIDGE ESTATES SUBDIVISION

BOOK : _____

PAGE : _____

DATE : _____

TIME : _____

LEGAL DESCRIPTION :

A PARTIAL REPLAT OF GREENRIDGE ESTATES SUBDIVISION, SHAWNEE COUNTY, KANSAS, INCLUDING LOT 1, PART OF LOT 6, LOT 7, LOT 8, AND LOT 9, BLOCK C; PART OF LOT 2, LOT 4, LOT 6, LOT 8, LOT 10, AND LOT 12, BLOCK D; ALL OF BLOCK E; LOT 1, LOT 3, LOT 5 AND PART OF LOT 7, BLOCK F; PART OF LOT 1 AND LOT 9, BLOCK L; LOT 1, BLOCK M, ALL OF WEST GREENRIDGE STREET AND PART OF WEST 29TH STREET, PART OF WEST AUBURN ROAD, PART OF WEST WHITNEY AVENUE, PART OF WEST 30TH STREET, AND PART OF WEST 29TH STREET TERRACE, PART OF WEST 30TH STREET TERRACE AND ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 12 SOUTH, RANGE 14 EAST OF THE 6TH P.M., SHAWNEE COUNTY, KANSAS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTH HALF; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, COINCIDENT WITH THE NORTH LINE OF SAID NORTH HALF, 235.28 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, 199.95 FEET TO A 5/8-INCH REBAR, BEING THE NORTHWEST CORNER OF LOT 3, BLOCK D, GREENRIDGE ESTATES SUBDIVISION; THENCE CONTINUING SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, COINCIDENT WITH THE WEST LINE OF SAID LOT 3, 185.34 FEET TO A 5/8-INCH REBAR, BEING THE SOUTHWEST CORNER OF SAID LOT 3; THENCE SOUTH 89 DEGREES 49 MINUTES 57 SECONDS EAST, COINCIDENT WITH THE SOUTH LINE OF SAID LOT 3, 26.33 FEET TO A 5/8-INCH REBAR, BEING THE NORTHWEST CORNER OF LOT 5, BLOCK D, GREENRIDGE ESTATES SUBDIVISION; THENCE SOUTH 00 DEGREES 00 MINUTES 48 SECONDS WEST, COINCIDENT WITH THE WEST LINE OF LOTS 5, 7, 9, AND 11, BLOCK D, GREENRIDGE ESTATES SUBDIVISION, 575.11 FEET TO THE CENTERLINE OF WEST 30TH STREET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, COINCIDENT WITH SAID CENTERLINE, 208.21 FEET TO THE EAST LINE OF SAID NORTH HALF; THENCE SOUTH 00 DEGREES 14 MINUTES 01 SECOND WEST, COINCIDENT WITH SAID EAST LINE, 362.95 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF; THENCE SOUTH 89 DEGREES 57 MINUTES 11 SECONDS WEST, COINCIDENT WITH THE SOUTH LINE OF SAID NORTH HALF, 894.61 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 504.15 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 78.00 FEET TO THE WEST LINE OF LOT 7 BLOCK F, GREENRIDGE ESTATES SUBDIVISION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST COINCIDENT WITH THE WEST LINE OF LOTS 7, 5, 3, AND 1, BLOCK F, GREENRIDGE ESTATES SUBDIVISION, 410.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF WEST 29TH STREET TERRACE; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, COINCIDENT WITH SAID RIGHT-OF-WAY LINE 37.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 188.00 FEET TO THE SOUTH LINE OF LOT 5, BLOCK C, GREENRIDGE ESTATES SUBDIVISION; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, COINCIDENT WITH THE SOUTH LINE OF LOTS 5, 4, 3, AND 2, BLOCK C, GREENRIDGE ESTATES SUBDIVISION, 449.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, COINCIDENT WITH THE EAST LINE OF SAID LOT 2, 222.00 FEET TO THE NORTH LINE OF SAID NORTH HALF; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, COINCIDENT WITH SAID NORTH LINE, 330.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 21.98 ACRES, MORE OR LESS.

CERTIFICATE OF APPROVALS:

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS _____ DAY OF _____ 20____.

DOUG BASSETT,
CHAIRMAN, TOPEKA
PLANNING COMMISSION

DAVID F. THURBON,
SECRETARY TOPEKA
PLANNING COMMISSION

THIS SUBDIVISION HAS BEEN PRESENTED TO THE CITY COUNCIL, CITY OF TOPEKA, KANSAS, ON THE _____ DAY OF _____, 20____ FOR ACCEPTANCE OF LAND TO BE DEDICATED FOR PUBLIC PURPOSES. THE CITY COUNCIL HEREBY ACCEPTS THE LAND FOR PUBLIC PURPOSES.

WILLIAM W. BUNTEN,
MAYOR

BRENDA YOUNGER,
CITY CLERK

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS THIS _____ DAY OF _____, 20____.

CYNTHIA A. BECK, COUNTY CLERK

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY

REGISTER OF DEEDS THIS _____ DAY OF _____

_____, 20____ AT _____ O'CLOCK.

MARILYN L. NICHOLS, REGISTER OF DEEDS

NOTES :

1. WATER SERVICE SHALL BE BY SHAWNEE COUNTY CONSOLIDATED RURAL WATER DISTRICT #1
2. SANITARY SEWER SERVICE SHALL BE BY SHAWNEE COUNTY
3. THIS PROPERTY LIES WITHIN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 200331 0095 C WITH AN EFFECTIVE DATE OF JUNE 1, 1982. THE SUBJECT TRACT LIES IN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AS PER FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP No. 20177C0190E WITH NO EFFECTIVE DATE.
4. ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
5. NO BUILDING PERMITS SHALL BE ISSUED UNTIL ARRANGEMENTS FOR THE INSTALLATION OF WATER MAINS AND/OR CONNECTION CHARGES HAVE BEEN MADE.
6. THE OWNER OF RECORD OF THE DESCRIBED REAL ESTATE DOES HEREBY EVIDENCE ITS COMPLETE AND IRREVOCABLE CONSENT TO ANNEXATION BY THE CITY OF TOPEKA, IN ACCORDANCE WITH THE LAWS OF THE STATE OF KANSAS. THIS CONSENT SHALL RUN WITH THE LAND AND SHALL BE BINDING UPON THE HEIRS, SUCCESSORS AND ASSIGNS OF THE UNDERSIGNED.
7. DRAINAGE EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER AND/OR THE CONSTRUCTION AND MAINTENANCE OF PIPE, FLUME, DITCH OR ANY OR ALL IMPROVEMENT FOR THE DRAINAGE OF SAID WATER, ALL AS MAY BE DETERMINED AND/OR APPROVED BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS. PROPERTY OWNERS SHALL NOT PLACE ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENTS. ALL MAINTENANCE WITHIN THE DRAINAGE EASEMENT (DE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON, SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.
8. PROPERTY OWNERS SHALL BE ADMONISHED FROM PLACING ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN PERMANENT SEWER, DRAINAGE OR UTILITY EASEMENTS. THIS INCLUDES, BUT IS NOT LIMITED TO, TREES, SHRUBS, FENCES, RETAINING WALLS, BUILDINGS OR OTHER MISCELLANEOUS OBSTRUCTIONS THAT INTERFERE WITH ACCESS OR EGRESS OF MAINTENANCE VEHICLES OR EQUIPMENT FOR THE OPERATION AND MAINTENANCE OF THE UTILITIES OR PIPE LINES LOCATED IN THE EASEMENT. ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION LOCATED IN THE PERMANENT SEWER OR UTILITY EASEMENT MAY BE REMOVED BY PERSONNEL REPRESENTING THE GOVERNING BODY, TO PROVIDE FOR THE PROPER OPERATION AND MAINTENANCE OF THAT UTILITY LINE, WITHOUT COST OR OBLIGATION FOR REPLACEMENT. COST OF REMOVAL, AND/OR REPLACEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
9. UTILITY PROVIDERS, CONTRACTORS, AND AUTHORIZED AGENTS TO LOCATE, CONSTRUCT AND MAINTAIN FACILITIES TO PROVIDE UTILITY SERVICE TO THE PUBLIC. ALL PUBLIC UTILITIES SPECIFICALLY INCLUDING BUT NOT LIMITED TO WATER, GAS, SEWER, STORMWATER, AND TELECOMMUNICATIONS MAY PLACE OR LOCATE THEIR FACILITIES OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS." A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF THE UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE INITIAL CONSTRUCTIONS OF THE PUBLIC UTILITIES' FACILITIES ARE IN PROGRESS.
10. THE TEMPORARY TURNAROUND EASEMENTS (TTE) ARE DEDICATED FOR USE UNTIL SUCH TIME THAT PERMANENT STREET PAVEMENT IS EXTENDED BEYOND ITS LIMITS, AT THAT TIME THE TTE'S ARE NULL AND VOID.

SURVEYOR CERTIFICATE:

I HEREBY CERTIFY THE DETAILS OF THIS PLAT TO BE CORRECT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL BOUNDARY CORNERS OF THIS SUBDIVISION HAVE BEEN MONUMENTED, ACCORDING TO KANSAS STATE

STATUTE, THIS _____ DAY OF _____ 20____.

RONALD J. SHANKS, P.L.S. #1255
BARTLETT & WEST, INC.

REVIEWED BY THE COUNTY SURVEYOR THIS _____ DAY OF _____, 20____
IN ACCORDANCE WITH KSA CHAPTER 58, ARTICLE 20.

RULE A. SEYMOUR, P.L.S. No. 834, COUNTY SURVEYOR

FINAL PLAT

GREENRIDGE ESTATES No. 2
SW AUBURN ROAD & SW 29th STREET
SHAWNEE COUNTY, KANSAS

DESIGNED BY: MEE
DRAWN BY: DJS/DAM/LJM
APPROVED BY: R SHANKS
DESIGN PROJ: 15323.100
CONST PROJ: 15323.100
SCALE: 1" = 100'
DATE: 4/14/2010
DRAWING NO: P10/06
SHEET NO: 1 of 2

ALL RIGHTS RESERVED. ALL BARTLETT & WEST ENGINEERS PLANS, SPECIFICATIONS AND DRAWINGS ARE PROTECTED UNDER COPYRIGHT LAW, AND NO PART MAY BE COPIED, REPRODUCED, IMPRINTED, PUBLISHED, USED TO CREATE DERIVATIVES, CONTAINED, STORED IN A RETRIEVAL SYSTEM OR TRANSMITTED IN ANY FORM BY ANY MEANS WITHOUT PRIOR WRITTEN PERMISSION OF BARTLETT & WEST ENGINEERS.

**Minutes of the
Topeka Planning Commission
Monday, May 17, 2010**

Greenridge Estates Subdivision No. 2 (Final Plat Phase) (P10/6) by David A. Bussard, William and Allan Homes Construction, Inc., Wanda Sisco, Konza Classics LLC, Shelly Jarvis, Jon L. & Priscilla F. Sapp, John Michael & Heather Calvert, Carol A. & J.W. Smith, Golden Key Realty Inc., and Susan E. Conrardy (purchaser under contract) on property generally located at the southwest corner of SW 29th Street and SW Auburn Road, all lying outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction. **(Driver)** Annie Driver summarized the staff report and noted condition #7 in the staff report should be removed.

Discussion by members:

Doug Bassett asked what is contract for construction? David Thurbon replied it usually means a benefit district.

Proponents:

Mike Engler, Bartlett & West Engineers, spoke in favor of the proposal. He stated we agree with all conditions listed in the staff report except #5. There is no basis for comment stating lack of connectivity. Access to the property is from 30th Street going north on Green Ridge Street back out to 29th Street. The dead end streets are to the west. He said 29th Terrace goes back 550 feet with a temporary turn around. The dead ends were on original plat. Mission Township Fire approved the dead ends. It is not acceptable to have the comment saying he can not have any building permits until the streets are put in. Mr. Engler said there has not been a requirement like this in the last 32 years. We are within requirements of the dead end streets. The preliminary plat was approved in March and #5 wasn't part of the preliminary plat and it is not appropriate to put on the final plat. We are in agreement with all other conditions.

Howard Blackmon asked if the applicant would be willing to add 500 foot for dead ends? Mr. Engler replied there are already hammerhead turnarounds there.

Mike Lackey asked when the dead end streets will be completed? Mr. Engler stated 20-40 lots would need to be built to finish the streets. David Thurbon said normally we look at a phase and we would want all the streets paved unless there is a phasing plan on the plat in which they have. He added we want each phase to stand alone. Mr. Thurbon also stated the dead ends need to be paved as a circular turnaround without curb and gutter. Mr. Engler stated the fire departments accept hammerhead turnaround. Ms. Driver stated the fire department had no comments regarding this plat. Mr. Thurbon said the turnaround needs to be a paved turn around. Mr. Engler stated they have been built to city standards. Mr. Boyd added a hammerhead is an acceptable turn around. Mr. Engler stated the hammerhead is paved and standards for the hammerhead were provided by Topeka Fire Chief. Mr. Thurbon said if it is already there paved staff would be willing to remove condition #5 from the staff report. All the streets in this development have been built to city standards.

No one spoke in opposition of the proposal.

Mike Lackey moved approval as written by staff striking condition #5 and #7, seconded by Howard Blackmon. **APPROVAL. (7-0-0)**

**Minutes of the
Topeka Planning Commission
Monday, March 15, 2010**

Greenridge Estates Subdivision No. 2 (Preliminary Plat Phase) (P10/6) by David A. Bussard, William and Allan Homes, Inc., Wanda Sisco, Konza Classics LLC, Shelly Jarvis, Jon L. & Priscilla F. Sapp, Heather Calvert & Michael John, Doug Mingus, Freddy G. Bussard, and Golden Key Realty Inc. on property located on the southwest corner of SW 29th Street and SW Auburn Road, all lying outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction. **(Driver)** Annie Driver summarized the staff report.

Discussion by members:

Mark Boyd asked how many houses are already built in this area? Doug Bassett said there are three. Michelle Hoferer said there are 4 or 5 on Greenridge Street and a couple almost done on 30th Street. David Thurbon said the built homes are shown on the preliminary plat. Mrs. Driver said they were all part of Phase I. Mr. Boyd asked if these properties have been sold and are the owner's party to the plat? Mrs. Driver replied, yes. Mr. Thurbon said that will be an issue on the final plat. The owner's representative said it will be difficult to get all the signatures. I think it would be in the owner's best interest to sign. They will be consent to annexation. Mr. Thurbon said due to the pending lawsuit we are asking for an injunction to keep the county from issuing anymore building permits in this area.

Michelle Hoferer asked where the city limit line is? Mr. Thurbon replied, about a ¼ of a mile west. He stated the school district has bought the northeast corner of 29th & Auburn Road and if they consent to annexation, which they probably would, it would make this property annexable in the near future.

Doug Bassett asked if the property owners included in the lawsuit? Mr. Thurbon replied, no, just the city and county. Ms. Hoferer asked who would be sued? Mr. Thurbon replied, the original developer.

Mr. Boyd asked if the plat follows the PUD the county approved? Mrs. Driver replied, some of the green space has changed and we asked them to extend the lot lines back into the green space.

Proponents:

Steve LaCasse, Bartlett & West Engineers, spoke in favor of the proposal. He said we agree to the conditions listed in the staff report. He stated the houses that have been there a while, before the PUD, aren't included in this plat or in the final plat.

Mr. Boyd asked if any thought was given to reconfiguring the lots or streets to make the area more accessible, it doesn't really fit the typography. Mr. LaCasse replied, no, we tried to maintain the original plat configuration. We tried to get lot lines to meet up with those on the PUD. We didn't want to change too much. This plat doesn't change anything to the PUD. Mr. LaCasse stated the shaded area on the plat is the portion that hasn't been built yet.

Lee Williams moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL.**
(6-0-1) Commissioner Boyd abstained.



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2010

+ Back Print

DATE:	September 28, 2010		
CONTACT PERSON:	David Thurbon/Bill Hoover	DOCUMENT #:	P10/17
SECOND PARTY/SUBJECT:	Horseshoe Bend Subdivision #2	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #: PAGE #:		

DOCUMENT DESCRIPTION:

A FINAL PLAT for Horseshoe Bend Subdivision No. 2 generally located on the south side of the Kansas Turnpike, the centerline of the tract being approximately 1,330 ft. north of SE 45th Street and 2,300 ft. east of SW Topeka Blvd. (P10/17) (Council District No. 5)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for 52 additional lots of single-family detached dwellings.)

POLICY ISSUE:

The Planning Commission granted a variance to a requirement that block length not exceed 1,200 ft. The Planning Department recommended a mid-block pedestrian easement through Block B, be provided as required by the Subdivision Regulations. This easement would provide a more direct and shorter route to the public park and would be consistent with the concept of "complete streets."

The request is in conformance to the land use policies and principles of the *Topeka Land Use and Growth Management Plan - 2025*.

STAFF RECOMMENDATION:

The Planning Commission recommended that the final plat phase of **Horseshoe Bend Subdivision #2** be **APPROVED** by a vote of **6-0-1** at their **August 16, 2010** meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See staff report
- Governing Body options:
- **Accept** the plat as presented, for recording with the Shawnee County Register of Deeds; or,
- **Reject** the plat, so it would **not** be eligible for recording with the Shawnee County Register of Deeds.

Item #12

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[aerial](#)

[plat- pg 1](#)

[plat- pg 2](#)

[Planning Commission Minutes](#)

[Subdivision Report](#)



P10/17 Horseshoe Bend Subdivision #2

A FINAL PLAT FOR : HORSESHOE BEND SUBDIVISION No. 2

BOOK : _____
PAGE : _____
DATE : _____
TIME : _____

A REPLAT OF A PORTION OF LOTS 3 AND 4, BLOCK C; A PORTION OF LOTS 1 AND 2, BLOCK D; A PORTION OF LOTS 2, 3 AND 4, BLOCK F; A PORTION OF LOT 3, BLOCK G; A PORTION OF THE RIGHTS OF WAY OF S.E. 42ND STREET AND S.E. 43RD STREET; ALL IN HILLTOP SUBDIVISION NO. 2, CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

LEGAL DESCRIPTION:

A REPLAT OF A PORTION OF LOTS 3 AND 4, BLOCK C; A PORTION OF LOTS 1 AND 2, BLOCK D; A PORTION OF LOTS 2, 3, AND 4, BLOCK F; A PORTION OF LOT 3, BLOCK G; AND A PORTION OF THE RIGHTS OF WAY OF S.E. 42ND STREET AND S.E. 43RD STREET, ALL IN HILLTOP SUBDIVISION NO. 2, ACCORDING TO THE RECORDED PLAT THEREOF, IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF HORSESHOE BEND SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ON AN ASSUMED NORTH AZIMUTH OF 178 DEGREES 18 MINUTES 47 SECONDS, 655.36 FEET ALONG THE WEST LINE OF SAID HORSESHOE BEND SUBDIVISION; THENCE ON AZIMUTH 139 DEGREES 44 MINUTES 22 SECONDS, 64.15 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 178 DEGREES 18 MINUTES 47 SECONDS, 110.00 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 88 DEGREES 31 MINUTES 59 SECONDS, 70.00 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 178 DEGREES 18 MINUTES 47 SECONDS, 110.00 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 143 DEGREES 29 MINUTES 04 SECONDS, 48.86 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 178 DEGREES 18 MINUTES 47 SECONDS, 110.00 FEET ALONG SAID WEST LINE TO THE SOUTH LINE OF SAID HILLTOP SUBDIVISION NO. 2; THENCE ON AZIMUTH 268 DEGREES 31 MINUTES 59 SECONDS, 490.00 FEET ALONG SAID SOUTH LINE TO THE NORTHEAST CORNER OF GRAND OAKS SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ON AZIMUTH 268 DEGREES 00 MINUTES 53 SECONDS, 111.89 FEET ALONG THE NORTH LINE OF SAID GRAND OAKS SUBDIVISION; THENCE ON AZIMUTH 178 DEGREES 00 MINUTES 53 SECONDS, 15.00 FEET ALONG SAID NORTH LINE; THENCE ON AZIMUTH 268 DEGREES 00 MINUTES 53 SECONDS, 130.00 FEET ALONG SAID NORTH LINE; THENCE ON AZIMUTH 358 DEGREES 00 MINUTES 53 SECONDS, 436.20 FEET; THENCE ON AZIMUTH 88 DEGREES 00 MINUTES 53 SECONDS, 48.86 FEET ALONG SAID WEST LINE; THENCE ON AZIMUTH 358 DEGREES 00 MINUTES 53 SECONDS, 460.18 FEET; THENCE ON AZIMUTH 268 DEGREES 00 MINUTES 53 SECONDS, 18.69 FEET; THENCE ON AZIMUTH 358 DEGREES 00 MINUTES 53 SECONDS, 187.47 FEET TO THE NORTH LINE OF SAID HILLTOP SUBDIVISION NO. 2; THENCE ON AZIMUTH 88 DEGREES 31 MINUTES 59 SECONDS, 91.33 FEET ALONG SAID NORTH LINE; THENCE ON AZIMUTH 178 DEGREES 31 MINUTES 53 SECONDS, 100.28 FEET ALONG SAID NORTH LINE; THENCE ON AZIMUTH 88 DEGREES 33 MINUTES 16 SECONDS, 222.43 FEET ALONG SAID NORTH LINE; THENCE, ALONG SAID NORTH LINE, EASTERLY, 83.89 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 3305.74 FEET, WITH A CHORD WHICH BEARS ON AZIMUTH 87 DEGREES 49 MINUTES 52 SECONDS, 83.89 FEET; THENCE ON AZIMUTH 357 DEGREES 08 MINUTES 08 SECONDS, 100.21 FEET ALONG SAID NORTH LINE; THENCE, ALONG SAID NORTH LINE, EASTERLY, 148.90 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 3205.74 FEET, WITH A CHORD WHICH BEARS ON AZIMUTH 85 DEGREES 40 MINUTES 29 SECONDS, 148.89 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 13.82 ACRES, MORE OR LESS.

- LEGEND**
- BOUNDARY LINE
 - LOT LINE
 - RIGHT-OF-WAY LINE
 - CENTER LINE
 - EASEMENT LINE
 - BUILDING SETBACK LINE
 - RESTRICTED ACCESS
 - NO INGRESS / NO EGRESS
 - GREEN SPACE EASEMENT
 - LOT NUMBER
 - ACCESS EASEMENT
 - BUILDING SETBACK LINE
 - DRAINAGE EASEMENT
 - FORCE MAIN EASEMENT
 - GREEN SPACE EASEMENT
 - KANSAS TURNPIKE AUTHORITY MEASURED
 - PEDESTRIAN ACCESS EASEMENT
 - POINT OF BEGINNING
 - RECORDED
 - RIGHT-OF-WAY
 - SQUARE FOOTAGE
 - SANITARY SEWER EASEMENT
 - STREET NAME CHANGE
 - UTILITY EASEMENT
 - FOUND 5/8" IRON BAR IN CONCRETE
 - SET 5/8" IRON BAR IN CONCRETE W/CAP STAMPED "BARTLETT&WEST CLS14"

LOT, BLOCK AND AREA

LOT	BLOCK	SQ. FT.	LOT	BLOCK	SQ. FT.
1	A	13,331	1	C	7,723
2	A	57,480	2	C	7,700
3	A	9,986	3	C	7,810
4	A	7,759	4	C	7,810
5	A	7,778	5	C	7,810
6	A	7,797	6	C	7,810
7	A	10,002	7	C	7,810
1	B	7,786	8	C	11,772
2	B	7,920	1	D	11,307
3	B	7,810	1	E	10,226
4	B	7,700	2	E	7,912
5	B	7,700	3	E	7,867
6	B	7,700	4	E	7,823
7	B	7,700	5	E	7,779
8	B	7,738	6	E	9,892
9	B	7,863	1	F	9,850
10	B	7,754	2	F	7,700
11	B	7,738	3	F	7,700
12	B	7,700	4	F	7,700
13	B	7,700	5	F	7,700
14	B	7,700	6	F	9,793
15	B	7,700	7	F	12,478
16	B	7,810	8	F	7,594
17	B	7,920	9	F	7,590
18	B	7,810	10	F	7,590
19	B	7,723	11	F	9,740

DETAIL FOR TYPICAL
ACCESS CONTROL
AT CORNER LOTS

BARTLETT & WEST

1800 SW EXECUTIVE DRIVE, TOPEKA, KS 66615-2880
PHONE 781-222-7777
WWW.BARTLETTANDWEST.COM

FINAL PLAT

HORSESHOE BEND SUBDIVISION No. 2
CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY: SEL
DRAWN BY: DJS
APPROVED BY: SEL
DESIGN PROJ.: 2028.600
CONST PROJ.: 2028.600
SCALE: 1" = 60'
DATE: 6/23/2010
DRAWING NO: P10/17
SHEET NO: 1 of 2

BOOK : _____
PAGE : _____
DATE : _____
TIME : _____

NOTES :

1. PROPERTY OWNERS SHALL BE ADMONISHED FOR PLACING ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN PERMANENT SEWER, DRAINAGE OR UTILITY EASEMENTS. THIS INCLUDES, BUT IS NOT LIMITED TO, TREES, SHRUBS, FENCES, RETAINING WALLS, BUILDINGS OR OTHER MISCELLANEOUS OBSTRUCTIONS THAT INTERFERE WITH ACCESS OR EGRESS OF MAINTENANCE VEHICLES OR EQUIPMENT FOR THE OPERATION AND MAINTENANCE OF THE UTILITIES OR PIPE LINES LOCATED IN THE EASEMENT. ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION LOCATED IN THE PERMANENT SEWER OR UTILITY EASEMENT MAY BE REMOVED BY PERSONNEL REPRESENTING THE GOVERNING BODY, TO PROVIDE FOR THE PROPER OPERATION AND MAINTENANCE OF THAT UTILITY LINE, WITHOUT COST OR OBLIGATION FOR REPLACEMENT. COST OF REMOVAL, AND/OR REPLACEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
2. DRAINAGE EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER AND/OR THE CONSTRUCTION AND MAINTENANCE OF PIPE, FLUME, DITCH OR ANY OR ALL IMPROVEMENT FOR THE DRAINAGE OF SAID WATER, ALL AS MAY BE DETERMINED AND/OR APPROVED BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS. PROPERTY OWNERS SHALL NOT PLACE ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENTS. ALL MAINTENANCE WITHIN THE DRAINAGE EASEMENT (DE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON, SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.
3. THIS PROPERTY LIES WITHIN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 205187 0011C WITH AN EFFECTIVE DATE OF DECEMBER 1, 1981. THE SUBJECT TRACT LIES IN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN AS PER FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP (FIRM) NO. 20177C0306E WITH NO EFFECTIVE DATE.
4. GREEN SPACE EASEMENTS ARE NON-BUILDABLE AND RESERVED FOR LANDSCAPING AMENITIES SUCH AS TREES, SHRUBS, TRAILS, GAZEBOES, ETC. THE LOT OWNER(S) SHALL NOT FENCE OR BUILD ANY HABITABLE STRUCTURES WITHIN SAID EASEMENTS. MAINTENANCE SHALL BE BY THE LOT OWNER(S).
5. ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
6. PEDESTRIAN ACCESS EASEMENTS (P.A.E.) ARE RESERVED FOR LANDSCAPING AND PEDESTRIAN WALKWAYS.
7. EASEMENTS ARE HEREBY GRANTED TO THE PUBLIC AS FOLLOWS : "UTILITY EASEMENTS" TO ALLOW PUBLIC UTILITY PROVIDERS, CONTRACTORS, AND AUTHORIZED AGENTS TO LOCATE, CONSTRUCT AND MAINTAIN FACILITIES TO PROVIDE UTILITY SERVICE TO THE PUBLIC. ALL PUBLIC UTILITIES SPECIFICALLY INCLUDING BUT NOT LIMITED TO WATER, GAS, SEWER, STORMWATER, AND TELECOMMUNICATIONS MAY PLACE OR LOCATE THEIR FACILITIES OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS". A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF THE UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE INITIAL CONSTRUCTIONS OF THE PUBLIC UTILITIES' FACILITIES ARE IN PROGRESS.
8. LOT 2, BLOCK A, TO BE DEDICATED TO CITY OF TOPEKA AS AN EXPANSION TO THE EXISTING PUBLIC PARK LOCATED ON LOT 1, BLOCK C, HORSESHOE BEND SUBDIVISION.
9. PURSUANT WITH TMC 18.30.040 OF THE CITY OF TOPEKA SUBDIVISION REGULATIONS, THE TOPEKA CITY PLANNING COMMISSION HEREBY GRANTS THE FOLLOWING DESIGN VARIANCES TO THE PROVISIONS OF THE SUBDIVISION REGULATIONS.
 - A VARIANCE TO SECTION TMC 18.40.120(a), WAIVING THE REQUIREMENT FOR A 16' UTILITY EASEMENTS ALONG THE SUBDIVISION BOUNDARY.
 - A VARIANCE TO SECTION TMC 18.40.040(a), TO ALLOW THE TOTAL LENGTH OF BLOCK B TO EXCEED THE 1,200 FT. MAXIMUM BLOCK LENGTH.
10. ALL PEDESTRIAN ACCESS EASEMENTS TO BE IMPROVED WITH A 4' SIDEWALK AT THE TIME OF STREET IMPROVEMENTS.
11. FORCE MAIN EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR INSTALLATION AND MAINTENANCE OF A SANITARY FORCE MAIN UTILITY.
12. 16' ACCESS EASEMENT BETWEEN LOT 3 & 4, BLOCK A, IS ONLY INTENDED FOR ACCESS BY PERSONNEL REPRESENTING THE GOVERNING BODY, TO PROVIDE FOR THE PROPER OPERATION AND MAINTENANCE OF A SANITARY SEWER PUMPING STATION.

