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## City Council Agenda

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

August 28, 2012  
6:00 PM

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**Mayor: William W. Bunten**

### **Councilmembers**

|                        |                       |                         |                       |
|------------------------|-----------------------|-------------------------|-----------------------|
| <b>Karen A. Hiller</b> | <b>District No. 1</b> | <b>Chad Manspeaker</b>  | <b>District No. 6</b> |
| <b>John Alcala</b>     | <b>District No. 2</b> | <b>Robert E. Archer</b> | <b>District No. 7</b> |
| <b>Sylvia E. Ortiz</b> | <b>District No. 3</b> | <b>Andrew P. Gray</b>   | <b>District No. 8</b> |
| <b>Denise Everhart</b> | <b>District No. 4</b> | <b>Richard Harmon</b>   | <b>District No. 9</b> |
| <b>Larry Wolgast</b>   | <b>District No. 5</b> |                         |                       |

**City Manager: Jim Colson**

**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) consecutive 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:**  
"Yellow Pages Project ReDirectory Month"

**2. PRESENTATIONS:**  
"None scheduled at this time."

**3. ROLL CALL:**

**4. CONSENT AGENDA:**

**A. Resolution - ESI Live, Inc. - Noise Exception**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced by Councilmember Karen Hiller, granting ESI Live Inc., an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 1)*

*(A Brews, BBQ, and Blues Fest will take place during the hours of 3:00 p.m. and 1:30 a.m., September 8, 2012 on 8th Avenue between Kansas and Jackson Streets.)*

**B. MINUTES of the regular meeting of August 14, 2012 and August 21, 2012**

**C. APPLICATIONS:**

**5. UNFINISHED BUSINESS:**

**A. Resolution - LKM Conference Expenses**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced Interim City Manager Pamela S. Simecka, authorizing payment of \$35,000 to the League of Kansas Municipalities as a host sponsor of the League's 2012 annual conference to be held in the Capital City. *(Deferred from the meeting of August 14, 2012.)*

*(Approval would authorize payment of \$35,000 from the General Fund Balance to LKM to help offset conference costs. It is estimated that the annual event generates approximately \$800,000 in revenue for the hosting city.)*

**B. Worker's Compensation Settlement - Robert Hamilton**

**APPROVAL** of a Worker's Compensation Settlement for Robert Hamilton, former Water Distribution employee, in the amount of \$74,000 for permanent partial impairment of his left lower extremity from injuries suffered from walking through deep snow to locate water mains on January 10, 2010. *(Deferred from the meeting of August 21, 2012.)*

**C. Worker's Compensation Settlement - Stephanie Workman**

**APPROVAL** of a Worker's Compensation Settlement for Stephanie Workman, former Parks & Recreation Department employee, in the amount of \$70,000 for permanent partial impairment of her back from injuries suffered when

constructing a brick wall in Gage Park on October 15, 2010. (Deferred from the meeting of August 21, 2012.)

**D. Ordinance - Brews, BBQ and Blues Fest**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time and the special event permit pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) for the Brews, BBQ and Blues Fest to be held on September 8, 2012. Final Reading. (Council District No. 1)

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

*(Approval would allow state-licensed vendors to serve alcoholic beverages at the barricaded portion of SE 8th Street between Kansas Avenue and Jackson Street beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012.)*

**E. Resolution - Laurencia Campa - Noise Exception**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced by Councilmember Sylvia Ortiz granting Laurencia Campa an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (Council District No. 3)

*(Approval would grant a noise exception for a Quinceanera Party event located at 117 SE Rice Road on September 1, 2012 from 4:00 p.m. to 11:59 p.m.)*

**6. NEW BUSINESS:**

**A. Resolution - Temporary Notes Series 2012-A**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced by City Manager Jim Colson, authorizing and directing the issuance of Temporary Notes, Series 2012-A of the City of Topeka, Kansas, in the aggregate principal amount of \$16,750,000 for the purpose of providing funds to pay the cost of (I) renewing the Series 2011-A Temporary Notes of said City, dated September 20, 2011, and (II) paying certain additional costs of the improvements in said city.

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

*(Approval would allow the City to reissue the temporary notes on designated projects for another year and increase funding of \$1,117,674.28 to pay for additional work on projects and to pay the interest costs on 2011 temporary note.)*

**B. Resolution - Hill's Pet Nutrition, Inc.**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced by City Manager Jim Colson, authorizing the City of Topeka's conveyance of ownership to the project to Hill's Pet Nutrition, Inc.

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

*(Approval would authorize the Mayor to execute a bill of sale transferring ownership of the facility and production equipment to Hills. The bonds financing the acquisition of the equipment have been paid in full by Hill's Pet Nutrition.)*

**C. Demolition Permit Request - 903 and 905 N. Kansas Avenue**

 [ATTACHMENTS](#)

**APPROVAL** of a Demolition Permit Request submitted by City of Topeka Code Enforcement Unit, for properties located at 903 and 905 N. Kansas Avenue, and within 500 feet of the historical environs of the North Topeka Baptist Church, which is listed on the Register of Historic Kansas Places and the National Register of Historic Places. (Council District No. 2)

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

*(The Governing Body must determine that there are no feasible alternatives existing to the proposed demolition before a demolition permit may be issued.)*

**D. Applications - Retail Cereal Malt Beverage and Scrap Metal Dealers License**

**APPROVAL of Retail Cereal Malt Beverage and Scrap Metal Dealers License Applications.**

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

*(Pursuant to K.S.A. 41-2702, Retail Cereal Malt Beverage License application must be approved by the Governing Body prior to the issuance of the license. Pursuant to TMC 5.170.040 and L. 2011, Ch. 86, Section 2, Scrap Metal Dealer applications have to be approved by the governing body prior to issuance of registration.)*

**7. ZONING:**

**A. Ordinance - Armstrong Trust (Z12/8)**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by Interim City Manager Pamela S. Simecka, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property located on the south side of SW 37th Street approximately 400 feet west of SW Burlingame Road from "R-1" Single-Family Dwelling District TO "C-2" Commercial District. Final Reading. (Z12/8) *(Council District No. 5) (Deferred from the meeting of August 21, 2012.)*

**Voting Requirement:** Minimum of eight (8) votes of the Governing Body including the Mayor due to a valid Protest Petition filed with the City Clerk's office. Every member of the Governing Body must be present.

*(Approval would allow the property to be developed for commercial uses.)*

**8. FIRST READINGS:**

**A. Ordinance - Oakland Secondary Digester Lid Replacement**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by City Manager Jim Colson, authorizing Improvement Project No. T-291023.00 for secondary digester lid replacements at the Oakland Wastewater Treatment Plant, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the KDHE SRF Loan to pay the cost thereof. First Reading.

**Voting Requirement:** Two-thirds vote of the Governing Body, including the Mayor.

*(Approval would authorize \$5,976,053 for the replacement of three Secondary Digester Lid Replacements at the Oakland Wastewater Treatment Facility. The debt service for the project cost would be paid with utility operating funds.)*

**B. Ordinance - Flood Protection Relief Well Rehabilitation**

 [ATTACHMENTS](#)

**AN ORDINANCE introduced by City Manager Jim Colson, authorizing Improvement Project No. T-281039.01 for the rehabilitation of flood protection relief wells approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1. First Reading.**

**Voting Requirement: Two-thirds vote of the Governing Body, including the Mayor.**

*(Approval would authorize \$1,239,315 for the rehabilitation of the Flood Protection Relief Wells at the Water Treatment Plant. The debt service for the project cost would be paid with utility operating funds.)*

**9. MISCELLANEOUS:**

-

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

-

**11. PUBLIC COMMENT:**

-

**12. ADJOURNMENT:**

-



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

July 27, 2012

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| CONTACT PERSON:       |                 | DOCUMENT #: |
| SECOND PARTY/SUBJECT: |                 | PROJECT #:  |
| CATEGORY/SUBCATEGORY  |                 |             |
| CIP PROJECT:          | No              |             |
| ACTION OF COUNCIL:    |                 | JOURNAL #:  |
|                       |                 | PAGE #:     |

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### DOCUMENT DESCRIPTION:

### POLICY ISSUE:

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available



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### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available



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| CIP PROJECT:          | No              |             |
| ACTION OF COUNCIL:    |                 | JOURNAL #:  |
|                       |                 | PAGE #:     |

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### DOCUMENT DESCRIPTION:

"Yellow Pages Project ReDirectory Month"

### POLICY ISSUE:

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

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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### 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  
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August 15, 2012

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DATE: August 28, 2012  
CONTACT PERSON: Karen Hiller DOCUMENT #:  
SECOND PARTY/SUBJECT: Bryan Lewis 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 ESI Live Inc., an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (Council District No. 1)

*(A Brews, BBQ, and Blues Fest will take place during the hours of 3:00 p.m. and 1:30 a.m., September 8, 2012 on 8th Avenue between Kansas and Jackson Streets.)*

### POLICY ISSUE:

Whether or not to grant a noise exception.

### STAFF RECOMMENDATION:

None

### BACKGROUND:

Noise exception for amplified music and sound during specified date and time.

### BUDGETARY IMPACT:

None

### SOURCE OF FUNDING:

None

### ATTACHMENTS:

[Resolution](#)

[Flyer](#)

Item #6

1 RESOLUTION NO.

2  
3 A RESOLUTION introduced by Councilmember Karen Hiller, granting ESI Live  
4 Inc. an exception to the provisions of City of Topeka Code  
5 Section 9.45.150, et seq. concerning noise prohibitions.  
6

7 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it  
8 unlawful for any person to make, continue or cause to be made or continued any  
9 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,  
10 injures or endangers the comfort, repose, health or safety or others within the  
11 limits of the city; and

12 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the  
13 City Council to grant exceptions to the prohibitions of this code section upon  
14 request and a showing that the proposed activity does not offend the spirit of the  
15 findings of City of Topeka Code Section 9.45.150, et seq.; and

16 WHEREAS, ESI Live Inc. has requested that it be granted an exception to  
17 the provisions of City of Topeka Code Section 9.45.150, et seq. for the purposes,  
18 dates and times described herein, and

19 WHEREAS, upon review of the application of ESI Live Inc., the Council of  
20 the City of Topeka does hereby find that the requested activity does not offend  
21 the spirit of the findings of City of Topeka Code Section 9.45.150, et seq.

22 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of  
23 Topeka that ESI Live Inc. is hereby granted an exception from the provisions of  
24 City of Topeka Code Section 9.45.150, et seq. for a Brews, BBQ, & Blues Fest

COUNRES  
ESI Inc-Noise Exception  
08-15-12

located on 8<sup>th</sup> Avenue between Kansas and Jackson on September 8, 2012 from  
3:00pm until 11:59pm.

ADOPTED and APPROVED by the City Council \_\_\_\_\_.

\_\_\_\_\_  
William W. Bunten, Mayor

\_\_\_\_\_  
Brenda Younger, City Clerk

COUNRES  
ESI Inc-Noise Exception  
08-15-12



# BREWS BBQ & BLUES FEST

SEPTEMBER 8 2012

## ON 8TH AVE. BETWEEN KANSAS & JACKSON IN DOWNTOWN TOPEKA KANSAS



PROJECT: BREWS, BBQ, & BLUES  
 PRIME: M&D CLASSIC CAR STORAGE  
 PRODUCER: ESI LIVE INC.  
 DRAWN BY: "JR" BRYAN LEWIS  
 VERSION: 0107252012  
 LOCATION: 120 SW 8TH AVE TOPEKA KS  
 SCALE: 1:500



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| SECOND PARTY/SUBJECT: |                 | PROJECT #:  |
| CATEGORY/SUBCATEGORY  |                 |             |
| CIP PROJECT:          | No              |             |
| ACTION OF COUNCIL:    |                 | JOURNAL #:  |
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### DOCUMENT DESCRIPTION:

### POLICY ISSUE:

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available



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| CIP PROJECT:          | No              |             |
| ACTION OF COUNCIL:    |                 | JOURNAL #:  |
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### 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  
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August 15, 2012

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DATE: August 28, 2012

CONTACT PERSON: Pam Simecka, Interim City Manager DOCUMENT #:

SECOND PARTY/SUBJECT: League of Kansas Municipalities PROJECT #:

CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous

CIP PROJECT: No

ACTION OF COUNCIL: Deferred 2 weeks 8-14-12. JOURNAL #:

PAGE #:

### DOCUMENT DESCRIPTION:

A RESOLUTION introduced Interim City Manager Pamela S. Simecka, authorizing payment of \$35,000 to the League of Kansas Municipalities as a host sponsor of the League's 2012 annual conference to be held in the Capital City. *(Deferred from the meeting of August 14, 2012.)*

*(Approval would authorize payment of \$35,000 from the General Fund Balance to LKM to help offset conference costs. It is estimated that the annual event generates approximately \$800,000 in revenue for the hosting city.)*

### POLICY ISSUE:

Whether or not to approve the resolution

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

\$35,000.00 (not budgeted)

### SOURCE OF FUNDING:

General Fund Balance

### ATTACHMENTS:

[Resolution](#)

Item #9

1 RESOLUTION NO. \_\_\_\_\_  
2

3 A RESOLUTION introduced by Pamela S. Simecka, Interim City Manager, authorizing  
4 payment of \$35,000 to the League of Kansas Municipalities as a host  
5 sponsor of the League's 2012 annual conference to be held in the  
6 Capital City.  
7

8 WHEREAS, the League of Kansas Municipalities (League), is a voluntary  
9 nonpartisan organization of over 580 Kansas cities established pursuant to K.S.A. 12-  
10 1610c *et seq.*; and

11 WHEREAS, the League's mission is to unify, strengthen, and advocate for the  
12 interests of Kansas municipalities to advance the general welfare and promote the quality  
13 of life of the people who live within Kansas cities; and

14 WHEREAS, the City is a member of the League and Mayor William W. Bunten  
15 serves on the League's governing body; and

16 WHEREAS, the League is holding its annual conference in the Capital City on  
17 October 6-8, 2012 wherein 800 local government officials from throughout the State are  
18 expected to attend; and

19 WHEREAS, as the City of Topeka is the host city for the conference, the League is  
20 requesting a contribution in the amount of \$35,000 to offset conference expenses.

21 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
22 TOPEKA, KANSAS, that the expenditure is approved and the Interim City Manager is  
23 directed to pay from the General Fund Balance the amount of \$35,000 to the League.  
24

25 ADOPTED and APPROVED by the City Council \_\_\_\_\_.

26 CITY OF TOPEKA, KANSAS

27

28

29

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\_\_\_\_\_  
William W. Bunten, Mayor

32

33 ATTEST:

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38 \_\_\_\_\_  
Brenda Younger, City Clerk



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| DATE:                 | August 28, 2012         |             |    |
| CONTACT PERSON:       | Jacque Russell          | DOCUMENT #: |    |
| SECOND PARTY/SUBJECT: |                         | PROJECT #:  |    |
| CATEGORY/SUBCATEGORY  |                         |             |    |
| CIP PROJECT:          | No                      |             |    |
| ACTION OF COUNCIL:    | 08-21-12 Defer One Week | JOURNAL #:  | 12 |
|                       |                         | PAGE #:     |    |

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### DOCUMENT DESCRIPTION:

**APPROVAL** of a Worker's Compensation Settlement for Robert Hamilton, former Water Distribution employee, in the amount of \$74,000 for permanent partial impairment of his left lower extremity from injuries suffered from walking through deep snow to locate water mains on January 10, 2010. *(Deferred from the meeting of August 21, 2012.)*

### POLICY ISSUE:

### STAFF RECOMMENDATION:

Recommend Approval.

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available

Item #10



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| DATE:                 | August 28, 2012         |               |
| CONTACT PERSON:       | Jacque Russell          | DOCUMENT #:   |
| SECOND PARTY/SUBJECT: | Stephanie Workman       | PROJECT #:    |
| CATEGORY/SUBCATEGORY  |                         |               |
| CIP PROJECT:          | No                      |               |
| ACTION OF COUNCIL:    | 08-21-12 Defer One Week | JOURNAL #: 12 |
|                       |                         | PAGE #:       |

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### DOCUMENT DESCRIPTION:

**APPROVAL** of a Worker's Compensation Settlement for Stephanie Workman, former Parks & Recreation Department employee, in the amount of \$70,000 for permanent partial impairment of her back from injuries suffered when constructing a brick wall in Gage Park on October 15, 2010. *(Deferred from the meeting of August 21, 2012.)*

### POLICY ISSUE:

### STAFF RECOMMENDATION:

Recommend Approval.

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available

Item #11



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August 15, 2012

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**DATE:** August 28, 2012  
**CONTACT PERSON:** Councilmember Karen Hiller **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Brews, BBQ and Blues Fest 2012 **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 013 Ordinances - Codified / 010 Alcoholic Beverages  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time and the special event permit pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) for the Brews, BBQ and Blues Fest to be held on September 8, 2012. Final Reading. (Council District No. 1)

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

(Approval would allow state-licensed vendors to serve alcoholic beverages at the barricaded portion of SE 8th Street between Kansas Avenue and Jackson Street beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012.)

### POLICY ISSUE:

Whether or not to authorize the removal of a portion of SW 8th Street between Kansas Avenue and Jackson Street from City right of way to facilitate the sale, possession, and consumption of alcoholic liquor.

### STAFF RECOMMENDATION:

### BACKGROUND:

This ordinance would remove a portion of SW 8th Street between Kansas Avenue and Jackson Street from City right of way to facilitate the sale possession and consumption of alcoholic liquor on the barricaded portions of these streets beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012.

### BUDGETARY IMPACT:

Item #12

None

**SOURCE OF FUNDING:**

N/A

**ATTACHMENTS:**

[Ordinance](#)

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at a specified location and time and the special event permit pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1) for the Brews, BBQ and Blues Fest.

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

Section 1. Authorization is given to barricade SW 8<sup>th</sup> Street between Kansas Avenue and Jackson Street beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012, for the Brews, BBQ and Blues Fest. Attendance to the celebration is open to the public between these hours.

Section 2. The barricaded portion of SW 8th Street shall be temporarily removed from the City's right-of-way in accordance with TMC 9.15.020(a) for a special event to be held beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012, on SW 8<sup>th</sup> Street between Kansas Avenue and Jackson Street. Vendors holding the appropriate license from the State of Kansas to sell alcoholic liquor may in accordance with all applicable state laws and municipal ordinances sell alcoholic liquor in the specific area designated by the Division of Alcohol Beverage Control within the barricaded portion of SW 8<sup>th</sup> Street between Kansas Avenue and Jackson Street beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012.

Section 3. Event attendees may buy, possess and consume alcoholic beverages in the specific area designated by the Division of Alcohol Beverage Control within the

barricaded portion of SW 8<sup>th</sup> Street between Kansas Avenue and Jackson Street beginning on September 8, 2012, at 3:00 p.m. and ending at 1:30 a.m. on September 9, 2012.

Section 4. The Brews, BBQ and Blues Fest is hereby approved by the governing body as a special event as required by K.S.A. 41-2645(e)(1) and K.S.A. 41-719(a)(2).

Section 5. 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 Governing Body on \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk



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[www.topeka.org](http://www.topeka.org)

## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

August 29, 2012

Back Print

DATE: August 28, 2012  
CONTACT PERSON: Councilmember Ortiz DOCUMENT #:  
SECOND PARTY/SUBJECT: Laurencia Campa PROJECT #:  
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous  
CIP PROJECT: No  
ACTION OF COUNCIL: JOURNAL #:  
PAGE #:

### DOCUMENT DESCRIPTION:

**A RESOLUTION** introduced by Councilmember Sylvia Ortiz granting Laurencia Campa an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions.  
(Council District No. 3)

*(Approval would grant a noise exception for a Quinceanera Party event located at 117 SE Rice Road on September 1, 2012 from 4:00 p.m. to 11:59 p.m.)*

### POLICY ISSUE:

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

[Resolution](#)

Item #13

1 RESOLUTION NO. \_\_\_\_\_

2  
3 A RESOLUTION introduced by Councilmember Sylvia Ortiz granting Laurencia  
4 Campa an exception to the provisions of City of Topeka Code  
5 Section 9.45.150. et seq. concerning noise prohibitions.  
6

7 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it  
8 unlawful for any person to make, continue or cause to be made or continued any  
9 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,  
10 injures or endangers the comfort, repose, health or safety or others within the  
11 limits of the city; and

12 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the  
13 City Council to grant exceptions to the prohibitions of this code section upon  
14 request and a showing that the proposed activity does not offend the spirit of the  
15 findings of City of Topeka Code Section 9.45.150, et seq., and

16 WHEREAS, Laurencia Campa has requested that it be granted an  
17 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for  
18 the purposes, dates and times described herein, and

19 WHEREAS, upon review of the application of Laurencia Campa, the  
20 Council of the City of Topeka does hereby find that the requested activity does  
21 not offend the spirit of the findings of City of Topeka Code Section 9.45.150, et  
22 seq.

23 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of  
24 Topeka that Laurencia Campa is hereby granted an exception from the

COUNRES  
Laurencia Campa  
NOISE EXCEPTION  
08/28/2012

provisions of City of Topeka Code Section 9.45.150, et seq., for a live band and amplified music and sound during a Quinceañera Party event located at 117 SE Rice Road during the hours of 4:00p.m. and 11:59p.m. on September 1, 2012.

ADOPTED and APPROVED by the City Council \_\_\_\_\_.

\_\_\_\_\_  
William W. Bunten, Mayor

\_\_\_\_\_  
Brenda Younger, City Clerk



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

August 8, 2012

 Back  Print

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|                       |                                           |             |
|-----------------------|-------------------------------------------|-------------|
| DATE:                 | August 28, 2012                           |             |
| CONTACT PERSON:       | Curtis Cox/Pam Simecka                    | DOCUMENT #: |
| SECOND PARTY/SUBJECT: | Issuance of Temporary Notes Series 2012-A | PROJECT #:  |
| CATEGORY/SUBCATEGORY  | 020 Resolutions / 005 Miscellaneous       |             |
| CIP PROJECT:          | No                                        |             |
| ACTION OF COUNCIL:    |                                           | JOURNAL #:  |
|                       |                                           | PAGE #:     |

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### DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Jim Colson, authorizing and directing the issuance of Temporary Notes, Series 2012-A of the City of Topeka, Kansas, in the aggregate principal amount of \$16,750,000 for the purpose of providing funds to pay the cost of (I) renewing the Series 2011-A Temporary Notes of said City, dated September 20, 2011, and (II) paying certain additional costs of the improvements in said city.

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

*(Approval would allow the City to reissue the temporary notes on designated projects for another year and increase funding of \$1,117,674.28 to pay for additional work on projects and to pay the interest costs on 2011 temporary note.)*

### POLICY ISSUE:

To allow the rolling over of the temporary notes from 2011 to allow the completion of project to be permanently bonded in 2013.

### STAFF RECOMMENDATION:

To allow the City to reissues the temporary notes on designated projects for another year and increase funding of \$1,117,674.28 to pay for additional work on projects and to pay the interest costs on 2011 temporary note.

### BACKGROUND:

The City currently has 25 projects in various phases of construction needing temporary financing. Items #14 the projects outstanding are special assessment projects. Two are drainage improvment projects. Two are

bridge projects. Four are park improvement projects. One is a trafficway project and 2 are utilities projects.

**BUDGETARY IMPACT:**

There will be interest to be paid on the outstanding principal amount in 2013 when the temporary notes will be rolled over into permanent bonds as the projects are completed.

**SOURCE OF FUNDING:**

Special assessment districts and general property tax levy.

**ATTACHMENTS:**

[Resolution](#)

060812 3

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION INTRODUCED BY CITY MANAGER JIM COLSON, AUTHORIZING AND DIRECTING THE ISSUANCE OF TEMPORARY NOTES, SERIES 2012-A OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$16,750,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF (i) RENEWING THE SERIES 2011-A TEMPORARY NOTES OF SAID CITY, DATED SEPTEMBER 20, 2011, AND (ii) PAYING CERTAIN ADDITIONAL COSTS OF THE IMPROVEMENTS IN SAID CITY.**

**WHEREAS**, pursuant to K.S.A. 12-6a01 *et seq.*, as amended, the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City of Topeka, Kansas, (the “City”) (Section A12-1 of the Code of the City) and all other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had and other actions duly and legally taken, the City has approved the following internal improvements (the “Improvements”):

- (a) Drainage Improvement Project No. T-151001.00;
- (b) Drainage Improvement Project No. T-151011.00;
- (c) Water Line Improvement Project No. T-281004.00;
- (d) Sanitary Sewer Improvement Project No. 40944-01;
- (e) Sanitary Sewer Improvement Project No. T-401011.00;
- (f) Sanitary Sewer Improvement Project No. T-401017.00;
- (g) Sanitary Sewer Improvement Project No. T-401025.00;
- (h) Sanitary Sewer Improvement Project No. T-401027.00;
- (i) Street Improvement Project No. 60624-01;
- (j) Street Improvement Project No. 60624-02;
- (k) Street Improvement Project No. 60632-01;
- (l) Street Improvement Project No. T-601001.00;
- (m) Street Improvement Project No. T-601008.00;

- (n) Street Improvement Project No. 70123-01;
- (o) Street Improvement Project No. T-601018.00;
- (p) Bridge Improvement Project No. 12045-00;
- (q) Bridge Improvement Project No. T-121000.00;
- (r) Trafficway Improvement Project No. T-141009.00;
- (s) Park Improvement Project No. T-301026.00;
- (t) Park Improvement Project No. T-301029.00;
- (u) Park Improvement Project No. T-301030.00;
- (v) Park Improvement Project No. T-601014.00;
- (w) Park Improvement Project No. T-301034.00;
- (x) Utility System Improvement Project No. T-281000.03; and
- (y) Utility System Improvement Project No. T-291015.00.

**WHEREAS**, the cost of making the Improvements are to be paid in whole or in part by the issuance of general obligation bonds of the City in the manner provided by law; and

**WHEREAS**, pursuant to Resolution No. 8366 of the City adopted August 23, 2011, the City issued its Temporary Notes, Series 2011-A, dated September 20, 2011, aggregating the principal amount of \$15,230,000 and maturing on October 1, 2012, (the “Series 2011-A Notes”) to provide funds to finance a portion of the Improvements in the City as hereinbefore described and all aspects of said Improvements will not be fully completed at the maturity of the Series 2011-A Notes; and

**WHEREAS**, the City has incurred additional costs in constructing Projects Nos. T-601018.00 and T-301034.00 in the amount of \$1,117,674.28 together with accrued and unpaid interest on the Series 2011-A Notes and costs of issuing the notes authorized herein; and

**WHEREAS**, it is necessary for the City to provide cash funds to renew the Series 2011-A Notes issued to provide financing for the Improvements and to meet the City’s obligations incurred in connection with the Improvements prior to the completion of said work and the issuance of the City’s general obligation bonds, and it is desirable and in the interest of the City

that such funds be raised by the issuance of temporary notes of the City, said notes to be issued by the City pursuant to the provisions of K.S.A. 10-123, as amended.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, AS FOLLOWS:**

**Section 1.(a)** For the purpose of providing funds to (i) renew the Series 2011-A Notes issued in connection with the Improvements as hereinbefore described, and (ii) provide funds to pay additional costs incurred in connection with the Improvements, there shall be issued and are hereby authorized to be issued Temporary Notes, Series 2012-A, of the City, in the principal amount not to exceed \$16,750,000 (the "Notes"). The Notes will consist of fully registered notes in the denomination of \$5,000 or any integral multiple thereof. The Notes shall initially be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York, (along with its successors and assigns, the "Securities Depository") to which payments of principal on the Notes will be made by the Treasurer of the State of Kansas (the "Note Registrar" and "Paying Agent") in lawful money of the United States of America upon presentation of the Notes for payment and cancellation. Individual purchases of Notes will be made in book-entry form only. Purchasers will not receive certificates representing their interest in Notes purchased. It is anticipated that during the term of the Notes, the Securities Depository will make book-entry transfers among those financial institutions (the "Participants") for whom it effects book entry transfers and pledges of securities deposited with it from time to time and receive and transmit payment of principal of and interest on the Notes to the Participants until and unless the Note Registrar (hereinafter designated) authenticates and delivers Replacement Notes to the beneficial owners as described in subsection (b). The Notes shall be dated September 27, 2012, shall become due on October 1, 2013, and shall bear interest from said date at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum. Interest on the Notes shall be payable at the maturity of the Notes on October 1, 2013, (the "Interest Payment Date") to the Registered Owner thereof appearing on the books of the Note Registrar as of the 15th day of the month next preceding the applicable interest payment date (the "Record Date").

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Notes being issued to any registered owner of any of the Notes ("Registered Owner") other than Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, or (2) if the Note Registrar receives written notice from Participants having interests in not less than 50% of the Notes which are outstanding and unpaid, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, then the Note Registrar shall notify the Registered Owners of such determination or such notice and of the availability of certificates to beneficial owners requesting the same, and the Note Registrar shall register in the name of and authenticate and deliver replacement Notes to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustment as it may find necessary or appropriate as to accrued interest; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City may, after consultation with the Note Registrar, select a successor securities depository in accordance with subsection (c) hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Note. Upon the issuance of any replacement Notes ("Replacement Notes"), all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Note Registrar, to the extent applicable with respect to such Replacement Notes. If the Securities Depository resigns and the City is unable to locate a qualified successor of the Securities Depository in accordance with subsection (c) hereof, then the Note Registrar shall authenticate and cause delivery of Replacement Notes to the beneficial owners thereof, as provided herein. The Note Registrar may

114 rely on information from the Securities Depository and its Participants as to the names of the  
115 beneficial owners of the Notes. The cost of printing, registration, authentication and delivery of  
116 Replacement Notes shall be paid for by the City.

117 (c) In the event the Securities Depository resigns, is unable to properly discharge its  
118 responsibilities, or is no longer qualified to act as a securities depository and registered clearing  
119 agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a  
120 successor Securities Depository, provided the Note Registrar receives written evidence  
121 satisfactory to it with respect to the ability of the successor Securities Depository to discharge its  
122 responsibilities. Any such successor Securities Depository shall be a securities depository which  
123 is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or  
124 other applicable statute or regulation that operates a securities depository upon reasonable and  
125 customary terms. The Note Registrar upon its receipt of any of the Notes for cancellation shall  
126 cause the delivery of such Notes to the successor Securities Depository in appropriate  
127 denominations and form as provided herein.

128 (d) The execution and delivery of the Representation Letter to The Depository Trust  
129 Company, New York, New York, by the Mayor or Deputy Mayor in the form attached hereto as  
130 Exhibit A with such changes, omissions, insertions and revisions as the Mayor or Deputy Mayor  
131 shall deem advisable, is hereby authorized, and execution of the Representation Letter by the  
132 Mayor or Deputy Mayor shall be conclusive evidence of such approval. The Representation  
133 Letter shall set forth certain matters with respect to, among other things, notices, consents and  
134 approvals by the owners (both the Registered Owner and beneficial owners) of the Notes and  
135 payments of the principal of and interest on the Notes.

136 **Section 2.** The Notes shall contain recitals and be in the form as prescribed by law. The  
137 Notes shall, in addition to all other requirements, be subject to the terms and conditions of the  
138 agreement entitled “Agreement Between Issuer and Agent” by and between the City and the  
139 Treasurer of the State of Kansas, as Note Registrar.

**Section 3.** The Notes shall be executed by the facsimile or manual signature of the Mayor or Deputy Mayor and City Clerk or Deputy City Clerk and the seal of the City shall be printed or affixed thereon. After such execution and the registration of the Notes by the City Clerk and the Kansas State Treasurer, Topeka, Kansas, hereby designated as both the City's Note Registrar and Paying Agent in connection with the Notes, the Notes shall be countersigned by the City Clerk or Deputy City Clerk and delivered to the Original Purchaser thereof upon receipt of the purchase price thereof, said purchase price to be not less than the principal amount thereof plus accrued interest thereon to the date of delivery. The proceeds of the Notes shall be placed in the City Treasury and applied solely to pay the costs of (i) renewing the Series 2011-A Notes previously issued to finance the Improvements as hereinbefore described, (ii) finance additional costs of the Improvements, and (iii) pay the costs of issuing the Notes.

**Section 4.** The Notes to be issued shall be in substantially the following form:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE THEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS MUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

**Temporary Note No. R-1**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**UNITED STATES OF AMERICA  
STATE OF KANSAS  
COUNTY OF SHAWNEE  
CITY OF TOPEKA  
SERIES 2012-A**

|                                 |                       |                          |                 |
|---------------------------------|-----------------------|--------------------------|-----------------|
| Rate of                         | Maturity              | Dated                    | CUSIP NO. _____ |
| Interest: _____%                | Date: October 1, 2013 | Date: September 27, 2012 |                 |
| Registered Owner: Cede & Co.    |                       |                          |                 |
| Principal Amount: _____ Dollars |                       |                          |                 |

**KNOW ALL MEN BY THESE PRESENTS:**

That the City of Topeka, in the County of Shawnee, State of Kansas, (the "City") for value received acknowledges itself to be indebted to and promises to pay, but solely from the sources hereinafter pledged, to the registered owner identified above, or registered assigns as hereinafter provided, on the maturity date identified above, unless called for redemption and payment prior to such maturity date as hereinafter provided, both the principal amount identified above and in like manner to pay interest on such principal amount from the date of this Note until said principal amount is paid. The Notes will not be subject to redemption prior to maturity.

The principal of and interest on this Note shall be payable in lawful money of the United States of America by check or draft at the office of the Treasurer of the State of Kansas, Topeka, Kansas, (the "Note Registrar" and "Paying Agent"), upon presentation of this Note for payment and cancellation. The full faith, credit and resources of the City are hereby pledged for the payment of the principal of and interest on this Note and the issue of which it is a part as the same respectively become due.

**THE TERMS AND PROVISIONS OF THIS NOTE ARE CONTINUED ON THE REVERSE HEREOF AND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.**

It is hereby certified and declared that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Note have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and Laws of the State of Kansas; that this Note is negotiable and constitutes a general obligation of the City; that this Note and any outstanding notes and bonds previously issued for the improvement described herein do not exceed the estimated cost and expense of said improvement; and that the total indebtedness of said City, including this series of Notes, does not exceed any constitutional or statutory limitation.

**IN WITNESS WHEREOF**, the said City of Topeka, in the State of Kansas, by its Governing Body, has caused this Temporary Note to be signed by its Mayor or Deputy Mayor and attested by its City Clerk, and has caused its corporate seal to be affixed hereto, all as of the 27th day of September, 2012.

ATTEST:

\_\_\_\_\_  
Mayor, City of Topeka, Shawnee County,  
Kansas

\_\_\_\_\_  
City Clerk

(SEAL)

This Note shall not be negotiable unless and until countersigned below following registration by the Treasurer of the State of Kansas.

(SEAL)

\_\_\_\_\_  
City Clerk

\*\*\*\*\*

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Note is one of the City of Topeka, Kansas, Temporary Notes, Series 2012-A, described in the within mentioned Resolution.

Registration Date: \_\_\_\_\_.

**OFFICE OF THE STATE TREASURER**  
Topeka, Kansas,  
As Note Registrar and Paying Agent

I.D. No. \_\_\_\_\_

By \_\_\_\_\_

\*\*\*\*\*

**CITY CLERK'S CERTIFICATE**

**STATE OF KANSAS, COUNTY OF SHAWNEE, SS:**

I, the undersigned, City Clerk of the City of Topeka, Kansas, do hereby certify that the within Temporary Note of the City of Topeka, Kansas, was duly registered in my office according to law, and that the signatures thereto are genuine.

WITNESS My Hand and Official Seal as of this 27th day of September, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk of the City of Topeka,  
Shawnee County, Kansas

\*\*\*\*\*

**STATE TREASURER'S CERTIFICATE**

**STATE OF KANSAS, COUNTY OF SHAWNEE, SS:**

I, **RON ESTES**, Treasurer of the State of Kansas, do hereby certify that a full and complete transcript of the proceedings leading up to the issuance of this Temporary Note has been filed in my office and that this Note has been registered in my office according to law this \_\_\_\_ day of September, 2012.

WITNESS My Hand and Official Seal.

**RON ESTES**  
Treasurer of the State of Kansas

BY: \_\_\_\_\_

(SEAL)

State Treasurer

\*\*\*\*\*

**NOTE ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned does (do) hereby sell, assign and transfer to

(Note Assignment)

(Social Security or Taxpayer Identifying No.)

the Temporary Note to which this assignment is affixed in the outstanding principal amount of \$\_\_\_\_\_ standing in the name of undersigned on the books of the Treasurer of the State of Kansas, Topeka, Kansas, the Note Registrar. The undersigned does (do) hereby irrevocably constitute and appoint \_\_\_\_\_ as attorney to transfer said Note on the books of the Note Registrar with full power of substitution in the premises.