I HEREBY CERTIFY THE DETAILS OF THIS PLAT TO BE CORRECT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL BOUNDARY CORNERS OF THIS SUBDIVISION HAVE BEEN MONUMENTED, ACCORDING TO KANSAS STATE

ROBERT J BORSICK, PLS No. 1180
BARTLETT & WEST, INC

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) OF THE DESCRIBED TRACT OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, AND BLOCKS AND PUBLIC WAYS, (STREETS AND ROADS). THE PUBLIC WAYS NOT HERETOFORE DEDICATED ARE DEDICATED TO THE PUBLIC. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR USE BY PUBLIC UTILITIES TO LOCATE, CONSTRUCT AND MAINTAIN, OR AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF CONDUITS FOR ALL OR ANY PURPOSE INCLUDING WATER, GAS, SEWER MAINS, POLES AND WIRES OR ANY OR ALL OF THEM OVER, UNDER AND ALONG STRIPS MARKED "U". UTILITY EASEMENTS INCLUDE A 12-FOOT TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO ALL UTILITY EASEMENTS. SAID CONSTRUCTION EASEMENTS ARE AUTOMATICALLY NULL AND VOID FOLLOWING INITIAL INSTALLATION OF UTILITIES WITHIN SAID UTILITY EASEMENTS AND SHALL NOT REQUIRE ANY ACTION BY THE GOVERNING BODY TO VACATE, REMOVE OR OTHERWISE ELIMINATE. FURTHERMORE, INITIAL UTILITY CONSTRUCTION SHALL BE CONSIDERED COMPLETE ON ANY LOT ON WHICH THERE IS AN OCCUPIED STRUCTURE.

NOTICE: IN THE EVENT THERE ARE OTHER OWNER(S) OR THOSE HOLDING ANY PROPRIETARY INTEREST IN ANY LAND CONTAINED IN THIS SUBDIVISION WHOM DO NOT APPEAR AND DULY ACKNOWLEDGE THIS PLAT PRIOR TO THE TIME OF RECORDING, THE PLAT SHALL BE NULL AND VOID.

IN TESTIMONY WHEREOF, THE OWNER(S), R T BUILDERS, LLC, BY RAYMOND J. THURLOW, PRESIDENT, HAS CAUSED THESE PRESENTS TO BE SIGNED THIS _____

DAY OF _____, 20____.

RAYMOND J. THURLOW, PRESIDENT, R T BUILDERS, LLC

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME RAYMOND J. THURLLOW, PRESIDENT, OF R T BUILDERS, LLC, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND, AND AFFIXED MY SEAL
THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS _____ DAY OF _____ 20____.

_____, CHAIRMAN
TOPEKA PLANNING COMMISSION

DAVID F. THURBON, SECRETARY
TOPEKA PLANNING COMMISSION

THIS SUBDIVISION HAS BEEN PRESENTED TO THE CITY COUNCIL, CITY OF TOPEKA,
KANSAS, ON

THE _____ DAY OF _____, 20____ FOR ACCEPTANCE OF LAND TO BE DEDICATED FOR PUBLIC PURPOSES. THE CITY COUNCIL HEREBY ACCEPTS THE LAND FOR PUBLIC PURPOSES.

WILLIAM W. BUNTEN, MAYOR

BRENDA YOUNGER, CITY CLERK

REVIEWED BY THE COUNTY SURVEYOR THIS _____ DAY OF _____, 20____, IN ACCORDANCE WITH KSA CHAPTER 58, ARTICLE 20.

RULE A. SEYMOUR, P.L.S. No. 834, COUNTY SURVEYOR

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS THIS _____

DAY OF _____ 20____

CYNTHIA A. BECK, COUNTY CLERK

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS

THIS _____ DAY OF _____, 20____ AT _____ O'CLOCK.

MARILYN L. NICHOLS, REGISTER OF DEEDS

[illegible]

**Minutes of the
Topeka Planning Commission
Monday, August 16, 2010**

Horseshoe Bend Subdivision No. 2 (Final Plat Phase)(P10/17) by R.T. Builders located on property lying along the south side of the Kansas Turnpike, the centerline of which is approximately 1,330 feet north of SE 45th Street and 2,300 feet east of SW Topeka Boulevard, all being within the City of Topeka. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Steve LaCasse, Bartlett & West Engineers, spoke in favor of the proposal. He said the developer is available for questions as well. He said the applicant agrees with the staff report with the exception of condition #4 requiring mid-block sidewalks. The houses in this area are built from setback to setback. If the sidewalks are put in they would be right by the houses and give other people access to owners' backyards, which could create a potential crime problem. He said there aren't sidewalks on 44th Street and 44th Terrace for the same reason. The sidewalk wouldn't save much time for residents when walking to the park. Mr. LaCasse requested condition #4 be struck.

Doug Bassett asked what staff thinks of the request? Mrs. Driver replied it is a ¼ of a mile without a sidewalk. It would save the property owners to the south some time if there was a sidewalk there.

If the sidewalk was constructed it would end just south of the park. She stated either way Block B is in excess of the 1,200 feet limit and the Planning Commission would have to grant a variance for the cul-de-sac length. Mr. Bassett asked how close would the sidewalks be to the houses? Mr. LaCasse replied the north/south walkway would run right next to four houses and put people in their backyards.

Rich Beardmore asked why sidewalks weren't required in the original subdivision? Mrs. Driver replied they can't build in the force main easement so it shouldn't make a difference if they put the sidewalk there or not.

Howard Blackmon asked where the sidewalks would be located? Mrs. Driver replied we want to connect SE 44th and SE 43rd but it would be where they chose to place it. Mr. Lackey stated it only saves one block of walking or approximately 110 feet.

Mr. Bassett stated, as a realtor, sidewalks right next to houses is not a good idea. Encouraging someone to walk by someone's window is not good.

Bill Hoover said it is nice to have the sidewalks. The park may be used more if the sidewalks are there. Ms. Driver said she calculated it would save about 500 feet when walking to the park if the sidewalk is there.

John Federico asked if a sidewalk would add value or if there is a safety reason to put it in? If so, I would say "yes" but in this case I would just abide by the applicant's request.

Peter Hancock asked what is the purpose of the sidewalk? Mrs. Driver replied it allows pedestrians a shorter distance to the park and it adds connectivity in the subdivision.

Dawn Wright asked if there were any public safety issues or anything? Mrs. Driver replied, no.

Mr. Federico asked if the sidewalks are not required now can they put them in at a later date if they wish to do so? Dean Diediker stated staff is only requiring the minimum requirements and if they want to go beyond the minimum, staff is open to that.

Mr. Hancock said he is concerned with public health issues in urban areas. He stated he likes sidewalks and promoting alternative access other than on roads is great. He said he understands the problem with people walking by someone's window. He suggested designing the placement of the houses to accommodate the sidewalks. He said he would like to see the requirement of sidewalks remain. He asked if placement of the sidewalk is consistent with the design standards? Mrs. Driver replied, yes, blocks in excess of 800 feet in length require a sidewalk around the half-way point.

No one spoke in opposition to the proposal.

John Federico moved approval as written by staff but removing condition #4, which states: "Adding a mid-block 10 feet wide pedestrian access easement (P.A.E.) for the placement of a 4 feet wide sidewalk within Block B due to the block's total length in excess of 800 feet, at that point that would be halfway once the block is completed." Mike Lackey seconded the motion.

APPROVAL. (6-1-0) Commissioner Hancock voted no.

August 16, 2010
Agenda Item # F-2

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Horseshoe Bend Subdivision #2 - [P10/17]

OWNER/DEVELOPER: R.T. Builders L.L.C.

ENGINEER/SURVEYOR: Bartlett & West Engineers

GENERAL LOCATION: On property lying along the south side of the Kansas Turnpike, of which the centerline of the tract is approximately 1,330 ft. north of SE 45th Street and 2,300 ft. east of SW Topeka Blvd

JURISDICTION: Class "A" subdivision- within the City of Topeka

ANNEXATION: N/A

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
13.83 acres	52	3.8 DUs/acre	Single-family dwellings	PUD (R-1 use group)*

Pending Zoning Case: A minor amendment to the Grand Oaks Master PUD Plan (Z00/34C) to change the phasing plan from four phases to five phases; allowing the undeveloped portion of the entire PUD to be developed in an additional phase.

Design: The property is an irregular tract of land, measuring approximately 720' X 1065', of which the north boundary adjoins the Kansas Turnpike and the centerline of the tract is approximately 1330 ft. north of SE 45th Street and 2300 ft. east of SW Topeka Blvd. The plat contains Lots 1-7, Block A; Lots 1-19, Block B; Lots 1-8, Block C; Lot 1, Block D; Lots 1-6, Block E; and Lots 1-11, Block F, which comprise 52 lots total. Primary access will be from off of the existing SE 43rd Terrace within Horseshoe Bend Subdivision to the east and SE White Oaks Lane within Grand Oaks Subdivision to the south. These streets currently connect this subdivision to SE 45th Street and allow for it to have two points of egress-ingress.

BACKGROUND: A final plat for the third phase of the master preliminary plat approved July 17, 2000 by the Planning Commission, which allowed for a total of 340 single-family residential lots and a 7-acre public park.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be serviced by the City of Topeka public water supply and distribution system by means of a connection to the existing 8" water mains to be extended to this property at developer expense from SE White Oak Lane, SE 44th Street, and SE 43rd Terrace. .
2. **SEWAGE DISPOSAL:** The development is to be serviced by the City of Topeka public wastewater treatment plant and collection system by means of connection to an existing 4" force main extending along the east boundary of the subdivision. All connections will be at developer expense.

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3. **WASTEWATER PLAN SERVICE AREA:** The property is located within the Urban Service Area which requires service by a sanitary sewer system as reflected by the Shawnee County Wastewater Management Plan. The proposal as depicted is in full compliance with said Plan.
4. **DRAINAGE CONDITIONS:** The Drainage Report as submitted by the Consultant to the City of Topeka Department of Public Works has been approved, per memo dated June 27, 2000 with approval of the master preliminary plat for Grand Oaks Subdivision. This final plat has not increased the density or re-configured the lots and street system from what was approved with the preliminary plat.
5. **STREET PLAN/ACCESS:** The Preliminary Street Plans as submitted by the Consultant to the City of Topeka Department of Public Works were approved by the City Engineer during the preliminary plat stage in 2000. Primary access to this phase will be from off of the existing SE 43rd Terrace within Horseshoe Bend Subdivision to the east (Phase 2) and SE White Oaks Lane within Grand Oaks Subdivision to the south (Phase 1). The subdivision has two access points connecting it to SE 45th Street by means of SE White Oaks Lane and SE Horseshoe Bend Drive on the east side. Pedestrian access easements (P.A.E) are established along the frontages of all lots to allow for sidewalks to be constructed at the time of street improvements, as indicated by note #10. Staff recommends the applicant also provide a mid-block P.A.E at a minimum 10 ft. wide through Block B due to the fact that the entire length of the block, which also includes those portions of this same block within Horseshoe Bend to the east and the future Phase 4 of Grand Oaks Subdivision to the west) will exceed the 800 ft. minimum block length threshold, as established by TMC 18.40.040(a) pertaining to Block Dimensions. The entire length of this block, as shown on the Grand Oaks Subdivision master preliminary plat will exceed the maximum block length of 1,200 ft., as required by TMC 18.40.040. Therefore, in accordance with these regulations, staff's recommendation for a mid-block sidewalk connection will also enable pedestrians south of Block B to have a more direct access to the public park.
6. **FIRE DISTRICT:** City of Topeka
7. **STREAM BUFFER:** N/A
8. **SCHOOL DISTRICT:** Shawnee Heights U.S.D. 450
9. **PARKS/OPEN SPACE:** The subdivision is located in Parkland Fee District #7 that typically requires a parkland fee of \$225 per new single-family lot. However, a parkland dedication totaling 7 acres was accepted by the Parks Department as a part of the master preliminary plat in 2000. Due to the parkland dedication, Horseshoe Bend Subdivision #2 will only require a parkland fee of \$141 per single-family unit per Parkland Fee Ordinance #19323.

WAIVER/VARIANCE TO STANDARDS:

- Pursuant to TMC 18.35.160, the Topeka Planning Commission will need to grant an extension to the six month time limit on its approval of the preliminary plat. Staff is supportive of the Planning Commission granting this extension since the final plat does not alter the density, street, or lot configuration approved with the preliminary plat.
- The Topeka Planning Commission will need to grant a variance to TMC 18.40.120(a) to eliminate the full width of the 16' utility easements along the subdivision boundaries pursuant to the boundaries due to the presence of side lot lines or for those lots that are adjacent to the public park.
- The Topeka Planning Commission will need to grant a variance to TMC 18.40.040(a) to allow the total length of Block B to exceed the 1,200 ft. maximum.

CAPITAL IMPROVEMENT PLAN (CIP): A Sales Tax Project is planned for SE 45th Street in 2012 to widen SE 45th Street to 5-lanes.

August 16, 2010
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CONFORMANCE TO COMPREHENSIVE PLAN: The *Topeka Land Use and Growth Management Plan-2025* establishes this area for Urban/Suburban Residential land uses.

STAFF ANALYSIS:

The overall design conforms to the established standards and provisions of the City Subdivision Regulations relative to design criteria. The subdivision is compatible with adjacent development and should not overburden existing public infrastructure facilities.

Based upon the above findings and staff analysis, the Planning Department recommends the final plat phase of Horseshoe Bend Subdivision #2 be **APPROVED**, subject to:

1. Pursuant to TMC 18.35.160, the Topeka Planning Commission granting an extension to the six month time limit on its approval of the preliminary plat.
2. The Topeka Planning Commission granting a variance to TMC 18.40.120(a) to eliminate the full width of the 16' utility easements along the subdivision boundaries because of the presence of side lots or for those lots that are adjacent to the public park. Revising Note #9 referring to variances accordingly to reflect the above revised language and the City Codebook's re-codification.
3. The Topeka Planning Commission granting a variance to TMC 18.40.040(a) to allow the total length of Block B to exceed the 1,200 ft. maximum block length. Adding this variance note to the final plat under Note #9.
4. Adding a mid-block 10 ft. wide pedestrian access easement (P.A.E) for the placement of a 4 ft. wide sidewalk within Block B due to the block's total length in excess of 800 ft., at that point that would be halfway once the block is completed.
5. Adding a definition for the 16' access easement between Lots 3 & 4, Block A to clarify its use and who has rights to use this access, as the it is only intended as access to the adjacent sewer pump station located on City property within Horseshoe Bend Subdivision to the east.
6. Clarifying label on property directly to the south to either "unplatted" or "Hilltop Subdivision #2".
7. Revising signature block for Planning Director to state, "David F. Thurbon, Secretary, Topeka Planning Commission."
8. Delete the note about "Building Lines".

Prepared by:
Annie Driver, Planner II

August 16, 2010
Agenda Item #F-2



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 23, 2010

+ Back Print

DATE:	September 28, 2010		
CONTACT PERSON:	David Thurbon/Bill Hoover	DOCUMENT #:	P10/15
SECOND PARTY/SUBJECT:	Shawnee Heights Fire District Station 22	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #:		
	PAGE #:		

DOCUMENT DESCRIPTION:

A FINAL PLAT for Shawnee Heights Fire District Station 22 located at the SW corner of SE 2nd Street and SE Tecumseh Road, outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. (P10/15)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow development of a new un-manned fire station.)

POLICY ISSUE:

The request is consistent with the land use policies and principles of the *Topeka Land Use and Growth Management Plan - 2025*.

STAFF RECOMMENDATION:

The Planning Commission recommended that the Final Plat Phase of **Shawnee Heights Fire District Station 22** be **APPROVED** by a vote of **7-0-0** at their **August 16, 2010** meeting as referenced in their attached minutes. The Planning Department recommended approval of this Final Plat.

BACKGROUND:

- See staff report
- Governing Body options:
- **Accept** the plat as presented for recording with the Shawnee County Register of Deeds; or
- **Reject** the plat so it would not be eligible for recording with the Shawnee County Register of Deeds

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

Item #13

N/A

ATTACHMENTS:

[Staff Report](#)

[Final Plat Page 1](#)

[Final Plat Page 2](#)

[Aerial Map](#)

[Application](#)

[Planning Commission Minutes](#)

[Planning Commission Minutes](#)

August 16, 2010
Agenda Item #E-1

SUBDIVISION REPORT
(Major Plats)
CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Shawnee Heights Fire District Station 22 Subdivision - [P10/15]

OWNER/DEVELOPER: Ruth Jean and Carl Alex Richards (Owners) / Shawnee Heights Fire District, with Thomas P. Garcia, Fire Chief (Developer)

ENGINEER/SURVEYOR: Cook, Flatt & Strobel Engineers, P.A.

GENERAL LOCATION: Southwest corner of SE 2nd Street and SE Tecumseh Road in Shawnee County, Kansas.

JURISDICTION: Class "B" subdivision within the three-mile extra territorial jurisdiction of the City of Topeka not contiguous to the city limits and outside the City's Municipal Service Area (MSA) but lying adjacent to a major traffic thoroughfare.

ANNEXATION: Annexation is not required under current City regulations, since the property is located outside the MSA and does not touch or adjoin the corporation limits of the City or touch or adjoin an area on which annexation proceedings have been commenced.

Area	# of Lots	Density	Proposed Land Use	Zoning
2.67 acres	1	N/A	Fire Station	"RR-1" Residential Reserve with an approved Conditional Use Permit through Shawnee County for this public use facility
Pending Zoning Case: None				
Design: The subject plat contains 2.675 acres and is rectangular in shape, measuring approximately 455' by 256' with its greatest length located along SE Second Street. The proposal is for a one block, one-lot subdivision comprising 1.960 acres with an additional 0.715 acres to be platted as additional ROW. The purpose of the plat is to accommodate development of the property for an un-manned fire station, on land that has not been previously platted.				

BACKGROUND: The Planning Commission unanimously approved the preliminary plat on July 19, 2010, by a 7-0 vote.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be serviced by Shawnee County Rural Water District No. 8 with all water connections being at the developer's expense.
2. **SEWAGE DISPOSAL:** The development is to be serviced by means of an individual septic tank and lateral field system, to be reviewed and approved by the Shawnee County Health Department. Pursuant to Article III, Section 134-132(c)(2) "... the plat shall be submitted on the basis of building site areas that are determined by soil percolation tests as performed by the health department. The health department shall make a

August 16, 2010
Agenda Item #E-1

recommendation to the planning commission on the building site areas based on the results of the soil percolation tests." Staff has spoken to Andy Graham of the Health Department and he advised us that they have given preliminary approval for the proposed septic system.

3. WASTEWATER PLAN SERVICE AREA: The property is located within the Rural/Agricultural Area as reflected by the Shawnee County Wastewater Management Plan; and the proposal appears to be in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The drainage report as submitted by the consultant to the City of Topeka Department of Public Works has been approved by that department, per memo dated June 24, 2010. The drainage report as submitted by the consultant to the Shawnee County Department of Public Works has been reviewed and found acceptable by that department, per memo dated June 25, 2010.
5. STREET PLAN/ACCESS: There are no public streets being dedicated with this plat. The project's sole access is onto SE Tecumseh Road.
6. FIRE DISTRICT: Shawnee Heights Fire District.
7. STREAM BUFFER: N/A
8. SCHOOL DISTRICT: U.S.D. 450 – Shawnee Heights District.
9. PARKS/OPEN SPACE: N/A

WAIVER/VARIANCE TO STANDARDS: N/A

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's or County's CIP (2007-2011) affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Rural Residential/Agricultural* land use. Given this is a public use facility designed to provide un-manned fire services in an area of low density and located at a key intersection of two collector roadways, it is in compliance with the *Comprehensive Plan*.

STAFF ANALYSIS:

Providing staff recommendations are implemented, the overall subdivision design conforms to the established standards and provisions of the subdivision regulations relative to design criteria; and the design appears compatible with existing and planned conditions.

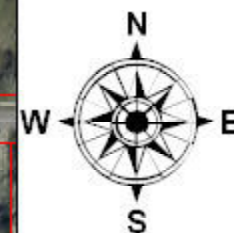
Based upon the above findings and staff analysis, the Planning Department recommends the Final Plat phase of Shawnee Heights Fire District Station 22 Subdivision be **APPROVED**, subject to:

1. Revise Note 1 to read as follows: *"Easements are hereby granted to the public as follows: "Utility Easements" to allow public utility providers, contractors, and authorized agents to locate, construct and maintain facilities to provide utility service to the public. All public utilities specifically including but not limited to: water, gas, sewer, stormwater, and telecommunications; may place or locate their facilities over, under and along the strips marked "utility easements". A temporary construction easement of 12 feet adjacent to the side of the utility easement is dedicated for the use of the public utilities, while initial construction of the public utility's facilities are in progress."*
2. Remove certification for the Public Works Director.

August 16, 2010
Agenda Item #E-1

3. Under Legal Description on Page 1 of 2, change the acreage from 1.96 acres to 2.67 acres. Per City Surveyor Joe Singer, the plat area should be the area we are starting with not the area of Lot 1 Block A. He also said your legal description matched the area for the entire 2.67 acres.

Prepared by: Bill Hoover
Planner III



P10/15 SHAWNEE HEIGHTS FIRE DISTRICT STATION 22



APPLICATION FOR SUBDIVISION

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607-1118
Phone 785-368-3728 Fax 785-368-2535

Date Received:

6/11/10

Office Use Only
Application #:

P10/15

Fee Received:

205⁰⁰-170102

Application Type: Minor Plat _____ Pre-Application Plat _____ Preliminary Plat _____ Final Plat _____

- 1.) Proposed Subdivision Name: SHAWNEE HEIGHTS FIRE DISTRICT STATION 22
- 2.) Common Address or Location: SW CORNER OF SE 2ND STREET & SE 10TH AVE Atto. name on plat
- 3.) Legal description of property: SEE ATTACHED - SECTION 1 Page 1 of 2

- 4.) Land area (acres): 2.14 Number of lots: 1
- 5.) Current zoning: RR-1 Proposed zoning (if any) NO CHANGE
- 6.) Describe the planned use: TO ESTABLISH A PUBLIC USE FACILITY (FIRE STATION)
ON BEHALF OF THE SHAWNEE HEIGHTS FIRE DISTRICT.
- 7.) Water Source: SHAWNEE COUNTY RWD #8
- 8.) Sewage Disposal Source: ON-SITE SEWAGE DISPOSAL SYSTEM.
- 9.) Is any portion of the property within an established flood plain or stream buffer? No If Yes, check below:
- a. flood plain 100 year _____ 500 year _____
- b. stream buffer Type I _____ Type II _____ Type III _____

- 10.) Describe any infrastructure improvements that will not be the financial responsibility of the applicant/developer:
N/A

- 11.) Will the streets be constructed in phases? N/A If Yes, is phasing plan attached (____) or on plat (____)?
- 12.) Are there any requested variances to the Subdivision Regulations? N/A If Yes, please list on plat map.
- 13.) Are any common areas proposed to be privately maintained? N/A If Yes, are articles of incorporation attached? _____
- 14.) Consent for annexation will be provided on the final plat (____), by separate instrument (____), or is not applicable (X)

Subdivision Name: SHAWNEE HEIGHTS FIRE DISTRICT STATION 22

Applicant Information and Authorization

(attach name and contact information of any additional owners, local agents, buyers under contract, attorneys, etc. if necessary)

Owner(s) of Record 1: RUTH JEAN AND CARL ALEX RICHARDS

Address: 848 SE BALDWIN ROAD

TOPEKA, KS 66607

Phone: 785-233-8359

Owner(s) of Record 2: _____

Address: _____

Phone: _____

Attachment number 3
Page 2 of 2

(if different than owner)

Developer(s): SHAWNEE HEIGHTS FIRE DISTRICT

Address: 2626 SE SHAWNEE HEIGHTS ROAD

TECUMSEH, KS 66542

Phone: 785-379-0566

Other Contact (specify): _____

Address: _____

Phone: _____

This is to certify that all above Applicants of this subdivision have authorized me to prepare a plat of subdivision that fully complies with the provisions of the City of Topeka's Subdivision Regulations. The Applicant(s) further understands that if any contract, option, agreement, etc. with any other individual/entity is executed for purchase of said described real property prior to the recording of said plat of subdivision, such individual/entity is required to be signatory to the subdivision. The information and data indicated by this application is true and correct to the best of my knowledge and a copy of this completed application has been forwarded to the Applicant(s).

Date: 6-11-2010

Michael A. Adams

Print Name of Submitting Consulting Engineer/Surveyor

Michael A. Adams

Signature of Submitting Consulting Engineer/Surveyor

Firm Name: COOK FLETT + STROBE ENG.

Address: 2930 SW Woodside Dr.

Phone: (785) 272-4706

Fax: (785) 272-4736

e-mail: m.adams@cfse.com

FINAL PLAT
SHAWNEE HEIGHTS FIRE DISTRICT STATION 22 SUBD.

A tract of land located in Northeast Quarter of Section 36, Township 11 South, Range 16 East, in Stinson's proposed Addition to the Town of Tecumseh, Shawnee County, Kansas.

BOOK: PAGE:
DATE: TIME:

LEGAL DESCRIPTION:

A tract of land in book 1792, page 899 as in Stinson's proposed addition of the town of Tecumseh, Shawnee County, Kansas, described as follows: Beginning at the intersection of of the center line of Avenue B and 7th Street in said Stinson's Addition; then South along the center line of 7th Street, 130.77 feet; thence Westerly, 454.97 feet; thence North, 125.59 feet to center line of martin road, then Easterly along center line of Martin Road, 454.97 feet to the Point of Beginning. also a tract of land in book 1632, page 599 as in Stinson's proposed addition to the Town of Tecumseh, Shawnee County, Kansas, described as follows: Beginning at a point, 130.77 feet South of the intersection of the center line of Avenue B and 7th Street in said Stinson's Addition; thence South along the centerline of 7th Street, 130.77 feet; thence Westerly 454.78 feet to a Point 251.15 feet South of the center line of Martin Road; thence North 125.56 feet; thence Easterly 454.79 feet to the Point of Beginning; less any right-of-way.

Containing 2.67 Ac. (M/L)

NOTES:

- 1. Easements are hereby granted to the public as follows: "Utility Easements" to allow public utility providers, contractors and authorized agents to locate, construct and maintain facilities to provide utility service to the public. All public utilities specifically including but not limited to: water, gas, sewer, stormwater, and telecommunications; may place or locate their facilities over, under and along the strips marked "utility easements". A temporary construction easement of 12 feet adjacent to the side of the utility easement is dedicated for the use of the public utilities, while initial construction of the public utility's facilities are in progress.
2. All utilities shall be placed underground pursuant to the City's right-of-way management standards.
3. Prior to site construction a "final approval" of the proposed septic system shall be obtained from the Shawnee County Environmental Health Department.
4. Utility Easements dedicated with this Plat contain contain 7248 Sq.Ft.
5. Street R/W dedicated with this Plat contain 31,165 Sq.Ft.
6. Flood Zone: according to flood insurance rate map (firm) community panel no. 200331 0110 c, effective June 1, 1982, the subject property is in flood zone c (area of minimal flooding).
8. All Subdivision boundary corners either found or set, are set in concrete.

EASEMENTS: Easements are hereby granted to the public as follows: "Utility Easements" to locate, construct and maintain or authorize the locations, construction, maintenance and use of conduits for all and any purpose, water, gas, sewer mains, poles and wires or any or all of them over, under and along the strips marked "Utility Easements". A temporary construction easement of 12 feet adjacent to the side of utility easement is dedicated for the use of the public utilities while construction is in progress.

ACCESS EASEMENTS: The access easements shown on this plat are for the purpose of access, ingress and egress by vehicular and pedestrian traffic including emergency vehicles, and are for the mutual non-exclusive benefit of every owner of the real property described herein, their respective successors, assigns, tenants, contractors, employees, agents, customers, licensees, and invitees.

STREETS: Streets shown on this plat and not heretofore dedicated to public use hereby so dedicated.

CERTIFICATE OF SURVEYOR: I hereby certify the details of this plat to be correct to the best of my knowledge and belief, that all boundary corners of this subdivision of land have been monumented, that iron pins are set as shown on the attached plat this day of , 2010.

COOK, FLATT & STROBEL, ENGINEERS, P.A.
2930 SW Woodside Drive, Topeka, Kansas 66614

Michael A. Adams, L.S. 1126

REVIEWED BY SHAWNEE COUNTY SURVEYOR, this day of , 2010.

Rule A. Seymour, LS 834

Approved by the Topeka Planning Commission this day of , 2010.

Chairman, Topeka Planning Commission

David F. Thurbon
Planning Director

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS, this day of , 2010.

Cynthia A. Beck, County Clerk

This subdivision has been presented to the City Council, City of Topeka, Kansas, on the day of , 2010, for acceptance of land to be dedicated for public purposes. The City Council hereby accepts the land for public purposes.

By the City Council
City of Topeka, Kansas

William W. Bunten, Mayor

Brenda Younger
City Clerk

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS this day of , 2010, at o'clock M.

Marilyn L. Nichols, Register of Deeds

IN TESTIMONY WHEREOF:

The Owner, Ruth Jean and Carl Alex Richards, has caused these presents to be signed this day of , 2010

Ruth Jean Richards

Carl Alex Richards

STATE OF KANSAS ss)
COUNTY OF SHAWNEE ss)

BE IT REMEMBERED, That on this day of , A.D., 2010, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came, who is Ruth Jean Richards, personally known to me who executed the within instrument of writing.

IN TESTIMONY THEREOF, I have hereunto set my hand, and affixed my seal the day and year last above mentioned.

Term Expires

Notary Public

STATE OF KANSAS ss)
COUNTY OF SHAWNEE ss)

BE IT REMEMBERED, That on this day of , A.D., 2010, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came, who is Carl Alex Richards, personally known to me who executed the within instrument of writing.

IN TESTIMONY THEREOF, I have hereunto set my hand, and affixed my seal the day and year last above mentioned.