Dated\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or Taxpayer Identifying No.

\_\_\_\_\_  
Signature (Sign Here Exactly as  
Name(s) Appear on Face of Certificate)

\_\_\_\_\_  
Face of Certificate Signature Guaranteed By:

\_\_\_\_\_  
(Name of Eligible Guarantor Institution as  
defined by SEC Rule 17Ad-15 (17CFR  
240.17 Ad-15)

By:\_\_\_\_\_

\*\*\*\*\*

**FURTHER TERMS AND CONDITIONS**

This Note is one of a duly authorized series of Temporary Notes aggregating the principal amount of \$16,750,000 (the "Notes") issued by the City to finance, on an interim basis, the construction of certain improvements, heretofore duly authorized by the City, which are to be paid for either in whole or in part by the issuance of bonds of the City. This Note and the series of which it is a part are issued by the City to pay the cost of such improvements until money for such purpose and for the payment of this Note with accrued interest, if any, thereon can be raised by the City by the sale and issuance of its general obligation bonds. This Note and the series of which it is a part are issued by the authority of and in full compliance with the provisions, restrictions and limitations of Resolution No. \_\_\_\_ of the City (the "Resolution"), the Constitution and Laws of the State of Kansas, including Article 12, Section 5 of the Constitution to the State of Kansas, K.S.A. 10-101 to 125, inclusive, K.S.A. 12-6a01 *et seq.*, as amended, and Charter Ordinance No. 89 of the City (Section A12-1 of the Code of the City) and all acts amendatory thereof and supplemental thereto.

The Notes are being issued by means of a book-entry system with no physical distribution of certificates to be made except as provided in the Resolution. One Note certificate

with respect to each date on which the Notes are stated to mature, registered in the nominee name of the securities depository named in the Resolution, together with its successors and assigns (the "Securities Depository"), is being issued. The book-entry system will evidence positions held in the Notes by the Securities Depository's participants, beneficial ownership of the Notes in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to the rules and procedures established by the Securities Depository and its participants. The City will recognize the Securities Depository nominee, while the registered owner of this Note, as the owner of this Note for all purposes, including (i) payments of principal of and interest on this Note, (ii) notices and (iii) voting. Transfers of principal and interest payments to participants of the Securities Depository, and transfers of principal and interest payments to beneficial owners of the Notes by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The City and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the registered owner of this Note, notwithstanding the provision hereinabove contained, payments of principal of and interest on this Note shall be made in accordance with existing arrangements among the City, its Paying Agent and the Securities Depository.

**EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION, THIS NOTE MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY.** The City may deem and treat the person in whose name this Note is registered as the absolute owner hereof for the purpose of receiving payment of the principal hereof and interest due hereon and for all other purposes. This Note is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the office of the Note Registrar upon receipt by the Note Registrar of a duplicate original counterpart of the document by which the assignment or reassignment is made, disclosing the name and address of each such assignee. Upon receipt of such notice of assignment, the Paying Agent agrees to make all payments to the assignee designated in the assignment. The City shall pay out of the proceeds of the Notes, or from other lawfully available funds, all costs incurred in connection with the issuance, transfer, exchange, redemption or payment of the Notes except (a) fees and expenses in connection with the replacement of any of the Notes mutilated, stolen, lost or destroyed or (b) any tax or other governmental charge imposed in relation to the transfer, exchange or payment of the Notes.

\*\*\*\*\*

**Section 5.** That the Notes shall be issued and sold to \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, in accordance with both the Note Purchase Agreement (the "Purchase Agreement") between such Original Purchaser and the City, the execution of which Purchase Agreement is authorized hereby and by the other terms and conditions of this Resolution.

352           **Section 6.** That the City covenants and certifies to and for the benefit of the Owners of  
353 the Notes from time to time outstanding that so long as any of the Notes remain outstanding,  
354 moneys on deposit in any fund or account in connection with the Notes, whether or not such  
355 moneys were derived from the proceeds of the sale of the Notes or from any other sources, will  
356 not be used in a manner which will cause the Notes to be classified as “arbitrage bonds” within  
357 the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”).  
358 Pursuant to such covenant, the City shall, to the extent permitted by law, comply throughout the  
359 term of the issue of the Notes and thereafter with the requirements of Section 148 of the Code  
360 including, but not limited to, the rebate of certain amounts, if any, to the United States.

361           **Section 7.** That the City covenants to take all action necessary in order to maintain the  
362 exclusion under Section 103 of the Code of the interest on the Notes from gross income for  
363 federal income tax purposes.

364           **Section 8.** That the forms of the *Preliminary Official Statement* and the *Official*  
365 *Statement*, both of which will be dated as of the date set forth thereon, all in the form presented  
366 at the meeting at which this Resolution is adopted, are hereby approved, ratified and confirmed,  
367 and the execution, circulation and distribution thereof are hereby approved, ratified and  
368 confirmed for and on behalf of the City, in substantially the form presented at this meeting.

369           **Section 9.** That the City hereby covenants and agrees that it will comply with and carry  
370 out all of the provisions of the Continuing Disclosure Certificate attached to the Final Certificate  
371 of the City included in the transcript of proceedings regarding the Notes. Notwithstanding any  
372 other provision of this Resolution, failure of the City to comply with the Continuing Disclosure  
373 Certificate shall not be considered an event of default of the City's obligations either under this  
374 Resolution or in connection with the Notes; provided, however, any owner of the Notes may take  
375 such actions as may be necessary and appropriate, including seeking mandate or specific perfor-  
376 mance by court order, to cause the City to comply with its obligations under this Section.  
377

**ADOPTED** by the Governing Body of the City of Topeka, Kansas, this 28th day of  
August, 2012.

**CITY OF TOPEKA, KANSAS**

(SEAL)

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

**I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas,  
do hereby certify that the above and foregoing is a true and correct copy of Resolution No.  
\_\_\_\_\_ adopted and approved by the governing body of the City on August 28, 2012.

\_\_\_\_\_  
Brenda Younger, City Clerk

(SEAL)

EXHIBIT A

**LETTER OF REPRESENTATIONS**

(ATTACHED)



\$100 will be paid to the City by Hills.

**SOURCE OF FUNDING:**

n/a

**ATTACHMENTS:**

[Trustee's Letter certifying payment of bonds](#)

[Bill of Sale](#)

[Resolution](#)



# The Commerce Trust Company

A division of Commerce Bank

August 3, 2012

City of Topeka, Kansas  
City Hall  
215 SE 7<sup>th</sup> Street  
Topeka, KS 66603  
Attn: Office of the Mayor

RE: City of Topeka, Kansas, Taxable Industrial Revenue Bonds, Series B2002 (Hill's Project) dated June 1, 2002

Dear Mayor and members of the City Council:

The above-captioned issue of bonds (the "Bonds") were issued by the City of Topeka, Kansas, (the "City") pursuant to both K.S.A. 12-1740 to 12-1749(d), both inclusive, as amended, and the City's Ordinance No. 17839 passed and approved May 28, 2002, and published as required by law (the "Ordinance"). The proceeds of the Bonds financed the cost of acquiring, constructing, and installing certain equipment and improvements (the "Project") which was leased to Hills Pet Nutrition, Inc., a Delaware corporation, (the "Tenant") pursuant to the terms and conditions of a lease dated as of June 1, 2002, (the "Lease") by and between the City as landlord and the Tenant, all pursuant to the Ordinance. The Commerce Trust Company, Kansas City, Missouri, was appointed as trustee (the "Trustee") in connection with the Bonds pursuant to a Trust Indenture dated as of June 1, 2002 (the "Indenture").

As Trustee for the Bonds, this letter is to certify that all of the outstanding Bonds have either been paid and delivered to the Trustee for cancellation or provisions for the payment of such outstanding Bonds have been made in accordance with the requirements of the Indenture and that in accordance with the Indenture all of the outstanding Bonds have been so cancelled and, as such, are in accordance with Section 1301 of the Indenture deemed paid and discharged and the pledge of the Project and the revenues under the Indenture and all other rights granted thereby have ceased and are of no further force and/or effect.

The lien of the Bonds having been paid and discharged, the Tenant has advised the Issuer and the Trustee that it intends to exercise its option under Article XVII of the Lease to purchase the Project. This letter is to further certify that Tenant has complied with all requirements set forth in Section 17.1 of the Lease, including the payment of any and all sums due pursuant to said Section 17.1 of the Lease, necessary as conditions precedent to any conveyance of ownership to the Project by the City to the Tenant or its assignee.

Finally, this letter is to advise you that upon the closing of the conveyance of ownership of the Project from the City to Tenant or its assignee, the Trustee will release any outstanding security interest it has in the Project in connection with the Bonds. Furthermore, all sums due the City pursuant to Section 17.2 of the Lease will be collected by the Trustee and paid the City.

Sincerely,

THE COMMERCE TRUST COMPANY  
Kansas City, Missouri

BILL OF SALE

THIS BILL OF SALE, made as of the \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the CITY OF TOPEKA, KANSAS, a municipal corporation duly organized under the laws of the State of Kansas, party of the first part, and HILL'S PET NUTRITION, INC., a Delaware corporation, party of the second part, whose mailing address is Hill's Pet Nutrition, Inc., 400 S.W. 8<sup>th</sup> Street, Topeka, Kansas 66603.

WITNESSETH: THAT SAID PARTY OF THE FIRST PART, in consideration of the sum of ONE HUNDRED DOLLARS (\$100.00) and other good and valuable considerations, to it in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, does by these presents SELL AND CONVEY unto the said party of the second part, its successors and assigns, all of the grantor's interest in the equipment and fixtures described in the Exhibit A attached hereto and incorporated herein.

TO HAVE AND TO HOLD THE SAME, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining, forever. And said party of the first part, for itself and its successors and assigns, does hereby covenant, promise and agree to and with said party of the second part, that at the delivery of these presents, said interest in said equipment is free and clear of all liens and encumbrances whatsoever except (a) those to which the title was subject on the date of Tenant's conveyance to Issuer of the Project, or to which title became subject with Tenant's written consent, or which resulted from any failure to Tenant to perform any of its covenants or obligations under this Lease, (b) taxes and assessments, general and special, if any, and (c) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Project, for the price and sum as previously set forth herein (which Tenant shall and covenants and agrees to pay in cash at the time of delivery of Issuer's Bill of Sale or other instrument or instruments of transfer to the Project to Tenant as herein before provided.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed by its Mayor and attested by its City Clerk, and its corporate seal to be hereto attached, the day and year first above written.

CITY OF TOPEKA, KANSAS

By \_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

(SEAL)

## ACKNOWLEDGEMENT

STATE OF KANSAS        )  
                                       )  
 COUNTY OF SHAWNEE    )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2012, before me the undersigned, a Notary Public in and for the County and State aforesaid, came William W. Bunten, Mayor of the City of Topeka, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas, and Brenda Younger, City Clerk of said municipal corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said municipal corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
 Notary Public

My Commission Expires:

\_\_\_\_\_

## EXHIBIT A

### PROPERTY SUBJECT TO LEASE

The personal property and fixtures hereinafter described and located on the hereinafter described real estate.

The Property Subject to Lease is presently located on the following described real estate (which was not acquired with the proceeds of the Series B2002 Bonds and, as such real property is not pledged and assigned to the Trustee to secure the payment of the principal of, premium, if any, and interest on the Series B2002 Bonds, to-wit:

Beginning 5 feet NE of SE Corner Lot 82, Jefferson Street, Crane S. Addition, thus northwesterly 254 feet S 10 feet SW 77 feet W 24 feet SW 80 feet S 22 feet SW 164 feet N 22 feet SW 175 feet S 10 feet W 392 feet SE 64 feet E 100 feet S 46 feet W 100 feet SW 110 feet W 130 feet S 230 feet W, Section 29, Township 11, Range 16, City of Topeka, Shawnee County, Kansas, to-wit:

#### Description

Waste Water Pretreatment Facility Upgrade  
 Switched Ethernet Capability  
 Processing Room Simplification II  
 Canned Products  
 Processing and Packaging Equipment  
 Ingredients Capacity  
 Heat Exchanger  
 Replace Plant Floor SPC System  
 Hydrostat Cooling  
 Security Improvements  
 Filler Upgrade  
 Viscosity Analyzer  
 Shop Floor Reporting  
 Dock Locks  
 SAP Bar Coding  
 Dry Mix Automation  
 Boiler

## RESOLUTION NO. \_\_\_\_\_

1  
2 A RESOLUTION introduced by Jim Colson, City Manager, authorizing the City of  
3 Topeka's conveyance of ownership to the project to Hill's Pet  
4 Nutrition, Inc.  
5

6 WHEREAS, the City of Topeka, Kansas, (the "City") has pursuant to both K.S.A. 12-  
7 1740 to 12-1749(d), both inclusive, as amended, (the "Act") and its Ordinance No. 17839 passed  
8 and approved May 28, 2002, and published as required by law, (the "Ordinance") issued its  
9 Taxable Industrial Revenue Bonds, Series B2002 (Hill's Project) dated June 1, 2002, in the  
10 aggregate principal amount of \$15,000,000 (the "Bonds"); and

11 WHEREAS, the proceeds of the Bonds financed the cost of acquiring, constructing, and  
12 installing certain equipment and improvements as described in the attached Exhibit "A" (the  
13 "Project") which was leased to Hill's Pet Nutrition, Inc., a Delaware corporation, (the "Tenant")  
14 pursuant to the terms and conditions of a Lease Agreement dated as of June 1, 2002, (the  
15 "Lease") by and between the City as landlord thereunder and the Tenant, all pursuant to the  
16 Ordinance; and

17 WHEREAS, pursuant to the terms and conditions of an Indenture of Trust dated as of  
18 June 1, 2002, (the "Indenture") securing the Bonds, the City appointed The Commerce Trust  
19 Company, Kansas City, Missouri, as trustee in connection with the Bonds (the "Trustee"); and

20 WHEREAS, the Trustee has certified to the City that either all of the outstanding Bonds  
21 have been paid and delivered to the Trustee for cancellation or provisions for the payment of  
22 such outstanding Bonds have been made in accordance with the requirements of the Indenture  
23 and that in accordance with the Indenture all of the outstanding Bonds have been so cancelled  
24 and, as such, are in accordance with Section 1301 of the Indenture deemed paid and discharged  
25 and the pledge of the Project and the revenues under the Indenture and all other rights granted  
26 thereby have ceased and are of no further force and/or effect; and

27 WHEREAS, the lien of the Bonds having been paid and discharged, the Tenant has  
28 notified the City that it wishes to exercise its option to purchase the Project and, in notifying the  
29 City of its wish to exercise its option pursuant to the Lease, it further requests that the City waive

its right to the requirement contained in Section 17.1 of the Lease that Tenant's notice be given at least thirty (30) days prior to the date of the actual closing (the "Closing Date") nor later of any such transfer of the City's interest in the Project to Tenant in accordance with the remaining terms and conditions of Article XVII of the Lease; and

WHEREAS, the City is authorized to waive its rights under the Lease to such prior notice as described in the immediately preceding recital to this Resolution; and

WHEREAS, the Trustee having advised the City that the Tenant has both fully satisfied the Lease and that it has tendered the full purchase price thereunder for the Project, the City is willing to execute and deliver to Tenant its Bill of Sale conveying the City interests in and to the Project to Tenant, subject to the provisions of Section 17.2 of the Lease.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, AS FOLLOWS:

Section 1. That in consideration of the recitals contained herein the City hereby waives its right to the requirement contained in Section 17.1 of the Lease that Tenant provide the City with notice given at least thirty (30) days prior to the Closing Date of its intent to exercise its option under the Lease to purchase the Project.

Section 2. That the Mayor or Deputy Mayor are hereby authorized to execute (and the City Clerk or Deputy City Clerk are hereby authorized to both attest any such signature and seal) such bill of sale, instruments and any other documents necessary to convey and transfer ownership of the Project to Tenant in accordance with Article XVII of the Lease.

Section 3. That this Resolution shall be of force and effect immediately upon its adoption and approval.

ADOPTED AND APPROVED by the governing body of the City of Topeka, Kansas,  
this \_\_\_\_ day of \_\_\_\_\_, 2012.

74 EXHIBIT A

75  
76 PROPERTY SUBJECT TO LEASE

77  
78 The personal property and fixtures hereinafter described and located on the hereinafter  
79 described real estate.

80  
81 The Property Subject to Lease is presently located on the following described real estate  
82 (which was not acquired with the proceeds of the Series B2002 Bonds and, as such real property  
83 is not pledged and assigned to the Trustee to secure the payment of the principal of, premium, if  
84 any, and interest on the Series B2002 Bonds, to-wit:

85  
86 Beginning 5 feet NE of SE Corner Lot 82, Jefferson Street, Crane S. Addition, thus  
87 northwesterly 254 feet S 10 feet SW 77 feet W 24 feet SW 80 feet S 22 feet SW 164 feet  
88 N 22 feet SW 175 feet S 10 feet W 392 feet SE 64 feet E 100 feet S 46 feet W 100 feet  
89 SW 110 feet W 130 feet S 230 feet W, Section 29, Township 11, Range 16, City of  
90 Topeka, Shawnee County, Kansas, to-wit:

91  
92  
93  
94 Description

95  
96 Waste Water Pretreatment Facility Upgrade  
97 Switched Ethernet Capability  
98 Processing Room Simplification II  
99 Canned Products  
100 Processing and Packaging Equipment  
101 Ingredients Capacity  
102 Heat Exchanger  
103 Replace Plant Floor SPC System  
104 Hydrostat Cooling  
105 Security Improvements  
106 Filler Upgrade  
107 Viscosity Analyzer  
108 Shop Floor Reporting  
109 Dock Locks  
110 SAP Bar Coding  
111 Dry Mix Automation  
112 Boiler  
113  
114  
115  
116  
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118  
119  
120



*A Capital City Government Working For You...*

[www.topeka.org](http://www.topeka.org)

## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

July 26, 2012

 Back  Print

|                       |                                            |             |           |
|-----------------------|--------------------------------------------|-------------|-----------|
| DATE:                 | August 28, 2012                            |             |           |
| CONTACT PERSON:       | David Thurbon/Tim Paris, Planner II        | DOCUMENT #: | N/A       |
| SECOND PARTY/SUBJECT: | Code Enforcement Unit, Topeka Police Dept. | PROJECT #:  | CLGR12-14 |
| CATEGORY/SUBCATEGORY  | 018 Public Hearings / 011 Other            |             |           |
| CIP PROJECT:          | No                                         |             |           |
| ACTION OF COUNCIL:    | JOURNAL #:                                 |             |           |
|                       | PAGE #:                                    |             |           |

### DOCUMENT DESCRIPTION:

**APPROVAL** of a Demolition Permit Request submitted by City of Topeka Code Enforcement Unit, for properties located at 903 and 905 N. Kansas Avenue, and within 500 feet of the historical environs of the North Topeka Baptist Church, which is listed on the Register of Historic Kansas Places and the National Register of Historic Places. *(Council District No. 2)*

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

*(The Governing Body must determine that there are no feasible alternatives existing to the proposed demolition before a demolition permit may be issued.)*

### POLICY ISSUE:

State law allows the local governing body to approve demolitions in those cases when the State of Kansas Historic Preservation Office, or the Topeka Landmarks Commission have determined that such demolition would encroach upon, damage, or destroy the historical integrity of the environs of a State registered historic property or district, upon consideration and findings of no feasible alternatives. The Topeka Landmarks Commission has determined that these properties are character-defining features of the environs of the North Topeka Baptist Church, and therefore, their demolition would encroach upon, damage, or destroy the historical integrity of its environs, as established by State Statute. The Topeka Landmarks Commission has identified the retention and rehabilitation of these structures as an integral part of implementing current revitalization efforts within this portion of North Topeka.