Term Expires

Notary Public

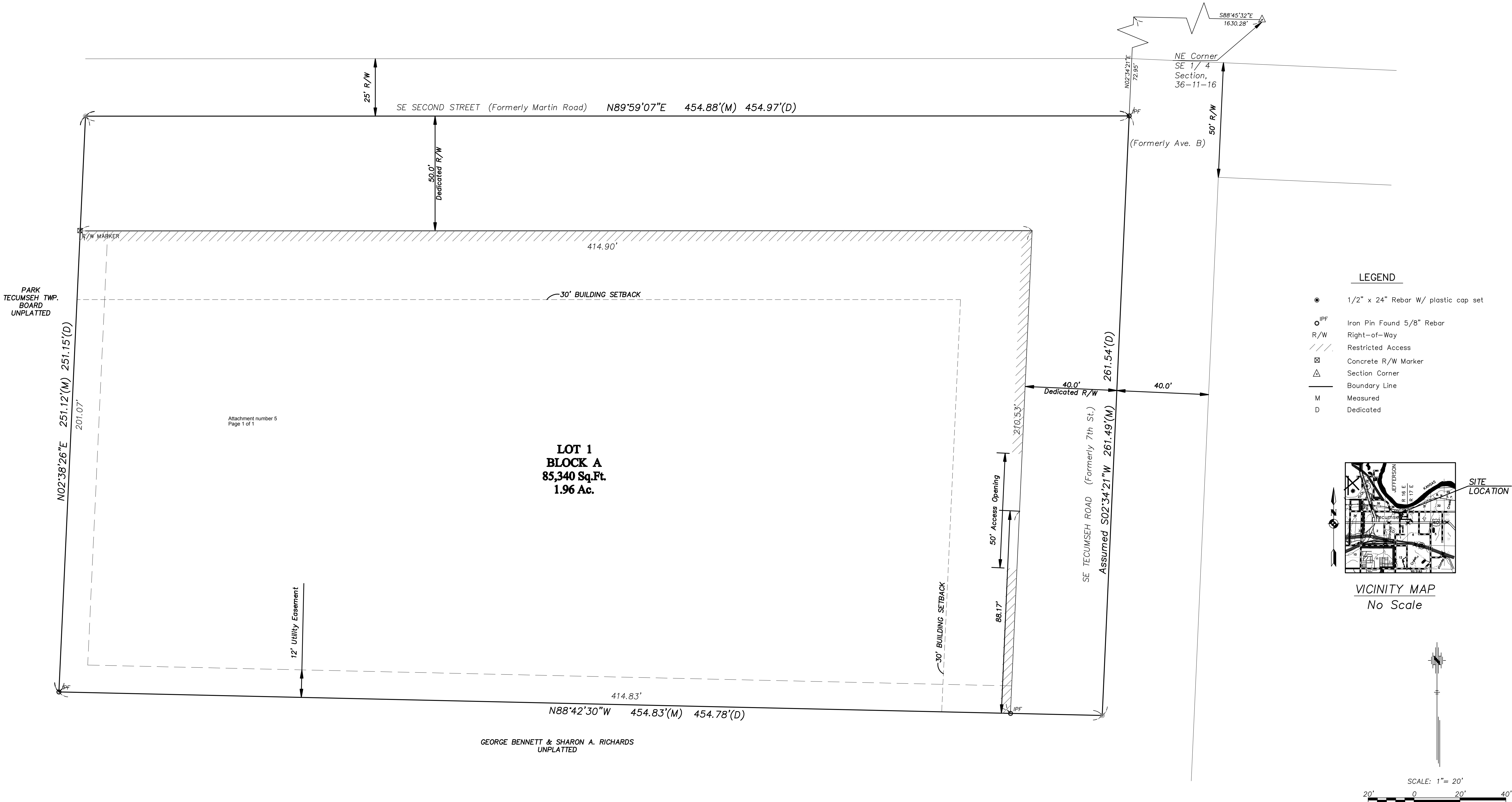
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FINAL PLAT
SHAWNEE HEIGHTS FIRE DISTRICT STATION 22 SUBD.

A tract of land located in Northeast Quarter of Section 36, Township 11 South, Range 16 East, in Stinson's proposed Addition to the Town of Tecumseh, Shawnee County, Kansas.

BOOK: _____ PAGE: _____
DATE: _____ TIME: _____



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**Minutes of the
Topeka Planning Commission
Monday, July 19, 2010**

Shawnee Heights Fire District Station No. 22 (Preliminary Plat Phase) (P10/15) by Shawnee Heights Fire District on property located at the SW corner of SE 2nd Street & SE Tecumseh Road, outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. **(Hoover)** Bill Hoover summarized the staff report.

Discussion by members:

Mike Lackey stated there are no sidewalks in the area now. He said he assumes they cut across the field to get to the park. Doug Bassett added there are sidewalks to the north of the property.

Proponents:

Kevin Beck, Cook, Flatt and Strobel Engineers, spoke in favor of the proposal. He said we don't agree with the sidewalk requirement. This is a rural setting; there are deep ditches and major power lines running along 2nd Street. Mr. Hoover asked if there is a fence between the subject property and the park to the west? Mr. Beck replied, yes. Mr. Hoover stated if the applicant wants the stipulation for a sidewalk removed they will have to ask for a variance. Mr. Hoover suggested a cut through on the south side of the property with a gate. Mr. Beck said he doubts there is a lot of pedestrian traffic in this area. Mr. Lackey asked if the area would be fenced in? Mr. Beck replied no, it will be an unmanned station. Mr. Lackey said pedestrians can still cut through the property and it will be better maintained. Mr. Beck agreed.

Mr. Lackey said he would be in a favor of giving a variance for the sidewalk. Mr. Bassett said removing condition #3 in the staff report? Mr. Lackey agreed.

No one spoke in opposition to the proposal.

Mike Lackey moved approval as written by staff removing condition #3, seconded by John Federico. **APPROVAL. (7-0-0)**

**Minutes of the
Topeka Planning Commission
Monday, August 16, 2010**

Shawnee Heights Fire District Station No. 22 (Final Plat Phase) (P10/15) by Shawnee Heights Fire District on property located at the SW corner of SE 2nd Street & SE Tecumseh Road, outside the City's Municipal Service Area, but within the City's three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. **(Hoover)**

Mike Lackey moved approval of the consent agenda as written by staff, seconded by Rich Beardmore. **APPROVAL. (7-0-0)**

DRAFT



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 2, 2010

+ Back Print

DATE: September 28, 2010
CONTACT PERSON: Jeff Hunt
SECOND PARTY/SUBJECT: Kanza Fire Commerce Park Utilities Improvement
CATEGORY/SUBCATEGORY: 020 Resolutions / 004 Public Improvements
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #: T-861003.00
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A PROJECT BUDGET in the amount of \$3,126,000 and **A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. T-861003.00 which provides for the construction of water and sanitary sewer service to the new Kanza Fire Commerce Park more specifically described herein.

(Approval would authorize extension of water and sanitary sewer service to the new Kanza Fire Commerce Park. The project is generally located at SW 65th Street and University Boulevard and progresses south to Topeka Boulevard and Gary Ormsby Drive. The project would be funded with \$485,000 from an EPA Grant and \$2,641,000 from Growth Organization of Topeka/Shawnee County.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve the Project Budget and Resolution as presented.

BACKGROUND:

This project will extend water and sanitary sewer service to the new Kanza Fire Commerce Park. The water project will include approximately 9,500 lineal feet of 18-inch ductile iron pipe waterline, 925 lineal feet of 24-inch ductile iron pipe waterline, mechanical joint fittings and blocks, 4 fire hydrant settings, related trench and backfill. The sanitary sewer project will include, 375 lineal feet of 18-inch sewer pipe, 2,100 lineal feet of 15-inch sewer pipe, 13 standard manholes, 130 vertical feet of additional depth for manholes, related trench and backfill and both projects will require additional related appurtenances for a complete project. The project is generally located at SW 65th and University Boulevard and progresses south to Topeka Boulevard and Gary Ormsby Drive.

BUDGETARY IMPACT:

Total Project Budget

\$3,126,000.00

Item #14

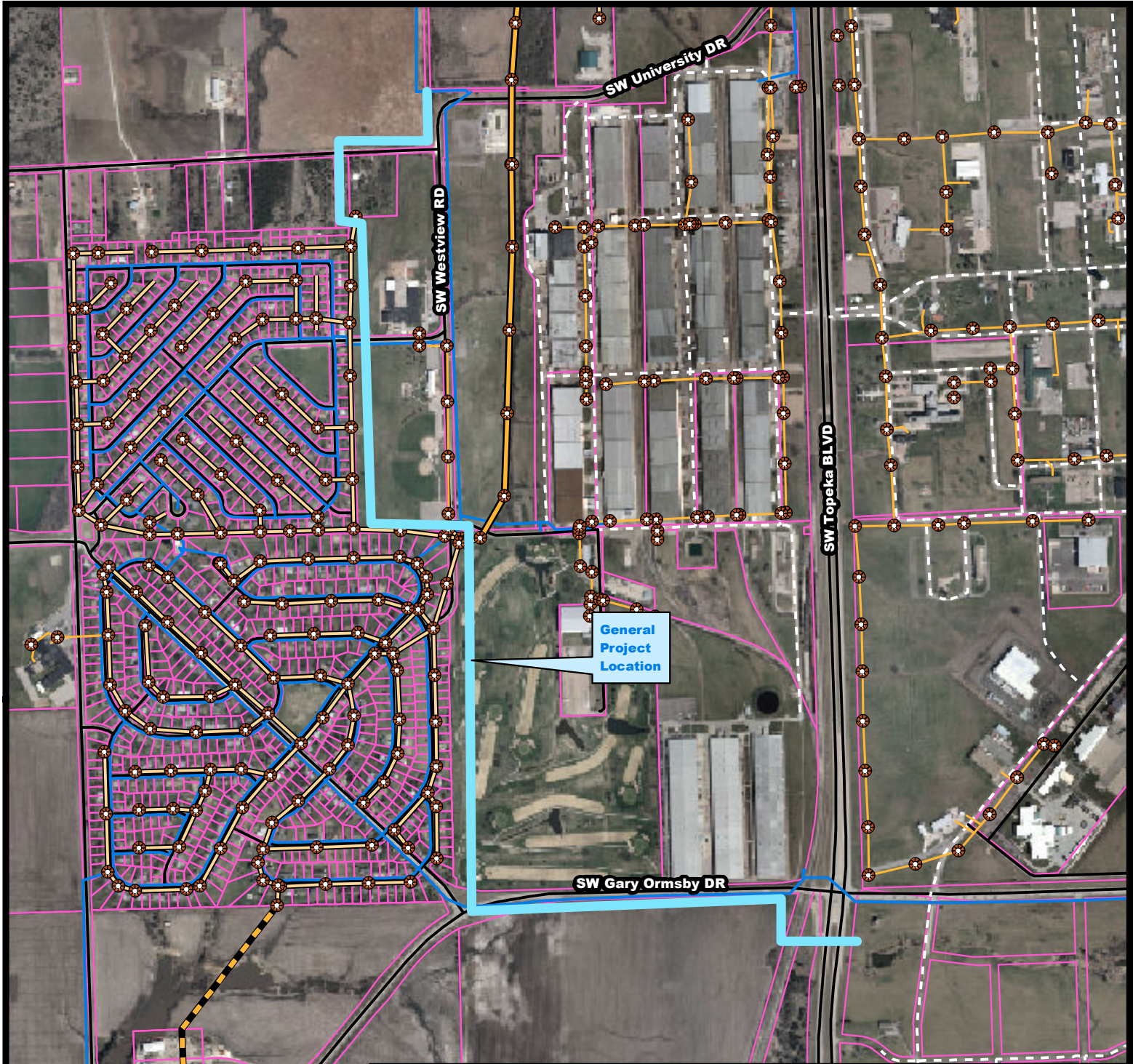
SOURCE OF FUNDING:

U.S. Environmental Protection Agency Grant Award	\$ 485,000.00
Growth Organization of Topeka/Shawnee County	<u>\$2,641,000.00</u>
Total	\$3,126,000.00

ATTACHMENTS:[Map](#)[Fact Sheet](#)[Resolution](#)[Agreement](#)[Project Budget](#)

Water and Sanitary Sewer Project # 86103-00

Attachment number 1
Page 1 of 1



City of Topeka GIS

Division of Public Works * Technical Support Group
620 SE Madison Street Unit 9 * Topeka, Kansas 66607
Ph. 785-368-1905 F. 785-368-1902 www.topeka.org



Legend

- Project Location
- Sanitary Manholes
- Sanitary Force Mains
- Sanitary Interceptor
- Sanitary Collector
- Sanitary Private
- Water Mains
- Parcels

Map Produced On:
September 8, 2010

Map Revised On:

Map Printed On:
September 8, 2010
By: David Fish
Engineering Tech II
(785) 368-3052
dfish@topeka.org

City of Topeka, Kansas GIS Data Disclaimer

While the City of Topeka, Kansas makes every effort to maintain and distribute accurate information, **NO WARRANTIES AND/OR REPRESENTATIONS OF ANY KIND** are made regarding information, data or services provided. In no event, shall the City of Topeka, Kansas be liable in any way to the users of this data. Users of this data shall hold the City of Topeka, Kansas harmless in all matters and accounts arising from the use and/or accuracy of this data.

FACT SHEET
Kanza Fire Commerce Park Utilities Improvement
Project No. T-861003.00

General Nature of Improvements:

This project will extend water and sanitary sewer service to the new Kanza Fire Commerce Park. The water project will include approximately 9,500 LF of 18-inch DIP waterline 925 LF of 24-inch DIP waterline, mechanical joint fittings and blocks, 4 fire hydrant settings, related trench and backfill. The sanitary sewer project will include 3,375 LF of 18-inch sewer pipe, 2,100 LF of 15-inch sewer pipe, 13 standard manholes, 130 VF of additional depth for manholes, related trench and backfill and both projects will require additional related appurtenances for a complete project. The project will also include the acquisition of a 2 acre tract of land, located near the project, needed for a future elevated water tower.

City Project Administration: City of Topeka, Jeff Hunt, P.E. (368-3842)

Construction Inspection: City of Topeka (Inspector not yet assigned to project)

Construction Staking: City of Topeka

Design Engineer: Jeff Hunt, PE, City of Topeka

Cost: Project Budget - \$3,126,000.00

Financing: City of Topeka Chamber of Commerce/Growth Organization of Topeka
Environmental Protection Agency Grant

CIP Year: This project was not shown in the CIP.

Estimated Project Budget Cost: The total estimated cost for this project is \$3,126,000.00. The estimated construction cost is \$2,956,385 with the remaining funds for administration and contingencies.

Council District: The project is located near Council District No. 5.

Project Schedule: Construction: Starts in Winter 2010

Comments:

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., relating to and authorizing Project No. T-861003.00 (HTE #862620) which provides for the construction of water and sanitary sewer service to the new Kanza Fire Commerce Park more specifically described herein.

BE IT RESOLVED by the Council of the City of Topeka, Kansas, that it finds the following described public improvement to be necessary and in the public interest and does hereby authorize Project No. T-861003.00 with a project budget summarized herein and fully set forth on the attachment hereto:

A. GENERAL NATURE OF IMPROVEMENT:

This project will extend water and sanitary sewer service to the new Kanza Fire Commerce Park. The water project will include approximately 9,500 lineal feet (LF) of 18-inch ductile iron pipe (DIP) waterline 925 LF of 24-inch DIP waterline, mechanical joint fittings and blocks, 4 fire hydrant settings, related trench and backfill. The sanitary sewer project will include 3,375 LF of 18-inch sewer pipe, 2,100 LF of 15-inch sewer pipe, 13 standard manholes, 130 vertical feet (VF) of additional depth for manholes, related trench and backfill and both projects will require additional related appurtenances for a complete project. The project will also include the acquisition of an approximately two acre tract of land including necessary easements needed for a future elevated water tower.

B. TOTAL PROJECT BUDGET COST:

\$3,126,000.00

C. SOURCE OF FUNDS:

U.S. Environmental Protection Agency Grant Award	\$ 485,000.00
Growth Organization of Topeka/Shawnee County	<u>\$2,641,000.00</u>
TOTAL:	\$3,126,000.00

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the Development Agreement between the City and the Growth Organization of Topeka/Shawnee County, attached hereto as Exhibit A and any other documents necessary to accomplish the project authorized by this resolution.

ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

CONTRACT FOR DEVELOPMENT
OF PUBLIC UTILITY INFRASTRUCTURE IMPROVEMENTS

CITY OF TOPEKA CONTRACT NO. _____

THIS CONTRACT, made and entered into this ____ day of _____, 2010, by and between the City of Topeka, Kansas, a Kansas municipal corporation of Shawnee County, Kansas, hereinafter referred to as the "City," and Growth Organization of Topeka/Shawnee County, Inc. hereinafter referred to as the "Developer."

WHEREAS, the Developer desires City to make certain improvements totaling approximately \$3,126,000.00 to the public infrastructure of the City of Topeka by extending water and sanitary sewer lines and such public infrastructure improvements will benefit Kanza Fire Commerce Park; and

WHEREAS, the City has made application for and received provisional approval from United States Environmental Protection Agency (the "EPA") Special Infrastructure Grant funding for the construction of the public infrastructure improvements in the amount of \$485,000.00; and

WHEREAS, said EPA grant requires that matching funds of at least \$396,819.00 be paid toward the cost of the public infrastructure improvement project; and

WHEREAS, the Developer agrees to pay for the costs of the improvements including the matching funds required under the grant with no participation in the cost by the City; and

WHEREAS, the City and the Developer desire to enter into an agreement as to the responsibilities and obligations of each as the same relates to the construction of the improvements by the City and payment by the Developer.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein made and other good and valuable considerations, the sufficiency and receipt of which is hereby acknowledged by each party, the parties do hereby mutually agree as follows:

1. DEFINITIONS.

Unless otherwise specified in this Contract, the following terms as used in this Contract shall have these meanings or definitions:

a. Engineer shall be the duly licensed engineer firm selected by the Developer to design the public utility infrastructure improvements and prepare the Final Plans and specifications.

b. Final Completion shall be the consummation of the transaction contemplated by this Contract accomplished by completion of the Public Utility Infrastructure Improvements Project by the City.

c. Final Plans shall mean the engineering designs, plans and construction and materials specifications for the construction of the Public Utility Infrastructure Improvements Project to be prepared at the direction of the Developer through the Engineer and other duly licensed and qualified professionals, and sufficient under generally accepted construction standards and practices.

d. Public Infrastructure Improvements Project or Project shall mean the public utility infrastructure improvements set forth in the project description attached hereto as Exhibit A and incorporated herein. The Public Infrastructure Improvements Project will include acquisition of any necessary permanent utility or temporary construction easements, preliminary and final design, plans,

engineering, regulatory permits, demolition, debris removal and disposal, site environmental remediation, construction, construction inspection, special inspections, construction management, all construction and other costs normally associated with a project of this type not specifically excluded herein.

e. Project Costs shall mean all costs for the complete Public Infrastructure Improvements Project, including but not limited to design, plan preparation, staking, inspection, City administration including design review by City engineering staff, geotechnical reports, environmental assessment and remediation, easement acquisition, appraisals, excavating, trenching, boring, landscaping, grading and seeding, piping, manholes, valves, hydrants and other materials and all other costs necessary for a complete project.

f. Site shall mean any permanent or temporary easements necessary for the Public Infrastructure Improvements Project.

2. GENERAL DESIGN.

The Developer agrees at its sole cost to have Final Plans prepared by a professional design group. The Public Infrastructure Improvements Project which will be constructed and owned by the City.

3. CONSTRUCTION PLANS AND CITY COUNCIL APPROVAL.

The City and the Developer acknowledge and agree that no work shall commence under this Contract unless and until each of the following conditions have been met, satisfied or waived, as the case may be. Further it is understood and agreed that in the event that all conditions are not met or expressly waived by both parties, this Contract shall terminate.

4.1 Construction Plans.

The Developer shall have caused the Final Plans to be prepared no later than thirty (30) days from the date of this Contract by Engineer and delivered to the City for the review and approval by the City through its public works director within fifteen (15) days after receipt of the same. The Final Plans shall reflect all the dimensions and specifications of the Public Infrastructure Improvements Project. At such time as the City has approved all of the Final Plans, the same shall be initialed and approved by an authorized representative of each party and a complete set delivered to each party.

4.2 Site Acquisition.

The Developer shall obtain and deliver to the City such temporary construction and permanent utility easements by which the public infrastructure improvements may be constructed for the City. Each such temporary construction or permanent utility easement shall be acceptable in form and substance to the City's legal counsel. Provided, however, the Developer shall use reasonable efforts to obtain the parcel necessary for the future water tower site. In the event that the Developer is unable to obtain the site, the City may pursue condemnation to acquire that site.

The Site shall be conveyed to the City free of any contamination by hazardous or toxic wastes or substances at levels or concentrations exceeding those permitted by applicable laws and regulations.

4.3 City Council Approval.

The City Council shall consider and pass a resolution to approve Public Infrastructure Improvement Project No. T-861003.00 (HTE #862620) for the

construction of the Project and authorize a project budget in the amount of \$3,126,000.00 of which \$2,641,000.00 will be funded from the Developer and \$485,000.00 from federal EPA grant funds, subject to the terms and conditions of this Contract.

4.4 EPA Grant Approval. The EPA shall provide Final Approval of the Special Infrastructure Grant and verify that the full grant amount of \$485,000.00 is fully funded and available for the payment of eligible construction costs.

5. CONTRACTOR SELECTION AND AWARD OF CONTRACT.

Upon completion of each of the conditions set forth in Section 4, this Contract shall become binding on both parties. Further, when the conditions are met and satisfied, the City shall proceed with selection of contractor and award of the contract by City to selected contractor. Said contract shall have a construction cost which will not exceed \$2,956,385.00.

6. PAYMENT OF PROJECT COSTS.

6.1 Developer Responsibility. The Developer shall pay for all Project Costs with no reimbursement from or participation by the City.

6.2 Payments. Developer agrees to make three (3) equal installment payments to City in a total amount not to exceed \$3,126,000.00 to be used by the City to pay for the Project Costs. Said installment payments shall be made to the City of Topeka, Treasurer, 215 SE 7th Street, Topeka, KS 66603 and shall be due as follows:

Payment No. 1	34% of the awarded contract amount plus an additional amount equal to 10% of the awarded contract price to cover city administration fees and contingencies	Due prior to execution of construction contract between City and Contractor ESTIMATED DUE DATE: 11/15/2010
Payment No. 2	33% of the awarded contract price	Due 90 days after commencement of work ESTIMATED DUE DATE: 2/15/2011
Payment No. 3	33% of the awarded contract price	Due 180 days after commencement of work ESTIMATED DUE DATE: 5/15/2011

6.3 Early Payment. In the event that the City expends all funds for the Project Costs prior to the date of the next installment payment, the City shall require Developer to make a full or partial installment payment prior to the next payment date by providing Developer five (5) days written notice specifying the amount due.

6.4 Reduced Payment Amounts. The amount of the installment payments after the initial payment shall be reduced by the amount of EPA grant funds received by the City for eligible expenses.

6.5 Monthly Statements. The City shall provide developer with a monthly statement listing the amount of installment payments made by Developer, EPA Grant payments received by the City and payments made by City for Project Costs.

6.6 Project Costs Not Covered by EPA Grant Funds. Developer understands and agrees that the EPA may not pay all \$485,000.00 of grant funds

to reimburse the City for the Project Costs. Further, Developer agrees that it shall not be eligible for a refund of any portion of installment payments applied to Project Costs not eligible or covered by EPA Grant payments.

6.7 Final Accounting. Upon Final Completion of the Project the City shall provide within 90 days an accounting of the expenditures for Project Costs and shall refund to Developer any portion of the installment payments paid by Developer that exceed the Project Costs less the EPA Grant Funds received by City.

7. GENERAL PROVISIONS.

7.1 No Waiver.

The failure of either party to declare this Contract to be in default or pursue any available remedies by reason of a breach by the other party of its obligations under this Contract, shall not constitute a waiver or release by the non-defaulting party of its rights and remedies upon any subsequent default by the other party.

7.2 Indemnification.

Developer shall indemnify and hold harmless City and any of its officers, employees or elected officials from any damages, costs or expenses, including attorney's fees and other expenses of litigation incurred by or on behalf of the City and any of its officers, employees or elected officials resulting from City's construction of the Project, the City performance under this Contract, or Developer's failure to make payments under this Contract or Developer's breach of any of the terms or conditions under this Contract.

7.3 Applicable Law.

This Contract shall be governed by and construed under and in accordance with the laws of the State of Kansas.

7.4 Entire Contract.

This Contract, together with the Plans and any Exhibits or Addenda attached hereto, embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior or contemporaneous contracts, understandings, representations and statements, oral or written, are merged into this Contract. Neither this Contract nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought and then only to the extent set forth in such instrument.

7.5 Headings.

The headings contained in this Contract are for reference and convenience purposes only and shall not in any way affect the meaning or interpretation hereof.

7.6 Interpretation.

Whenever the context hereof shall so require, the singular shall include the plural and vice versa. The terms "include," "includes," "including," and similar terms shall be construed to mean "without limitation." All references to sections, subsections, and Exhibits shall be deemed references to sections, subsections of this Contract and to Exhibits which are attached hereto and made a part hereof for all purposes.

7.7 Multiple Counterparts.

This Contract may be executed in a number of identical counterparts. If so executed, each such counterpart is to be deemed an original for all purposes, and all such counterparts shall collectively constitute one (1) contract, but in the making proof of this Contract it shall not be necessary to produce or account for more than one (1) such counterpart.

7.8 Notice.

Any notice, demand, approval or disapproval, consent or submission for approval or consent permitted or required hereunder (hereinafter, collectively, any "Notice") shall be in writing, and any such Notice shall be sent to the Developer or the City by First Class Mail, addressed as follows:

To Developer:	Growth Organization of Topeka/Shawnee County Attn: Steve Jenkins 120 SE 6 th Street, Suite 110 Topeka, KS 66603
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To City:	Public Works Director City of Topeka 620 SE Madison Topeka, KS 66607
----------	---

With copy to:	City Clerk City of Topeka 215 SE 7 th Street Topeka, KS 66603
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Or the same may be delivered by messenger at the same address or, if the same is a post office box, the last known address of the addressee. In the event such notice is given or delivered by messenger delivery or facsimile, the date of actual delivery shall fix the time thereof. If delivered by facsimile, the person giving notice must retain proof of receipt of such facsimile in the form of a log showing delivery. In the event Notice is

given or delivered by registered or certified mail, such notice shall be deemed given or delivered three (3) business days after the date on which the sealed envelope containing the Notice is deposited in the United States mail, properly addressed and with proper postage prepaid.

7.9 Parties Bound.

The terms and provisions of this Contract shall inure to, extend to and be for the benefit of the successors, assigns, and legal representatives of the respective parties hereto though the foregoing shall not of itself be construed as authorizing any assignment of this Contract.

7.10 Severability.

If any provision of this Contract shall, for any reason, be held by a court of competent jurisdiction to violate any applicable law or to be unenforceable, then the invalidity of such specific provision herein shall not be held to invalidate any other provision in this Contract and the other provisions shall remain in full force and effect.

7.11 Time.

Time is of the essence of this Contract.

7.12 No Third Party Beneficiaries.

This Contract is solely for the benefit of the parties hereto and no third party shall be entitled to claim or enforce any rights hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day
and year first written above.

CITY OF TOPEKA, KANSAS

Norton N. Bonaparte, Jr., City Manager

ATTEST:

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____

Brenda Younger, City Clerk

GROWTH ORGANIZATION
OF TOPEKA/SHAWNEE COUNTY

Douglas S. Kinsinger, President and CEO

EXHIBIT A

PROJECT DESCRIPTION

Project No. T-861003.00

Kanza Fire Commerce Park Utilities Improvement

(T-281027.00 Water Improvements & T-401024.00 Sanitary Sewer Improvements)

This project will extend water and sanitary sewer service to the new Kanza Fire Commerce Park. The water project will include approximately 9,500 linear feet (LF) of 18-inch ductile iron pipe (DIP) waterline 925 LF of 24-inch DIP waterline, mechanical joint fittings and blocks, 4 fire hydrant settings, related trench and backfill. The sanitary sewer project will include 3,375 LF of 18-inch sewer pipe, 2,100 LF of 15-inch sewer pipe, 13 standard manholes, 130 vertical feet (VF) of additional depth for manholes, related trench and backfill and both projects will require additional related appurtenances for a complete project. The project will also include the acquisition of an approximately two acre tract of land including necessary easements needed for a future elevated water tower.

The project is generally located at SW 65th and University Boulevard and progresses south to Topeka Boulevard and Gary Ormsby Drive.

PROJECT BUDGET

Project No. T 861003.00

Kanza Fire Commerce Park Utilities Improvement

(T 281027.00 Water Improvements & T 401024.00 Sanitary Sewer Improvements)

LOCATION:

The project is generally located at SW 65th and University Blvd. and progresses south to Topeka Blvd. and Gary Ormsby Dr.

DESCRIPTION OF PROJECT:

This project will extend water and sanitary sewer service to the new Kanza Fire Commerce Park. The water project will include approximately 9,500 LF of 18-inch DIP waterline 925 LF of 24-inch DIP waterline, mechanical joint fittings and blocks, 4 fire hydrant settings, related trench and backfill. The sanitary sewer project will include 3,375 LF of 18-inch sewer pipe, 2,100 LF of 15-inch sewer pipe, 13 standard manholes, 130 VF of additional depth for manholes, related trench and backfill and both projects will require additional related appurtenances for a complete project. The project will also include the acquisition of a approximately two acre tract of land including necessary easements needed for a future elevated water tower.