In order to approve this request, the Governing Body must make the determination that there are no prudent or feasible alternatives to their demolition, and if demolition is approved, that planning has occurred to minimize harm to the environs.

Item #16

The City of Topeka Code Enforcement Unit has submitted documentation supporting the requirement that rehabilitation and repair of these structure exceeds 30% of their replacement cost.

**STAFF RECOMMENDATION:**

The Topeka Landmarks Commission considered this request on July 12, 2007, and determined that the demolition of these structures **would encroach upon, damage, or destroy the historical integrity of the environs of the North Topeka Baptist Church**, by a vote of **9-0-0**.

**BACKGROUND:**

Both of the buildings in question were determined to be character defining features in the Downtown Topeka Historical Resources Survey, adopted by the Topeka Landmarks Commission in March, 2012. At present, the demolitions would result in vacant properties, as no redevelopment proposals have been submitted.

See attached Staff Report, and documentation supplied by City of Topeka Code Enforcement Unit.

**BUDGETARY IMPACT:**

N/A

**SOURCE OF FUNDING:**

City of Topeka Code Enforcement Unit

**ATTACHMENTS:**

[Staff Report](#)

[903 Historic Resource Inventory Report](#)

[905 Historic Resource Inventory Report](#)

[Landmarks Memo to CEU](#)

[CEU Condition Assessment](#)

[Cost Estimate Cover Letter](#)

[Independent Structural Assessment](#)

[March 29, 2012 Hearing Notice](#)

[June 29, 2012 Hearing Notice](#)

[903 N Kansas photos](#)

[905 N Kansas photos](#)

# Topeka Landmarks Commission

## State and National Register/Environs/Historic Districts Project Review

**Case Number:** CLGR12-14

**Project Address:** 903-905 N. Kansas Avenue

**Historic District:** N/A

**Environs:** North Topeka Baptist Church

**Standards:** Kansas Standards for Environs Review – KSA 75-2724

**Type of work:** Demolition of two buildings

**Square Footage:** 6,900 sq. ft.

**Height:** 2 story

**Roof Pitch:** N/A

**Minor Project:** ☐ (staff review)

**Major Project:** ☒ (Landmarks Commission review)

**Attachments:** Site Plan ☐ Elevations ☐ Arch./Const. Plans ☐ Pictures ☒

**Standard** - The character of a historic property's environs should be retained and preserved. The removal or alteration of distinctive buildings, structures, landscape features, spatial relationships, etc. that characterize the environs should be avoided.

**Analysis** – Demolition of these structures would remove the historical use and character of the environs of the listed building. Absent specific redevelopment plans, the proposed demolition would eliminate landscape features and spatial relationships that characterize the historical use and purpose of N. Kansas Avenue.

**Standard** - The environs of a property should be used as it has been historically, or allow the inclusion of new uses that require minimal change to the environs' distinctive materials, features, and spatial relationships.

**Analysis** – Absent specific redevelopment plans for this property, the continued use of these buildings for commercial or office purposes cannot be assured, and their removal would eliminate these uses from the historical context of the listed property's environs.

**Standard** - The environs of each property will be recognized as a physical record of its time, place, and use. Changes to the environs that have acquired historic significance in their own right should be retained and preserved.

**Analysis** – These buildings date to 1888, and therefore are reflective of the structural and architectural characteristics of that time. Demolition of these structures would remove any record of their historical context within the environs of the listed property.

**Standard** - Demolition of character-defining buildings, structures, landscape features, etc. in a historic property's environs should be avoided. When the severity of deterioration requires removal within the environs, compatible reconstruction shall occur.

**Analysis** - Minor exterior deterioration of these structures is evident, with additional deterioration reported on the interior of these buildings. In addition, the levels of deterioration of these structures has prevented the use and occupancy of 901 N. Kansas Avenue. However, absent specific redevelopment plans for this property to uphold the historic character of the environs of the listed properties, demolition should be avoided.

**Planning Staff recommendation:** Based upon the Kansas Standards for Environs Review, the proposed demolition will encroach upon, damage, or destroy the historic environs of the North Topeka Baptist Church.

  
Reviewed by:

7-12-12  
Date

# CLGR12-14 903-905 N. Kansas Avenue by the City of Topeka





ON KANSAS AVENUE, NORTH TOPEKA, AFTER THE FLOOD.

## 1903 Flood



ON KANSAS AVENUE NEAR LAURENT STREET.

# Kansas Historic Resources Inventory

Printed: 03/28/2012



177-5400-01558

903 N KANSAS AVE  
Topeka

## LOCATION:

**County:** Shawnee

**Address:** 903 N KANSAS AVE

**Address Remarks:** 1.09290203101E+015

**City:** Topeka

**Zip:** 66608

**Parcel ID:**

**Legal Description:**

**Legal Description Remarks:**

**Latitude, Longitude 1:**

**Latitude, Longitude 2:**

**Latitude, Longitude 3:**

**Latitude, Longitude 4:**

**Datum:** WGS84

## DESCRIPTION:

**Historic Name:**

**Alternate Name:** Commercial Building

**Historic Function:** Commerce/Trade

**Subcategory:** Specialty Store

**Historic Function Remarks:**

**Present Function:** Unknown

**Subcategory:**

**Present Function Remarks:**

**Residential/Commercial/Religious Style:** Italianate

**Secondary Style:**

**Barn Type:** Not Applicable

**Bridge Type:**

**Physical Description/Remarks:** High Victorian Italianate

**Plan Form:** Rectangle

**Commercial Building Type:** Two-Part Commercial Block

**Roof Form:** Flat with Parapet

**Stories:** 2

**Condition:** Good

**Principal Material:** Brick

**Material and Condition Remarks:** This two-story Two-Part Commercial Block has restrained High Victorian Italianate features, with a modified first story and brick upper story. The first story has an aluminum storefront infilled with painted wood panels. The remainder of the first story is clad in EIFS panels. The second story is painted brick and is divided into three recessed bays. The outer bays each contain a single narrow window with a decorative stone hood ornamented with inscribed circles. The center bay contains two single windows and a wide brick mullion. These windows have stone hoods without inscribed circles. The openings retain their historic 1/1 double-hung wood windows, although the glazing either is missing or has been painted. A pressed metal cornice with simple brackets caps the flat parapet. A one-story quonset hut addition stands at the west end of the building.

**Architect/Designer/Builder:** Unknown

**Year of Construction:** 1888

**Certainty:** Estimated

**Date Notes:**

**General Remarks:** Retains integrity, would contribute to a potential historic district

**Ancillary Structures:**

**Ancillary Structure Remarks:**

#### REGISTER STATUS:

**Listed in State Register:** No

**Date of State Listing:**

**Listed in National Register:** No

**Date of National Listing:**

**Historic District:**

**Date Demolished (if applicable):**

**Potentially Eligible for National Register:** Contributing

**Register Status Remarks:**

#### SURVEY INFORMATION:

##### Survey 1

**Survey Project Name:** Topeka - Downtown Historic Resources Survey (2011)

**Sequence Number:** 176

**Surveyed By:** Nugent, Rachel

**Survey Date:** 10/06/2011

#### IMAGES & DOCUMENTS



903 N Kansas Ave. East elevation.  
Finch. 10/06/11.



903 N Kansas Ave. West elevation.  
Finch. 10/06/11.

# Kansas Historic Resources Inventory

Printed: 03/28/2012



177-5400-01560

905 N KANSAS AVE  
Topeka

## LOCATION:

**County:** Shawnee

**Address:** 905 N KANSAS AVE

**Address Remarks:** 1.09290203101E+015

**City:** Topeka

**Zip:** 66608

**Parcel ID:**

**Legal Description:**

**Legal Description Remarks:**

**Latitude, Longitude 1:**

**Latitude, Longitude 2:**

**Latitude, Longitude 3:**

**Latitude, Longitude 4:**

**Datum:** WGS84

## DESCRIPTION:

**Historic Name:**

**Alternate Name:** Commercial Building

**Historic Function:** Commerce/Trade

**Subcategory:** Specialty Store

**Historic Function Remarks:**

**Present Function:** Vacant/Not in Use

**Subcategory:**

**Present Function Remarks:**

**Residential/Commercial/Religious Style:** Italianate

**Secondary Style:**

**Barn Type:** Not Applicable

**Bridge Type:**

**Physical Description/Remarks:** High Victorian Italianate

**Plan Form:** Rectangle

**Commercial Building Type:** Two-Part Commercial Block

**Roof Form:** Flat with Parapet

**Stories:** 2

**Condition:** Fair

**Principal Material:** Brick

**Material and Condition Remarks:** This narrow two-story Two-Part Commercial Block has a modified first story and brick upper story. The first story contains an aluminum and glass storefront and stucco cladding. The second story contains two single windows with stone sills and lintels. The north window has 1/1 double-hung wood sashes while the south window is covered with plywood. A broken and continuous corbelled cornice caps the flat parapet. Dense vegetation obscures the rear (west) facade.

**Architect/Designer/Builder:** Unknown

**Year of Construction:** 1900

**Certainty:** Estimated

**Date Notes:**

**General Remarks:** Retains integrity, would contribute to a potential historic district

**Ancillary Structures:**

**Ancillary Structure Remarks:**

#### REGISTER STATUS:

**Listed in State Register:** No

**Date of State Listing:**

**Listed in National Register:** No

**Date of National Listing:**

**Historic District:**

**Date Demolished (if applicable):**

**Potentially Eligible for National Register:** Contributing

**Register Status Remarks:**

#### SURVEY INFORMATION:

##### Survey 1

**Survey Project Name:** Topeka - Downtown Historic Resources Survey (2011)

**Sequence Number:** 177

**Surveyed By:** Nugent, Rachel

**Survey Date:** 10/06/2011

#### IMAGES & DOCUMENTS



905 N Kansas Ave. East elevation.  
Finch, 10/06/11.



# CITY OF TOPEKA

PLANNING DEPARTMENT  
David Thurbon, Director  
620 SE Madison Street, Unit 11  
Topeka, Kansas 66607-1118  
Tel.: (785) 368-3728

Fax: (785) 368-2535  
[www.topeka.org](http://www.topeka.org)

## MEMORANDUM

**TO:** Wendi Rieb, City of Topeka Code Enforcement Unit  
**FROM:** Timothy Paris  
**DATE:** July 13, 2012  
**RE:** Proposed Demolition of 903-905 N. Kansas Avenue

At their meeting on July 12, 2012, the Topeka Landmarks Commission reviewed the proposed demolition of 903 and 905 N. Kansas Avenue for its effects on the historical environs of the North Topeka Baptist Church, a property that is listed on the National Register of Historic Places and the Register of Historic Kansas Places. The Landmarks Commission determined that these structures are *character defining features* of the environs, and would be considered contributing features to an historic district. Therefore, their demolition would encroach upon, damage, or destroy the historic integrity of the environs. This conclusion will require the presentation of the demolition request to the Topeka City Council before demolition may proceed.

Should you have any questions regarding any of these items, please do not hesitate to contact me.



# CITY OF TOPEKA

CODE ENFORCEMENT UNIT  
Topeka Police Department  
620 SE Madison, Unit 13  
Topeka, KS 66607-1118  
Tel: (785) 368-3161  
Fax: (785) 368-3175  
[www.topeka.org](http://www.topeka.org)

## MEMORANDUM

TO: Mayor Buntin and Topeka City Council  
FROM: Code Enforcement Unit, Topeka Police Department  
DATE: August 1, 2012  
RE: 903 N Kansas Ave (legally known as 905 N Kansas Ave)  
& 905 N Kansas Ave

On December 1, 2011 Code Enforcement received a complaint regarding the property located at 905 N Kansas Ave in Topeka, KS. The complainant was concerned about the abandoned building at 905 N Kansas Ave as the boarded doorway had been taken down and someone was living inside. Previously there had been a fire and the complainant was concerned it might happen again.

Code Enforcement did thorough inspections of the two structures, 903 & 905 N Kansas Avenue. From this inspection, Code Enforcement found several unsafe structure violations on both structures (903 N Kansas Ave (legally known as 905 N Kansas Ave & 905 N Kansas Ave), beginning with the basement, many of the original support posts for the support beams are rotted and or heavily weathered. Additional supports have been poorly added between the beams and the original basement floor. Said supports were added years after the original date of construction and it is highly unlikely that piers were poured for said supports. The haphazard location and spacing strongly suggests that no engineer was involved in the design and or implementation of same. The roof of the two story portion appears to have been leaking for a number of years. This assumption is strongly supported by the rotted and or missing portions of the first floor, second floor, and back wall. Bracing has been added on the 2<sup>nd</sup> floor in an attempt to support the roof; this was noted between the first case in 2009 case and the current unsafe structure case when the exterior had either been removed or had fallen down. Like the basement supports, the haphazard location and spacing strongly suggests that no engineer was involved in the design and or implementation of same. Portions of said bracing are resting nonbearing walls and/or flooring. Building permits have no record for the stated modifications, suggesting the work was not up to code nor are there any future places for renovation/rehabilitation. The sky is visible from the basement, up through the first floor, second floor, and the roof. Evidence exists that unauthorized people are entering and/or occupying the structure, and significant public endangerment possibilities exist.

Code Enforcement Unit previously has a housing case with housing violations for weathertight conditions and structure in good repair in June 2009. At that time there were several Administrative Hearings and the property owner intended on demolishing the structures. However, the matter was not resolved and the case was forwarded to Municipal Court.

At the time of the Administrative Hearing on the housing case, August 7, 2009, Finney & Turnipseed P.A. Consulting Engineers did a site visit to observe the condition of the building. The report read "From our observations the west wall of the second story of the building directly north has partially collapsed (Figure 1). About five feet of the southwest corner of the second story of the building to the north is leaning out over your roof (Figure 2). In our opinion this north building is in imminent danger of collapse." It was then recommended to the Thrift Store owner to close and not allow any people in the building until the second story of the building to the north was removed or stabilized. (Exhibit A)

It is the belief of the Code Enforcement Unit that the existing conditions at the property are potentially dangerous or injurious to the health, safety or welfare of the residents of the City. (TCC 8.75.020) It was also found to be "unsafe" pursuant to Topeka City Code (TCC) Title 8, Division 3.

On March 14, 2012, Complaint and Notice of Hearing was sent certified mail to the property owner and all others having legal interest or an equitable interest in the property notifying them of an Administrative Hearing scheduled for April 18, 2012 at 3:30 pm. (Exhibit B)

The resident agent Larry Minkoff has been in contact with the Code Enforcement Unit throughout this process. Mr. Minkoff initially tried to give the property away and was not successful. Mr. Minkoff stated he wanted to check on the City purchasing the property or demolishing the structures for him. Housing and Neighborhood Development did not hear from Mr. Minkoff.

On April 18, 2012, the resident agent Larry Minkoff for North Topeka Associates, A.M., appeared at the Administrative Hearing. Mr. Minkoff wanted to take the "Property Owner Agreement - Asbestos Inspection and Demolition" to his attorney whom would file it with the Bankruptcy Court.

On June 20, 2012, again the resident agent Larry Minkoff for North Topeka Associates, A.M., appeared at the Administrative Hearing. Mr. Minkoff brought a copy of the letter and orders stating that the City had permission to demolish the structures and a payment schedule for the demolition bill would be worked out with Mr. Minkoff for the demolition of the structures.

On June 20, 2012 the Administrative Hearing Officer issued a 30 day demolition order for the structures located at 903 N Kansas Ave (legally known as 905 N Kansas Ave) & 905 N Kansas Ave in Topeka, Kansas. The demolition order was mailed out on June 29, 2012. (Exhibit C)

On July 13, 2012, the Topeka Landmarks Commission considered a demolition request sought by the listed resident agent for the property located at 903 N Kansas Ave (legally known as 905 N Kansas Ave) & 905 N Kansas Ave, in the City of Topeka. The demolition request was presented to the Landmarks Commission for its effects on the historical environs of the North Topeka Baptist Church. The Landmarks Commission determined that these structures are character defining features of the environs, and would be considered contributing features to an historic district. Therefore, their demolition would encroach upon, damage, or destroy the historic integrity of the environs. This conclusion will require the presentation of the demolition request to the Topeka City Council before demolition may proceed. (Exhibit D)

Pursuant to KSA 75-2724(a)(1), the proposed demolition may not proceed until the Governing Body of the City makes a "*determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the [proposed demolition] and that the program includes all possible planning to minimize harm to such historic property.*" The Code Enforcement Unit has determined removal of the structure is required to ensure public safety and submits the following as relevant factors in support of the proposed demolition.

The structures located on the property address of 903 N Kansas Ave (legally known as 905 N Kansas Ave) & 905 N Kansas Ave are vacant and abandoned. The 2012 appraised building value of these structures is \$46,580.00.

The replacement cost new (RCN) of the structures is \$634,080.00; 30% of the RCN is \$190,224.00. The minimum cost estimate of repairs for these structures is \$230,920.07. Because the repair costs are at least 30% of the replacement cost, neither repair nor replacement of the structures is feasible or prudent. (Exhibit E)

The Property Taxes were not paid on this property from 2006-2010. There has not been active water service since June 2007.

Moving the structures is not a feasible or prudent alternative. The dilapidated condition of the structures make moving them wholly impracticable as well as cost-prohibitive.

Leaving the structures in their current dilapidated, unsafe condition is not a feasible or prudent alternative. The additional costs posed by keeping the structures boarded and the additional nuisances created by such structures is a concern that can be avoided by demolition.

Leaving the structures in their current condition has a detrimental effect on the adjacent property owners being able to utilize their properties due to safety issues. If the structures are demolished, any harm will be minimized by removal of all building material and debris and returning the ground to grade level. Demolition will be an immediate benefit to the surrounding area due to its present condition as an unsafe structure.

The Code Enforcement Unit respectfully asks for the authority to pursue demolition of this structure.

Photos attached.

EXHIBIT

F



# CITY OF TOPEKA

## CODE ENFORCEMENT UNIT

Topeka Police Department  
620 SE Madison, Unit 13  
Topeka, KS 66607-1118  
Tel: (785) 368-3161  
Fax: (785) 368-3175  
[www.topeka.org](http://www.topeka.org)

### COST ESTIMATE COVER LETTER

Kendall McVay, Administrative Hearing Officer  
City of Topeka Municipal Court  
620 SE Madison, Unit 13  
Topeka, Ks 66607

RE: 905 N Kansas Ave, Topeka, KS  
Case #: 2012-H-00132

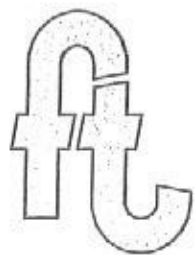
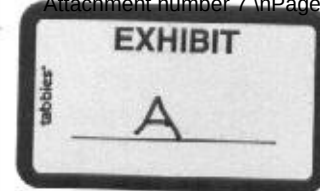
Pursuant to the Topeka City Code Title 8, Division 3, 8.75.040 of the Property Maintenance Code, this office has prepared a cost estimate of repairs for 905 N Kansas Ave (see attached)

The replacement cost new (RCN) of the structures are \$634,080.00, and 30% of this figure is \$190,224.00.

The cost estimate of repairs for the structures is \$230,920.07.

Respectfully submitted by,

Code Enforcement Unit  
Topeka Police Department



**FINNEY & TURNIPSEED P.A.**  
Consulting Engineers

603 TOPEKA AVENUE • TOPEKA, KANSAS 66603 • PHONE (785) 235-2393  
FAX (785) 235-1902 • [www.ftstructures.com](http://www.ftstructures.com)

August 10, 2009

Mr. Mike Foster  
Topeka Rescue Mission  
600 N Kansas Ave.  
Topeka, KS 66608

Re: Thrift Store

Dear Mr. Foster;

At your request the firm of Finney & Turnipseed, P.A. made a site visit to the above referenced location on August 7, 2009. You and I along with Mr. Lee Tebbutt from our office were present on the visit. The purpose of the site visit was to observe the condition of the building directly north of the thrift store and to determine if it is safe to leave the thrift store open. This report is based on our site observations, conversation with you and our knowledge and experience with structures in similar condition of this age and construction type.

From our observations the west wall of the second story of the building directly north has partially collapsed (Figure 1). About five feet of the southwest corner of the second story of the building to the north is leaning out over your roof (Figure 2). In our opinion this north building is in imminent danger of collapse.

It is our recommendation that you immediately close the thrift store and not allow any people in this building until the second story of the building to the north has been removed or stabilized.



Figure 1

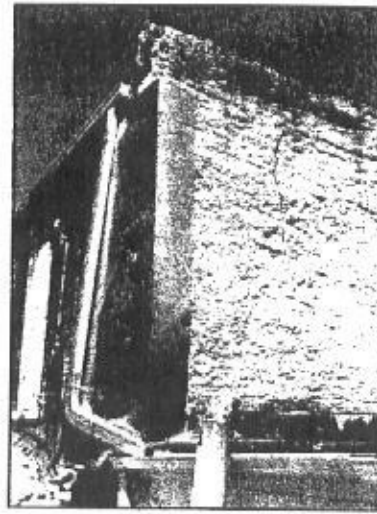


Figure 2

If you have any questions or if we can be of further service please do not hesitate to contact us.



Respectfully submitted,  
Finney & Turnipseed, P.A.

Keith H. Finney, President

EXHIBIT

tabbies

3

BEFORE THE ADMINISTRATIVE HEARING OFFICER  
CITY OF TOPEKA

MARCH 14, 2012  
CASE#: 2012-H-00132

RE: 903 N Kansas Ave (legally known as 905 N Kansas Ave)  
& 905 N Kansas Ave  
ID#: 109-29-0-20-31-008-00-0

NORTH TOPEKA ASSOCIATES AM  
PO BOX 8070  
PRAIRIE VILLAGE KS 66208-0070  
CERTIFIED MAIL #: 7112 4369 4680 2118 2432

NORTH TOPEKA ASSOCIATES AM  
2016 W. 43<sup>RD</sup> AVE  
KANSAS CITY KS 66103  
CERTIFIED MAIL #: 7110 8604 9760 1000 4042

JENLA REAL ESTATE MANAGEMENT  
PO BOX 8070  
PRAIRIE VILLAGE KS 66208-0070  
CERTIFIED MAIL #: 7112 4369 4680 2118 2425

JENLA REAL ESTATE MANAGEMENT SERVICES, LLC  
ATTN: BENNY HARDING  
4630 W 137<sup>TH</sup> ST  
LEAWOOD KS 66224  
CERTIFIED MAIL #: 7110 8604 9760 1000 4059

KANSAS LTD LIABILITY COMPANY  
ATTN: BENNY HARDING  
4630 W. 137<sup>TH</sup> ST.  
LEAWOOD KS 66224  
CERTIFIED MAIL #: 7110 8604 9760 1000 4066

LARRY MINKOFF  
PO BOX 8070  
PRAIRIE VILLAGE KS 66208  
CERTIFIED MAIL #: 7110 8604 9760 1000 4073

LARRY MINKOFF  
5406 STATE LINE RD  
MISSION HILLS, KS 66208  
CERTIFIED MAIL #: 7110 8604 9760 1000 4080

LENTZ CLARK DEINES PA  
ATTN: JEFFREY A. DEINES  
9260 GLENWOOD  
OVERLAND PARK KS 66212  
CERTIFIED MAIL #: 7110 8604 9760 1000 4097

LENTZ CLARK DEINES PA  
ATTN: SHANE J. MCCALL  
9260 GLENWOOD  
OVERLAND PARK KS 66212  
CERTIFIED MAIL #: 7110 8604 9760 1000 4103

AND ALL PARTIES WITH A LEGAL INTEREST OR AN EQUITABLE INTEREST FILED OF RECORD WITH THE SHAWNEE COUNTY REGISTER OF DEEDS OFFICE IN SUCH STRUCTURE

### COMPLAINT & NOTICE OF HEARING

#### **PURSUANT TO TOPEKA CITY CODE TITLE 8, DIVISION 3, OF THE PROPERTY MAINTENANCE CODE FOR THE CITY OF TOPEKA, KANSAS**

#### COMPLAINT

The Chief of Police and/or designee alleges and states:

That the structure and premises located on the following described real estate:  
KANSAS AVE N 35FT OF LOT 89 EUGENES ADDITION

Commonly known as 903 N Kansas Ave (legally known as 905 N Kansas Ave) and 905 N Kansas Ave, in the City of Topeka, Shawnee County, Kansas, is unfit for human use or habitation because the following conditions or defects exist: see attached page

Existing conditions at 903 N Kansas Ave (legally known as 905 N Kansas Ave) and 905 N Kansas Ave, Topeka, Kansas, which are dangerous or injurious to the health, safety or welfare of the residents of the city, and/or increase the hazards of fire, accidents or other calamities. These conditions are demonstrated by structural defects, dilapidation, and disrepair to wit: See attached document(s).

The building or any portion thereof is likely to partially or completely collapse because of:  
dilapidation, deterioration or decay;

And does not meet the minimum standards of Division 3 of the Property Maintenance Code for the City of Topeka, Kansas.

#### NOTICE OF HEARING BEFORE ADMINISTRATIVE HEARING OFFICER, CITY OF TOPEKA PURSUANT TO TOPEKA CITY CODE TITLE 8, DIVISION 3, THE PROPERTY MAINTENANCE CODE, OF THE CITY OF TOPEKA, KANSAS

A hearing will be held on the 18<sup>th</sup> day of April, 2012, at 3:30 o'clock P.M. before the Administrative Hearing Officer pursuant to Title 8, Division 3 of the Property Maintenance Code of the City of Topeka, at the Cyrus K. Holliday Building, (Holliday Conference Room, 1<sup>st</sup> floor), 620 SE Madison. At such hearing the owner, their agent, and lienholders of record and any occupant of the above-described structure(s) and premises and accessory building(s) may appear and provide testimony or other relevant evidence regarding the structure(s) cited herein. The hearing is to determine if the structure(s) located on said property is/are to be repaired or demolished.

If your intention is to repair the structure(s), please bring the following information to the hearing:

- Proof of financial capabilities
- A time table to have repairs completed (listed on page 2 of Complaint & Notice of Hearing)
- Any other information that may be pertinent to the case (i.e. contacts with Housing and Neighborhood Development, City of Topeka Building Inspection, contractors, etc...)

  
Patty Burkholder, Manager  
Topeka Police Department  
Code Enforcement Unit

For further information, please call Wendi at (785) 368-3162.

2012-H-00132

Improvements necessary and appropriate references to the Property  
Maintenance Code for 903 N Kansas Ave (legally known as 905 N Kansas Ave) and 905 N Kansas Ave are as follows:

1. 8.70.030 WEATHERTIGHT CONDITIONS - FAILURE TO MAINTAIN ROOF, ROOF OVERHANG, SKYLIGHTS, GUTTERING, EXTERIOR DOORS, EXTERIOR WALLS, WINDOWS AND/OR WINDOW ACCESSORIES SO THAT IT IS REASONABLY WEATHERTIGHT, WATERTIGHT AND DAMPFREE AND/OR FAILED TO KEEP IT IN SOUND CONDITION AND GOOD REPAIR COMMENT / LOCATION: ALL AS REQUIRED
2. 8.70.040 WINDOW AND DOOR SCREENS - FAILURE TO PROVIDE AND/OR MAINTAIN PROPERLY FITTING, FUNCTIONAL SCREEN DOORS WITH A SELF-CLOSING DEVICE AT EVERY DOOR DESIGNED FOR VENTILATION AND WHICH OPENS DIRECTLY FROM A STRUCTURE TO OUTSIDE SPACE AND/OR PROPERLY FITTED FRAME SCREENS FOR EVERY WINDOW USED FOR VENTILATION COMMENT / LOCATION: ALL AS REQUIRED
3. 8.70.060 STRUCTURE IN GOOD REPAIR - FAILURE TO MAINTAIN FOUNDATION, ROOF, EXTERIOR WALL(S), OUTSIDE STAIRS/FIRE ESCAPES, PORCH AND EVERY APPURTENANCE THERETO OF COMMERCIAL OR RESIDENTIAL STRUCTURE TO BE SAFE TO USE AND CAPABLE OF SUPPORTING THE LOADS THAT NORMAL USE MAY CAUSE TO BE PLACED THEREON AND THAT THE SAME IS KEPT IN SOUND CONDITION AND GOOD REPAIR COMMENT / LOCATION: ALL AS REQUIRED
4. 8.70.070 INTERIOR IN GOOD REPAIR - FAILURE TO MAINTAIN EVERY FLOOR, INTERIOR WALL, CEILING, INSIDE STAIRS AND EVERY APPURTENANCE THERETO TO BE SAFE TO USE AND CAPABLE OF SUPPORTING THE LOADS THAT NORMAL USE MAY CAUSE TO BE PLACED THEREON AND THAT THE SAME IS KEPT IN SOUND CONDITION AND GOOD REPAIR COMMENT / LOCATION: ALL AS REQUIRED
5. 8.70.080 KITCHEN IN HABITABLE CONDITION - FAILURE TO MAINTAIN IN AN OCCUPIED DWELLING A ROOM, OR PORTION OF A ROOM, IN WHICH FOOD MAY BE PREPARED OR COOKED AND WHICH IS EQUIPPED WITH A KITCHEN SINK IN GOOD WORKING CONDITION WITH APPROVED WATER SUPPLY AND/OR CABINETS AND SHELVES OF SOUND CONSTRUCTION AND FURNISHED WITH SURFACES THAT ARE EASILY CLEANABLE AND NOT IMPART TOXIC EFFECTS ON FOOD AND/OR PROVIDE A STOVE AND/OR REFRIGERATOR WITH ADEQUATE TEMPERATURES AND WHICH ARE PROPERLY INSTALLED, IF PROVIDED WITH THE DWELLING COMMENT / LOCATION: ALL AS REQUIRED
6. 8.70.090 BATHROOM IN HABITABLE CONDITION - FAILURE TO PROVIDE A NON-HABITABLE ROOM IN AN OCCUPIED DWELLING WHICH AFFORDS PRIVACY TO A PERSON WHICH IS EQUIPPED WITH A FLUSH TOILET IN GOOD WORKING CONDITION AND PROPERLY CONNECTED AND/OR A SINK THAT IS LOCATED IN THE SAME ROOM OR IN CLOSE PROXIMITY TO THE FLUSH TOILET IN GOOD WORKING CONDITION AND PROPERLY CONNECTED AND/OR AND A BATHTUB OR SHOWER IN GOOD WORKING CONDITION AND PROPERLY CONNECTED. COMMENT / LOCATION: HOUSE ALL AS REQUIRED
7. 8.70.140 HEATING FACILITIES - FAILURE TO PROVIDE A DWELLING, DWELLING UNIT, ROOMING UNIT OR RESIDENTIAL BOARD AND CARE FACILITY WITH PROPERLY INSTALLED HEATING FACILITIES THAT IS MAINTAINED IN SAFE AND GOOD WORKING CONDITION AND HAS A TEMPERATURE OF AT LEAST 65 DEGREES AT THREE (3) FEET ABOVE FLOOR LEVEL IN ALL HABITABLE ROOMS AND BATHROOMS; AND/OR UNLAWFULLY OPERATED A SPACE HEATER USING AN OPEN FLAME COMMENT / LOCATION: ALL AS REQUIRED
8. 8.70.160 PLUMBING FIXTURE REQUIREMENT - FAILURE TO PROVIDE PROPERLY INSTALLED PLUMBING FIXTURES FOR ALL WATER AND WASTE WATER PIPES THAT ARE MAINTAINED IN GOOD, CLEAN AND SAFE WORKING CONDITION AND/OR FAILURE TO PROVIDE A FLOOR SURFACE IN A BATHROOM OR KITCHEN THAT WAS/IS CONSTRUCTED AND MAINTAINED AS TO PERMIT THE FLOOR TO BE EASILY KEPT IN CLEAN CONDITION COMMENT / LOCATION: ALL AS REQUIRED

EXHIBIT

C

BEFORE THE ADMINISTRATIVE HEARING OFFICER  
CITY OF TOPEKA

DATE: JUNE 29, 2012  
CASE #: 2012-H-00132

RE: 903 N Kansas Ave (legally known as 905 N Kansas Ave)  
& 905 N Kansas Ave  
ID#: 109-29-0-20-31-008-00-0

NORTH TOPEKA ASSOCIATES AM  
PO BOX 8070  
PRAIRIE VILLAGE KS 66208-0070

NORTH TOPEKA ASSOCIATES AM  
2016 W. 43<sup>RD</sup> AVE  
KANSAS CITY KS 66103

JENLA REAL ESTATE MANAGEMENT  
PO BOX 8070  
PRAIRIE VILLAGE KS 66208-0070

JENLA REAL ESTATE MANAGEMENT SERVICES, LLC  
ATTN: BENNY HARDING  
4630 W 137<sup>TH</sup> ST  
LEAWOOD KS 66224

KANSAS LTD LIABILITY COMPANY  
ATTN: BENNY HARDING  
4630 W. 137<sup>TH</sup> ST.  
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PO BOX 8070  
PRAIRIE VILLAGE KS 66208

LARRY MINKOFF  
5406 STATE LINE RD  
MISSION HILLS, KS 66208

LENTZ CLARK DEINES PA  
ATTN: JEFFREY A. DEINES  
9260 GLENWOOD  
OVERLAND PARK KS 66212

LENTZ CLARK DEINES PA  
ATTN: SHANE J. MCCALL  
9260 GLENWOOD  
OVERLAND PARK KS 66212

AND ALL PARTIES WITH A LEGAL INTEREST OR AN EQUITABLE INTEREST FILED  
OF RECORD WITH THE SHAWNEE COUNTY REGISTER OF DEEDS OFFICE IN  
SUCH STRUCTURE

### ADMINISTRATIVE HEARING ORDER

#### PURSUANT TO TOPEKA CITY CODE TITLE 8, DIVISION 3, OF THE PROPERTY MAINTENANCE CODE FOR THE CITY OF TOPEKA, KANSAS

Now on this 20<sup>th</sup> day of June 2012, the complaint on the above premises comes for hearing before Kendall M. McVay, Administrative Hearing Officer. Notice of time and place of hearing having been given as required by law to wit: service of notice was provided via certified mail on April 23, 2012, and published on May 7, 2012 and May 14, 2012.

There appears: Wendi Rieb, Code Enforcement Unit; Larry Minkoff, Resident Agent for North Topeka Associates, AM; JaLynn Copp, Topeka Police Department Legal Advisor.

The Administrative Hearing Officer, after hearing all of the evidence and reviewing all exhibits presented, finds that said structure(s) located on the following described real estate: KANSAS AVE N 35FT OF LOT 89 EUGENES ADDITION

Commonly known as 903 N Kansas Ave (legally known as 905 N Kansas Ave) & 905 N Kansas Ave, in the City of Topeka, Shawnee County, Kansas,

IS UNFIT FOR HUMAN USE OR HABITATION in the following particulars:

The building or any portion thereof is likely to partially or completely collapse because of:

dilapidation, deterioration or decay;

And does not meet the minimum standards of the Property Maintenance Code Title 8, Division 3 for the City of Topeka, Kansas.

The repair, alteration or improvement to the structures cannot be made at a reasonable cost in relation to the value of the structures. The cost to replace the structures is estimated to be \$634,080.00; the repair costs to the structures are estimated to be \$230,920.07, which, cost exceeds 30% of the replacement value as, required by the Property Maintenance Code, City of Topeka.