SOURCE OF FUNDS:

City of Topeka Chamber of Commerce/Go Topeka
Environmental Protection Agency (EPA) Grant

	EPA Grant	Go Topeka	Total
<u>COST ESTIMATE:</u>			
Construction:	\$485,000.00	\$2,471,385.00	\$2,956,385.00
Design:	\$0.00	\$0.00	\$0.00
Construction Service Fees:			
<i>Construction Staking (5%)</i>	\$0.00	\$0.00	\$0.00
<i>Construction Inspection (8%)</i>	\$0.00	\$0.00	\$0.00
<i>City of Topeka Admin. (2%)</i>	\$0.00	\$59,128.00	\$59,128.00
<i>Geotechnical Report</i>	\$0.00	\$0.00	\$0.00
Right-of Way Acquisition:	\$0.00	\$40,000.00	\$40,000.00
Property Acquisition	\$0.00	\$0.00	\$0.00
Contingency Amount:	\$0.00	\$70,487.00	\$70,487.00
Temporary Notes & Issuance:	\$0.00	\$0.00	\$0.00
Total:	\$485,000.00	\$2,641,000.00	\$3,126,000.00

PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
- b. Capital Budget Year.: _____
- c. Improvement District: _____
- d. City at Large: _____
- e. Method of Assessment: _____

PROJECT ENGINEER: Jeff Hunt



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 9, 2010

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DATE: September 28, 2010
CONTACT PERSON: Councilmember Karen Hiller
DOCUMENT #:
SECOND PARTY/SUBJECT: ArtsConnect 2010
PROJECT #:
CATEGORY/SUBCATEGORY: 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Karen Hiller, granting to ARTSConnect for its second annual Arty Party fundraiser permission under the provisions of City of Topeka Code Section 9.15.020 for the possession and consumption of alcoholic liquor and/or cereal malt beverage on certain municipal property.
(Council District No. 1)

(Approval would grant permission to ARTSConnect for the consumption and possession of alcoholic liquor and/or cereal malt beverage for its Arty Party special event to be held in the top level of Crosby Place Parking Garage, located at 108 SW 8th Street on October 2, 2010, between the hours of 6:00 p.m. and 11:00 p.m.)

POLICY ISSUE:

Whether or not to approve the resolution.

STAFF RECOMMENDATION:

BACKGROUND:

Approval would grant permission to ARTSConnect for the consumption and possession of alcoholic liquor and/or cereal malt beverage for its Arty Party special event to be held in the top level of Crosby Place Parking Garage, located at 108 SW 8th Street on October 2, 2010, between the hours of 6:00 p.m. and 11:00 p.m.

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

Item #15

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Karen Hiller, granting to ARTSConnect for its second annual Arty Party fundraiser permission under the provisions of City of Topeka Code § 9.15.020 for the possession and consumption of alcoholic liquor and/or cereal malt beverage on certain municipal property.

WHEREAS, City of Topeka Code § 9.15.020 prohibits the possession or consumption of alcoholic liquor or cereal malt beverage on public or municipal property except for special events at designated buildings or facilities as specifically authorized by a resolution approved by the City Council; and

WHEREAS, ARTSConnect has requested permission for the possession and consumption of alcoholic liquor and/or cereal malt beverages at a special event, its second annual Arty Party fundraiser; and

WHEREAS, the City Council wishes to grant ARTSConnect's request.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA that:

Section 1. Authorization is hereby given to ARTSConnect under City of Topeka Code § 9.15.020(d)(7) for the consumption and possession of alcoholic liquor and/or cereal malt beverage for its Arty Party special event to be held in the top level of Crosby Place Parking Garage, located at 108 SW 8th Street on October 2, 2010, between the hours of 6:00 p.m. and 11:00 p.m.

Section 2. The individual, business or other entity desiring to furnish the alcoholic liquor and/or cereal malt beverages must comply with all applicable state laws and municipal ordinances and must obtain all applicable licenses..

Section 3. Event attendees may, possess and consume alcoholic liquor and/or cereal malt beverages in the top level of Crosby Place Parking Garage, located at 108 SW 8th Street on October 2, 2010, between the hours of 6:00 p.m. and 11:00 p.m.

Section 4. This Resolution shall be null and void on and after October 3, 2010.

ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 8, 2010

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DATE: September 28, 2010
CONTACT PERSON: Brenda Younger **DOCUMENT #:**
SECOND PARTY/SUBJECT: Applications **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of Retail Cereal Malt Beverage License Applications.

Voting Requirement: Majority of the Governing Body, including the Mayor.

(Pursuant to K.S.A. 41-2702 application for license must be approved by the Governing Body prior to the issuance of the license.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

Approve the licenses.

BACKGROUND:

Pursuant to K.S.A. 41-2702 as amended, license applications for retail cereal malt beverage must be approved by the governing body prior to issuance of the license.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 14, 2010

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DATE: September 28, 2010
CONTACT PERSON: JIM LANGFORD/KEJ **DOCUMENT #:**
SECOND PARTY/SUBJECT: WEEKLY EXPENDITURE **PROJECT #:**
APPROVAL
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 6, 2010, through September 12, 2010, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

Approve and allow weekly payments of valid operating expenditures, pursuant to Resolution No. 7607.

STAFF RECOMMENDATION:

Adopt as presented.

BACKGROUND:

Pursuant to Resolution No. 7607, adopted on April 12, 2005, which provides authorization to pay for certain expenditures prior to approval by the Council in an expenditure ordinance, the expenditures being authorized by this ordinance have been previously paid, in accordance with established procedures and policies for such payments.

BUDGETARY IMPACT:

Approves expenditures for the period September 6, 2010 through September 12, 2010, in the amount of \$4,496,632.00.

SOURCE OF FUNDING:

Appropriated funds and fees-for-service revenues of various City departments.

ATTACHMENTS:

[Weekly Expenditures](#)

[DETAIL REPORT AP WEEK ENDING 9/12/10](#)

[DETAIL REPORT CB55 WEEK ENDING 9/12/10](#)

Item #17

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of September 6, 2010, through September 12, 2010, and enumerating said expenditures herein.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total of 253 vendor checks written this period	1,201,830.85
	Total vendor payments voided in this period (net)	(765.36)
	Total of 92 electronic transfers to vendors this period	582,024.53
	Total net payroll to employees this period	1,747,864.04
	Total payroll related electronic transfers this period	<u>965,677.94</u>
	Total for expenditures in this period	<u>\$4,496,632.00</u>

Section 4. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk

COUNCIL REPORT OF VENDOR PAYMENTS

Between 9/6/2010 and 9/12/2010

Attachment number 2
Page 1 of 24

Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
Electronic Payments			
7106	09/10/2010	HARWOOD, JASON 2121	133.29
MILE REIMB 6/9-8/			89.97
MISC REIMB 8/22/'			43.32
7107	09/10/2010	CORBIN, RON 6892	765.36
WCCOT201000941			765.36
7108	09/10/2010	YOST, VICKI R 5570	84.53
MILE REIM 8/19			84.53
7109	09/10/2010	A 1 LOCK & KEY LLC 13	58.46
63449	559109		49.30
63470	558826		9.16
7110	09/10/2010	A-CUT ABOVE LAWN LLC 6541	598.43
8009	559710		598.43
7111	09/10/2010	AAA ALLIED GROUP INC 22	1,424.50
260343	558632		38.50
260597	558632		38.50
260642	558457		38.50
260645	558632		38.50
261099	558632		38.50
261190	558632		38.50
261805	558632		38.50
261715	558632		38.50
261716	558632		38.50
261720	558632		38.50
261756	558632		38.50
261757	558632		38.50
261758	558632		38.50
261662	558632		38.50
261663	558632		38.50
261709	558632		38.50
261710	558632		38.50
261711	558632		38.50
261714	558632		38.50
261518	558632		38.50
261524	558632		38.50
261564	558632		38.50
261614	558632		38.50
261659	558632		38.50
261661	558632		38.50
261417	558632		38.50
261474	558632		38.50
261475	558632		38.50
261478	558632		38.50
261484	558457		38.50
261516	558632		38.50
261338	558632		38.50
261383	558632		38.50
261384	558632		38.50
261385	558632		38.50
261386	558632		38.50
261393	558632		38.50
7112	09/10/2010	AMERIPRIDE 197	723.04
T701707	10127		124.28
T701708	10127		61.21
T701709	10127		52.52

COUNCIL REPORT OF VENDOR PAYMENTS

Between 9/6/2010 and 9/12/2010

Attachment number 2
Page 2 of 24

Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
T701710	10127		13.40
T702038	558591		35.39
T703078	558591		17.75
T704406	558591		35.39
T706925	558591		35.39
T703476	10127		66.55
T703496	558591		29.75
T704065	10127		124.28
T704066	10127		61.21
T704067	10127		52.52
T704068	10127		13.40
7113	09/10/2010	ANSWER TOPEKA 237	1,335.08
A6428 SEPT 10	10493		1,335.08
7114	09/10/2010	BLUE CROSS BLUE SHIELD INC 528	55,860.60
W/E 9/7/10	DE		55,860.60
7115	09/10/2010	BLUE DOT INC 531	3,706.00
189725	10421		3,706.00
7116	09/10/2010	BOETTCHER SUPPLY INC 543	8.86
644095 1	558466		3.26
645780 1	558466		5.60
7117	09/10/2010	BRENNTAG MID SOUTH 607	4,587.09
BMS882571	560006		4,587.09
7118	09/10/2010	CAMP DRESSER & MCKEE INC 764	127,795.20
80352795 PH1	556582		2,685.00
80352800 PH3	559611		125,110.20
7119	09/10/2010	CLUB MOROCCO 6517	1,300.00
CONTRACT #4054	10058		1,300.00
7120	09/10/2010	COMITER, CARLA J 1043	405.00
W30	10495		405.00
7121	09/10/2010	CREATIVE LANDSCAPING 1166	2,450.00
14664	559898		185.00
14716	559861		570.00
14720	559898		185.00
14765	559861		570.00
14770	559898		185.00
14819	559861		570.00
14823	559898		185.00
7122	09/10/2010	CROSS MIDWEST TIRE INC 1183	1,429.01
20138904	558477		105.57
20139263	558477		309.24
20139459	558477		344.50
20139716	558477		119.59
20139854	558477		117.90
20140059	558477		186.19
20140098	558477		125.97
20140314	558477		120.05
7123	09/10/2010	DELL COMPUTER 1319	130.73
XF2KMJWM1	10503		130.73
7124	09/10/2010	DIAMOND INTERNATIONAL INC 1347	751.03

COUNCIL REPORT OF VENDOR PAYMENTS

Between 9/6/2010 and 9/12/2010

Attachment number 2
Page 3 of 24

Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
TI52737	558481		64.90
TI52757	558481		182.21
TI52762	558481		5.34
TI52765	558481		47.27
TI52771	558481		12.32
TI52791	558481		55.30
TI52830	558481		16.90
TI52953	558563		87.07
TI52955	558481		0.86
TI52969	558481		27.37
TW49369	558481		81.84
TW49446	558481		169.65
7125	09/10/2010	DURKIN EQUIPMENT CO 1451	6,015.00
K0000886	558872		1,374.50
K0000887	558872		4,640.50
7126	09/10/2010	EDWARDS CHEMICALS INC 1488	9,653.17
95611	559816		471.60
95612	559816		2,131.07
95874	559816		1,463.75
96120	559816		1,463.75
96314	559816		2,385.75
96314CR	55816		-200.00
96471	559816		357.50
96472	559816		150.00
96473	559816		1,469.75
96473CR	55816		-40.00
7127	09/10/2010	EMERGENCY FIRE EQUIPMENT 1526	333.14
22745	558485		215.74
22756	558485		117.40
7128	09/10/2010	EPCO CARBON DIOXIDE PRODUCTS I 1551	1,709.70
67061	560178		1,709.70
7129	09/10/2010	FOLEY EQUIPMENT COMPANY INC 1734	2,507.21
SVWO0332296	559016		2,507.21
7130	09/10/2010	HALL FLOOR COVERING 2054	894.00
4255	10599		894.00
7131	09/10/2010	HEARTLAND COMMUNITY OF TOPEKA 6535	1,500.00
7108	10579		1,000.00
7110	10579		500.00
7132	09/10/2010	HEARTLAND FIRE & SAFETY 6835	1,793.40
31339	10405		896.70
31365	10405		896.70
7133	09/10/2010	ISS FACILITY SERVICES INC 2447	3,594.00
8317	10409		1,399.35
8367	10122		2,194.65
7134	09/10/2010	ITG CONSULTING INC 2449	3,915.00
2862	558732		3,915.00
7135	09/10/2010	JAYHAWK AREA AGENCY ON AGING 2500	3,425.00
559747 3	559747		3,425.00
7136	09/10/2010	KAN EQUIPMENT INC 2621	424.22

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
6 163421	558504		190.23
6 163449	558504		162.92
6 163460	558504		71.07
7137	09/10/2010	KANSAS CHILDRENS SERVICE LEAGU	2651
559482 3	559482		11,000.00
7138	09/10/2010	KANSAS DEPT OF CORRECTIONS	2673
2011 07 & 08 AH	559105		15,926.37
2011 07 & 08 CI	559104		7,592.59
2011 07 & 08 PR	559262		6,575.36
7139	09/10/2010	KEY STAFFING INC	2849
3010927	10065		698.76
3011014	10065		765.81
3011095	10065		747.52
7140	09/10/2010	LAWYERS TITLE OF TOPEKA INC	3002
IVC17432	10510		100.00
7141	09/10/2010	LIBERTY FRUIT COMPANY INC	3057
398174A	10683		239.55
7142	09/10/2010	LIGHTHOUSE CONTRACTING INC	3061
1 (8/31/10)	10334		9,142.00
10030 1	10030		10,249.00
560104 3	560104		14,288.00
7143	09/10/2010	LUXURY LAWN & LANDSCAPE INC	3147
58420	10448		99.35
7144	09/10/2010	PIERCE, MARK A	6901
750019	10600		200.00
750025	10600		207.50
7145	09/10/2010	MICHAEL & SONS INC	3377
257398	560163		12,370.99
257399	560163		17,308.16
7146	09/10/2010	MISSISSIPPI LIME CO INC	3471
917667	560180		2,853.60
917676	560180		2,862.88
918103	560180		2,838.52
918231	560180		2,842.00
918244	560180		2,864.04
918254	560180		2,880.28
918457	560180		2,901.16
918565	560180		2,901.16
918789	560180		2,900.00
919065	560180		2,844.32
7147	09/10/2010	NEENAN COMPANY	3649
S1701808.001	558449		62.88
SI697093.001	558449		544.65
7148	09/10/2010	OMB POLICE SUPPLY	3746
P018369600016	559189		226.74
7149	09/10/2010	PEPSI COLA OF TOPEKA	3887
16048335	560072		252.45
21038951	560073		219.85

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
21039008	10552		283.05
7150	09/10/2010	PETERS CONSTRUCTION 3906	3,139.20
96249	10361		992.00
96250	10241		712.20
96263	10619		1,435.00
7151	09/10/2010	POE & ASSOCIATES INC 3964	2,037.64
3650	551228		2,037.64
7152	09/10/2010	POLYDYNE INC 5879	28,910.98
553024	10164		14,344.00
554909	560181		14,566.98
7153	09/10/2010	STAPLES CONTRACT & COMMERCIAL 4725	64.97
104030842	10374		64.97
7154	09/10/2010	R & R VENTURES OF TOPEKA 4065	735.00
2010 15	558454		735.00
7155	09/10/2010	SELLERS EQUIPMENT INC 4470	872.62
IC213828	558522		872.62
7156	09/10/2010	SIEMENS WATER TECHNOLOGIES COR 4555	9,474.52
8414912	10190		9,474.52
7157	09/10/2010	STAPLES CONTRACT & COMMERCIAL 4725	609.99
104002497	10333		81.96
104056749	10375		141.24
104154139	10481		208.82
104154366	10502		169.79
104178040	10442		8.18
7158	09/10/2010	STIRLING LAWN & LANDSCAPE INC 6542	1,662.16
4898	559765		490.56
4919	559775		230.00
4920	559711		355.80
4925	559775		230.00
4926	559711		355.80
7159	09/10/2010	TOPEKA TOOL LIBRARY INC 5055	1,221.22
559551 FINAL	559551		1,221.22
7160	09/10/2010	TOPEKA TRANSMISSION SERVICE IN 5057	2,094.86
44377	558530		2,094.86
7161	09/10/2010	TRUCK PARTS & EQUIPMENT INC 5102	2,549.43
265525	558586		175.76
265555	558531		209.44
265624	558531		25.22
265632	558586		12.78
265638	558586		9.80
265715	558531		13.44
266466	558531		143.61
266499	558531		481.98
266580	558531		38.43
266608	558586		114.22
265799	558586		27.54
265804	558531		908.52
265853	558586		10.77
265923	558586		38.56

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265988	558531		6.22
266365	558531		333.14
7162	09/10/2010	U S CAVALRY INC 5113	786.25
SI 1195128	559100		209.95
SI 1271946	559100		450.33
SI 1278880	559100		125.97
7163	09/10/2010	U S LIME COMPANY - ST CLAIR 5117	2,863.50
125732	558778		2,863.50
7164	09/10/2010	UMB BANK NA 5127	21,940.66
PCARD09022010			269.00
PCARD09062010			21,671.66
7165	09/10/2010	UTILIWORKS CONSULTING LLC 5181	11,704.25
TOP 021	554505		11,704.25
7166	09/10/2010	VISIT TOPEKA INC 5237	120.00
10605	10605		120.00
7167	09/10/2010	WALKER TOWEL & UNIFORM SERVICE 5266	156.60
1274513	10125		16.90
1280046	10125		16.90
1280047	10125		2.40
1280048	10125		27.70
1280049	10125		3.60
1281723	10595		1.20
1281727	558620		12.45
1282282	558620		7.65
1282283	558620		23.90
1280050	10125		15.00
1280051	10125		11.60
1280056	10125		8.00
1281719	10595		1.20
1281721	10595		3.70
1281722	10595		4.40
7168	09/10/2010	WINGFOOT COMMERCIAL TIRE 5494	2,190.34
123 1036777	558536		842.10
123 1036781	558589		1,158.98
123 1036815	558536		189.26
7169	09/10/2010	YWCA OF TOPEKA 5583	1,975.04
KESG 4	558970		1,975.04
7170	09/10/2010	FRIESS, PAULA 1797	138.00
560026 FINAL	560026		138.00
7171	09/10/2010	HACKLER, JUDY 2040	96.00
559808 FINAL	559808		96.00
7172	09/10/2010	MISCHKE, CHARLENE 3468	180.00
559738 FINAL	559738		180.00
7173	09/10/2010	SMITH, MIMI 4632	342.00
559810 FINAL	559810		114.00
559809 FINAL	559809		228.00
7174	09/10/2010	TRUHE, WILLIAM J 5103	20.00
560024 FINAL	560024		10.00

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560025 FINAL	560025		10.00
7175 5157.9/10/10	09/10/2010	UNITED WAY OF GREATER TOPEKA 5157	1,090.84
7176 8679 8757	09/10/2010 558406 10404	ACE ELECTRIC JONES COMPANY INC 35	3,332.20 1,315.50 2,016.70
7177 1008 067	09/10/2010 10407	BETTIS ASPHALT & CONSTRUCTION 470	3,080.06
7178 13867 13868 13869 13870 13873	09/10/2010 558639 558639 558639 558639 558639	C-HAWKK CONSTRUCTION INC 911	316.00 132.00 60.00 63.00 16.50 44.50
7179 39443	09/10/2010 558437	CAPITAL BELT & SUPPLY INC 776	52.00 52.00
7180 31180 85303	09/10/2010 10482 558621	CAPITAL CITY OIL CO INC 778	28,089.91 2,296.61 25,793.30
7181 390556 390557 67190	09/10/2010 558559 558559 DE	CHAMPION BRANDS LLC 883	477.61 406.41 91.20 -20.00
7182 015074 015229	09/10/2010 10304 10295	CLAYTON PAPER & DISTRIBUTION I 965	274.00 164.40 109.60
7183 80 08 0182	09/10/2010 558444	CONTECH CONSTRUCTION PRODUCTS 1079	511.88
7184 0100249	09/10/2010 10564	DAVIN ELECTRIC INC 1264	558.01
7185 1569640 1570997 1572706 1574221 1577617	09/10/2010 558445 558844 558844 558844 558844	FERGUSON ENTERPRISES INC 1639	1,294.26 329.00 13.36 863.00 25.12 63.78
7186 1589289	09/10/2010 10192	HD SUPPLY WATERWORKS LTD 2146	1,117.50
7187 8018908	09/10/2010 560103	JCI INDUSTRIES INC 2507	49,552.47
7188 1 1130008407	09/10/2010 558817	JOHNSON CONTROLS INC 2546	4,443.00
7189 213456	09/10/2010 558452	KEY EQUIPMENT & SUPPLY CO 2847	133.20
7190	09/10/2010	KRIZ DAVIS COMPANY 2916	115.18

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S100045697 001	558898		115.18
7191	09/10/2010	LINDYSPRING WATER LLC 3071	147.75
175020	558607		40.00
175900	559005		33.75
549116	559005		15.75
551045	559005		8.00
553613	558607		26.25
558848	559005		8.00
559117	558607		8.00
559197	559005		8.00
7192	09/10/2010	LINWELD INC 3073	925.53
R575511	558858		141.43
R575512	558858		46.43
TO26418	558858		197.00
TO26890	558858		40.00
TO27171	558858		500.67
7193	09/10/2010	M & M EXCAVATING 3157	10,964.11
6026	560157		4,937.36
96151	559358		3,582.35
96284	10568		2,444.40
7194	09/10/2010	MCELROY'S INC 3289	888.41
0662973 IN	10459		289.80
0663310 IN	10459		301.51
0663487 IN	10459		297.10
7195	09/10/2010	SALISBURY SUPPLY COMPANY INC 4352	129.15
00957215	558521		35.65
00957219	558451		3.20
00957586	558613		5.50
00957854	558521		71.30
00957855	558521		13.50
7196	09/10/2010	SCHMIDTLEIN EXCAVATING INC 4406	723.15
8772	558862		723.15
7197	09/10/2010	WHITE STAR MACHINERY & SUPPLY 5408	824.49
06047160	558442		7.98
06047220	558442		32.28
06047221	558442		293.04
06047260	10118		62.99
06047406	558442		227.98
06047461	558442		14.23
06047592	10118		185.99

Total for Electronic Payments

582,024.53

Check Payments

677941	09/10/2010	BUTLER & ASSOCIATES PA 730	191.44
091010 09L000195	S BELK		82.42
091010 09L007924	S BELK		82.42
091010 09L015926	DR LOCKHART JR		26.60
677942	09/10/2010	E LOU BJORGAARD PROBASCO 1460	618.12
091010 01L005024	S BELK		82.42
091010 04L022140	C NEWTON		206.19
091010 09L001296	L FROST		12.45
091010 09L022611	W THOMPSON JR		88.02
091010 10 L005666	DL GREENE		229.04

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677943 10535 1	09/10/2010 10535	HAMPTON & ROYCE LC 6858	38.20 38.20
677944 091010 09L021825	09/10/2010 T FISHER	NEWMAN REYNOLDS & RIFFEL 3671	42.44 42.44
677945 091010 09L000251 091010 09L021266 091010 10L006575	09/10/2010 L FROST T FISHER J COLLINS	VALENTINE & ZIMMERMAN PA 5186	364.60 12.45 42.44 309.71
677946 164902388 7971	09/10/2010 558459	ADVANCED AUTO PARTS 64	12.58 12.58
677947 201006 0	09/10/2010 10300	ANTECH DIAGNOSTIC 5886	2,999.22 2,999.22
677948 03005545 03005548 03005549	09/10/2010 DE 558464 558464	BERRY TRACTOR & EQUIPMENT CO 463	972.60 -107.81 595.23 485.18
677949 165403	09/10/2010 10296	BEYOND TECHNOLOGY 475	114.99 114.99
677950 573657 573731	09/10/2010 558467 558467	BOZARTH CHEVROLET 578	87.80 81.66 6.14
677951 10 08100	09/10/2010 557492	BREAKTHROUGH HOUSE INC 598	354.15 354.15
677952 457	09/10/2010 559094	BREATHING AIR SERVICES INC 601	1,340.00 1,340.00
677953 14706 14740 14741 14816 14822	09/10/2010 558469 558469 558469 558469 558469	BRIDGESTONE FIRESTONE NORTH 617	1,347.16 29.00 607.04 20.00 29.00 662.12
677954 2083337/2083336	09/10/2010 559009	BROWNS SHOE FIT LLC 669	719.60 719.60
677955 GRIFFITH ROBERT	09/10/2010 10626	CAPITOL FEDERAL SAVINGS 790	3,673.06 3,673.06
677956 RANGEL MARIA IS	09/10/2010 10627	CAPITOL FEDERAL SAVINGS 790	4,284.26 4,284.26
677957 2261 94463	09/10/2010 558474	CARQUEST OF TOPEKA 814	40.57 40.57
677958 1155	09/10/2010 559982	CERTUS ARCHITECTURAL 876	630.00 630.00
677959 10107 1	09/10/2010 10107	CHARLES CURTIS HOUSE MUSEUM 6796	45.00 45.00

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677960	09/10/2010	CONRAD FIRE EQUIPMENT INC 1073	1,749.15
466323	559110		1,585.38
467022	558475		100.86
467037	558475		35.10
467054	559110		27.81
677961	09/10/2010	CONSOLIDATED RURAL WATER 1075	3,405.56
560158 2	560158		3,405.56
677962	09/10/2010	COREFIRST BANK & TRUST 1110	7,318.00
MONTGOMERY M/	10628		7,318.00
677963	09/10/2010	COYOTE CANYON 1153	226.96
69789	558832		39.56
69790	558832		39.56
69791	558832		29.16
69792	558832		39.56
69797	558832		39.56
69844	558832		39.56
677964	09/10/2010	CRIMINALISTICS INC 1173	149.29
27405	10533		149.29
677965	09/10/2010	DURHAM SCHOOL SERVICES LP 1449	14,355.34
8025278	559937		309.00
8025282	559937		1,253.92
8027376	560069		309.00
8027377	560069		944.92
8027378	560069		154.50
8027433	560069		772.50
8027924	560069		6,684.00
8027925	560069		3,553.50
8027926	560069		309.00
8028986	560069		65.00
677966	09/10/2010	DYNATRON ELEVATOR INC 1459	2,266.80
37840	10161		1,213.20
37841	10161		1,053.60
677967	09/10/2010	FACTORY MOTOR PARTS COMPANY 5676	1,687.61
8 463156	558486		106.85
8 463166	558486		1.27
8 463581	558486		94.54
8 463592	558486		112.72
8 464363	558565		209.81
8 464468	558565		970.56
8 464655	558486		91.46
8 463596	558486		82.39
8 463725	558486		47.14
8 463743	558486		20.50
8 4637438 463628	558486		71.30
8 463791	DE		-248.47
8 464235	558486		127.54
677968	09/10/2010	FLEET TESTING SERVICES INC 1711	735.00
FTS60952	558596		490.00
FTS60953	558596		245.00
677969	09/10/2010	HEARTLAND AUTO BODY 2153	1,051.60
1660	10331		1,051.60

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677970	09/10/2010	HERRMAN'S EXCAVATING INC 2218	11,621.46
557958 FINAL	557958		11,621.46
677971	09/10/2010	HOYT'S TRUCK CENTER INC 2321	247.08
67477	558499		247.08
677972	09/10/2010	J LONG LAWN & LANDSCAPE 2465	5,880.00
880571	559825		5,880.00
677973	09/10/2010	KANSAS AUTOMOTIVE INC 2639	1,094.83
2312517	DE		-12.99
2313192	DE		-25.00
2313196	DE		-24.79
2320698	558505		7.43
2320924	558505		42.37
2321091	558505		9.48
2324934	558505		44.48
2325054	558505		40.16
2325279	558505		82.92
2324620	558505		20.11
2324685	558575		18.10
2324702	558575		1.10
2324703	558505		7.06
2324821	558505		68.50
2324924	558505		6.96
2322895	558603		49.14
2322956	558505		3.56
2323289	558505		-9.26
2324342	558602		11.94
2324479	558505		14.31
2324510	558603		6.47
2322129	558505		7.74
2322196	558505		16.25
2322295	558603		9.75
2322347	558575		128.30
2322378	558505		23.79
2322394	558505		12.50
2321808	558505		44.51
2321833	558505		70.04
2321850	558505		4.29
2321920	558505		50.42
2322021	558505		41.00
2322106	558602		204.23
2321093	558602		39.43
2321183	558505		0.62
2321216	558505		14.21
2321259	558505		21.88
2321764	558505		3.43
2321781	558575		40.39
677974	09/10/2010	KANSAS DEPARTMENT OF REVENUE 6510	359.62
091010 09ST00252 C KNOWLES			359.62
677975	09/10/2010	KANSAS DEPT OF HEALTH & ENVIR 2676	180.00
10169 1	10169		180.00
677976	09/10/2010	KANSAS DEPT OF HEALTH & ENVIRO 2681	60.00
10517 1	10517		60.00
677977	09/10/2010	KANSAS DEPT OF REVENUE 2691	80,957.24
201082691		Water Protection Fee/Clean Wat	80,957.24

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677978 10534 1	09/10/2010 10534	KANSAS DEPT OF SOCIAL & REHAB 2693	100.00 100.00
677979 CESG1000	09/10/2010 560208	KANSAS LEGAL SERVICES INC 2724	3,222.86 3,222.86
677980 SN025671	09/10/2010 559865	KANSAS SECURED TITLE/SHAWNEE C 2747	54,460.16 54,460.16
677981 1197	09/10/2010 10461	KANSAS STATE HIGH SCHOOL 2755	50.00 50.00
677982 10 0804	09/10/2010 10057	KBS CONSTRUCTORS INC 2645	178,907.40 178,907.40
677983 1066304 1066410 1066503 1066510 1066545 1066559 2057488 1066586 1067044 1067061 1067128 1067129 1067220	09/10/2010 558510 558510 558510 558510 558510 558510 558510 558577 558510 558577 558577 558510 558510	LAIRD NOLLER FORD INC 2939	1,321.41 111.19 4.29 42.98 18.78 21.95 40.14 72.05 51.82 443.82 183.05 95.88 18.58 216.88
677984 19549	09/10/2010 558512	LEE'S TRUCK INC 3021	62.23 62.23
677985 449783	09/10/2010 10250	METROTECH CORPORATION 3367	11,840.00 11,840.00
677986 1150457	09/10/2010 558448	MIDWAY WHOLESALE TOPEKA 3405	60.80 60.80
677987 025526 025527	09/10/2010 558609 558578	MIGHTY OF NE KANSAS 3422	47.40 15.24 32.16
677988 12063	09/10/2010 558623	MIKE'S FRAME SHOP INC 3423	136.89 136.89
677989 612 613	09/10/2010 10229 10488	MIKE'S PLUMBING HEATING & 3424	8,530.14 7,837.00 693.14
677990 52	09/10/2010 558515	MONTGOMERY VENTURES INC 3496	67.27 67.27
677991 1000389797100731	09/10/2010 560068	MORRIS COMMUNICATIONS 5016	1,694.44 1,694.44
677992 L0035507 L0036160	09/10/2010 10496 10496	MWH LABORATORIES 3593	1,600.00 800.00 800.00