Mr. Larry Minkoff, Resident Agent for North Topeka Associates and his attorney Shane J. McCall have taken the "Property Owner Agreement – Asbestos Inspection and Demolition" before the United States Bankruptcy Court and have received approval for the City of Topeka to proceed with the demolition at 903 N Kansas Ave (legally known as 905 N Kansas Ave) & 905 N Kansas Ave.

IT IS, THEREFORE, ORDERED that the owner(s), (heirs, executor, administrator or anyone in interest), shall remove or demolish the **structures**, remove the foundations, remove all trash, rubbish, junk and debris, dead trees and/or foliage and level the site to grade by filling in of the excavation remaining on the property on which the demolished structure was located, in such manner as to eliminate all potential danger to the public health, safety or welfare arising from such excavation within thirty (30) days from the date of service of this order as required by law. The owner must retain services of a licensed demolition contractor to demolish the structure.

Page 2

Re: **903 N Kansas Ave (legally known as 905 N Kansas Ave)**  
**& 905 N Kansas Ave – Administrative Hearing Order**

IT IS FURTHER ORDERED that if the owner(s) (heirs, executor, administrator or anyone in interest) shall fail to take the demolition action within the required time, Code Compliance Services Unit shall cause the demolition action to be taken and the cost, less salvage, if any, shall be assessed as a lien against the lot or parcel of land upon which the said structure(s) is/are located, such lien to include administrative costs, necessary attorney fees, and such other incidental costs as provided by law.

Topeka City Code Title 8, Division 3, 8.75.100 provides that any person affected by an order issued by the Administrative Hearing Officer may petition the Shawnee County District Court for an injunction restraining the imposition of this order, and the court may, upon such petition, issue a temporary injunction, pending the final disposition of the case; provided, however, that such person shall petition such court within thirty (30) days after the posting or service of the order of the Administrative Hearing Officer.

IT IS, THEREFORE, ORDERED



---

Kendall M. McVay  
ADMINISTRATIVE HEARING OFFICER

Case # 2012-H-00132

903 N Kansas (legally 905 N Kansas)  
Adult Entertainment Center  
(currently has NOTO sign on outside)

Unsafe Structure-WR



Case # 2012-H-00132

903 N Kansas (legally 905 N Kansas)  
Adult Entertainment Center  
(currently has NOTO sign on outside)

Unsafe Structure-WR



Case # 2012-H-00132

903 N Kansas (legally 905 N Kansas)  
Adult Entertainment Center  
(currently has NOTO sign on outside)

Unsafe Structure-WR



Case # 2012-H-00132

903 N Kansas (legally 905 N Kansas)  
Adult Entertainment Center  
(currently has NOTO sign on outside)

Unsafe Structure-WR



Case # 2012-H-00132

903 N Kansas (legally 905 N Kansas)  
Adult Entertainment Center  
(currently has NOTO sign on outside)

Unsafe Structure-WR



Case # 2012-H-00132

905 N Kansas  
Edna's Beauty Salon

Unsafe Structure Hearing-WR



Case # 2012-H-00132

905 N Kansas  
Edna's Beauty Salon

Unsafe Structure Hearing-WR



Case # 2012-H-00132

905 N Kansas  
Edna's Beauty Salon

Unsafe Structure Hearing-WR





A Capital City Government Working For You...

www.topeka.org

## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

July 27, 2012

Back Print

DATE: August 28, 2012  
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 and Scrap Metal Dealers License Applications.**

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

*(Pursuant to K.S.A. 41-2702, Retail Cereal Malt Beverage License application must be approved by the Governing Body prior to the issuance of the license. Pursuant to TMC 5.170.040 and L. 2011, Ch. 86, Section 2, Scrap Metal Dealer applications have to be approved by the governing body prior to issuance of registration.)*

### 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

Item #17



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

August 22, 2012

 Back  Print

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|                       |                                                   |             |       |
|-----------------------|---------------------------------------------------|-------------|-------|
| DATE:                 | August 28, 2012                                   |             |       |
| CONTACT PERSON:       | David Thurbon/Bill Hoover                         | DOCUMENT #: | Z12/8 |
| SECOND PARTY/SUBJECT: | William J. and Marietta Armstrong as Trustees     | PROJECT #:  |       |
| CATEGORY/SUBCATEGORY  | 014 Ordinances – Non-Codified / 007 Zoning        |             |       |
| CIP PROJECT:          | No                                                |             |       |
| ACTION OF COUNCIL:    | 08-14-12 First Reading<br>08-21-12 Defer One Week | JOURNAL #:  | 12    |
| PAGE #:               |                                                   |             |       |

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### DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Interim City Manager Pamela S. Simecka, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code by providing for certain changes in zoning on property located on the south side of SW 37th Street approximately 400 feet west of SW Burlingame Road from "R-1" Single-Family Dwelling District TO "C-2" Commercial District. Final Reading. (Z12/8) (Council District No. 5) (Deferred from the meeting of August 21, 2012.)

**Voting Requirement:** Minimum of eight (8) votes of the Governing Body including the Mayor due to a valid Protest Petition filed with the City Clerk's office. Every member of the Governing Body must be present.

*(Approval would allow the property to be developed for commercial uses.)*

### POLICY ISSUE:

This proposal is consistent with the land use policies and principles of the Comprehensive Plan.

### STAFF RECOMMENDATION:

The Planning recommended this proposal be APPROVED by a vote of 7-0-0 at their July 23, 2012 meeting. A public hearing was held by the Planning Commission on July 16, 2012. The Planning Commission discussion and vote after the public hearing was held was continued for one week, at the request of the applicant due to only four Commissioners being able to vote (the other Commissioner in attendance had a conflict of interest). Attached are minutes of both Planning Commission meetings. ~~Internal #12~~

The Planning Department recommended that this petition be APPROVED as referenced in the attached staff report.

**BACKGROUND:**

A Protest Petition was filed with the City Clerk by the Mayfair Condominium Homeowners Association and the Planning Department has determined the Protest Petition to be valid as it comprises over 20% of the applicable land area within the 200-foot notification area surrounding the subject property. A copy of the Protest Petition is attached. Also attached are copies of two letters of objection from the owners of Curves (a physical fitness center located within the strip center to the east) and a sample of one of the numerous form letters of objection signed by twenty persons that are apparently customers of Curves.

See attached staff report.

**Governing Body options (all ten members must be present):**

- 1) Adopt the recommendation of the Planning Commission with a minimum of eight votes, which are required due to the Protest Petition;
- 2) Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. Simple majority vote (Minimum of 6 votes)
3. Reject the recommendation. 2/3 vote of the governing body. (Minimum of 7 votes).

**BUDGETARY IMPACT:**

N/A

**SOURCE OF FUNDING:**

N/A

**ATTACHMENTS:**

[Staff Report](#)

[Aerial](#)

[Zoning Map](#)

[Letters of Objection](#)

[Protest Petition](#)

[Ordinance](#)

[Planning Commission Minutes](#)

[Protest Information](#)

[Planning Commission Minutes](#)

July 16, 2012  
Agenda Item # E-1

# ZONING REPORT

## CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z12/8

By: William J. & Marietta Armstrong trustees for the Marietta Armstrong Trust

**PROPOSAL:** Zone change from “R-1” Single-Family Dwelling District TO “C-2” Commercial District

**LOCATION:** Property approximately 400 ft. west of SW Burlingame Road, on the south side of SW 37<sup>th</sup> Street from the intersection of SW Burlingame Road and SW 37<sup>th</sup> Street.

**PRESENT USE:** Vacant (1.54 acres)

**PROPOSED USE:** Retail liquor store

**CHARACTER OF NEIGHBORHOOD:** The subject property is located at the southwest intersection of SW Burlingame Road (principal arterial) and SW 37<sup>th</sup> Street (minor arterial), along the north side of Interstate-470. Burlingame Crossing Shopping Center is located directly to the east. Hillside Community Church is located to the west of the subject property with the building currently for-sale. Single-family residential neighborhoods (Mayfair Place and Randolph Square) are located along SW 37<sup>th</sup> Street, to the north of the subject property. The property to the south is vacant and designated as a permanent easement and owned by the City of Topeka.

### **ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:**

|        | <b>ZONING CLASSIFICATION</b>                                           | <b>PRESENT LAND USE</b>          |
|--------|------------------------------------------------------------------------|----------------------------------|
| North: | “PUD” Planned Unit Development (M-2 use)                               | Attached single-family dwellings |
| South: | “C-2” Commercial District and<br>“R-1” Single-Family Dwelling District | Vacant (easement)                |
| East:  | “C-4” Commercial District                                              | Retail center                    |
| West:  | “C-2” Commercial District                                              | Vacant building (former church)  |

**LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION:** The property has remained zoned for single-family residential uses since it was annexed sometime in the 1960s. It has remained vacant ever since.

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**SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED:**

The property is no longer suitable for the “R-1” Single-Family Dwelling District as this is a remnant from when the surrounding area at SW Burlingame and SW 37<sup>th</sup> was predominately zoned for single-family residential uses. The properties bounding the subject properties on both sides were subsequently rezoned for commercial uses in 1965 and 1976.

**CONFORMANCE TO COMPREHENSIVE PLAN:** The Topeka Land Use and Growth Management Plan – 2025 designates the area for *Quasi-Public* land uses. However, the future land use map in the plan is a broad brush approach and does not designate specific land uses for each particular lot, but rather gives guidelines for making land use and rezoning decisions for specific areas. Commercial uses on the subject property would be consistent with Comprehensive Plan policies that designate arterial intersections for major commercial centers and this site abuts a commercial center at this intersection. Since the “C-2” zoning on the subject property would be consistent with the zoning of the contiguous properties and the property is located at within an arterial intersection and major highway interchange area, the request is consistent with policies in the Comprehensive Plan.

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:**

Accepted planning principles dictate that established patterns of land use and zoning must be recognized as a basic factor which strongly influences rezoning decisions. Based upon the established land use patterns in the surrounding area, removal of the present restrictions for the single-family residential would allow the property to develop consistent with the surrounding area for commercial uses since it is at the intersection of two arterial streets and a highway interchange. The commercial zoning pattern at this intersection was established when the property to the west was rezoned for commercial in 1976 that situated the subject property between two commercially-zoned properties, which made a commercial rezoning appropriate for the subject property. Previously, the property to the west was a billard’s supply retail center prior to the church purchasing the site. A church of this size most closely resembles uses in the “O&I-2” Office and Institutional District.

Nevertheless, there may be some negative traffic and safety impacts on the single-family neighborhoods north of SW 37<sup>th</sup> Street if further commercial uses are developed that take access directly off of SW 37<sup>th</sup> prior to its improvement. This segment of SW 37<sup>th</sup> Street is a two-lane, rural section roadway (without sidewalks or curb and gutter) and is not included within the CIP to be improved any time in the near future. Since the subject property and adjoining properties have already been platted, a future driveway serving this property will not be able to meet the City’s 300 ft. location and spacing standard for driveway separation along minor arterials. On new subdivision plats, staff generally recommends cross access with adjoining commercial properties that are along arterials with the intent of improving safety and traffic patterns for properties along the arterial by requiring shared driveways between adjacent properties and through-access between commercial lots. Allowing too many access points directly on arterials decreases the functionality of the arterial to move traffic, as well as, lessens safety along the arterial by allowing added points of conflict. However, since these concerns were not addressed at the time the subdivision was platted in 1973, staff is left with very few alternatives to the existing situation along this segment of SW 37<sup>th</sup> Street since the property cannot be denied its right of access to the street.

**THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER:**

The proposed reclassification

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would allow the property to develop in a manner consistent with the pattern of surrounding land uses for commercial, which is an appropriate pattern of development at the intersection of two arterial streets and adjacent to a major highway interchange. There may be a detriment to the public health, safety, and welfare on the residential neighborhoods north of SW 37<sup>th</sup> Street by rezoning the property for commercial uses before SW 37<sup>th</sup> Street is widened to arterial standard with sidewalks. However, a reduction in the value of this landowner's property is quite evident since the immediate property to the west was already rezoned for commercial uses in 1976, which expanded the zoning precedent at the intersection for commercial.

**AVAILABILITY OF PUBLIC SERVICES:** All essential public utilities, services and facilities are presently available to this area, with the exception of any necessary improvements to SW 37<sup>th</sup> Street. Staff does have concerns with the ability of SW 37<sup>th</sup> Street to handle further commercial uses since it is currently a two-lane roadway not constructed to arterial standards and not planned to be widened in the near future.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:** At the site development plan stage, the subject property will have to comply with all landscaping, setback, parking, and access requirements prior to issuance of building permits.

Minimum Lot Area: **Compliant** – 67,082 sq. ft. (The minimum lot area in “C-2” is 10,000 sq. ft. with a maximum ground floor area of 50,000 sq. ft.)

Setbacks: **Compliant** – No existing structures – Any new structures will have to comply with the 30 ft. platted front yard setback.

Platting: **Compliant** – Platted as a part of Lot 3, Block A, Armstrong Plaza Subdivision

**CONCERNS OF STAFF AND REVIEWING AGENCIES:** This request was submitted to all applicable reviewing agency staff for consideration and comment and all relevant issues were addressed or will be resolved at the site development stage. The City Traffic Engineer indicated a new driveway will not meet the 300 ft. separation between driveways along a minor arterial, but that desired 300 ft. spacing is not possible in this instance since the area is already predominately developed. The best location of the property's access on SW 37<sup>th</sup> Street will be determined at the time of site plan review. Staff would typically consider requesting that a cross access easement by separate instrument be obtained at the time of site plan review with the “C-2” zoned property to the west. However, there will still remain a narrow strip of “R-1” zoned land directly adjacent on the west side of the subject property where the ownership is questionable and which was excluded from the previous platting actions of Armstrong Plaza and Ghamond's Subdivisions. This may make acquiring such a cross access easement with the “C-2” property more difficult or not possible at that time.

The subject property is located adjacent to a property used by Hillside Community Church (for-sale). Pursuant with KSA 41-710, retail liquor stores should be at least 200 ft. from a church building, as measured from the closest point of the premise sought to be licensed to the closest point of the church building itself. If the building on property to the west continues to be used for a church, there is slightly over 200 ft. from the east wall of the building to the subject property's west boundary line.

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It can be argued that "O&I" Office and Institutional uses would be more appropriate for the subject property especially if religious uses remain on the property to the west.

**ADDITIONAL FACTORS:**

1. Neighborhood Improvement Association/Neighborhood Association: The Homeowner's Association for Mayfair Place was notified of the rezoning action and has not yet made an official response in writing to the Planning Department in support or opposition to the zone change. However, the Planning Department has heard from several people in opposition to the zone change from affected parties, including customers of a business in the retail center to the east and board members of Randolph Square and Mayfair Place. Several protest petitions have already been filed to the zone change, but are not valid because the signatory is not a land owner within the 200 ft. notification area. (See all the attached letters of opposition.)
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: No registered properties within 500'.

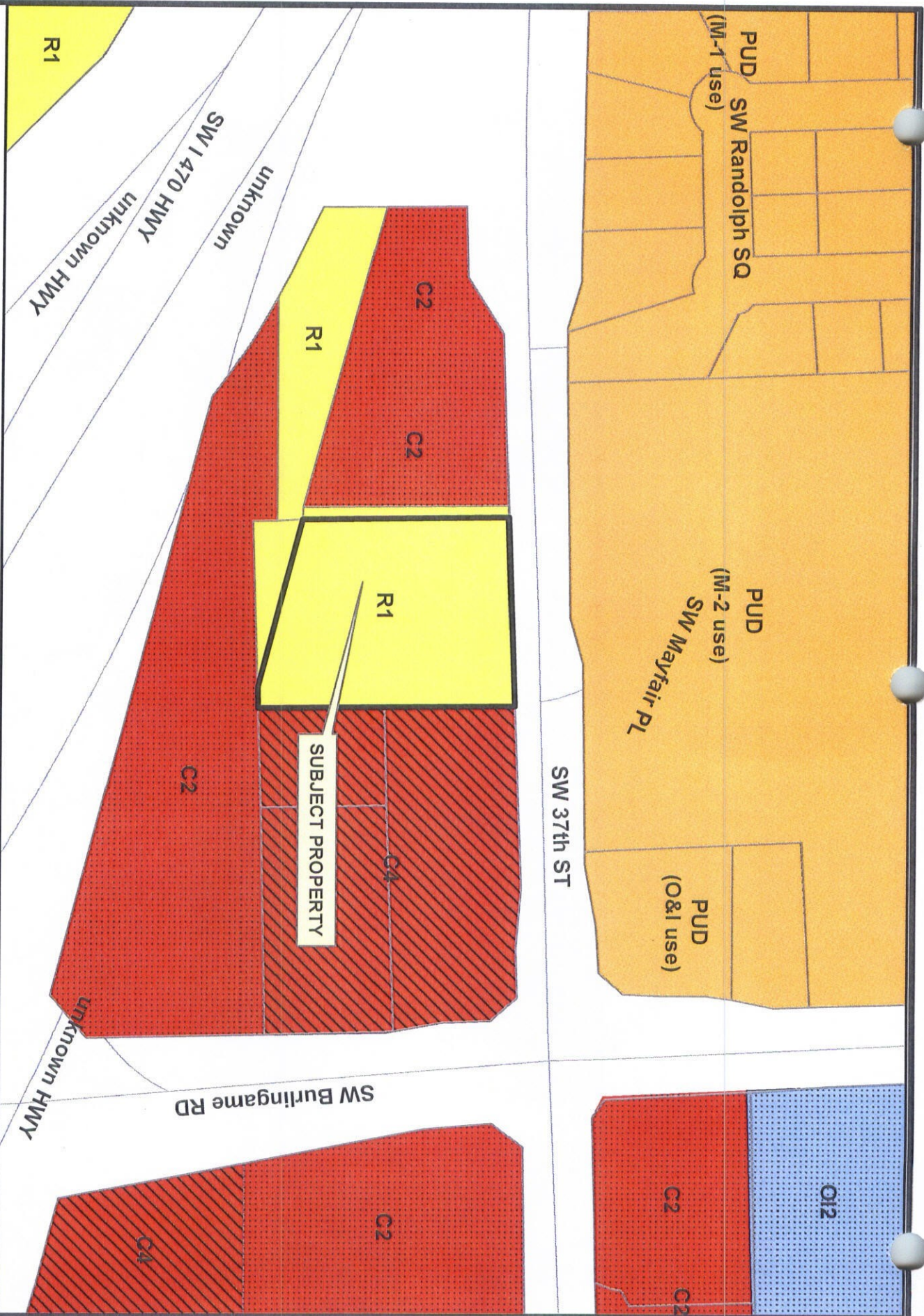
**STAFF RECOMMENDATION:** Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal.