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677993 004313	09/10/2010 10433	NEW WORLD SYSTEMS 3668	21,783.00
677994 10516	09/10/2010 10516	ROY V UHL COMPANY INC 4303	1,920.00
677995 10680 560075 AUGUST	09/10/2010 10680 560075	SAMS CLUB 4357	3,858.60
677996 10794	09/10/2010 558523	SHAWNEE AUTO TRIM 4494	195.00
677997 559567 3	09/10/2010 559567	SHAWNEE COUNTY HEALTH AGENCY 4512	153.00
677998 558739 18 559872 2	09/10/2010 558739 559872	SHAWNEE COUNTY REGISTER DEEDS 4519	155.50
677999 2010 50 2010 51	09/10/2010 559220 10515	SHAWNEE COUNTY SHERIFF'S OFFIC 4520	621.83
678000 51B0108655 51B0108656 51B0108657 51B0108658 51B0108659 AU2927749	09/10/2010 558616 558616 558616 558616 558616 558616	SHAWNEE COUNTY TREASURER 4521	152.50
678001 10532 AUG 10	09/10/2010 10532	SHAWNEE COUNTY RURAL WATER 5719	1,488.00
678002 10604	09/10/2010 10604	SHAWNEE COUNTY PARKS & 6900	45.00
678003 44485 44493	09/10/2010 559007 559007	SIMILAR MODE UNIFORMS INC 4563	259.50
678004 0046832 IN 0047048 IN	09/10/2010 10430 10430	SOUTHWEST PUBLISHING & MAILING 4675	3,950.00
678005 R19510	09/10/2010 558584	STANDARD BATTERY INC 4718	126.18
678006 2214 SW KENILWC	09/10/2010 10050	STEWART TITLE OF KANSAS CITY 6794	37,173.48
678007 1977 2 1977 3	09/10/2010 559145 559145	THE LAUNDRY CHUTE 4931	192.30
678008 10646	09/10/2010 10646	THE MEDICINE SHOPPE #1236 6836	581.99
678009 6481901	09/10/2010 558866	THERMO FISHER SCIENTIFIC LLC 4949	482.35

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
6536918	558866		349.59
678010 34890	09/10/2010 558528	TOPEKA GENERATOR EXCHANGE 5030	469.95 469.95
678011 119917	09/10/2010 558491	TOPEKA POWERSPORTS INC 5042	157.98 157.98
678012 10434 10498	09/10/2010 10434 10498	TOPEKA PUBLIC SCHOOLS 6833	385.00 35.00 350.00
678013 5007187 5007220 5007233	09/10/2010 10157 10298 10328	U S INK AND TONER INC 5116	571.14 139.96 129.14 302.04
678014 0000656FE0320	09/10/2010 559006	UNITED PARCEL SERVICE INC 5140	9.44 9.44
678015 558740 3	09/10/2010 558740	UNITED STATES POSTAL SERVICE 5147	10,000.00 10,000.00
678016 10507 10507CR	09/10/2010 10507 10507	WATER POLLUTION CONTROL 5323	258.37 458.37 -200.00
678017 108301	09/10/2010 10472	WEIS FIRE & SAFETY EQUIPMENT I 5352	144.00 144.00
678018 229	09/10/2010 10294	WELLS, MARIE 5361	792.00 792.00
678019 0552066743SEPT 2 0749842804SEPT 2 0793252472SEPT 2 0843913860SEPT 2 0846578667SEPT 2 1033742014SEPT 2 9785702480SEPT 2 9822175010SEPT 2 9831806500SEPT 2 9905880069SEPT 2 994842527SEPT 2 9983550142SEPT 2 9673824013DSEPT 9673824013SEPT 2 969270611SEPT 2 9698990394SEPT 2 9769687611SEPT 2 9772420004SEPT 2 9553074355SEPT 2 9561558646SEPT 2 9662481100SEPT 2 9673824013ASEPT 9673824013BSEPT 9673824013CSEPT 9388419420SEPT 2 9396200104SEPT 2 9406297791SEPT 2	09/10/2010	WESTAR ENERGY 5376	513,595.47 275.08 16.80 1,215.02 22.53 29.41 41.32 69.67 66.21 53.13 22.13 593.28 207.07 8,311.44 17,546.37 7,162.79 127.25 16.80 24.55 4,209.42 808.96 29.30 2,462.65 1,231.32 1,231.32 100.37 60.43 1,167.71

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
9415932749	SEPT 2		23.93
9420219226	SEPT 2		16.80
9464440167	SEPT 2		154.92
9172705484	SEPT 2		153.93
9182083771	SEPT 2		20.65
9226008214	SEPT 2		16.80
9229334122	SEPT 2		22.13
9244495706	SEPT 2		27.44
9381575612	SEPT 2		32,694.82
889044562	SEPT 20		9.52
8927971666	SEPT 2		9,093.89
9039182056	SEPT 2		57.45
9109881020	SEPT 2		11.89
9163909456	SEPT 2		40.19
9170032835	SEPT 2		41.11
8730715525	SEPT 2		18.33
8789971560	SEPT 2		459.66
8797295426	SEPT 2		30.16
8815117141	SEPT 2		2,250.71
8828977802	SEPT 2		1,158.92
8889069432	SEPT 2		2,601.73
8513066501	SEPT 2		158.03
857144328	SEPT 20		20.65
8573461924	SEPT 2		113.46
8595931907	SEPT 2		18.02
8666184978	SEPT 2		37.46
8718757529	SEPT 2		155.94
8276026298	SEPT 2		20.65
8290044485	SEPT 2		136.55
8336454201	SEPT 2		29,182.84
8345937008	SEPT 2		24.68
8398442994	SEPT 2		1,704.20
8496721323	SEPT 2		106.06
8076813699	SEPT 2		78.29
8101041023	SEPT 2		19.53
8210492601	SEPT 2		757.43
8219534584	SEPT 2		0.00
822053547	SEPT 20		24.89
8248049629	SEPT 2		95.19
7872092402	SEPT 2		110.55
788459049	SEPT 20		40.55
7891221852	ASEPT		260.13
7891221852	SEPT 2		305.36
793981629	SEPT 20		43.19
8045856673	SEPT 2		504.33
7672355786	SEPT 2		183.53
7678466617	SEPT 2		129.72
7746039982	SEPT 2		210.08
7781238941	SEPT 2		117,433.13
7858393411	SEPT 2		25.69
786930434	SEPT 20		136.35
75388260	SEPT 20		87.00
7548807911	SEPT 2		88.15
7561894529	SEPT 2		74.67
7610109448	SEPT 2		19.67
7634627729	SEPT 2		44.95
7669923618	SEPT 2		195.84
7321641728	SEPT 2		73.69
7354036522	SEPT 2		69.50
7388168195	SEPT 2		66.41
744086379	SEPT 20		1,961.65

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
7454861901	SEPT 2		1,293.96
7479004144	SEPT 2		1,092.17
7129070441	ASEPT		1,789.37
7129070441	SEPT 2		1,192.92
7165756657	SEPT 2		56.92
7287996282	SEPT 2		26.40
7291675894	SEPT 2		29.56
731539692	SEPT 20		44.78
7019920441	SEPT 2		41.32
7032895110	SEPT 2		104.95
7052702107	SEPT 2		680.04
7054526981	SEPT 2		172.87
7081634298	SEPT 2		45.54
7093577888	SEPT 2		927.09
6806672566	SEPT 2		157.78
6831674489	SEPT 2		110.65
6878412783	SEPT 2		65.27
6979341927	SEPT 2		18.48
6987642013	SEPT 2		23.39
7006406272	SEPT 2		87.92
6542158614	ASEPT		3,005.16
6542158614	SEPT 2		4,414.99
6548990643	SEPT 2		870.15
6553500964	SEPT 2		1,711.36
6600935533	SEPT 2		83.21
6684018868	SEPT 2		62.33
6330481140	ESEPT		52.95
6330481140	SEPT 2		6,986.71
6358801391	SEPT 2		815.28
6385101124	SEPT 2		152.30
6418900406	SEPT 2		58.05
6473225120	SEPT 2		1,501.42
6288210342	SEPT 2		4.48
6325004337	SEPT 2		41.09
6330481140	ASEPT		189.00
6330481140	BSEPT		1,604.75
6330481140	CSEPT		490.95
6330481140	DSEPT		182.25
5794812931	SEPT 2		22.13
6043959044	SEPT 2		11.89
6105898035	SEPT 2		130.52
611263266	SEPT 20		817.98
6145729420	SEPT 2		407.56
6149102541	SEPT 2		21.38
5380218945	SEPT 2		23.04
547037543	SEPT 20		20.65
5470478995	SEPT 2		138.28
5470493607	SEPT 2		19.35
5652128807	SEPT 2		50.94
575745505	SEPT 20		35.78
5256371057	SEPT 2		16.89
5278673283	SEPT 2		498.65
528113064	SEPT 20		280.36
5288815051	SEPT 2		3,119.90
5330012715	SEPT 2		111.91
5365632154	SEPT 2		181.17
5080166655	SEPT 2		420.97
5081848610	SEPT 2		2,790.41
5165656936	SEPT 2		118.14
5209177869	SEPT 2		321.93
5222230501	SEPT 2		20.94

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
5237660226	SEPT 2		194.33
4989562972	SEPT 2		3,361.88
5026432749	SEPT 2		4,384.95
5033670348	SEPT 2		151.78
503692724	SEPT 20		118.01
5044012316	SEPT 2		527.47
506881572	SEPT 20		25.46
4688166907	SEPT 2		162.91
4727296348	ASEPT		97.07
4727296348	SEPT 2		64.72
4756774986	SEPT 2		17.43
4789320685	SEPT 2		23.31
4901109460	SEPT 2		4,452.77
4515641366	SEPT 2		41.32
4542484126	SEPT 2		1,920.98
4565831865	SEPT 2		3,405.95
4610500746	SEPT 2		47.23
4634088434	SEPT 2		4,351.61
4672756422	SEPT 2		38.12
4269188172	SEPT 2		490.62
4269643687	SEPT 2		69.53
4284165684	SEPT 2		544.57
4398184091	SEPT 2		141.62
4401304625	SEPT 2		24.89
4500418622	SEPT 2		3,208.31
4141273470	SEPT 2		24.89
4142140103	SEPT 2		24.89
416151990	SEPT 20		120.70
4181861543	SEPT 2		5,992.44
4208864031	SEPT 2		62.53
4264149424	SEPT 2		170.36
3769422865	SEPT 2		3,339.19
3785708575	SEPT 2		1,333.21
3791139844	SEPT 2		40.19
3962419033	SEPT 2		7,768.78
4008106683	SEPT 2		36.69
4058088318	SEPT 2		89.94
355289842	SEPT 20		70.81
3599032320	SEPT 2		16.80
3650239903	SEPT 2		109.87
3675521733	SEPT 2		626.93
3703989372	SEPT 2		54.62
3704094176	SEPT 2		38.08
3394295207	SEPT 2		200.11
3429732386	SEPT 2		21.12
3445659551	SEPT 2		104.07
3468280796	SEPT 2		35.02
3481742208	SEPT 2		434.95
3526024969	SEPT 2		20.23
3182415820	SEPT 2		150.46
3216962429	SEPT 2		16.00
3235310123	SEPT 2		66.27
3359889707	SEPT 2		20.65
3384814209	SEPT 2		16.80
3392852446	SEPT 2		16.80
2952910200	SEPT 2		48.92
2960154878	SEPT 2		41.09
2978671422	SEPT 2		769.93
3068995963	SEPT 2		20.23
309522996	SEPT 20		84.05
3145100253	SEPT 2		1,266.57

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
2726587606	SEPT 2		22.13
2754991772	SEPT 2		138.13
2772553529	SEPT 2		218.49
2868104065	SEPT 2		597.02
2909742456	SEPT 2		16.80
2950671586	SEPT 2		28.25
2459029186	SEPT 2		108.73
2498420555	SEPT 20		6,850.79
2518492210	SEPT 2		2,057.32
2527930189	SEPT 2		8,173.05
2538030047	SEPT 2		11.89
2556481079	SEPT 2		218.51
2272608403	SEPT 2		123.94
2336545121	SEPT 2		71.87
2336829480	SEPT 2		1,445.73
2362208215	SEPT 2		1,237.20
2382866848	SEPT 2		45.92
2437202074	SEPT 2		16.80
214737416	SEPT 20		54.82
2158288989	SEPT 2		552.07
2166537606	SEPT 2		66.95
2185576285	SEPT 2		20.65
2189423730	SEPT 2		752.19
2266273903	SEPT 2		1,102.20
1947734359	ASEPT		146.68
1947734359	BSEPT		146.68
1947734359	SEPT 2		146.68
1959889190	SEPT 2		41.30
1977020420	SEPT 2		0.00
2069150421	SEPT 2		35.35
1764127989	SEPT 2		4,801.58
1793486451	SEPT 2		16.80
1830815552	SEPT 2		17.07
1883517398	SEPT 2		609.59
1894285067	SEPT 2		47.59
1926550586	SEPT 2		399.65
1671696488	SEPT 2		22.70
1677223701	SEPT 2		440.77
1709729387	SEPT 2		105.72
1720154406	SEPT 2		81.98
1747452090	SEPT 2		6,327.18
1762092009	SEPT 2		39.84
1456051569	SEPT 2		71.25
1501249548	SEPT 2		16.80
1519476504	SEPT 2		769.62
1597278899	SEPT 2		20.58
1604324086	SEPT 2		123.96
1644917029	SEPT 2		120,081.21
1348331074	SEPT 2		34.48
1406433977	SEPT 2		22.13
1408512766	SEPT 2		1,881.44
1419734081	SEPT 2		176.94
1421891304	SEPT 2		10,593.35
1455241014	SEPT 2		61.58
1047755001	SEPT 2		130.91
1079563957	SEPT 2		519.65
1197750003	SEPT 2		37.64
1253926529	SEPT 2		41.32
1267103249	SEPT 2		20.65
1345100488	SEPT 2		18.42

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Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
678020 22113	09/10/2010 560232	WOODWARD COMMUNICATION INC 6521	5,119.31
			5,119.31
678021 004004781	09/10/2010 10105	WRIGHT LINE LLC 5545	1,476.53
			1,476.53
678022 31412	09/10/2010 10557	YELLOW CAB TAXI CO OF TOPEKA 6851	21.20
			21.20
678023 62612 62613	09/10/2010	APPINO & BIGGS REPORTING SERVI 242	115.60
			57.80
			57.80
678024 49148	09/10/2010	JAYHAWK PHARMACY 6528	41.49
			41.49
678025 WCCOT201000939	09/10/2010 10556	KU MEDWEST AMBULATORY SURGERY 6882	6,972.89
			6,972.89
678026 21000814	09/10/2010 10555	NORA LYON & ASSOCIATES LLC 3691	223.45
			223.45
678027 558468 5	09/10/2010 558468	SAINT FRANCIS HEALTH CENTER 4339	3,733.45
			3,733.45
678028 MILE REIMB 7/26-E	09/10/2010	MALDONADO, SALVADOR 6904	86.85
			86.85
678106 559751 FINAL	09/10/2010 559751	ANDREW EVANS 6063	180.00
			180.00
678107 560023 FINAL	09/10/2010 560023	BRIDGES, WELLS F 616	138.00
			138.00
678108 559709 FINAL	09/10/2010 559709	DAUGHERTY, KATHY 1257	84.00
			84.00
678109 9/5/10ASBKL	09/10/2010	LEWIS, KYLE N 3053	32.00
			32.00
678110 9/5/10ASBCS	09/10/2010	SMITH, CARL E 4616	14.00
			14.00
678111 9/5/10ASBCS2	09/10/2010	SMITH, CARL E 4616	7.00
			7.00
678112 9/5/10ASBCS3	09/10/2010	SMITH, CARL E 4616	3.50
			3.50
678113 9/5/10ASBCS4	09/10/2010	SMITH, CARL E 4616	3.50
			3.50
678114 6780.9/10/10	09/10/2010	FAMILY SUPPORT PAYMENT CENTER 6780	225.00
			225.00
678115 5155.9/10/10	09/10/2010	UNITED STATES TREASURY 5155	831.55
			831.55
678116 5156.9/10/10	09/10/2010	UNITED STATES TREASURY 5156	92.31
			92.31

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678117	09/10/2010	RENSHOUSE ELECTRIC SUPPLY 4174	148.11
8792 212235	DE		-316.40
8792 212250	DE		-463.00
8792 491903	558921		371.40
8792 492209	558921		144.70
8792 492346	558921		32.75
8792 492541	558921		151.69
8792 492608	558921		12.24
8792 493711	558921		52.13
8792 493899	558921		162.60
678118	09/10/2010	FASTENAL COMPANY 1619	1.32
KSTOP140403	558487		1.32
678119	09/10/2010	GRAINGER 1964	683.01
9321566466	558879		194.40
9323875832	558879		230.04
9323875840	558879		155.80
9323875857	558879		86.64
9327552734	558879		12.33
9332973644	558599		3.80
678120	09/10/2010	KANSAS CORRECTIONAL INDUSTRIES 2662	13,454.14
110180	560120		13,454.14
678121	09/10/2010	LOWE'S 3121	1,100.00
10335	10335		1,100.00
678122	09/10/2010	MEIERS READY MIX 3338	18,270.25
294341	558860		390.00
294402	558860		312.00
294444	558860		195.00
294520	558860		780.00
295232	558860		351.00
295284	558860		370.50
296827	558860		2,125.50
296998	558860		780.00
297004	558860		351.00
297862	558447		643.75
296570	558860		156.00
296611	558860		195.00
296620	558860		721.50
296700	558860		196.50
296714	558860		214.50
296724	558860		175.50
296266	558860		390.00
296360	558860		585.00
296488	558860		1,014.00
296492	558860		1,209.00
296530	558860		390.00
296546	558860		351.00
295949	558860		312.00
295950	558860		452.00
296032	558860		2,808.00
296119	558860		312.00
296139	558860		390.00
296164	558860		390.00
295285	558860		234.00
295326	558860		148.00
295392	558860		468.00
295604	558860		156.00

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295840	558860		546.00
295873	558860		157.50
678123	09/10/2010	MINE SAFETY APPLIANCES INC 3460	3,484.11
94774318	556564		3,484.11
678124	09/10/2010	NEAL & SONS CONSTRUCTION INC 3643	13,043.01
96268	10391		2,462.10
96269	10392		4,986.00
96273	10491		882.96
96274	10492		2,292.30
96284	10233		2,419.65
678125	09/10/2010	NORTHEAST KANSAS HYDRAULICS IN 3705	1,243.36
25289	558517		630.97
25295	558517		612.39
678126	09/10/2010	SAFETY SUPPLIES 4336	3,002.96
SSI 1007100	558922		400.00
SSI 100812	558922		400.00
SSI 100813	558922		1,285.15
SSI 100834	558922		917.81
678127	09/10/2010	BROWN, CAROLINE A 6908	209.00
CR 2010 0008567 F JL AKERSTROM			209.00
678128	09/10/2010	FAIRHURST, CHRISTINA R 6909	28.00
CR 2010 0009465 F TR FAIRHURST			28.00
678129	09/10/2010	SANDBERG, CONNIE 6823	120.00
CR 2007 0018269 F SC PARTON			120.00
678130	09/10/2010	INGENTHRON, VALERIE 6820	50.00
CR 2009 0018301 F MD DEXTER			50.00
678131	09/10/2010	EDWARDS, JEFFREY L 6910	150.40
CR 2006 0020620 F ESCOBEDO-MATA			150.40
678132	09/10/2010	DESHAZER, JERMAINE L 6915	86.00
CR 2003 0011477 F LR AKINS			86.00
678133	09/10/2010	MCCRITE, PATRICK 6860	75.00
CR 2008 0003537 F BJ BROWN			75.00
678134	09/10/2010	ELLIS, ROBERT 6911	31.00
CR 2009 0020 582 SR YONNING			26.00
CR 2009 0020582 F SR YONNING			5.00
678135	09/10/2010	VANOVER, RUSSELL W 6913	931.93
CR 2009 0013205 F DG FORTIN			931.93
678136	09/10/2010	SCHULTZ, SCOTT 6914	50.00
CR 2010 0006831 F M GUERRERO			50.00
678137	09/10/2010	MUNRO, TERRI 6912	50.00
CR 2009 0012926 F CR HOWEY			50.00
678138	09/10/2010	VINTAGE STOCK 6907	31.08
CR 2010 0006225 F TL BARRY			31.00
CR 2010 0006225 F TL BARRY			0.08

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678139	09/10/2010	CORBIN, RON	765.36
WCCOT201000941			765.36
678140	09/10/2010	EISENBARTH & ASSOCIATES	2,111.50
8/31/10	558624		2,111.50
678141	09/10/2010	ANGUIANO, ROSENDO S	53.63
232-FRANFEE-9/9/			53.63
678142	09/10/2010	HENRY, BARBARA L	92.26
6887-FRANFEE-9/9/			92.26
678143	09/10/2010	COPELAND, EDITH N	99.35
1104-FRANFEE-9/9/			99.35
678144	09/10/2010	QUALLS, GAYLA	71.05
6920-FRANFEE-9/9/			71.05
678145	09/10/2010	GILBERT, MAXINE	55.96
2234-FRANFEE-9/9/			55.96
678146	09/10/2010	GRAVES, MAE L	31.04
1974-FRANFEE-9/9/			31.04
678147	09/10/2010	CRUZ, HECTOR S	65.40
6921-FRANFEE-9/9/			65.40
678148	09/10/2010	MILLER, JANET S	72.03
6923-FRANFEE-9/9/			72.03
678149	09/10/2010	CULBERTSON, JON	69.56
6917-FRANFEE-9/9/			69.56
678150	09/10/2010	JUSTICE, RACHEL L	107.58
2607-FRANFEE-9/9/			107.58
678151	09/10/2010	KING, SANDRA A	67.65
2868-FRANFEE-9/9/			67.65
678152	09/10/2010	LAWLESS, EVELYN D	59.77
2990-FRANFEE-9/9/			59.77
678153	09/10/2010	LEBLANC, FRANCIS J	99.69
3014-FRANFEE-9/9/			99.69
678154	09/10/2010	LANE, LINDA S	53.17
6918-FRANFEE-9/9/			53.17
678155	09/10/2010	LONSINGER, GEORGETTE I	53.86
3101-FRANFEE-9/9/			53.86
678156	09/10/2010	MASSEY, GLORISTINE	70.21
3235-FRANFEE-9/9/			70.21
678157	09/10/2010	KIRTDOLL, MAXINE L	76.04
6922-FRANFEE-9/9/			76.04
678158	09/10/2010	MURPHY, CHRISTOPHER BRIAN	52.98
3583-FRANFEE-9/9/			52.98
678159	09/10/2010	ROBERSON, JOEANNIE	126.15

COUNCIL REPORT OF VENDOR PAYMENTS

Between 9/6/2010 and 9/12/2010

Attachment number 2
Page 23 of 24

Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
6751-FRANFEE-9/€			126.15
678160	09/10/2010	EMPERLEY, SHIRLEY A 6888	136.38
6888-FRANFEE-9/€			136.38
678161	09/10/2010	STEVENS-MILLER, DANETTA S 4759	115.16
4759-FRANFEE-9/€			115.16
678162	09/10/2010	SEACHORD, SUSAN L 6807	27.89
6807-FRANFEE-9/€			27.89
678163	09/10/2010	TAYLOR, ANTHONY H 4877	41.78
4877-FRANFEE-9/€			41.78
678164	09/10/2010	BOLDRIDGE, THERESA C 6840	7.04
6840-FRANFEE-9/€			7.04
678165	09/10/2010	TURLEY, NORMA J 5106	49.56
5106-FRANFEE-9/€			49.56
678166	09/10/2010	HERRMAN'S EXCAVATING INC 2218	59,043.82
559651 1	559651		7,094.92
559652 2	559652		41,998.05
559653 1	559653		9,950.85
678167	09/10/2010	ICE SPORTS LLC 6899	460.00
475	10603		460.00
678168	09/10/2010	APEX TECHNOLOGY SOLUTIONS LLC 239	504.70
5626	10278		504.70
678169	09/10/2010	MIDWEST TURF & LANDSCAPE LLC 6893	4,500.00
3927	10641		4,500.00
678170	09/10/2010	THE MEDICINE SHOPPE #1236 6836	561.13
10647	10647		561.13
678171	09/10/2010	ATHLETIC AND REHABILITATION CE 294	105.29
151665X195302			105.29
678172	09/10/2010	CATALYSTRX COMP 847	234.08
10224361948300			198.47
10224362904200			35.61
678173	09/10/2010	BROWNE JR, THOMAS P 664	51.00
9/5/10ASBTB		Adult Softball	51.00
678174	09/10/2010	BRYANT, RANDY 685	32.00
9/5/10ASBRB		Adult Softball	32.00
678175	09/10/2010	DITCH, GREG 1363	34.00
9/5/10ASBGD		Adult Softball	34.00
678176	09/10/2010	EZELL, HARRY 1597	51.00
9/5/10ASBHE		Adult Softball	51.00
678177	09/10/2010	HARRIS, WARREN S 2111	48.00
9/5/10ASBWH		Adult Softball	48.00
678178	09/10/2010	LUNA, NARCISO 3138	51.00
9/5/10ASBNL		Adult Softball	51.00

COUNCIL REPORT OF VENDOR PAYMENTS

Between 9/6/2010 and 9/12/2010

Attachment number 2
Page 24 of 24

Check No.	Check Date/PO #	Vendor Name and Number	Check Amount
678179 9/5/10ASBGN	09/10/2010	NILGES, GREGORY R Adult Softball 3687	45.00 45.00
678180 9/5/10ASBNQ	09/10/2010	QUARLES II, NORMAN W Adult Softball 4051	30.00 30.00
678181 9/5/10ASBRM	09/10/2010	REGINALD MOORE Adult Softball 5992	34.00 34.00
678182 9/5/10ASBJS	09/10/2010	SCHULZ, JASON A Adult Softball 4420	26.00 26.00
678183 9/5/10ASBES	09/10/2010	SMITH, ERNEST E Adult Softball 6156	136.00 136.00
678184 753.9/10/10	09/10/2010	CALIFORNIA STATE DISBURSEMENT 753	86.54 86.54
678185 1773.9/10/10	09/10/2010	FRATERNAL ORDER OF POLICEMEN 1773	8,815.47 8,815.47
678186 2494.9/10/10B	09/10/2010	JAN HAMILTON CHAPTER 13 TRUSTE 2494	5,651.87 5,651.87
678187 4283.9/10/10	09/10/2010	ROSANNE "SOTO" REYES 4283	286.15 286.15
678188 4831.9/10/10	09/10/2010	SUPPORT PAYMENT CLEARINGHOUSE 4831	239.08 239.08
678189 4892.9/10/10	09/10/2010	TEAMSTERS LOCAL UNION # 696 4892	587.00 587.00
678190 5446.9/10/10	09/10/2010	WILLIAM GRIFFIN CHAPTER 13 TRU 5446	1,537.69 1,537.69
678191 5503.9/10/10	09/10/2010	WISCONSIN SUPPORT COLLECTIONS 5503	87.69 87.69
678192 5544.9/10/10 5544.9/10/10A	09/10/2010	WPC LOCAL UNION 5544	610.90 615.00 -4.10
678193 686852 96254	09/10/2010 10465 10236	NEAL & SONS CONSTRUCTION INC 3643	6,885.65 2,207.40 4,678.25
Total for Check Payments			1,183,855.33
TOTAL OF PAYMENTS			1,765,879.86

Payment Listing

CB255 Date: 09/13/10
Time: 10:23

JOB SUBMISSION PARAMETERS

User Name: HALL\chartman
Job Name : CB255CH
Step Nbr : 1

Cash Code: 02 OPERATING ACCOUNT
or Cash Code Group:

Transaction Code: SYS AP SYSTEM PAYMENT
Check Date: 090610 - 091210
Check Nbr: -
Company: 1

Transaction Status: All
Report Sequence: C By Transaction Code
Detail Option: Summary

Payment Listing

CB255 Date 09/13/10
Time 10:23

Page 1

Payment Listing
Cash Code 02 OPERATING ACCOUNT
By Transaction Code (Status: All)

Transaction Code SYS AP SYSTEM PAYMENT

Reference Number	Payment Nbr	Co.	Post Date	Pay Date	Void Date	Amount	Status	Payee Name	Pay Group	Proc Grp
420 POLK	678029	1	08/23/10	09/10/10		6564.41	Historical	ELTON L PARKER	COT	
FINCH MICH	678030	1	08/25/10	09/10/10		81.75	Historical	MICHAEL C FINCH	COT	
MCELROY'S	678031	1	08/26/10	09/10/10		659.86	Historical	MCELROY'S INC	COT	
STEVENSON	678032	1	08/23/10	09/10/10		114.75	Historical	DIANA STEVENSON	COT	
JOYNER KRE	678033	1	08/23/10	09/10/10		334.00	Historical	KRESHAUNA JOYNER	COT	
QUICK STOP	678034	1	09/07/10	09/10/10		2.37	Historical	QUICK STOP	COT	
JIRIK MAK	678035	1	09/07/10	09/10/10		38.53	Historical	MAKAYLA D JIRIK	COT	
164 HOLMAN	678036	1	09/07/10	09/10/10		5390.71	Historical	KIM AND JOSEPH PORTW	COT	
ALEXANDER	678037	1	08/09/10	09/10/10		100.00	Historical	MARILYN S ALEXANDER	COT	
PASLEY RON	678038	1	08/25/10	09/10/10		27.86	Historical	RONALD L PASLEY	COT	
PATTERSON	678039	1	08/30/10	09/10/10		147.78	Historical	MICHAEL PATTERSON	COT	
CROCKETT T	678040	1	08/13/10	09/10/10		96.00	Historical	TIFINI T CROCKETT	COT	
COBB-DECKE	678041	1	08/12/10	09/10/10		50.00	Historical	ZORIKEI COBB-DECKER	COT	
MATTHEWS	678042	1	08/13/10	09/10/10		326.00	Historical	ROBERT E MATTHEWS JR	COT	
GLOSS DEBO	678043	1	08/11/10	09/10/10		50.00	Historical	DEBORAH A GLOSS	COT	
SCHLESENER	678044	1	08/18/10	09/10/10		50.00	Historical	JUSTIN L SCHLESENER	COT	
WILCOX DEB	678045	1	08/16/10	09/10/10		45.00	Historical	DEBRA S WILCOX	COT	
MESTA-LOPE	678046	1	08/20/10	09/10/10		42.00	Historical	JUAN ANTONIO MESTA-L	COT	
COTTMAN DA	678047	1	08/16/10	09/10/10		100.00	Historical	DANIELLE L COTTMAN	COT	
MCTAGGART	678048	1	08/12/10	09/10/10		150.00	Historical	JERRY LEE MCTAGGART	COT	
MARTINEZ L	678049	1	08/26/10	09/10/10		50.00	Historical	LATOYA MARTINEZ	COT	
CD TRADE P	678050	1	08/09/10	09/10/10		25.00	Historical	CD TRADE POST	COT	
CHRISMAN S	678051	1	08/20/10	09/10/10		18.00	Historical	STEPHANIE CHRISMAN	COT	
DICKERSON	678052	1	08/16/10	09/10/10		140.00	Historical	KEVIN DICKERSON	COT	
FENNELL JE	678053	1	08/05/10	09/10/10		18.00	Historical	JENNIFER FENNELL	COT	
GARDNER TH	678054	1	08/12/10	09/10/10		32.00	Historical	THOMAS GARDNER	COT	
KS NEB BAP	678055	1	08/12/10	09/10/10		390.00	Historical	KANSAS-NEBRASKA BAPT	COT	
MACKINTOSH	678056	1	08/18/10	09/10/10		22.00	Historical	CAROLINE MACKINTOSH	COT	
ORTEGA ART	678057	1	08/18/10	09/10/10		25.00	Historical	ARTHUR ORTEGA	COT	
SOTO MARIA	678058	1	08/18/10	09/10/10		87.50	Historical	MARIA SOTO	COT	
VALDEZ MIG	678059	1	08/12/10	09/10/10		18.00	Historical	MIGUEL VALDEZ	COT	
WEBB SHARL	678060	1	08/06/10	09/10/10		42.50	Historical	SHARLA WEBB	COT	
WOFFORD-VA	678061	1	08/05/10	09/10/10		125.00	Historical	DONNA WOFFORD-VALDIV	COT	
LOVE LYNN	678062	1	08/31/10	09/10/10		57.00	Historical	LYNN LOVE	COT	
BUCKLEY FR	678063	1	08/30/10	09/10/10		250.00	Historical	FRANK BUCKLEY	COT	
WINTER ROB	678064	1	08/24/10	09/10/10		200.00	Historical	ROB WINTER	COT	
GOMEL MATT	678065	1	08/24/10	09/10/10		200.00	Historical	MATT GOMEL	COT	
HATFIELD P	678066	1	08/25/10	09/10/10		35.00	Historical	PAIGE HATFIELD	COT	
LASSITER M	678067	1	08/26/10	09/10/10		1.50	Historical	MICHELLE LASSITER	COT	
LEWIS ALBE	678068	1	08/30/10	09/10/10		18.00	Historical	ALBERT LEWIS	COT	
WEBB SHARL	678069	1	08/09/10	09/10/10		50.00	Historical	SHARLA WEBB	COT	
WATSON SHI	678070	1	08/09/10	09/10/10		50.00	Historical	SHIRLEY WATSON	COT	
VALDEZ VIC	678071	1	08/16/10	09/10/10		50.00	Historical	VICTOR VALDEZ	COT	
BOZEMAN MI	678072	1	08/23/10	09/10/10		50.00	Historical	MICHELLE BOZEMAN	COT	
TOPEKA ASC	678073	1	08/23/10	09/10/10		50.00	Historical	TOPEKA ASSOCIATION O	COT	
TOPEKA WOM	678074	1	08/16/10	09/10/10		50.00	Historical	TOPEKA WOMEN CONSTRU	COT	
SHAWNEE CO	678075	1	08/09/10	09/10/10		50.00	Historical	SHAWNEE COUNTY DEMOC	COT	
RODRIGUEZ	678076	1	08/23/10	09/10/10		50.00	Historical	KAREN RODRIGUEZ	COT	
MS SOCIETY	678077	1	08/23/10	09/10/10		50.00	Historical	MS SOCIETY	COT	

Payment Listing

CB255 Date 09/13/10
Time 10:23

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Payment Listing
Cash Code 02 OPERATING ACCOUNT
By Transaction Code (Status: All)

Transaction Code SYS AP SYSTEM PAYMENT

Reference Number	Payment Nbr	Co.	Post Date	Pay Date	Void Date	Amount	Status	Payee Name	Pay Group	Proc Grp
MINJAREZ M	678078	1	08/09/10	09/10/10		50.00	Historical	MARIA MINJAREZ	COT	
FIRST BAPT	678079	1	08/09/10	09/10/10		50.00	Historical	FIRST BAPTIST CHURCH	COT	
DAVIS MARC	678080	1	08/23/10	09/10/10		50.00	Historical	MARCI DAVIS	COT	
COMMUNITY	678081	1	08/23/10	09/10/10		50.00	Historical	COMMUNITY OF CHRIST	COT	
COOPER ELD	678082	1	08/09/10	09/10/10		50.00	Historical	ELDANA COOPER	COT	
CENTRAL CH	678083	1	08/12/10	09/10/10		50.00	Historical	CENTRAL CHURCH OF CH	COT	
ALEXANDER	678084	1	08/16/10	09/10/10		50.00	Historical	DIANE ALEXANDER	COT	
BUSH ANGEL	678085	1	08/13/10	09/10/10		50.00	Historical	ANGELA BUSH	COT	
CASTRO CAR	678086	1	08/23/10	09/10/10		50.00	Historical	CARLA CASTRO	COT	
CASTRO MAR	678087	1	08/01/10	09/10/10		50.00	Historical	MARIA CASTRO	COT	
SURBAUGH D	678088	1	08/23/10	09/10/10		50.00	Historical	DEWAYNE SURBAUGH	COT	
WASHBURN R	678089	1	08/16/10	09/10/10		50.00	Historical	WASHBURN RURAL ACTIV	COT	
SIMMONS TA	678090	1	08/23/10	09/10/10		50.00	Historical	TASHA SIMMONS	COT	
NUNEZ EVAN	678091	1	08/23/10	09/10/10		50.00	Historical	EVANGELINA NUNEZ	COT	
MDA	678092	1	08/23/10	09/10/10		50.00	Historical	MUSCULAR DYSTROPHY A	COT	
MIDLAND CA	678093	1	08/16/10	09/10/10		50.00	Historical	MIDLAND CARE CONNECT	COT	
CEJA OTABI	678094	1	08/23/10	09/10/10		50.00	Historical	OCTABIO CEJA	COT	
WRIGHT TER	678095	1	08/25/10	09/10/10		50.00	Historical	TERRY WRIGHT	COT	
BATISTA CE	678096	1	08/16/10	09/10/10		50.00	Historical	CELIA BATISTA	COT	
WESTSIDE B	678097	1	08/23/10	09/10/10		50.00	Historical	WESTSIDE BAPTIST	COT	
ABBOTT LAT	678098	1	08/30/10	09/10/10		50.00	Historical	LATOYA ABBOTT	COT	
CERVANTEZ	678099	1	08/30/10	09/10/10		50.00	Historical	NANCY CERVANTEZ	COT	
GIRLS SCOU	678100	1	08/30/10	09/10/10		50.00	Historical	GIRLS SCOUTS OF NW K	COT	
KDOT TRAFF	678101	1	08/30/10	09/10/10		50.00	Historical	KDOT TRAFFIC SAFETY	COT	
HOLFFORD M	678102	1	08/30/10	09/10/10		50.00	Historical	MARY HOLFFORD	COT	
INDIA ASSO	678103	1	08/30/10	09/10/10		50.00	Historical	INDIA ASSOC OF TOPEK	COT	
ROSE GINGE	678104	1	08/30/10	09/10/10		50.00	Historical	GINGER ROSE	COT	
ZAVALA MAR	678105	1	08/30/10	09/10/10		50.00	Historical	MARIA ZAVALA	COT	
Transaction Code SYS Total						17975.52				
Cash Code 02 Total						17975.52				
Report Total						17975.52				

*** REPORT COMPLETED ***



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 23, 2010

+ Back Print

DATE: September 28, 2010
CONTACT PERSON: David Thurbon/Bill Hoover
DOCUMENT #: ACZR10/1
SECOND PARTY/SUBJECT: Accessory Uses - Zoning **PROJECT #:**
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 161 Comprehensive Zoning Cases
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning accessory uses for various zoning districts, amending Section 18.210.020 and specifically repealing said original section. First Reading. (ACZR10/1)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would amend the Accessory Use requirements in the Comprehensive Zoning Regulations including: restrictions on utilizing truck bodies and cargo containers in residential zoning districts; modifying storage and parking restrictions of large vehicles, boats, machinery, materials, and equipment in residential zoning districts; and clarifying permitted accessory uses in the industrial zoning districts.)

POLICY ISSUE:

See the attached staff report for the August 16, 2010, Planning Commission titled, "Amendment to Accessory Uses Section - ACZR10/1", which summarizes commercial vehicle parking in residential neighborhoods prior to (a) early 2010, (b) current regulations per modifications approved by the Governing Body on March 16, 2010, and (c) proposed changes recommended by the Planning Department.

The Planning Commission is recommending that regulations dealing with a commercial vehicle's height, weight, length, and signage on the vehicle be dropped and replaced with a single threshold based on a truck's gross vehicle weight of 12,000 pounds. They are recommending that pickup trucks be excluded, irregardless of their weight, and hence be allowed to park in residential neighborhoods. Additionally, they recommend that the following types of vehicles, irregardless of their weight, not be allowed to park in residential neighborhoods: flatbed or stake-bed trucks except those that are pickup trucks, buses, semi-trailers or tractor-trailers, dump trucks, cement mixers, wreckers, and trailers loaded with any commercial equipment or construction materials.

STAFF RECOMMENDATION:

The Planning Commission recommended **APPROVAL** by a 6-1-0 vote of the amendment at its **August 16, 2010** meeting, subject to changing Line 73 from "5 tons" to "6 tons" and changing Line 75 by adding the words "Item #18" in front of "commercial vehicles".

BACKGROUND:

- See staff report for the August 16, 2010 Planning Commission public hearing.
- See staff report for the June 28, 2010 Planning Commission Policy Meeting.
- See table showing commercial vehicle parking in other communities
- See public comment letters
- Governing Body options:
- **Adopt** the recommendation of the Planning Commission by Ordinance;
- **Override** the Planning Commission's recommendation by a two-thirds majority (7 votes) of the Governing Body membership; or,
- **Return** such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report for 8-16-10 PC](#)

[Staff Report for 6-28-10 PC Policy Mtg](#)

[Table of Other Communities' Comm. Vehicle Standards](#)

[Ordinance](#)

[Public Comment Letters](#)

[Planning Commission Minutes](#)

Amendment to Accessory Uses Section – ACZR10/1

August 16, 2010 Planning Commission

Purpose: Attached is a proposed draft ordinance that would amend Section 18.210.020, Permitted uses within the Accessory Uses section of our Zoning Regulations. The proposed amendments involve: restrictions on utilizing truck bodies and cargo containers in residential zoning districts; modifying storage and parking restrictions of large vehicles, boats, machinery, materials, and equipment in residential zoning districts; and clarifying permitted accessory uses in the industrial zoning districts.

History: At the May 24, 2010 and June 28, 2010 Planning Commission Policy Meetings, changes to accessory uses and applicable definitions relating to those changes were discussed in detail. These related definitions are covered under a separate Zoning Ordinance Amendment (ACZR10/2).

At these Policy Meetings, the Planning Commissioners focused on the difficult issue of parking commercial vehicles in residential neighborhoods. In a nutshell, it was how to potentially balance the desires of trades and service personnel who are furnished a truck to drive home in order to respond to service calls during the evening or weekend hours while other neighborhood residents' desire that some or all of those vehicles should not be parked in residential districts. Based on numerous detailed discussions, the Planning Commission felt it was reasonable to accommodate businesses and their employees in this manner until a commercial vehicle crossed thresholds where the vehicle's impact on a residential neighborhood became too great. These impacts could be related to a vehicle's large size, unaesthetic appearance that may resemble a small billboard setting in the midst of a neighborhood, or excessive noise created by a large diesel engine. The draft ordinance on pages 3 – 4 (lines 67 – 74) reflects the most recent changes regarding this matter.

The key parameters below summarize where we originally were on the limits of commercial vehicle parking in residential districts, what was passed by the governing body on March 16, 2010, and what is currently proposed.

Commercial Vehicle Parking Limits Prior to Early 2010

- Trucks with a payload over 1 ½ tons must be parked in a garage or screened from view from abutting properties and streets
- Vehicles, boats, and tractors with a gross vehicle weight rating of 5 tons or more shall not be parked on residential properties

Revisions by Planning Commission and Governing Body in February/March 2010

- Non-commercial trucks, boats, trailers, buses, and tractors with a weight of 7 ½ tons or more are not allowed on residential properties
- Commercial vehicles with a height or width of 7.5' or more are not allowed
- Commercial vehicles with a length of 25' or more are not allowed

Commercial Vehicle Parking as Now Proposed

- Pickup trucks are allowed on residential properties
- Trucks (excluding pickups), boats, trailers, buses, and tractors with a curb weight or gross vehicle weight rating over 5 tons are not allowed
- Commercial vehicles with a height of 9' or more, a width of 7.5' or more, and/or length of 24' or more are not allowed

The Planning Commission also discussed at the May 24, 2010 Planning Commission Policy Meeting, cargo containers (aka “storage containers”) and truck bodies and issues with residents utilizing those for storage purposes in residential neighborhoods. The Planning Commission directed staff to not allow truck bodies to be used for storage purposes and to only allow cargo containers as a temporary accessory use for up to 30 days in any calendar year. The temporary use of these would allow residents a place to store their personal goods on-site while remodeling and moving. These revisions can be seen in the draft ordinance on page 3 (lines 64 – 66).

Permitted accessory uses in the industrial zoning districts were modified based on the request of the company assisting in codifying our new Topeka Municipal Code. Essentially, they requested that we consider revising the text to clarify some of our accessory uses for the industrial zoning districts. These changes can be seen on page 6 (lines 119 – 133) of the draft ordinance.

Recommendation: Planning staff recommends approval of the attached ordinance amending portions of the Accessory Uses section of our Zoning Regulations.

Enclosures: Previous staff report for 6-28-10 Policy Meeting
Proposed Ordinance
Letters from interested parties

Commercial Vehicle Parking – ACZR10/1

June 28, 2010 Planning Commission Policy Meeting

Purpose: The issue of commercial vehicle parking in residentially-zoned neighborhoods was discussed at the May 24, 2010 Planning Commission Policy Meeting and the Planning Commission asked staff to research how other communities deal with this issue and then at a later Planning Commission meeting summarize the research data with updated suggestions to the Planning Commission. More specifically the planning staff was requested to look at other communities' criteria for commercial vehicle parking on improved residential property and on public streets in residentially-zoned neighborhoods.

Research Methodology: Numerous communities' regulations were reviewed regarding commercial vehicle parking. The attached table titled, "Commercial Vehicle Parking in Residential Areas in other Communities" is a summary of this research. It shows communities who have commercial vehicle parking standards for residential lots and/or along public streets in residentially-zoned neighborhoods. About 80% of the time that a community had commercial vehicle parking standards on public residential streets these standards were not located within the Zoning Ordinance or Land Development Code but rather within their Traffic Code. The commercial vehicle parking standards on residential lots were generally located in 1 of 3 areas of communities' zoning regulations including: the accessory use section, parking section, or in a section for supplemental or additional regulations.

Before reviewing the attached table in detail it should be pointed out what is frequently meant by vehicles referred to as a "half-ton", "3/4 ton" or "one-ton" vehicle or chassis. A good clarification of this was found online from Wikipedia, after a Google search for "Pickup Trucks" on 6-11-10.

"Full-size pickups in North America are sold in four size ranges - ½ Ton, ¾ Ton, 1 Ton, and now 1 1/2 ton. These size ranges originally indicated the maximum payload of the vehicle, however modern pickups can typically carry far more than that. For example, the 2006 model Ford F-150 (a "½ Ton" pickup) has a payload of between 1,400 lb (640 kg) and 3,060 lb (1,390 kg), depending on configuration. Likewise, the 2006 model F-350 (a "1 Ton" pickup) has a payload of between 4,000 lb (1,800 kg) and 5,800 lb (2,600 kg) depending on configuration."

Hence, when looking at the attached table a 1-ton truck could have: a curb or empty weight of 6,500 pounds, a payload of 4,500 pounds and a GVWR (gross vehicle weight rating) of 11,000 pounds and different communities use any of these 3 criteria for their parking thresholds. (The formula for rating or measuring trucks is empty weight + maximum payload = GVWR.) Until the last 10 to 20 years most trucks over 10,000 pounds GVWR would have referred to something larger than a 1-ton truck, which is likely why some communities are using the 10,000 pounds GVWR as their standard while other communities are using a more current standard of 12,000 pounds GVWR.

Assistant City Attorney Braxton Copley has advised the Planning Department staff that any commercial vehicle parking standards on public roadways within residential neighborhoods should preferably not be located within our zoning regulations but rather in the City Code under our traffic regulations. He further said items outside the zoning regulations are outside the Planning Commission's customary area of responsibility but they could pass a resolution to formally ask the City Manager, a City department head, or a City Councilmember to sponsor an amendment to our Traffic Code for the City Council/Mayor to consider. Currently, our Traffic Code has the following parking restriction on public roadways.

10.60.100 Parking more than 48 hours.

It shall be unlawful for any person to park or permit the parking, storing or standing of any vehicle upon any public street or street parking in the city for any continuous period of more than 48 hours. Any motor vehicle which shall have been found to have remained parked, stored or located upon any of the public streets or parkings of the city for a continuous period of more than 48 hours shall be deemed a public nuisance and such nuisance may be abated in the manner provided in this article. (Code 1981 § 43-388. Code 1995 § 142-353.)

Based on Braxton Copley's recommendation, we wanted to primarily focus the balance of this staff report on commercial vehicle parking on residentially-zoned properties and if the Planning Commission did want to do something on the on-street parking on residential streets, those parking criteria would likely be similar with any changes the Planning Commission recommends for commercial vehicle parking on residential property.

Research Findings: Two-thirds of the communities listed on the table had zoning requirements that limited the parking of commercial vehicles on residentially-zoned properties. Most of the time these standards matched or were coordinated with any traffic requirements regarding the parking of commercial vehicles on public residential streets.

The following data can be summarized from the table under the column titled, "Prohibited Parking on Residentially-Zoned Properties": 1) Only two communities have criteria utilizing the maximum height, width and length of commercial vehicles. 2) Four communities use maximum length of trucks as a criteria and 20 feet was typically the threshold used. 3) A majority of the communities used the threshold of "one-ton" vehicles (trucks with a GVWR up to 10,000 lbs. or 12,000 lbs, an empty weight of 7,000 lbs. or a payload of 2 tons) as their threshold in one manner or another, where if the vehicle's weight exceeded that they were not permitted. 4) Three of the communities excluded all pickup trucks and another (Overland Park, KS) excluded pickups that were not modified, from being prohibited from parking on residential lots. 5) Only two communities have standards that would be considered more liberal than what the Planning Commission suggested to staff at the last Policy Meeting. This would be Carbondale, CO which prohibits vehicles having a cargo capacity (payload) of 5 tons and Shawnee, KS which only prohibits trucks over 16,000 lbs. GVWR, 8' wide, 8' high, or

over 24' long. 6) The strictest standards were Manhattan, KS, which prohibits the overnight parking of all trucks.

Staff has also researched the specifications of the Dodge Sprinter and Ford Transit vans, which were briefly discussed at the last Policy Meeting. The Ford Transit van is considerably smaller than the Dodge Sprinter and the Transit has approximately the following key specifications: width (including mirrors) of 6'11", height of 6'7", empty weight of 3,400 lbs., payload of 1,600 lbs., and GVWR of 5,000 lbs. The Dodge Sprinter is available in both "3/4 ton" and "1-ton" versions (2500 and 3500 models), in lengths of 19'4" and 22'9", and heights of just over 8' (96.3") and just under 9' (107.5"). The Sprinter's other specifications are roughly: width of 6'8" (excluding mirrors), empty weight of 5,000 lbs., payload of 3,550 lbs., and a GVWR of 8,550 lbs.

Recommendation: Planning staff recommends that the Planning Commission consider modifying the Accessory Uses section (chapter 18.55 of the TMC) and amending/adding the definitions shown below so the following would be accomplished for commercial vehicle parking on residentially-zoned property.

- Pickup trucks would automatically be allowed to park on residential lots.
- Most commercial vehicles not exceeding any of the following: up to 10,000 lbs. GVWR, 8' in height, 7.5' in width, and 20' in length; would be allowed to park on residential driveways.
- Most commercial vehicles meeting all of the following: between 10,001 to 15,000 lbs. GVWR, 9' in height or less, 7.5' in width or less, and 25' or less in length; would be allowed to be parked only within a garage on residential lots.

Commercial equipment: Any equipment or machinery used in a business trade or industry, including: liquid storage tanks exceeding one hundred (100) gallons, earth-moving equipment, trenching or pipe-laying equipment, landscaping equipment, spools of wiring/cable, portable pumps, portable generators, portable air compressors, pipes, pool cleaning equipment and supplies, and any other equipment or machinery similar in design or function. However, equipment and machinery for business use kept within an enclosed pickup truck or van; ladders or pvc pipe attached to a truck or van via a ladder rack; or equipment and machinery solely for personal residential use are not included.

Commercial vehicle: Any vehicle, excluding pickup trucks, used for a business that has a height of eight (8) feet or higher (excluding antennas and ladder racks and items attached thereto), ~~or~~ width (excluding ~~antennas and~~ mirrors) of seven and one-half (7.5) feet or ~~larger~~ wider, or has a length of ~~twenty-five (25)~~ (20) feet or longer. Additionally, the following types of vehicles shall all be considered commercial vehicles: step vans, box vans, box trucks, flatbed or stake-bed trucks, buses, semi-trailers or tractor-trailers, dump trucks, cement mixers, wreckers, trailers loaded with any commercial equipment or construction materials, and any other motor vehicle or trailer (except for recreational vehicles) having a manufacturer's rating exceeding 15,000 pounds of gross vehicle weight. Additionally, vehicles with any of the following exterior modifications shall be considered commercial vehicles: liquid storage tanks exceeding

one hundred (100) gallons, aerial buckets or platforms, welding equipment, or mechanical lifts or arms for loading and unloading materials/equipment, ~~or any vehicles or trailers with over twenty-five (25) square feet of total sign area advertising a business.~~ Vehicles for transferring passengers and their personal luggage/cargo for churches, non-profit agencies, nursing homes, retirement communities, and other similar facilities shall not be considered commercial vehicles. Recreational vehicles are not considered commercial vehicles unless used for business purposes.

Pickup Truck: A light motor vehicle manufactured with a cab for passengers and an open-top rear cargo area (bed) of between four (4) to eight (8) feet in length, with low sides along the bed, and a rear tailgate.

Enclosure: Table Showing Other Communities' Commercial Vehicle Parking Standards

Commercial Vehicle Parking in Residential Areas in Other Communities

June 21, 2010

<u>Community</u>	<u>Unlawful Parking on Residential Streets/ROWS*</u>	<u>Prohibited Parking on Residentially-Zoned Properties*</u>
Lawrence, KS	Vehicles over 8' wide, 8' high or 20' in length, exceeding 2 hours. No unattached trailers.	Vehicles over 1-ton manufacturer's rated capacity
Leavenworth, KS	Vehicles over ¾ ton capacity that are used for business purposes	
Manhattan, KS		No overnight parking of trucks as an accessory use
Olathe, KS	Commercial trucks (chassis of 1-ton or more; over 20' long, 8' wide, or 7' high) & commercial hauling trailers with a 1-ton chassis or more & a box or bed over 8' long.	Commercial trucks (chassis of 1-ton or more; over 20' long, 8' wide, or 7' high) & commercial hauling trailers with a 1-ton chassis or more & a box or bed over 8' long.
Osage City, KS	Any vehicle wider or longer than a pickup truck, or any detached trailer, or any vehicle with an attached trailer.	
Overland Park, KS	Vehicles over 8' wide, 7' high or 20' in length, exceeding 2 hours	Commercial vehicles (externally modified pickups/vans and heavier trucks) exceeding 1 parking occurrence (up to 24 hours) in any 30-day period
Salina, KS and Saline County, KS	Trucks, except for pickups, for night-time parking	
Shawnee, KS	Commercial vehicles (truck with bus. markings or GVWR** exceeding 16,000 lbs., 8' wide, 8' high, or 24' long)	Commercial vehicles (truck with bus. markings or GVWR** exceeding 16,000 lbs., 8' wide, 8' high, or 24' long) but excludes those parked within garages
Wichita/Sedgwick County, KS	Trucks over ¾ ton rated capacity, exceeding 2 hours	
Wyandotte County/Kansas City, KS	Trucks over 10,000 lbs. GVWR excluding pickup trucks not used for commercial purposes	Trucks over 10,000 lbs. GVWR exceeding 48 hours in any 30-day time period
Little Rock, Arkansas	No truck or trailer with manufacturer's rated capacity in excess of 1-ton	No commercial vehicle (large truck, a cargo trailer; or any van with a manufacturer's rated capacity of 1-ton or more)
Des Moines, Iowa	No truck having a freight capacity over one-ton	
Aurora, Colorado		Commercial truck/vehicle whose empty weight exceeds 7,000 lbs.
Carbondale, Colorado		Vehicles over 5 tons cargo capacity

Denver, Colorado	Trucks exceeding 6,000 lbs. empty weight or 22' long, exceeding 2 hours	Trucks exceeding 6,000 lbs. empty weight
Englewood, Colorado	Commercial vehicles over 7,000 lbs. empty weight	Commercial vehicles over 7,000 lbs. empty weight
Durango, Colorado	Commercial vehicles exceeding 2 ton carrying capacity	Commercial vehicles exceeding 2-ton carrying capacity
Federal Heights, Colorado	No truck or van with a carrying capacity rated in excess of 1 ton	Commercial vehicles with a GVWR over 10,000 lbs. (excludes all pickup trucks)
Wheat Ridge, Colorado	Any commercial truck or van with over a 1-ton chassis or more than 1 commercial truck or van with a 1-ton chassis or less and no commercial trailers or detached trailers.	Any commercial truck or van with over a 1-ton chassis or more than 1 commercial truck or van with a 1-ton chassis or less.
Eagan, Minnesota	Any vehicle in excess of 9,000 lbs. GVWR for over 6 continuous hours or any detached trailer over 24 continuous hours	
Minneapolis, Minnesota	Any commercial vehicle over 6,000 lbs. empty or with a GVWR over 9,000 lbs.	Any commercial vehicle over 6,000 lbs. empty weight or with a GVWR over 9,000 lbs.
South St. Paul, Minnesota	Any truck that is not a pickup whose GVWR exceeds 10,000 lbs.	Any truck that is not a pickup whose GVWR exceeds 10,000 lbs.
Independence, Missouri	Trucks with a GVWR over 12,000 lbs. or over 20' long, exceeding 2 hours	Trucks with a GVWR over 12,000 lbs. or over 20' long & not used primarily as the owner's personal means of transportation
St. Louis, Missouri	Commercial vehicle having a GVWR over 12,000 lbs., parked between Midnight and 6:00 AM. No semi-trailers anytime.	
Omaha, Nebraska	Any truck or trailer with a payload capacity over 4 tons, or any vehicle including its trailer over 21' long or 7' wide, exceeding 1 hour. No detached trailers.	Commercial vehicles (does not include pickups and vans) and trailers 20' or longer.
Oklahoma City, Oklahoma	Any truck exceeding 2 axles, cab height of 82", overall height of 90", 25' length, or 12,000 lbs. GVWR	
Salt Lake City, Utah	Any commercial vehicle over ¾ ton capacity or any truck over ¾ ton capacity, exceeding 3 hours.	

*Nearly always excludes commercial vehicles that are being actively loaded/unloaded or parked while servicing residential homes/properties. Inoperable or unlicensed vehicles are unlawful under other regulations.

**GVWR refers to Gross Vehicle Weight Rating (empty weight of truck plus its carrying capacity or payload).

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 18.210.020, concerning permitted accessory uses and specifically repealing said original section.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

Section 1. That section 18.210.020, Permitted uses, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RA-1 and the RR-1 districts:

(1) Open or enclosed storage of farm materials and equipment.

(2) Farm buildings, including barns, stables, sheds, toolrooms, shops, tanks, bins and silos.

(3) Fuel storage tanks and dispensing equipment for fuels used solely for farming operations. No wholesale/retail sales of such fuels shall be allowed as an accessory use.