Prepared by:  
Annie Driver,  
Planner II



**Z12/8 by: William J. Armstrong & Marietta Armstrong  
trustees for Marietta Armstrong Trust**





Z12/8 by: William J. Armstrong & Marietta Armstrong trustees for Marietta Armstrong Trust



**ZONING AMENDMENT PROTEST PETITION**  
**CITY OF TOPEKA, KANSAS**

**SECTION I**

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) Z 12/8 requesting a zoning classification change  
 FROM R-1 Single Family District  
 TO C-2 Commercial District  
 and located at/about South side of SW 37th; 400' West of 37th & Burlingame Rd in the City of Topeka, Kansas.

**SECTION II—Protestor(s)****NAME(s)****ADDRESS & LEGAL DESCRIPTION  
OF PROTESTER'S PROPERTY**

*Karen H. Exon*  
 Signature

| Lot                            | Block | Addition | Street & No.          |
|--------------------------------|-------|----------|-----------------------|
| SEE ATTACHED LEGAL DESCRIPTION |       |          | 2301 SW Mayfair Drive |
|                                |       |          | 66611                 |

KAREN A. EXON, PRESIDENT MAYFAIR  
 Typed or Printed Name CONDOMINIUM HOA, INC.

| Lot | Block | Addition | Street & No. |
|-----|-------|----------|--------------|
|-----|-------|----------|--------------|

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Typed or Printed Name

**ACKNOWLEDGEMENT**

STATE OF KANSAS )

COUNTY OF SHAWNEE) ss

Be it remembered that on this 19th day of July, 2012, before me a Notary Public in and for said County and State, came Karen H Exon

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



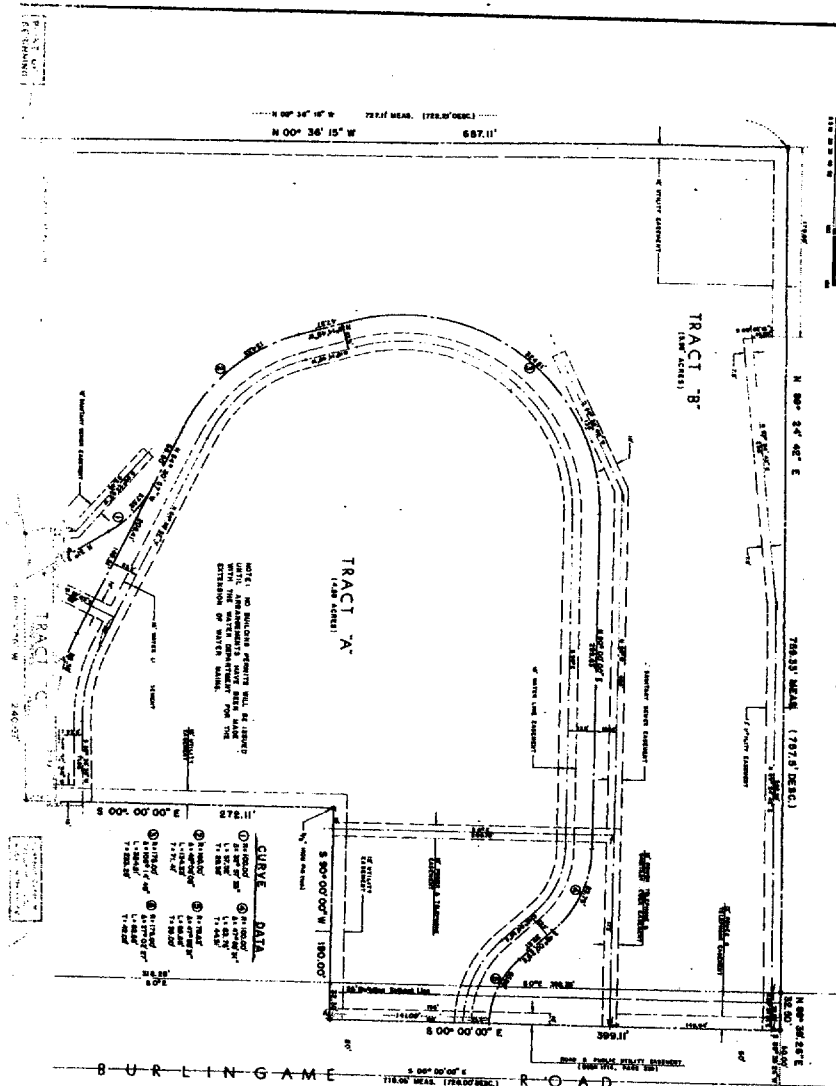
*Lori K. Rost*  
 Notary Public

My Commission Expires 9-10-2012

**ALL SIGNATURES MUST BE ACKNOWLEDGED**

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 14-12-15 AND IN THE SOUTHWEST 1/4 OF SECTION 13-12-15 CITY OF TOPEKA, SHAWNEE COUNTY K.S., BEING A REBATE OF BURLINGAME PLAZA SUBDIVISION EXCEPT LOT 6 BLOCK "C" AND BURLINGAME PLAZA SUBDIVISION NO. 2 EXCEPT LOT 8 BLOCK "C" ALSO VACATED WAYNE AVENUE AND VACATED WEST 36TH STREET PLAZA.



DELETED/REMOVED OR DESTROYED/REMOVED OR DESTROYED: 1. REDACTED 2. REDACTED 3. REDACTED 4. REDACTED 5. REDACTED 6. REDACTED 7. REDACTED 8. REDACTED 9. REDACTED 10. REDACTED 11. REDACTED 12. REDACTED 13. REDACTED 14. REDACTED 15. REDACTED 16. REDACTED 17. REDACTED 18. REDACTED 19. REDACTED 20. REDACTED 21. REDACTED 22. REDACTED 23. REDACTED 24. REDACTED 25. REDACTED 26. REDACTED 27. REDACTED 28. REDACTED 29. REDACTED 30. REDACTED 31. REDACTED 32. REDACTED 33. REDACTED 34. REDACTED 35. REDACTED 36. REDACTED 37. REDACTED 38. REDACTED 39. REDACTED 40. REDACTED 41. REDACTED 42. REDACTED 43. REDACTED 44. REDACTED 45. REDACTED 46. REDACTED 47. REDACTED 48. REDACTED 49. REDACTED 50. REDACTED 51. REDACTED 52. REDACTED 53. REDACTED 54. REDACTED 55. REDACTED 56. REDACTED 57. REDACTED 58. REDACTED 59. REDACTED 60. REDACTED 61. REDACTED 62. REDACTED 63. REDACTED 64. REDACTED 65. REDACTED 66. REDACTED 67. REDACTED 68. REDACTED 69. REDACTED 70. REDACTED 71. REDACTED 72. REDACTED 73. REDACTED 74. REDACTED 75. REDACTED 76. REDACTED 77. REDACTED 78. REDACTED 79. REDACTED 80. REDACTED 81. REDACTED 82. REDACTED 83. REDACTED 84. REDACTED 85. REDACTED 86. REDACTED 87. REDACTED 88. REDACTED 89. REDACTED 90. REDACTED 91. REDACTED 92. REDACTED 93. REDACTED 94. REDACTED 95. REDACTED 96. REDACTED 97. REDACTED 98. REDACTED 99. REDACTED 100. REDACTED 101. REDACTED 102. REDACTED 103. REDACTED 104. REDACTED 105. REDACTED 106. REDACTED 107. REDACTED 108. REDACTED 109. REDACTED 110. REDACTED 111. REDACTED 112. REDACTED 113. REDACTED 114. REDACTED 115. REDACTED 116. REDACTED 117. REDACTED 118. REDACTED 119. REDACTED 120. REDACTED 121. REDACTED 122. REDACTED 123. REDACTED 124. REDACTED 125. REDACTED 126. REDACTED 127. REDACTED 128. REDACTED 129. REDACTED 130. REDACTED 131. REDACTED 132. REDACTED 133. REDACTED 134. REDACTED 135. REDACTED 136. REDACTED 137. REDACTED 138. REDACTED 139. REDACTED 140. REDACTED 141. REDACTED 142. REDACTED 143. REDACTED 144. REDACTED 145. REDACTED 146. REDACTED 147. REDACTED 148. REDACTED 149. REDACTED 150. REDACTED 151. REDACTED 152. REDACTED 153. REDACTED 154. REDACTED 155. REDACTED 156. REDACTED 157. REDACTED 158. REDACTED 159. REDACTED 160. REDACTED 161. REDACTED 162. REDACTED 163. REDACTED 164. REDACTED 165. REDACTED 166. REDACTED 167. REDACTED 168. REDACTED 169. REDACTED 170. REDACTED 171. REDACTED 172. REDACTED 173. REDACTED 174. REDACTED 175. REDACTED 176. REDACTED 177. REDACTED 178. REDACTED 179. REDACTED 180. REDACTED 181. REDACTED 182. REDACTED 183. REDACTED 184. REDACTED 185. REDACTED 186. REDACTED 187. REDACTED 188. REDACTED 189. REDACTED 190. REDACTED 191. REDACTED 192. REDACTED 193. REDACTED 194. REDACTED 195. REDACTED 196. REDACTED 197. REDACTED 198. REDACTED 199. REDACTED 200. REDACTED 201. REDACTED 202. REDACTED 203. REDACTED 204. REDACTED 205. REDACTED 206. REDACTED 207. REDACTED 208. REDACTED 209. REDACTED 210. REDACTED 211. REDACTED 212. REDACTED 213. REDACTED 214. REDACTED 215. REDACTED 216. REDACTED 217. REDACTED 218. REDACTED 219. REDACTED 220. REDACTED 221. REDACTED 222. REDACTED 223. REDACTED 224. REDACTED 225. REDACTED 226. REDACTED 227. REDACTED 228. REDACTED 229. REDACTED 230. REDACTED 231. REDACTED 232. REDACTED 233. REDACTED 234. REDACTED 235. REDACTED 236. REDACTED 237. REDACTED 238. REDACTED 239. REDACTED 240. REDACTED 241. REDACTED 242. REDACTED 243. REDACTED 244. REDACTED 245. REDACTED 246. REDACTED 247. REDACTED 248. REDACTED 249. REDACTED 250. REDACTED 251. REDACTED 252. REDACTED 253. REDACTED 254. REDACTED 255. REDACTED 256. REDACTED 257. REDACTED 258. REDACTED 259. REDACTED 260. REDACTED 261. REDACTED 262. REDACTED 263. REDACTED 264. REDACTED 265. REDACTED 266. REDACTED 267. REDACTED 268. REDACTED 269. REDACTED 270. REDACTED 271. REDACTED 272. REDACTED 273. REDACTED 274. REDACTED 275. REDACTED 276. REDACTED 277. REDACTED 278. REDACTED 279. REDACTED

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|                                                                                                |                                                                              |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <p><i>William L. Hines</i></p> <p>WILLIAM L. HINES</p> <p>1914-15, 1915-16</p>                 | <p><i>Harvey P. Hines</i></p> <p>HARVEY P. HINES</p> <p>1916-17, 1917-18</p> |
| <p><i>Franklin L. Hines</i></p> <p>FRANKLIN L. HINES</p> <p>1918-19, 1919-20</p>               | <p><i>Samuel P. Hines</i></p> <p>SAMUEL P. HINES</p> <p>1920-21, 1921-22</p> |
| <p><i>Robert L. Hines</i></p> <p>ROBERT L. HINES</p> <p>1922-23, 1923-24, (2 years prison)</p> |                                                                              |

STATE OF MICHIGAN  
COUNTY OF WASHTENAW  
I, \_\_\_\_\_, Clerk of said County, do hereby certify that the within and foregoing is a true and correct copy of the original of the same as the same is on file in the office of the Clerk of said County.  
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County, at Ann Arbor, Michigan, this \_\_\_\_\_ day of \_\_\_\_\_, 1926.

*Harold H. Ashby*  
Clerk of the County

WE CERTIFICATE UPON OATH, that the day and year written above, is correct.

*Harold H. Ashby*  
Clerk of the County

APPROVED BY THE TRUSTEES OF THE CITY OF TORONTO, CANADA, COMMISSIONER OF THE LAND OFFICE, ON APRIL 11, 1972, IN THE PRESENCE OF THE CLERK OF THE CITY OF TORONTO, CANADA, AT THE DEPARTMENT OF LAND AND FOREST AFFAIRS.

*David S. B. Brown* *David S. B. Brown*  
COMMISSIONER OF THE LAND OFFICE  
CLERK OF THE CITY OF TORONTO

FORWARDED BY THE BOARD OF CITY COMMISSIONERS TO THE CITY OF TORONTO, DATED 1913.22 AND BY JAMES H. 1972.

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUMNER, KANSAS THIS 1<sup>st</sup> DAY OF JULY 1975.

*Thomas M. Leland* COUNTY COMMISSIONER  
*James R. Miller* COUNTY COMMISSIONER  
*Alvin E. L.* COUNTY COMMISSIONER

Edward D. Bennett

AS THE DEEDS IN THE OFFICE OF THE BOARD COUNTY CLERK OF MOORE CO., STATE OF GEORGIA.

June 1896

\$28.00    25    127

1. *Phragmites australis* (Cav.) Trin. ex Steud.

July 2, 2012

City Clerk's Office  
215 SE 7<sup>th</sup> St.  
City Hall  
Room 166  
Topeka, KS 66603

Re: Zoning Protest Petition

To Planning Commission,

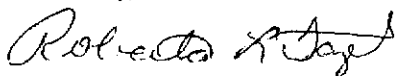
Attached to this letter are notarized petitions protesting the zoning of case number Z 12/8. Each petition represents one of our members at Curves. I know the letter doesn't have anything about business customers but they should be taken into account. Our clubs have about 400 members that will be affected by this rezoning. Because of vacations and schedules we were only able to get a portion of them.

As a business owner, the mall I am in has businesses with a general clientele of women. I feel this puts our customers at risk that could be avoided. Our Curves was beside Vern's at one time in another strip mall and it was not pleasant. We had a lot of problems during that time which we have not experienced since we moved. There are better options for the liquor store at 37<sup>th</sup> & Burlingame on the SW corner. It is vacant and for sale or lease. Better visibility and safer traffic flow.

I think there are more compatible businesses that could be on that land. Vern's Liquor has a great deal of driving traffic and walking traffic. For a road to have no turning lane and no shoulders, this is going to be very dangerous for all concerned.

Thank you for considering our protest and the importance of your decision.

Sincerely,



Roberta Fazel  
Curves-Owner  
3703 SW Burlingame Rd  
Suite 600  
Topeka, KS 66609



1813 SE 37th Street  
Topeka, Kansas

June 28, 2012

David Phurbon  
Planning Director  
620 SE Madison Ave.  
Suite 11  
Topeka, KS 66607

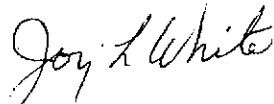
Dear Mr. Phurbon:

As an owner of CURVES located at 3703 SW Burlingame Road, I wish to protest the change in zoning for the property just west of our building. I feel the rezoning to have a liquor store is a safety issue for our ladies in the evening. When we were next to Vern's we had issues with the ladies being asked for money or for a ride. We also had problems with their trash. We would have to go and ask them to put their boxes in the trash receptacle.

I also feel that 37th Street is not equipped to handle any additional traffic. There are no turning lanes, no shoulders and no sidewalks. Vern's has a lot of walking clientele from South Park. Traffic seems to be backed up on 37th Street going west from Burlingame Road quite a bit of the time and makes it difficult to enter 37th Street. I also feel the property values in this area will be negatively impacted.

I would appreciate your considering my request and if changed to Commercial Zoning there would be a stipulation that a liquor store or convenience store would not be suitable for the location because of such an increase of traffic it would bring to the area.

Sincerely,



Joy White

July 3, 2012

David Phurbon  
Planning Director  
620 SE Madison Ave.  
Suite 11  
Topeka, KS 66607

Re: Rezoning Z 12/8 37th & Burlingame

Dear Mr. Phurbon:

As a client of the businesses, located at 3703 SW Burlingame Road, I wish to protest the change in zoning for the property just West of Curves. I feel the rezoning to have a liquor store is a safety issue for me.

I feel that 37th Street is not equipped to handle any additional traffic. There are no turning lanes, no shoulders and no sidewalks. Vern's has a lot of walking clientele from South Park. Traffic seems to be backed up on 37th Street going West from Burlingame Road quite a bit of the time and makes it difficult to exit off 37th Street to go to the current businesses. I have concerns that there will be more unknown people walking in the area and creating problems. I also feel the property values in this area will be negatively impacted.

I would appreciate your considering my request and if changed to Commercial Zoning there would be a stipulation that a liquor store or convenience store would not be suitable for the location because of such an increase of traffic it would bring to the area.

Sincerely,

*Betty M. Sanders*

(Published in the Topeka Metro News \_\_\_\_\_)

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE** introduced by Pamela S Simecka, Interim City Manager amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located on the south side of SW 37<sup>th</sup> Street approximately 400 feet west of SW Burlingame Road, from "R-1" Single-Family Dwelling District **TO** "C-2" Commercial District. **(Z12/8) (Council District No. 5)**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:**

**Section 1.** That the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be and the same is hereby amended, by reclassifying the follow described property:

**Part of Lot 3, Block A, Armstrong Plaza Subdivision located in the Northeast Quarter of Section 23, Township 12 South, Range 15 East of the 6th P.M., Shawnee County, Kansas described as follows:**

**Beginning at the Northeast corner of said Lot 3; thence on an assumed bearing of South 02 degrees 03 minutes 56 seconds East (measured), South 01 degrees 23 minutes 56 seconds East (platted) a distance of 320.00 feet (measured and platted) to the Southeast corner of said Lot 3; thence South 87 degrees 56 minutes 36 seconds West (measured), South 88 degrees 36 minutes 36 seconds West (platted), a distance of 26.50 feet; thence North 75 degrees 08 minutes 20 seconds West a distance of 212.72 feet to the West line of said Lot 3; thence North 02 degrees 03 minutes 56 seconds West (measured), North 01 degrees 23 minutes 56 seconds West (platted), a distance of 258.10 feet, (measured and platted) to the Northwest corner of said Lot 3; thence North 87 degrees 56 minutes 36 seconds East (measured), North 88 degrees 36 minutes 36 seconds East (platted) a distance of 230.00 feet (measured and platted) to the point of beginning. Containing 1.54 acres of land more or less.**

From "R-1" Single-Family Dwelling District **TO** "C-2" Commercial District.