(4) Wholesale and retail sales of agricultural products grown or raised upon the premises.

(5) Roadside stands for the sale of produce grown on the premises; provided, that such a stand shall not contain more than 600 square feet of floor area, the stand is located no closer than 20 feet from the right-of-way, and access to the stand is from an entrance to the farm or residence.

(6) Private, noncommercial antenna and supporting structure when used for amateur radio service; citizens band radio; a telecommunication device that receives only a radio frequency signal; a sole-source emitter with more than one kilowatt average output; and satellite receiving devices, provided they shall not be located in the area between the street and principal building nor within the required side yard.

(7) Fences as regulated by TMC [18.210.040](#).

(8) Gazebos, enclosed patios and similar buildings for passive recreational use.

(9) Home occupations as regulated by TMC [18.210.035](#).

(10) Private garages and carports.

(11) Private greenhouses or conservatories.

(12) Private recreational uses and facilities including but not limited to swimming pools and tennis courts, if the use of such facilities is restricted to occupants of the principal use and guests for whom no admission or membership fees are charged.

(13) Private or public utility transmission, distribution and/or collection systems; and not, however, including substations and distribution substations, pump stations, reservoirs, towers, transmission equipment buildings and similar facilitating structures.

(14) Residential accessory storage buildings for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment,

exclusively for the personal use of the residents of the premises, but not including a storage building for commercial purposes.

(15) Signs as regulated by Chapter [18.20](#) TMC.

(16) Statuary, arbors, trellises, flagpoles, and barbecue stoves.

(17) Structures for the shelter of household pets except kennels.

(18) Temporary construction buildings for on-site construction purposes for a period not to exceed the duration of the construction project.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(18) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses. However, cargo containers may be used on a temporary basis for up to thirty (30) days within a calendar year.

(2) (a) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. No ~~noncommercial~~ truck excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer's gross vehicle weight rating exceeding

~~seven and one-half~~six (6) tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(b) No heavy commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

(3) Off-street parking as regulated by Chapter [18.240](#) TMC.

(4) A child's playhouse, provided it shall not be more than 120 square feet in area.

(c) In the M-2, M-3 and M-4 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

(1) A maintenance storage building incidental to a permitted use, provided no such structure shall exceed 160 square feet in gross floor area, and shall be in keeping with the principal structure.

(2) A facility for leasing, managing and/or maintenance of a multiple-family dwelling or planned unit development, provided such facility is of such size and scale which is in keeping with, and is accessory in nature to, said multiple-family dwelling or planned unit development, all as determined by the planning director.

(d) In the O&I-1, O&I-2 and O&I-3 districts:

(1) For residential uses, the accessory uses included in subsection (c) of this section shall be permitted.

(2) Off-street parking as regulated by Chapter [18.240](#) TMC.

(3) A storage building incidental to a permitted use, provided no such structure shall exceed 200 square feet in gross floor area, and shall be in keeping with the principal structure.

(4) Employee restaurants and cafeterias, when located in a principal structure.

(5) Signs as regulated by Chapter [18.20](#) TMC.

(6) Fences as regulated by TMC [18.210.040](#).

(7) Flagpoles and statuary.

(8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and C-5 districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

(1) Restaurants, drugstores, gift shops, clubs, lounges, newsstands, and travel agencies when located in a permitted hotel or motel.

(2) One independent, freestanding commercial structure of 400 square feet or less shall be permitted on a zoning lot. Such accessory structure shall not be required to provide off-street parking, but shall be located as to not interfere with or reduce the amount of required parking for the principal use. The location of such accessory structure shall be reviewed and approved by the planning director at the time of building permit application, provided such location does not conflict or interfere with site access and interior vehicular circulation.

(f) In the I-1 and I-2 districts, the following shall be permitted: ~~there may be any accessory use including but not limited to printing, publishing, design, development, fabrication, assemblage, storage and warehousing, and child care facilities; provided, that:~~

- (1) Fences as regulated by TMC [18.210.040](#).
- (2) Off-street parking as regulated by Chapter [18.240](#) TMC.
- (3) Signs as regulated by Chapter [18.20](#) TMC.
- (4) Gatehouse ~~and/or residence of a night watchman~~.
- (5) Employee recreational facilities.
- (6) Flagpoles and statuary.
- (7) Employee restaurants and cafeterias when located in the principal building of the use served.
- (8) Employee child care facilities.
- (9) Storage and warehousing.
- (10) Caretaker's or night watchmen's quarters.

(g) In the U-1 district: the accessory uses included in subsection (c) of this section.

(h) In the MS-1 district: the accessory uses included in subsection (d) of this section.

(i) In the X-1, X-2 and X-3 districts: the accessory uses included in subsections (b), (c), (d) and (e) of this section

Section 2. That original § 18.210.020 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Brenda Younger, City Clerk

Spring Hill Property Owners Association, Inc.
Topeka, KS 66614

June 3, 2010

To Members of:

The City of Topeka Planning Commission

Doug Bassett, Richard Beardmore, Howard Blackmon, Mark Boyd, John Federico,
Michelle Hoferer, Mike Lackey, Lee Williams, Dawn Wright

City Planning Director

David Thurbon

City Manager

Norton Bonaparte

The Topeka City Council

Mayor Bill Bunten, Deputy Mayor Deborah Swank, Karen Hiller, John Alcala, Sylvia
Ortiz, Jack Woelfel, Larry Wolgast, Bob Archer, Jeff Preisner, Richard Harmon

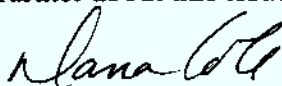
Attachment number 5
Page 1 of 8

As board members of the Spring Hill Property Owners Association, a duly recorded Kansas corporation, we object to any action that would reverse the prohibition of parking commercial vehicles overnight in residential districts.

Evidently you have received complaints from small business owners about a previous decision to ban the same, however we believe you should rather take into consideration the wishes of the many residents of Topeka. Having large commercial vehicles parked in residential neighborhoods are unsightly, unsafe, and are nothing more than planned advertising for their companies. This is in itself contradictory with a city ordinance that prohibit residents from even posting garage sale signs on a frontage area of their home. Why should home owners be forced to see 8-10 foot high vehicles covered in signage parked next door to them or across the street, with the intended purpose of advertising a company?

Further, we would ask that the Planning Commission and/or City Council take into consideration potential safety issues with commercial vehicles being parked in residential areas. These vehicles potentially keep flammable or toxic items that could be extremely dangerous if access to such a vehicle was gained by children or adolescents who might use them unwisely. Further, in areas of Topeka with narrow streets or cul de sacs, the presence of larger service vans could prohibit fire trucks and other emergency vehicles from reaching certain locations.

It is our request that the ordinance as adopted by the City of Topeka in March 2010 which bans the parking of commercial vehicles in residential areas be allowed to remain in effect. We would welcome the opportunity to speak with you further about this issue.



Dana Cole, Secretary

Spring Hill Property Owners Association
785/272-5580 or 785/640-3751

-----Original Message-----

From: Arlene [mailto:aheere@cox.net]
Sent: Thursday, June 03, 2010 9:54 PM
To: Gaylene Epke
Cc: thurbon@topeka.org; Bill Fiander; City Council
Subject: Commerical Vehicle Parking Ordinance

Dear Gaylene,

In reference to your letter received on Wednesday, June 2, 2010, regarding my work vehicle stating that as of today, Thursday, June 3, 2010, my vehicle will be ticketed if it remains at my home, due to the fact that it has signage over 25 square feet and is over 7 feet tall. Attachment number 5
Page 2 of 8

First of all, this is not my vehicle - it belongs to Plumbing by Carlson, where I have been employed for 30 years - having been a licensed plumber in Topeka for 42 years. I am on-call 24/7, and because of the parking ordinance I now am required to leave my vehicle at the shop at 1820 SW VanBuren, and when called, take the time to drive over 15 minutes to the shop, get my truck, and drive to the emergency, drive back to the shop, and then drive home, thus creating a minimum of 45 minutes of my time, for which I am not reimbursed.

My concern is the fact that this ordinance is all encompassing and all vehicles, as of tonight, will be ticketed if parked in neighborhoods, that is, those that are over 25 square foot of signage and/or over 7 feet tall. I no longer have my plumbing truck at home; however, in an hour tonight, I have found the following vehicles in violation of this ordinance:

Violating Signage:

5732 SW 13th St - Topeka Heating & Cooling 5700 SW Drury Ln - Blue Dot
5654 SW 34th Pl - Blue Dot
3101 SW Crest Dr - Lower Plumbing & Heating
3104 SW Crest Dr - P1 Group
5401 or 5413 SW 14th St - Blue Dot
2826 SW Gainsboro Cr - Protection One

Signage & Size:

1701 SW Village Dr - Terry's Plumbing

I didn't realize that the ordinance was a "pick and choose" or whoever complained the longest and loudest concerning a vehicle would be the "targeted" vehicle by the planning commission and/or the City Council.

Just the fact that you have created an ordinance that takes an honest, working man's livelihood and turned it into a total inconvenience for both his job and his customers is almost beyond comprehension, especially in this day and age when customer service has gone by the wayside.

I will continue to note any violations and turn those in to you as I see them. My goal in sending this letter is to ask the question - does the ordinance state that you get to discriminate? As I saw tonight - evidently you do.

I can be reached at (785) 925-1621.

Sincerely,

Tom Heere
5600 SW Glendale Ct
Topeka KS 66606

Attachment number 5
Page 3 of 8

From: Commercial Vehicles [mailto:commercialvehicles@rocketmail.com]
Sent: Thursday, August 12, 2010 2:28 PM
To: Norton Bonaparte; David Thurbon; Braxton Copley
Subject: New city ordinance concerning commercial vehicles in residential neighborhoods

Thank you for taking the time to review this information, I would be happy to speak to you regarding any questions.

The current proposal regarding commercial vehicles seems somewhat over complicated.
Passing this ordinance as it is written is unfair and too restrictive to local business.
The Commercial Motor Vehicle Safety Act of 1986 was designed to improve highway safety. The Act established three separate classes of commercial driver's licenses. Every state issues licenses in these categories:

Attachment number 5
Page 4 of 8

o **Class A:** Any combination of vehicles with a gross vehicle weight rating (GVWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

o **Class B:** Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.

o **Class C:** Any single vehicle or combination of vehicles, that does not meet the definition of Class A or Class B, but is either designed to transport 16 or more passengers, including the driver, or is placarded for hazardous materials. Kansas requires a special driver's license for "commercial vehicles". It also has a simple flow chart for the determination of a "commercial vehicle" – (see flow chart attached)

If Topeka were to adopt a similar "simple" standard enforcement would be much easier for the governing body and it would be unilaterally fair. There are also additional benefits;

- No tape measure required for inspections
- No unfair separation of business types
- No grey area

Opponents would be free to enact regulations for their specific neighborhood for those areas where a specific look is "desired".

The State of Kansas drivers licensing division has a simple definition of commercial vehicles. (See flow chart attached). **As a group of businesses and organizations here in Topeka we propose the same "simplicity" to the Topeka ordinance,** keeping in mind this is a blanket ordinance for the entire City of Topeka. One councilperson pointed out that in some neighborhoods it is a "point of honor" to drive a commercial truck home, and that some citizens are simply "glad their neighbor has a job".

We would agree with a reduction from the licensing standard of 26,000lbs., to a "Not To Exceed 12,000 GVWR" rating on the vehicle for the classification "Non Commercial Vehicle". 12,000 pounds GVWR and smaller was chosen based upon

City research that a more current standard threshold is 12,000 pounds GVWR and is also a typical tagging method for pickup trucks. Then, follow a simple flow chart like the one attached.

We also agree that boom trucks, flatbed or stake trucks (except those that are pick-up trucks), buses, semi-trailers, dump trucks, cement mixers, wreckers, would also qualify

as "Commercial Vehicles". We would also concede that liquid storage tanks in excess of 100 gallons, aerial buckets or platforms, earth moving equipment, trenching or pipe laying equipment, landscaping equipment, and mechanical lifts or arms would also be considered "commercial vehicles".

We do not agree with the width, height, and length specifics or the remaining equipment restrictions. As one city official stated, "If we reduce the allowance for the height of the vehicle to 8' not including ladder racks etc. contractors will then purchase 8' tall trucks and pile 3' of stuff on the top. With a measurement specific ordinance, enforcement officials must carry tape measure and then be susceptible to the issue of "from what point is the measurement taken"? What if someone poured a driveway with a 6" entrenchment for the tires? Now the 8' 3" truck doesn't stand any taller in observance than the 7' 9" truck beside it.

By enacting a simpler ordinance enforcement isn't difficult. Look at the rating plate for the vehicle; is it over the 12,000 standard weight? The only gray area remaining is the issue of storage tanks, earth moving or landscaping equipment and bucket lifts. Those things are simple to see, and if they are a significant issue, exclude them.

This suggestion to eliminate size and work from a 12,001GVW and larger standard for a vehicle to be considered "Commercial" is made and supported by a significant number of Topeka businesses and organizations including UA Local 441, IBEW LU 226, Laborers 1290, Teamsters 696, Modern Air of Topeka, McElroy's Inc. of Topeka, & Lower Mechanical of Topeka. A complete list of supporters will be provided to the Topeka Planning Commission by email on Monday at 3pm as well as brought to the public hearing on Monday evening.

Best,

Luke

Plumbing Contractors			
Company	Contact Name		Email
All About Your Home, Inc.	Lenny	Beck	allaboutyourhome@sbcglobal.net
Castlewood Construction, Inc.	Chuck	Hogan	chuck@cwctopeka.com
Champion Builders, LLC	Greg	Murray	greg.murray@sbcglobal.net
Dillard Construction, Inc.	Larry M.	Dillard	edillard2@cox.net
Frank A. Wietharn Homes, LLC	Frank	Wietharn	wietharnf@sbcglobal.net
Garner Remodeling, Inc.	Kevin	Garner	kevin@garnerremodeling.com
Gary Pashman Construction, Inc.	Gary	Pashman	gpashman@cox.net
HandyMasters, Inc.	Mike	Grollmes	handymasters@cox.net
Heritage Homes of Kansas, LLC	Craig	Lutz	heritage_homes@hotmail.com
Loeffler Homes & Remodeling, LLC	Stephen	Loeffler	stephenloeffler@yahoo.com
Mark Ediger Builder	Mark	Ediger	mbediger@sbcglobal.net
McElroy's Inc. - Charlie Campbell	Jerry	McElroy	charliecampbell@mcelroys.com
McElroy Electric	Gary	Smith	gsmith@mcelroys.com
Modern Air	Justin	Brandt	brandtjb@hotmail.com
North Star Homes, Inc.	Paul	Muxlow	pmuxlow@gmail.com
Pat The Plumber	Pat	Grogan	pat@pattheplumber.com
PDQ Construction, Inc.	Mike	Pressgrove	pdq@pdqconstruction.biz
Pierce Custom Homes, Inc.	Kyle	Pierce	piercecustomhomes@yahoo.com
Plumbing by Carlson	Kris	Carlson	kris@plumbingbycarlson.com
Robinson Building Corp.	Terry	Robinson	tlrbuilder@hotmail.com
Schnacker Construction, LLC	Marty	Schnacker	tschnacker@schnackerconstruction.com
Solomon Homes, LLC	Greg	Brownlee	greg@solomon-homes.com
Blue Dot Services Company of Kansas/IAQ Solutions	Von	Kopfman	von@bluedot.kscoxmail.com
DeBacker's, Inc.	Jack	DeBacker	debackerhvac@aol.com
H & R Plumbing, Inc.	Bryan	Thornton	
Lower Heating & A/C, Inc.	Chuck	Lower	chucklower@hotmail.com
Ace Electric - The Jones Co.	Steve	Jones	
QT, Inc.	Justin	Banks	qteinc@aol.com
Warner Electric	Larry	Warner	warner_electric@yahoo.com
Ace Plumbing	Dave	Cobler	
B&T Painting	Steve	Schwartz	steveschwartz10@yahoo.com
SAMCO	Dale	Warren	Dale.samco18@yahoo.com
SAMCO	Drew	Torkelson	samcodrew@yahoo.com
SAMCO	Cindi	Bramledge	Samco18@yahoo.com
Waugh Law Offices	Bruce	Waugh	bwaugh@gh-kc.com
Teamsters Union	Fernando	Harms	fharms.teamsters696@yahoo.com
Painters Local	Kevin	Bayless	kbayless@iupatdc3.com
Local 441	Kurk	Miller	kwmillersr@yahoo.com
Local 441	Richard	Taylor	
Teamsters Union	Jeff	Hewitt	

From: Norton Bonaparte
Sent: Tuesday, August 17, 2010 2:33 PM
To: Randy Speaker; David Thurbon
Subject: FW: Proposed Ordinance Changes

FYI

Norton N. Bonaparte, Jr.
City Manager & CEO
City of Topeka
215 South East 7th Street
Topeka, KS 66603
O 785.368-3725
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Attachment number 5
Page 7 of 8

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you are not the intended recipient of this information, you are notified that any use, dissemination, distribution, or copying of the communication is strictly prohibited, and requested to reply hereto or notify sender by other immediate means of the misdelivery.

From: Helen and Gerald Miller [mailto:himgam@cox.net]
Sent: Tuesday, August 17, 2010 2:27 PM
To: Bob Archer; Karen A. Hiller; Bill Bunten; John Alcala; Sylvia Ortiz; Jack Woelfel; Deb Swank; Jeff Preisner; Richard Harmon; Norton Bonaparte
Subject: Proposed Ordinance Changes

To the City Council Members:

We urge you to reject the proposed amendments to your previously approved ordinance regarding parking commercial vehicles in residential neighborhoods. Evidently the planning commission's decision in this matter was influenced by local businesses, but we trust *you* will listen to the concerns of citizens in your community.

A large commercial vehicle, even 12,000 pounds or less, is still a nuisance in a residential area. Our city has a reason for residential zoning and business zoning – to keep them separate! From our experience of 50+ years in Topeka, we have seen what were once very nice, well-kept residential areas deteriorate into blighted areas due to other nuisance activities: such things as amateur mechanical work in garages, spare parts left on lawns, less pride taken in exterior surfaces and lawns, and a growing disregard for neighbors who try to keep their property looking nice. In the long run this causes the city's total assessed valuation to decline, meaning increased taxes are necessary to maintain current and future budgets.

Why should we as homeowners be forced to see these **LARGE MOVING BILLBOARDS** parked every day in our neighborhoods? It seems quite ironic that you would implement an ordinance to prohibit even small garage sale signs in residential areas – which are put out at the most for three days once or twice a year – but you would now consider approving these large trucks with full signage to be parked every day of the year in the same residential areas.

These trucks are noisy, they impede views of traffic on neighborhood streets when they are parked in a driveway, children playing around them cannot be seen by other vehicles, they may contain flammable or toxic items, and they are unsightly to those who must see them from their homes every day. While the spokesman for McElroy's quoted in today's paper evidently thinks it is unfair to the business to prohibit them, it amazes us that even before you approved this ordinance last March, we had never seen a McElroy's truck parked in the *business owner's* driveway!! Why would the business owners not want them in their residential areas, but have no problem allowing them in other residential areas of town?

Please reject the proposed amendments to this city code. **These vehicles are nothing but unsightly advertising vehicles and no matter their size they should not be allowed to be parked daily in residential neighborhoods.**

Attachment number 5
Page 8 of 8

Gerald and Helen Miller
5918 S.W. 35th Street
Topeka, KS 66614

**Minutes of the
Topeka Planning Commission
Monday, August 16, 2010**

Bill Hoover summarized items G-1 & G-2 together. Voting will be separate.

ACZR10/1 The Topeka Planning Commission will consider amendments to Section 18.210.020 Permitted uses of the Topeka Municipal Code relating to **accessory uses** contained in the Zoning Regulations. The proposed amendments involve: restrictions on utilizing truck bodies and cargo containers in residential zoning districts; modifying storage and parking restrictions of large vehicles, boats, machinery, materials, and equipment in residential zoning districts; and adding additional permitted accessory uses in industrial zoning districts. A copy of the proposed changes is available at the Topeka Planning Department, 620 SE Madison, 3rd Floor, Topeka, Kansas. **(Hoover)**

Discussion by members:

Doug Bassett asked Braxton Copley if everyone must disclose exparte communications? Mr. Copley replied no, these are legislative items not quasi judicial.

Mr. Bassett announced the reason for the amendment is to lessen the restriction on height and weight. If we take no action the current rules will stay in place. He stated we want to do something tonight to be sure we are doing what is right for everyone.

Dawn Wright stated she thought the last meeting 25 feet in length was decided but the staff report states 24 feet. She said we were at 12,000 pounds and now it shows we are back to 10,000, how did that happen? Mr. Hoover said there really aren't any trucks remaining that weigh between 10,000 and 12,000 pounds after pickup trucks are excluded. He stated over 10,000 pounds they are pretty much commercial vehicles. He said box vans and box trucks are the types of vehicles we are here to discuss as part of the threshold. Mr. Bassett said he also remembers the length being 25 feet.

Mr. Hoover showed the commission pictures of a box van (cut away van) that was 9 feet tall, with a single rear axle. He stated this is van is probably under 10,000 pounds. Peter Hancock asked if this truck would be legal to park on a residential street? Mr. Hoover replied commercial vehicles are not allowed by definition therefore a box van would not be allowed there.

Charlie Campbell, McElroy, stated there has been several meetings regarding this topic. He said the main issues, it seems, is the parking (in residential neighborhoods) of semi trucks, lawn mowing trucks/trailers and businesses being ran in residential neighborhoods. Mr. Campbell made a proposal of anything up to 12,000 pounds would be allowed in residential neighborhoods but anything 12,001 pounds or higher would be considered a commercial vehicle. He said he agreed that a truck with a 100 gallon tank would be a commercial vehicle. He said he also agrees with what has been described as commercial uses. We suggest 12,000 GVW (gross vehicle weight) and under for non-commercial vehicles, anything over are commercial. Mr. Campbell passed out a petition of small businesses that were in support of his proposal.

Rich Beardmore stated your proposal does not address height, width or length of the vehicle.

Mr. Campbell replied, no this proposal is easier to enforce. It will make it so we have our trucks with us in case there is an emergency.

Doug Bassett asked if signage is addressed in Mr. Campbell's proposal? Mr. Campbell replied no.

Mike Pressgrove, PDQ Construction, spoke in favor of Mr. Campbell's proposal. He stated his company also has the cut away vans. He said we have an area on-site for the vans to be locked up but it is not safe. With all the vans in the lot they all could get broken into. If the employees take the vans home, theft is much less of an issue. He said his vans are heavier than 10,000 pounds.

John Federico said we want to take into account the needs of the businesses. He said the question is how to respond to the resident that doesn't like the trucks parked in their neighborhood. Mr. Pressgrove said I would ask them what they would do if they were in our shoes. I am sure they wouldn't want their tools stolen in a lot like we have had troubles with. He added, plus it is a convenience for the public for us to have our trucks right there and can be at their houses a lot faster. I don't see them as that big of an eyesore.

Mike Lackey asked if this amendment addresses regulations for campers, motor homes, etc. Mr. Hoover replied no. Mr. Lackey stated he would like to look at those regulations in the future.

Mr. Hoover asked Mr. Pressgrove how tall the cut away vans are? Mr. Pressgrove replied 9 to 9 ½ feet. Dawn Wright stated that is becoming the standard.

Von Coffman, Blue Dot, spoke in favor of the 12,000lb limit. He said we are like public servants. It is a convenience for the public for us to be ready for a call. The cut away vehicles are becoming popular because we are carrying more parts, etc. and need bigger vehicles. He said the vans with signage are better than unmarked vehicles sitting in the neighborhoods. He said unmarked seems unsafe to him. He suggested each neighborhood take on the signage issues.

Peter Hancock said Lawrence has stricter rules than this. He stated their standards are 8 feet high/wide, 20 feet length and a 1 ton weight limit. Would that ordinance in Topeka affect your business? Mr. Coffman stated the price for service type jobs are higher in Lawrence. He said he thinks that is in part to the employees not taking their trucks home or they have to unload their tools into the warehouse every day.

Mr. Federico said the customer who may complain about the truck being parked in the neighborhood also doesn't want to wait for service. Plus they want the service provider to have the necessary parts on their truck.

Rich Beardmore asked if the cut away vans have ladder racks? Mr. Campbell replied, yes. Mr. Beardmore said any height limits we have talked about do not include the ladder racks.

Kurk Miller, Local 441, stated this affects all service providers. Lots with trucks loaded with equipment are not a good idea. Customers want service now. The men will be losing money if they have to park their vehicles anywhere other than their homes.

Ms. Wright asked Mr. Miller how many men the union represents? Mr. Muller replied about 300.

Jeff Hewitt, Teamsters Union, stated he supports the proposal. He said safety of the workers is an issue. The time it takes for a repairman to arrive is crucial if heating or air goes out. People need immediate service. The economy is tough and the businesses have to be more efficient and be available to the public. He said he thinks a cement truck is an eyesore but not these box trucks.

Chad Manspeaker, representative for Teamsters, stated these guys need support. He said he agrees with Charlie Campbell. Time is an issue for all that use these service businesses.

Fernando Harms, Teamsters Union, stated we have members that drive these box trucks. It is part of their wage package. If they have to park in a lot it will cost the businesses more when the guys have to go trade out their own vehicles for their trucks.

Mr. Hancock asked Mr. Harms if he is for or against the proposal? Mr. Harms replied in favor of the 12,000 pounds and would like the neighborhoods to iron out the smaller details. Mr. Hancock asked what about the neighborhoods that do not have a neighborhood association? Mr. Harms replied they could create one.

Mr. Bassett stated, everyone correct me if I am wrong, but I think they are all speaking in favor of Charlie Campbell's proposal of 12,000 pounds with no height, weight or length limit.

Jeff Kohan, owns a vehicle signage business, stated our customers are the smaller businesses. We have a small vehicle with large signage and it does work. I encourage you to continue to allow the signage on the vehicles.

Larry Warner, Warner Electric, stated he agrees with the 12,000 lb limit. He said it is important to have all supplies with us to service the customers.

Mr. Federico asked what about bucket trucks? Mr. Bassett replied they are considered commercial trucks.

Mr. Hoover asked are we still excluding pick-up trucks? Mr. Bassett said Mr. Campbell's proposal states except pick-up trucks. Mr. Hoover stated if we go with the 12,000 pound limit that would still allow step vans, box trucks and box vans less than 12,000 pounds. Line 59 in the Definitions Ordinance would have to be changed to read 12000 pounds or less. Mr. Blackmon asked is this for enclosed vehicles only? Mr. Warner stated we need to leave the door open to all enclosed vehicles. If they are over 12,000 pounds they are out.

Mr. Beardmore asked if trucks that weigh 12,000 pounds or more have different licensing requirements? Mr. Hoover replied he wasn't sure.

Mr. Hancock stated he lives on a narrow street and if there are box trucks parked on both sides of the road a car can't get through. Mr. Warner stated we are talking about parking at the residence not on street. Mr. Hoover added we will let the police department handle on-street parking issues. David Thurbon stated whatever we approve here will be allowed on the street as well. Mr. Blackmon said I thought everything on the street wasn't handled by us, it is up to the council and police. Mr. Thurbon said we can state what is allowed but not where to park it. Whatever we adopt will be allowed anywhere in that district unless another entity comes through

and designates some vehicles can't park on the street.

Mr. Blackmon said it is hard to make a living now. We are trying to do the right thing to help the service workers out.

Mr. Hancock stated there is a long list of cities that have more restrictive ordinances than what we currently have. He said he has not heard of people going out of business in areas where they have parking restrictions. The crime issue to me is a police issue not a planning issue. Degrading quality of residential areas due to crime in other areas is not right. Lawrence is more restrictive than what is being proposed tonight. He said it is the loss of residents within our city why we have problems. We need to protect quality residential areas. Code Compliance has had a lot of calls regarding commercial vehicles in residential areas.

Mr. Lackey stated there are other cities that permit 12,000 pounds. He stated he doesn't mind the service vans in his neighborhood. He said there are other vehicles that look much worse. He stated he is in favor of the 12,000 lb proposal. He said he finds it interesting no one is here to speak in opposition to this. He said he hasn't seen any statistics from Code Compliance regarding complaint calls about commercial vehicles in residential areas.

Dawn Wright said she agrees with Mr. Lackey. She said the biggest issue she has is how many employees this affects driving their vehicles home. There are neighborhoods proud to have these service trucks in their neighborhoods. This is difficult to balance the wants of all people. They can go to or create a neighborhood association to fight against this. She added newer subdivisions have covenants to handle this.

Dawn Wright moved to allow 12,000 lb. vehicles taking out all reference to height, weight and length. She stated this will change page 4, line 73 of the Accessory Uses Ordinance from 5 to 6 tons. The motion was seconded by Howard Blackmon. **APPROVAL. (6-1-0) Commissioner Hancock voted no.**

ACZR10/2 The Topeka Planning Commission will consider amendments to Section 18.55.030 "C" definitions and Section 18.55.160 "P" definitions of the Topeka Municipal Code contained in the Zoning Regulations. The proposals include amendments to the following defined words or terms: "Commercial equipment" and "Commercial vehicle"; and additions of the following defined words or terms: "Cargo container" and "Pickup truck". A copy of the proposed changes is available at the Topeka Planning Department, 620 SE Madison, 3rd Floor, Topeka, Kansas. **(Hoover)**

Dawn Wright moved to approve striking any reference to vehicles, excluding pick-up trucks, used for a business by removing all references to height, width or length. On page 3, line 55 of the Definitions Ordinance delete everything after "business" through line 58, delete only the first two words of line 58, and delete "step vans", "box trucks", and "box vans" from line 59. Change page 3, line 63 to 12,000 pounds. The motion was seconded by Howard Blackmon. **APPROVAL. (5-2-0) Commissioners Beardmore and Hancock voted no.**

John Federico asked that legal review wording to be sure it is correct. Braxton Copley, Deputy City Attorney, replied as long as we are close conceptually staff can work on the grammatical and technical portions of the changes.

Peter Hancock asked for clarification; a step van that has a gross weight of 11,999 pounds is not a commercial vehicle? Doug Bassett replied no.

Mr. Hoover suggested defining vehicles of 12,000 pounds or above be called “commercial vehicle, heavy” and that may make sense for any future amendments.

Doug Bassett said this is a difficult topic for all. He said he is comfortable with the 12,000 pound limit.

John Federico said he agrees. There needs to be a balance. He said he feels for the people who live in the cul-de-sac. I will support the motion.

Dawn Wright amended her motion to include the wording of anything 12,000 or more to reference a “commercial vehicle-heavy”. Howard Blackmon agreed to the amendment.

Rich Beardmore said there were residents at previous meetings against the large commercial trucks in their neighborhoods. They stated this town isn’t that big and it wouldn’t be a problem for workers to go to a lot to pick up a truck. Critical businesses, i.e. hospitals, etc. usually have staff on-site to handle emergencies. Mr. Beardmore said his concern is with the size and billboard signage on the trucks. He said he would like to see a restriction on the size of truck allowed.

Restated motion including amended:

Dawn Wright moved to approve striking any reference to vehicles, excluding pick-up trucks, used for a business and removing all references to height, width or length. On page 3, line 55 of the Definitions Ordinance delete everything after “business” through line 58, delete only the first two words of line 58, and delete “step vans”, “box trucks” and “box vans” from line 59. Change page 3, line 63 to 12,000 pounds. Also adding, anything 12,000 pounds or above be referenced a “commercial vehicle, heavy” where needed throughout the Definitions Ordinance. The motion was seconded by Howard Blackmon. **APPROVAL. (5-2-0) Commissioners Beardmore and Hancock voted no.**

ACZR10/1 – Dawn Wright made a motion to re-open the Accessory Uses Ordinance in order to change the defined words “commercial vehicles” to “commercial vehicles, heavy” so it would match what was just approved in the Definitions Ordinance. Howard Blackmon seconded this. Dawn Wright made a motion to approve adding the word “heavy” in front of the word “commercial vehicles” in line 75 and Howard Blackmon seconded. **APPROVAL. (6-1-0) Commissioner Hancock voted no.**

Item #19

- Governing Body options:
- **Adopt** the recommendation of the Planning Commission by Ordinance;
- **Override** the Planning Commission's recommendation by a two-thirds majority (7 votes) of the Governing Body membership; or,
- **Return** such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Ordinance](#)

[Planning Commission Minutes](#)

Amendment to Definitions Section – ACZR10/2

August 16, 2010 Planning Commission

Purpose: Attached is a proposed draft ordinance amending Sections 18.55.030 and 18.55.160 within the Definitions section of our Zoning Regulations. Two definitions are proposed for being amended, “Commercial equipment” and “Commercial vehicle” and two new definitions are proposed to be added, “Cargo container” and “Pickup truck”. These changes and additions to the Definitions section all relate to changes proposed via a separate Zoning Ordinance Amendment (ACZR10/1) relating to the Accessory Uses section.

Current Regulations: At the May 24, 2010 and June 28, 2010 Planning Commission Policy Meetings, changes to accessory uses and applicable definitions relating to those changes were thoroughly discussed. The public was invited to those meetings and attendance was much higher than normal.

At these two Policy Meetings, the Planning Commissioners discussed in detail the parking of commercial vehicles in residential neighborhoods. The Planning Commission directed staff to modify the definitions for “Commercial equipment” and “Commercial vehicle” and add a definition for “Pickup truck”.

The Planning Commission also discussed in detail at the May 24, 2010 Planning Commission Policy Meeting, cargo containers and issues with using those in residential neighborhoods. A definition for “Cargo container” was discussed and planning staff was given guidance to add this as a definition.

Recommendation: Planning staff recommends approval of the attached ordinance amending portions of the Definitions section of our Zoning Regulations.

Enclosure: Proposed Ordinance

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 18.55.030 and §18.55.160, concerning definitions for zoning regulations and specifically repealing said original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

Section 1. That section 18.55.030, “C” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“C” definitions.

“Cargo container” means any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise. A cargo container is typically rented for temporary use, and is delivered and removed from the property via truck.

“Carport” means a roofed structure intended for the storage of motor vehicles and enclosed on not more than two sides by walls.

“Cemetery” means property used for the interring of the dead.

“Certificate of occupancy” means official certification that a premises conforms to provisions of the zoning ordinance (and building code) and may be used or occupied.

“Class A club” means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veteran’s club, as determined by the state of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or

29 associates (hereinafter referred to as members), and their families and guests
30 accompanying them.

31 “Class B club” means a premises operated for profit by a corporation, partnership
32 or individual, to which members of such club may resort for the consumption of food or
33 alcoholic beverages and for entertainment.

34 “Classification” means: (1) division of uses or activities into groups or subgroups
35 for regulatory purposes; (2) the process of deciding what uses should be permitted in
36 what zoning districts; and (3) the zone requirements imposed on a particular piece of
37 property. A subsequent change in a classification is called a reclassification.

38 “Clinic” means an establishment where patients are admitted for examination and
39 treatment by one or more physicians, dentists, psychologists or social workers and
40 where patients are not usually lodged overnight.

41 “Club or lodge, private” means a building and facilities owned, leased or operated
42 by a corporation, association, person, or persons for a social, educational or
43 recreational purpose; but not primarily for profit or to render a service which is
44 customarily carried on as a business; and shall not include or be construed as a class A
45 or class B club.

46 “Commercial equipment” means any equipment or machinery used in a business
47 trade or industry, including liquid storage tanks exceeding 100 gallons, earth-moving
48 equipment, trenching or pipe-laying equipment, landscaping equipment, spools of
49 wiring/cable, portable pumps, portable generators, portable air compressors, pipes, pool
50 cleaning equipment and supplies, and any other equipment or machinery similar in
51 design or function. However, equipment and machinery for business use kept within an

enclosed pickup truck or van; ladders, PVC pipe, or conduit attached to a truck or van via a rack; or equipment and machinery solely for personal residential use are not included.

“Commercial vehicle, heavy” means any vehicle, excluding pickup trucks, used for a business that has a ~~height or width (excluding antennas and mirrors) of seven and one-half feet or larger or has a length of 25 feet or longer~~ manufacturer’s rating exceeding 12,000 pounds of gross vehicle weight. Additionally, the following types of vehicles shall all be considered heavy commercial vehicles: ~~step vans, box vans, flatbed or stake-bed trucks except those that are pickup trucks, buses, semi-trailers or tractor-trailers, dump trucks, cement mixers, wreckers, and trailers loaded with any commercial equipment or construction materials, and any other motor vehicle or trailer (except for recreational vehicles) having a manufacturer’s rating exceeding 15,000 pounds of gross vehicle weight.~~ Additionally, any vehicles including pickup trucks, with any of the following exterior modifications shall be considered heavy commercial vehicles: liquid storage tanks exceeding 100 gallons, aerial buckets or platforms, welding equipment, or mechanical lifts or arms for loading and unloading materials/equipment, ~~or any vehicles or trailers with over 25 square feet of total sign area advertising a business.~~ Vehicles for transferring passengers and their personal luggage/cargo for churches, nonprofit agencies, nursing homes, retirement communities, and other similar facilities shall not be considered heavy commercial vehicles. Recreational vehicles are not considered heavy commercial vehicles unless used for business purposes.

“Common open space” means a parcel of land, an area of water, or a combination of land and water within a development which is designed for, and

75 designated as space for the use and enjoyment of residents of the development.
76 Common open space may contain landscaping and such recreational improvements as
77 are necessary for the benefit and enjoyment of the residents, such as swimming pools,
78 tennis courts, etc. Parking lots and storage areas shall not be considered as open
79 space.

80 “Communication antenna” means an antenna or array of antennas at one
81 location intended to broadcast and receive signals as part of a wide-area
82 communication system such as cellular telephone systems, pager systems or wireless
83 computer networks, but excluding short-wave radio antennas operated primarily as a
84 hobby.

85 “Communication tower” means a ground-mounted guyed, monopole or self-
86 supporting tower, constructed as a freestanding structure or in association with a
87 building, other permanent structure or equipment, containing one or more antennas
88 intended for transmitting or receiving television, AM/FM radio, digital, microwave,
89 cellular, telephone, or similar forms of electronic communication. Not included in this
90 definition are towers which are held, used or controlled exclusively for public purposes
91 by any department or branch of government. Such towers are defined as a “public use
92 facility” and regulated accordingly.

93 “Community center” means a building, together with lawful accessory buildings
94 and uses, used for recreational and cultural activities and usually not operated for profit.
95 Membership may be restricted to persons living in a specific geographical area.

96 “Community facilities” means public or privately owned facilities used by the
97 public, such as streets, schools, libraries, parks and playgrounds; also facilities owned

98 and operated by nonprofit private agencies such as churches, settlement houses and
99 neighborhood associations.

100 “Community living facility, type I” means a dwelling building or portion thereof,
101 and premises other than a hospital, operated and licensed in accordance with any and
102 all applicable state and local requirements, in which short-term residential care for profit
103 or not-for-profit is provided as well as supportive programs which assist or train the
104 recipients to address or improve their living skills relative to chemical dependency,
105 behavioral modification, domestic abuse, mental illness, economic recovery, job
106 training, emergency shelter, and similar such physical, economic, or social reintegration
107 programs. Although recipients do not require intensive treatment or secure environment,
108 structured programs often include individual and group counseling, recreational and
109 social activities, milieu therapy and individual work therapies designed to provide a
110 transition and reentry into society, gainful employment, and sustained welfare upon
111 leaving the facility. Residents are not in need of acute medical or psychiatric care and
112 the facility is operated on a 24-hour basis. “Community living facility, type I” does not
113 include correctional placement residence or facility.

114 “Community living facility, type II” means a dwelling building or portion thereof,
115 and premises other than a hospital, operated and licensed in accordance with any and
116 all applicable state and local requirements, in which residential care for profit or not-for-
117 profit is provided; intermediate treatment programs in a therapeutic setting for diagnostic
118 and primary treatment environment relative to chemical dependency, behavioral
119 modification, and mental illness and similar such physical and social treatment
120 programs may be provided. Residents are not in need of acute medical or psychiatric

care and the facility is operated on a 24-hour basis and may be operated as a secure facility. "Community living facility, type II" does not include correctional placement residence or facility.

"Community service organization" means an organization, group or association formed for the single purpose of providing a philanthropic service for the community, but not to include any use which provides social or physical entertainment, except as a part of the philanthropic services.

"Compatibility" means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

"Comprehensive plan" means a plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use.

"Conditional use" means a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the governing body.

"Condominium" means the legal arrangement in which a dwelling unit in an apartment building or residential development or a retail or office unit in a commercial building or commercial development is individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all the individual owners.

“Construction and demolition waste” means waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures and pavements.

“Conversion” means the change of the use of an existing building into another use.

“Correctional facility” means a public use facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers. A correctional facility does not include a correctional placement residence or facility, general, or a correctional placement residence or facility, limited.

“Correctional placement residence or facility” means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations: (1) prior to, or instead of, being sent to prison; (2) received a conditional release prior to a hearing; (3) as a part of a local sentence of not more than one year; (4) at or near the end of a prison sentence, such as a state-operated or franchised work release program, or a privately operated facility housing parolees; or (5) received a deferred sentence and placed in a facility operated by community corrections. Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements that further specify minimum service standards.

“Correctional placement residence or facility, general” means a facility occupied by more than 15 individuals, including staff members who may reside there.

“Correctional placement residence or facility, limited” means a facility occupied by three to 15 individuals, including staff members who may reside there.

“Country club” means a land use consisting of both a golf course and a clubhouse building for social assembly, food and beverage preparation/service, pro shop, club office, recreational and physical exercise facilities including fitness center, spa, swimming pool, court games, locker and shower facilities; and vehicle parking areas and drives. Country club facilities are open to members and their guests for a membership fee.

“Court” means an open space which may or may not have street access, and around which is arranged a single building or group of related buildings.

“Court, inner” means that portion of a lot unoccupied by any part of a building, surrounded on all sides by walls, or by walls and a lot line.

“Court, outer” means that portion of a lot unoccupied by any part of a building, opening onto a street, alley, or yard.

“Crisis center, type I” means a facility or portion thereof and premises, which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility shall not include meal preparation, except for residents of the center, distribution, or service; merchandise distribution; or shelter, including boarding, lodging, or residential care.

“Crisis center, type II” means a facility or portion thereof and premises, which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions; meal preparation,

distribution, and service; merchandise distribution; and temporary and/or transient shelter, including boarding and lodging facilities.

“Cultural facilities” means establishments such as museums, libraries, art galleries, botanical and zoological gardens of a historic, educational or cultural interest which are not operated commercially.

Section 3. That section 18.55.160, “P” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“P” definitions.

“Parcel” means a lot, or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development.

“Park” means a tract of land designated and used by the public for active and passive recreation.

“Parking aisle” means a paved surface which is connected directly to a parking space and designated to permit ingress or egress of a vehicle to or from the parking space. In no case can a parking aisle be a driveway.

“Parking lot” means an off-street, ground-level area, surfaced in accordance with the standards and specifications of the city of Topeka for the temporary storage of motor vehicles.

“Parking space” means a paved surface, exclusive of an aisle, which is intended for off-street vehicular parking.

“Performance standards” means specific criteria limiting the operations of certain industries, land uses, and buildings to acceptable levels of noise, air pollution

emissions, odors, vibration, dust, dirt, glare, heat, fire hazards, wastes, traffic generation and visual impact.

“Permitted use” means any use authorized in a particular zoning district.

“Person” means a corporation, company, association, society, firm, partnership or joint stock company as well as an individual, a state and all political subdivisions of a state or any agency or instrumentality thereof.

“Personal care” means protective care with or without watchful oversight of a resident who does not have an illness or a condition which requires chronic or convalescent medical or nursing care with a 24-hour responsibility for the safety of the resident when in the building.

“Personal services” means establishments primarily engaged in providing services involving the care of a person and his or her apparel.

“Pharmacy” means a place where drugs, prosthesis, rehabilitation equipment and medicines are prepared and dispensed.

“Pickup truck” means a motor vehicle manufactured with a cab for passengers and an open-top rear cargo area (bed) of four (4) to eight (8) feet in length, with low sides along the bed, and a rear tailgate or a motor vehicle not exceeding 15,000 pounds gross vehicle weight manufactured with a cab for passengers, having a flat or stake bed up to seven (7) feet in width and up to nine (9) feet in length.

“Planned unit development (PUD)” means a form of development characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses.

“Planning commission” means the Topeka planning commission.

232 “Plat of a subdivision” means a plan or map prepared in accordance with the
233 provisions of applicable subdivision regulations.

234 Platting. Whenever the term “platting” or “platted” is used within these zoning
235 regulations it shall refer to the process established by the subdivision regulations of the
236 city of Topeka, Kansas (Division 3 of this title).

237 “Porch, open” means a roof partially supported by columns or wall sections.

238 “Preapplication conference” means discussions held between developers and
239 public officials, usually members of the planning staff, before formal submission of an
240 application for a permit or for subdivision plat approval.

241 “Premises” means any lot or tract, or combination of contiguous lots or tracts of
242 land held in single ownership, together with the improvements thereon; a condominium
243 complex constitutes one premises.

244 “Principal use” means the main use of land or structures as distinguished from a
245 secondary or accessory use.

246 “Professional office” means the office of a person engaged in any occupation,
247 vocation, or calling, not purely commercial, mechanical, or agricultural, in which a
248 professed knowledge or skill in some department of science or learning is used by its
249 practical application to the affairs of others, either advising or guiding them in serving
250 their interest or welfare through the practice of an act found thereon.

251 “Provisional use” means a principal use which is allowed in the zone in which
252 listed, provided it complies with the additional regulations listed for the use and all other
253 dimensional and special (if any) requirements of the zone in which listed.

254 “Public or private educational facility” means a public elementary, secondary,
255 high school and private schools with curricula equivalent to that of a public elementary,
256 secondary or high school.

257 “Public use facility” means any building, structure, utility, or land held, used, or
258 controlled exclusively for public purposes by any department or branch of government:
259 federal, state, county, municipal or subdivision thereof.

260 “Public utility” means any business or enterprise which furnishes the general
261 public telephone, cable, electric, Internet, natural gas, water, or sewer service, and is
262 subject to supervision or regulation by an agency of the state or federal government.

263 “Public utility facilities” means telephone, electric and cable television lines,
264 poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer
265 pipes, valves or structures; pumping stations; telephone exchanges and repeater
266 stations; and all other equipment and structures necessary for providing these services
267 by a government or a public utility.

268 “Public way” means any sidewalk, street, alley, highway or other thoroughfare
269 dedicated for public use.

270 Section 3. That original § 18.55.030 and § 18.55.160 of The Code of the City
271 of Topeka, Kansas, is hereby specifically repealed.

272 Section 4. This ordinance shall take effect and be in force from and after its
273 passage, approval and publication in the official City newspaper.

274 Section 5. All ordinances, resolutions or rules, or portions thereof, inconsistent
275 with the provisions of this ordinance are hereby rescinded or repealed.

Section 6. Should any section, clause or phrase of this ordinance be declared
invalid by a court of competent jurisdiction, the same shall not affect the validity of this
ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

**Minutes of the
Topeka Planning Commission
Monday, August 16, 2010**

Bill Hoover summarized items G-1 & G-2 together. Voting will be separate.

ACZR10/1 The Topeka Planning Commission will consider amendments to Section 18.210.020 Permitted uses of the Topeka Municipal Code relating to **accessory uses** contained in the Zoning Regulations. The proposed amendments involve: restrictions on utilizing truck bodies and cargo containers in residential zoning districts; modifying storage and parking restrictions of large vehicles, boats, machinery, materials, and equipment in residential zoning districts; and adding additional permitted accessory uses in industrial zoning districts. A copy of the proposed changes is available at the Topeka Planning Department, 620 SE Madison, 3rd Floor, Topeka, Kansas. **(Hoover)**

Discussion by members:

Doug Bassett asked Braxton Copley if everyone must disclose exparte communications? Mr. Copley replied no, these are legislative items not quasi judicial.

Mr. Bassett announced the reason for the amendment is to lessen the restriction on height and weight. If we take no action the current rules will stay in place. He stated we want to do something tonight to be sure we are doing what is right for everyone.

Dawn Wright stated she thought the last meeting 25 feet in length was decided but the staff report states 24 feet. She said we were at 12,000 pounds and now it shows we are back to 10,000, how did that happen? Mr. Hoover said there really aren't any trucks remaining that weigh between 10,000 and 12,000 pounds after pickup trucks are excluded. He stated over 10,000 pounds they are pretty much commercial vehicles. He said box vans and box trucks are the types of vehicles we are here to discuss as part of the threshold. Mr. Bassett said he also remembers the length being 25 feet.

Mr. Hoover showed the commission pictures of a box van (cut away van) that was 9 feet tall, with a single rear axle. He stated this is van is probably under 10,000 pounds. Peter Hancock asked if this truck would be legal to park on a residential street? Mr. Hoover replied commercial vehicles are not allowed by definition therefore a box van would not be allowed there.

Charlie Campbell, McElroy, stated there has been several meetings regarding this topic. He said the main issues, it seems, is the parking (in residential neighborhoods) of semi trucks, lawn mowing trucks/trailers and businesses being ran in residential neighborhoods. Mr. Campbell made a proposal of anything up to 12,000 pounds would be allowed in residential neighborhoods but anything 12,001 pounds or higher would be considered a commercial vehicle. He said he agreed that a truck with a 100 gallon tank would be a commercial vehicle. He said he also agrees with what has been described as commercial uses. We suggest 12,000 GVW (gross vehicle weight) and under for non-commercial vehicles, anything over are commercial. Mr. Campbell passed out a petition of small businesses that were in support of his proposal.

Rich Beardmore stated your proposal does not address height, width or length of the vehicle.

Mr. Campbell replied, no this proposal is easier to enforce. It will make it so we have our trucks with us in case there is an emergency.

Doug Bassett asked if signage is addressed in Mr. Campbell's proposal? Mr. Campbell replied no.

Mike Pressgrove, PDQ Construction, spoke in favor of Mr. Campbell's proposal. He stated his company also has the cut away vans. He said we have an area on-site for the vans to be locked up but it is not safe. With all the vans in the lot they all could get broken into. If the employees take the vans home, theft is much less of an issue. He said his vans are heavier than 10,000 pounds.

John Federico said we want to take into account the needs of the businesses. He said the question is how to respond to the resident that doesn't like the trucks parked in their neighborhood. Mr. Pressgrove said I would ask them what they would do if they were in our shoes. I am sure they wouldn't want their tools stolen in a lot like we have had troubles with. He added, plus it is a convenience for the public for us to have our trucks right there and can be at their houses a lot faster. I don't see them as that big of an eyesore.

Mike Lackey asked if this amendment addresses regulations for campers, motor homes, etc. Mr. Hoover replied no. Mr. Lackey stated he would like to look at those regulations in the future.

Mr. Hoover asked Mr. Pressgrove how tall the cut away vans are? Mr. Pressgrove replied 9 to 9 ½ feet. Dawn Wright stated that is becoming the standard.

Von Coffman, Blue Dot, spoke in favor of the 12,000lb limit. He said we are like public servants. It is a convenience for the public for us to be ready for a call. The cut away vehicles are becoming popular because we are carrying more parts, etc. and need bigger vehicles. He said the vans with signage are better than unmarked vehicles sitting in the neighborhoods. He said unmarked seems unsafe to him. He suggested each neighborhood take on the signage issues.

Peter Hancock said Lawrence has stricter rules than this. He stated their standards are 8 feet high/wide, 20 feet length and a 1 ton weight limit. Would that ordinance in Topeka affect your business? Mr. Coffman stated the price for service type jobs are higher in Lawrence. He said he thinks that is in part to the employees not taking their trucks home or they have to unload their tools into the warehouse every day.

Mr. Federico said the customer who may complain about the truck being parked in the neighborhood also doesn't want to wait for service. Plus they want the service provider to have the necessary parts on their truck.

Rich Beardmore asked if the cut away vans have ladder racks? Mr. Campbell replied, yes. Mr. Beardmore said any height limits we have talked about do not include the ladder racks.

Kurk Miller, Local 441, stated this affects all service providers. Lots with trucks loaded with equipment are not a good idea. Customers want service now. The men will be losing money if they have to park their vehicles anywhere other than their homes.

Ms. Wright asked Mr. Miller how many men the union represents? Mr. Muller replied about 300.

Jeff Hewitt, Teamsters Union, stated he supports the proposal. He said safety of the workers is an issue. The time it takes for a repairman to arrive is crucial if heating or air goes out. People need immediate service. The economy is tough and the businesses have to be more efficient and be available to the public. He said he thinks a cement truck is an eyesore but not these box trucks.

Chad Manspeaker, representative for Teamsters, stated these guys need support. He said he agrees with Charlie Campbell. Time is an issue for all that use these service businesses.

Fernando Harms, Teamsters Union, stated we have members that drive these box trucks. It is part of their wage package. If they have to park in a lot it will cost the businesses more when the guys have to go trade out their own vehicles for their trucks.

Mr. Hancock asked Mr. Harms if he is for or against the proposal? Mr. Harms replied in favor of the 12,000 pounds and would like the neighborhoods to iron out the smaller details. Mr. Hancock asked what about the neighborhoods that do not have a neighborhood association? Mr. Harms replied they could create one.

Mr. Bassett stated, everyone correct me if I am wrong, but I think they are all speaking in favor of Charlie Campbell's proposal of 12,000 pounds with no height, weight or length limit.

Jeff Kohan, owns a vehicle signage business, stated our customers are the smaller businesses. We have a small vehicle with large signage and it does work. I encourage you to continue to allow the signage on the vehicles.

Larry Warner, Warner Electric, stated he agrees with the 12,000 lb limit. He said it is important to have all supplies with us to service the customers.

Mr. Federico asked what about bucket trucks? Mr. Bassett replied they are considered commercial trucks.

Mr. Hoover asked are we still excluding pick-up trucks? Mr. Bassett said Mr. Campbell's proposal states except pick-up trucks. Mr. Hoover stated if we go with the 12,000 pound limit that would still allow step vans, box trucks and box vans less than 12,000 pounds. Line 59 in the Definitions Ordinance would have to be changed to read 12000 pounds or less. Mr. Blackmon asked is this for enclosed vehicles only? Mr. Warner stated we need to leave the door open to all enclosed vehicles. If they are over 12,000 pounds they are out.

Mr. Beardmore asked if trucks that weigh 12,000 pounds or more have different licensing requirements? Mr. Hoover replied he wasn't sure.

Mr. Hancock stated he lives on a narrow street and if there are box trucks parked on both sides of the road a car can't get through. Mr. Warner stated we are talking about parking at the residence not on street. Mr. Hoover added we will let the police department handle on-street parking issues. David Thurbon stated whatever we approve here will be allowed on the street as well. Mr. Blackmon said I thought everything on the street wasn't handled by us, it is up to the council and police. Mr. Thurbon said we can state what is allowed but not where to park it. Whatever we adopt will be allowed anywhere in that district unless another entity comes through

and designates some vehicles can't park on the street.

Mr. Blackmon said it is hard to make a living now. We are trying to do the right thing to help the service workers out.

Mr. Hancock stated there is a long list of cities that have more restrictive ordinances than what we currently have. He said he has not heard of people going out of business in areas where they have parking restrictions. The crime issue to me is a police issue not a planning issue. Degrading quality of residential areas due to crime in other areas is not right. Lawrence is more restrictive than what is being proposed tonight. He said it is the loss of residents within our city why we have problems. We need to protect quality residential areas. Code Compliance has had a lot of calls regarding commercial vehicles in residential areas.

Mr. Lackey stated there are other cities that permit 12,000 pounds. He stated he doesn't mind the service vans in his neighborhood. He said there are other vehicles that look much worse. He stated he is in favor of the 12,000 lb proposal. He said he finds it interesting no one is here to speak in opposition to this. He said he hasn't seen any statistics from Code Compliance regarding complaint calls about commercial vehicles in residential areas.

Dawn Wright said she agrees with Mr. Lackey. She said the biggest issue she has is how many employees this affects driving their vehicles home. There are neighborhoods proud to have these service trucks in their neighborhoods. This is difficult to balance the wants of all people. They can go to or create a neighborhood association to fight against this. She added newer subdivisions have covenants to handle this.

Dawn Wright moved to allow 12,000 lb. vehicles taking out all reference to height, weight and length. She stated this will change page 4, line 73 of the Accessory Uses Ordinance from 5 to 6 tons. The motion was seconded by Howard Blackmon. **APPROVAL. (6-1-0) Commissioner Hancock voted no.**

ACZR10/2 The Topeka Planning Commission will consider amendments to Section 18.55.030 "C" definitions and Section 18.55.160 "P" definitions of the Topeka Municipal Code contained in the Zoning Regulations. The proposals include amendments to the following defined words or terms: "Commercial equipment" and "Commercial vehicle"; and additions of the following defined words or terms: "Cargo container" and "Pickup truck". A copy of the proposed changes is available at the Topeka Planning Department, 620 SE Madison, 3rd Floor, Topeka, Kansas. **(Hoover)**

Dawn Wright moved to approve striking any reference to vehicles, excluding pick-up trucks, used for a business by removing all references to height, width or length. On page 3, line 55 of the Definitions Ordinance delete everything after "business" through line 58, delete only the first two words of line 58, and delete "step vans", "box trucks", and "box vans" from line 59. Change page 3, line 63 to 12,000 pounds. The motion was seconded by Howard Blackmon. **APPROVAL. (5-2-0) Commissioners Beardmore and Hancock voted no.**

John Federico asked that legal review wording to be sure it is correct. Braxton Copley, Deputy City Attorney, replied as long as we are close conceptually staff can work on the grammatical and technical portions of the changes.

Peter Hancock asked for clarification; a step van that has a gross weight of 11,999 pounds is not a commercial vehicle? Doug Bassett replied no.

Mr. Hoover suggested defining vehicles of 12,000 pounds or above be called “commercial vehicle, heavy” and that may make sense for any future amendments.

Doug Bassett said this is a difficult topic for all. He said he is comfortable with the 12,000 pound limit.

John Federico said he agrees. There needs to be a balance. He said he feels for the people who live in the cul-de-sac. I will support the motion.

Dawn Wright amended her motion to include the wording of anything 12,000 or more to reference a “commercial vehicle-heavy”. Howard Blackmon agreed to the amendment.

Rich Beardmore said there were residents at previous meetings against the large commercial trucks in their neighborhoods. They stated this town isn’t that big and it wouldn’t be a problem for workers to go to a lot to pick up a truck. Critical businesses, i.e. hospitals, etc. usually have staff on-site to handle emergencies. Mr. Beardmore said his concern is with the size and billboard signage on the trucks. He said he would like to see a restriction on the size of truck allowed.

Restated motion including amended:

Dawn Wright moved to approve striking any reference to vehicles, excluding pick-up trucks, used for a business and removing all references to height, width or length. On page 3, line 55 of the Definitions Ordinance delete everything after “business” through line 58, delete only the first two words of line 58, and delete “step vans”, “box trucks” and “box vans” from line 59. Change page 3, line 63 to 12,000 pounds. Also adding, anything 12,000 pounds or above be referenced a “commercial vehicle, heavy” where needed throughout the Definitions Ordinance. The motion was seconded by Howard Blackmon. **APPROVAL. (5-2-0) Commissioners Beardmore and Hancock voted no.**

ACZR10/1 – Dawn Wright made a motion to re-open the Accessory Uses Ordinance in order to change the defined words “commercial vehicles” to “commercial vehicles, heavy” so it would match what was just approved in the Definitions Ordinance. Howard Blackmon seconded this. Dawn Wright made a motion to approve adding the word “heavy” in front of the word “commercial vehicles” in line 75 and Howard Blackmon seconded. **APPROVAL. (6-1-0) Commissioner Hancock voted no.**



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