**Section 2.** This Ordinance Number shall be fixed upon the "District Map".

**Section 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4.** 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 of the City of Topeka,

\_\_\_\_\_, 2012.

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

To Be Codified \_\_\_\_\_  
Not To Be Codified   X

**Minutes of the  
Topeka Planning Commission  
Monday, July 16, 2012**

- 1. Z12/8 by William J Armstrong & Marietta Trustees for the Marietta Armstrong Trust** requesting to amend the District Zoning Classification from "R-1" Single-Family Dwelling District **TO** "C-2" Commercial District on property located on the south side of SW 37<sup>th</sup> Street approximately 400 feet west of SW Burlingame Road. **(Driver)** Mrs. Driver explained that the Planning Department has received numerous phone calls and letters concerning the business moving into the proposed rezoning property.

**Discussion by members:** Annie Driver summarized the staff report. Mr. Lackey questioned what Linda Voss stated about the traffic.

Mrs. Driver explained that with the previous 1976 platting, there was insufficient frontage on the site to meet the 300-foot access separation rule. However, with the re-zoning, the applicant would be granted access onto SW 37<sup>th</sup> Street. This would be determined through the Site Review Plan. Mr. Hoover stated this would likely be on the western part of the property.

Mr. Lackey asked who owns the small strip of land to the west of applicant's proposed property. Mrs. Driver explained that the ownership was not determined however it is believed to have been left out of the previous plat action.

Michelle Cuevas-Stubblefield asked if the proposed property would be connected to the property on the east. Mrs. Driver stated, no.

**Proponents:** **Kevin Holland**, Cook, Flatt and Strobel Engineers, spoke in favor of the proposal. Mr. Holland gave a brief summary of the intent to open Vern's Liquor Store. Mr. Holland described the property as a 30-year old property zoned as residential. The surveyor working on this item believes the small strip of land to the west belongs to Kansas Department of Transportation (KDOT). However, it has not been claimed or used since 1976.

Mr. Holland addressed the traffic concerns by stating that Vern's Liquor Store would receive two box truck deliveries weekly, once on Tuesday and Thursday in the morning. The plans for the location would accommodate the size of truck delivering. Mr. Holland explained that the location is anticipating 60-70 vehicles daily. Previous records indicate the billiard sales to the west of the property received 40-50 vehicles daily. Further west, Maximus-Wood Valley Fitness Center is handling well above the 70 vehicles a day. Traffic incident reports for the area are minimal. Due to the roadways being rural by nature, sidewalks are non-existent and there is no intention of expecting additional pedestrian traffic. The entrance to the business on the proposed property will be on the west side of the site, due to storm water drainage.

Mr. Holland explained safety is always an issue. Vern's, the business proposed property for this site, has had three robberies in 22 years at its current location. Mr. Holland

explained that the business will have a new structure, in lieu of the previous strip mall location.

Mr. Lackey asked about the drainage going to South. Mr. Holland stated it needs a drainage report, which will be obtained through the building permit. However, there will be adjacent drainage pushed to the south with theirs going to the west.

June Ewing asked about a berm for a buffer along the east. Mr. Holland stated it was explored and their plan was for trees and vegetation for the buffer.

Mr. Lackey asked if the new property was lower than the properties to the east. Mr. Holland stated it was.

Mr. Holland added that it was not cost effective to purchase and develop the property to the west that was zoned commercial due to the age and condition of the building. It would cost more to demolish and rebuild than to use this property.

**Opponents: Roberta Fazel**, Co-owner of Curves Fitness, spoke on behalf of opposition. Mrs. Fazel stated there is a concern with traffic congesting all the way to beyond the I-470 overpass. Mrs. Fazel is concerned that Vern's Liquor Store clientele will also include pedestrians but the area does not have sidewalks. This presents a concern with safety. Additionally, due to the majority of Curves customers being women, many are concerned when using the fitness facility during the hours of darkness. Previously when Curves was located across the street close to Vern's Liquor Store, Vern's customers have approached Curve members for money and transportation.

Mrs. Fazel stated that delivery trucks are currently an issue at the strip mall. Other businesses are concerned about this type of business moving into the area. Mrs. Fazel suggested the Planning Commission question why Vern's Liquor is moving to the new location.

**Karen Exson**, President of the Mayfair Condominium Homeowners Association, spoke on behalf of opposition. Mrs. Exson explained the Homeowners Association consists of 34 homes and approximately 70 vehicles. Mrs. Exson explained that her concern is the increased commercial traffic will cause additional issues of access for the residents of Mayfair Condominiums. Additional traffic with no improved roads or access for pedestrians is a safety concern during the afternoon and evenings.

Mr. Lackey asked about the location of the entrances to the Mayfair Condominiums. Mrs. Exson explained there is an additional entrance on both Burlingame and 37<sup>th</sup> Street. She explained it is a horseshoe-shaped community. Most residents use the 37<sup>th</sup> Street entrance.

Mr. Lackey proposed putting issue Z12/28 to vote on Monday 7/23/12 at the Planning Commission Policy meeting. Planning Commission members reached a consensus. Mr. Lackey announced the meeting is at 620 SE Madison in the Cyrus K. Holliday building at 5:30 pm

Brettt Klausman moved approval, seconded by Scott Gales. **APPROVAL. (7-0-0)**



# CITY OF TOPEKA

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PLANNING DEPARTMENT  
620 SE Madison Street, Unit 11  
Topeka, Kansas 66607-1118  
Tel.: (785) 368-3728  
Fax: (785) 368-2535

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## MEMORANDUM

**To:** Honorable William W. Bunten and Members of the Topeka City Council  
Pam Simecka, Interim City Manager

**From:** Annie Driver, AICP, Planner II

**Re:** Z12/8 by: William J. & Marietta Armstrong Trustees

**Date:** July 31, 2012

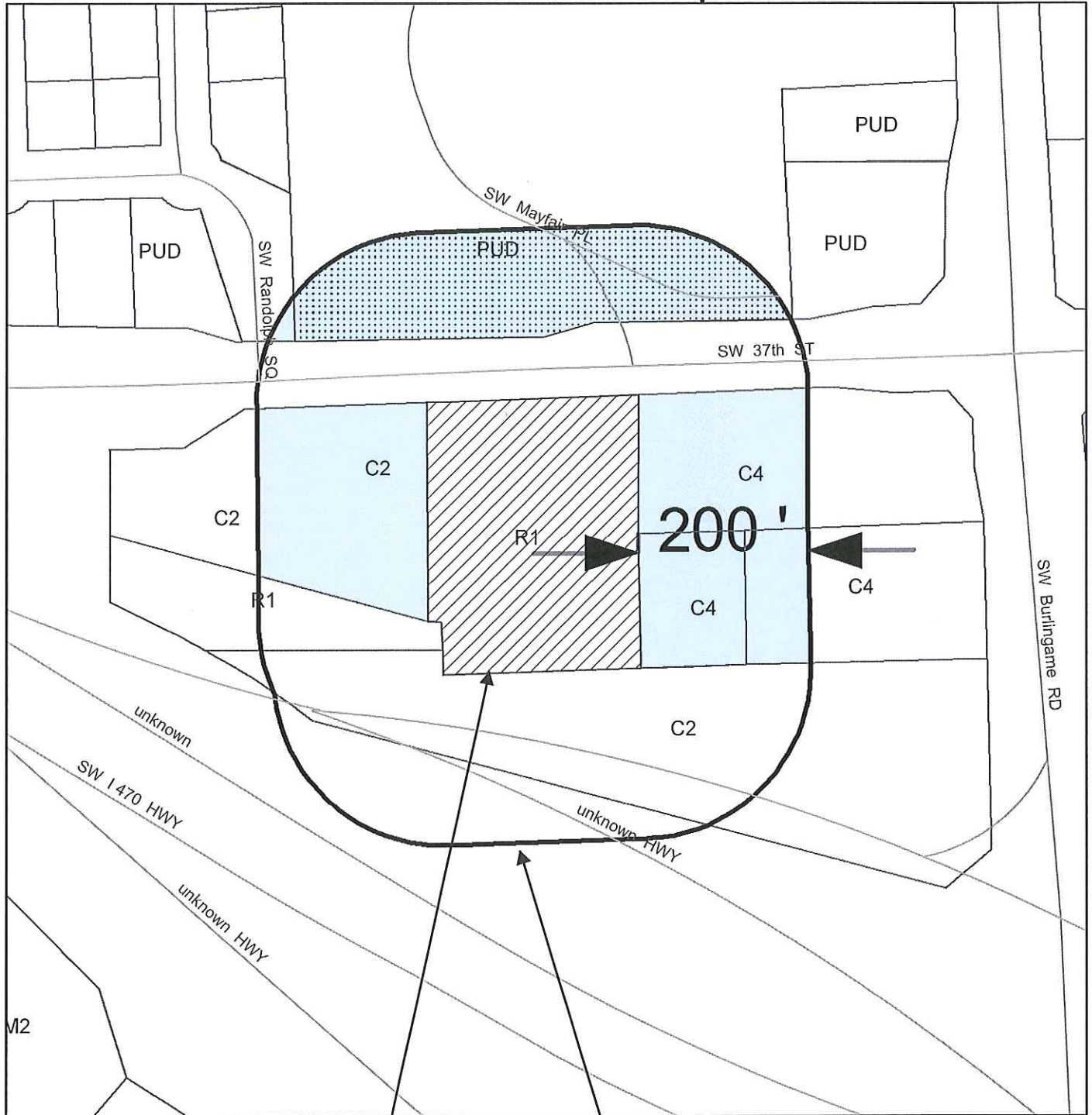
Please be advised that a protest petition has been filed by the July 30, 2012 deadline regarding the above mentioned zoning proposal. The extent of the protest constitutes **35.6%** of the required notification area, excluding rights-of-way. Since the extent of the protest exceeds 20% of the notification area, the zoning proposal cannot be passed except by at least a three-fourths majority vote (8 of 10) of all members of the Governing Body pursuant with K.S. A. 12-757(f)(1). Further, matters shall only be considered when **all** members are present. Accordingly, the Governing Body may:

1. **Adopt** the recommendation of the Planning Commission by Ordinance, subject to a three-fourths majority vote of the Governing Body (8 of 10) and override the protest.
2. **Reject or amend** the recommendation of the Planning Commission by a two-thirds majority vote of the Governing Body (7 of 10).
3. **Return** such recommendation back to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

Enclosed is a copy of the protest area map, protest area computations, minutes of the Mayfair Homeowner's Association and protest petition.

# Z12/8 By William J & Marietta Armstrong Trustees

## Protest Area Map



Requested Area

Notification Area

### Legend

-  Protest Area (35.6%)
-  Net Area



## LEGAL PROTEST COMPUTATIONS

TOTAL AREA ..... 431,231.54 sq. ft.  
LESS REQUEST AREA ..... 79,316.74 sq. ft.  
LESS R/W AREA ..... 179,863.21 sq. ft.  
NET AREA ..... 172,051.59 sq. ft.  
PROTEST AREA ..... 61,295.00 sq. ft.

$$\frac{\text{PROTEST AREA}}{\text{NET AREA}} = \underline{0.356 = 35.6\%}$$

# Mayfair Condominium Homeowners' Association Board of Directors Meeting

## Preliminary Minutes

July 18, 2012

The Mayfair Board of Directors convened at 7:00 pm on July 18, 2012, in the Mayfair clubhouse (2301). In attendance were Boley, Efird, Exon, and Maxwell. Dean Carlson was absent.

### General Business

The Minutes of the June 18, 2012, and June 27, 2012, board meetings were approved as submitted by consensus of the four directors present.

**Financial Report.** Treasurer Maxwell summarized the 6-months' revenues and expenditures for the period ending June 30, 2012. On a motion by Boley, seconded by Efird, the financial statement was accepted as presented. Managing monthly cash flow during the last six months of the budget year will continue to require careful management practices to be continued by the Board this year.

**Previous Business by Email Reported.** The Board received email communications after the June 27, 2012 meeting from President Exon regarding a lease and two sales of residences that were approved by email responses from all board members. The Board of Directors reports those actions in order to place a record of the transactions in the Minutes.

Jim Seltsam (2327) contacted me to request that the Mayfair BOD waive our right of first refusal to allow a lease of his Mayfair unit. The prospective tenants are Thomas and Kathleen Shepard. The terms of the lease are: to begin July 15 and end December 31, 2012 in the amount of \$1550 per month rent. The Shepards have sold their Lake Sherwood home and are in the process of building in West Hills—hence the short term of the lease. I “move” that the Mayfair BOD waive its right under our Covenants and Restrictions to first refusal and allow this lease to consummate. Your vote of “yes” will support the motion. Your vote of “no” would mean that you want the Mayfair BOD to lease the unit at 2327 per the terms of the proposed lease. All five members of the board voted “yes” by email in this case.

Dave Carnahan (2323) informed President Exon that there was a three-way real estate transaction that involved two Mayfair properties: the Carnahan unit at 2323 and the Pam Becker unit at 2321.

#1. Dave and Ann Carnahan are selling 2323 in the amount of \$167,500 to Linda Fund, to close July 30. Capital Title is the closing company. A vote of “Yes” means that you vote to waive the Mayfair BOD “right of first refusal” so that we do not have to buy the unit. A vote of “No” means that you want the Mayfair BOD to buy 2323.

#2. Pam Becker is selling 2321 in the amount of \$185,000 to Dave and Ann Carnahan to close July 30. Lawyers Title is the closing company. A vote of “Yes” means that you support waiving the Mayfair BOD “right of first refusal.” A vote of “No” means that you want the Mayfair BOD to buy 2321.

All five members of the board voted “yes” by email response in both case #1 and case #2.

**Re-Zoning Case for Vacant Land on SW 37<sup>th</sup> Street.** President Exon reported on a meeting of the Topeka Planning Commission held Monday, July 16, 2012, for the purpose of holding a public hearing on the re-zoning case. A number of concerned Mayfair residents also attended the meeting. The proposed zoning change would be from R-1 residential use to C-2 commercial use in order to accommodate a liquor store to be built. President Exon presented testimony regarding the Mayfair concerns and issues raised by the proposed re-zoning that were discussed at the Mayfair Condominium Homeowners' Association special meeting of June 27, 2012. The Topeka Planning Commission concluded its public hearing as required by law, but took no further action due to a lack of voting quorum. The next scheduled meeting of the Commission will be on Monday, July 23, 2012, at 5:30 pm in Cyrus K. Holiday Building where a possible re-zoning vote may take place. President Exon indicated she planned to attend, along with any other concerned Mayfair residents who wished to be present for a possible vote.

On a motion by Maxwell, seconded by Boley, the Board directed President Exon to sign and send the official protest petition on behalf of the Mayfair Board of Directors opposing the re-zoning for the property south of the SW 37th Street Mayfair gates. Motion approved 4-0.

#### **Repair and Maintenance**

**Water Level in Lower Pond.** President Exon reported that the lower pond is getting perilously low and there is an urgent need to add water within the next two days. Discussion focused on the possibility that it may be least expensive to do so via the fire hydrant outside the fence nearest to the pool. The management company will be asked to investigate. In the meantime, the Board asked that water be added using the garden hose from next to the clubhouse.

**Road Repairs.** On a motion by Efird, seconded by Boley, the Board voted 4-0 to accept the bid from All American Asphalt & Construction to "remove and replace damaged asphalt in 5 locations" for \$6775.00.

**Long-Term Maintenance.** Work started on 2320 and 2318 replacing rotten exterior siding and other wood. The Board will review the expenses for that phase of this year's maintenance project before work will begin on 2316 and 2314 in order to management cash flow.

**Lawn Cutting.** The Board by consensus agreed to skip the Wednesday, July 25, 2012 mowing, edging, and trimming. With the long-range weather forecast for 100 degree days with no rain, this action will save budgeted funds for other purposes, if needed.

**Sewer Line Replacement.** Work is scheduled on replacing clay pipe at 2322 and 2324 at the owners' expense per the precedent established in previously adopted policy regarding sewer line replacements.

The next Board meeting is scheduled for Monday, August 13 at 7:00pm in the clubhouse. Budget-making for 2013 will be undertaken in preparation for the Annual HOA Meeting in September, 2012. The meeting was adjourned at 8:10 p.m.

Prepared by Julian Efird, Secretary

Approved: \_\_\_\_\_

**ZONING AMENDMENT PROTEST PETITION**  
**CITY OF TOPEKA, KANSAS**

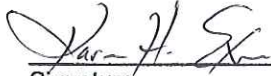
**SECTION I**

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) Z 12/8 requesting a zoning classification change FROM R-1 Single Family District TO C-2 Commercial District and located at/about South side of SW 37th; 400' West of 37th & Burlingame Rd in the City of Topeka, Kansas.

**SECTION II—Protestor(s)**

**NAME(s)**

**ADDRESS & LEGAL DESCRIPTION  
OF PROTESTER'S PROPERTY**

  
Signature

| Lot                            | Block | Addition | Street & No.          |
|--------------------------------|-------|----------|-----------------------|
| SEE ATTACHED LEGAL DESCRIPTION |       |          | 2301 SW Mayfair Drive |
|                                |       |          | 66611                 |

KAREN A. EXON, PRESIDENT  
Typed or Printed Name

MMFAIR  
CONDOMINIUM HOA, INC.

\_\_\_\_\_  
Signature

| Lot | Block | Addition | Street & No. |
|-----|-------|----------|--------------|
|-----|-------|----------|--------------|

\_\_\_\_\_  
Typed or Printed Name

**ACKNOWLEDGEMENT**

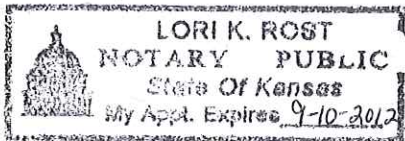
STATE OF KANSAS )

COUNTY OF SHAWNEE) ss

Be it remembered that on this 19th day of July, 20 12, before me a Notary Public in and for said County and State, came Karen H Exon

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Lori K. Rost  
Notary Public

My Commission Expires 9-10-2012

**ALL SIGNATURES MUST BE ACKNOWLEDGED**

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

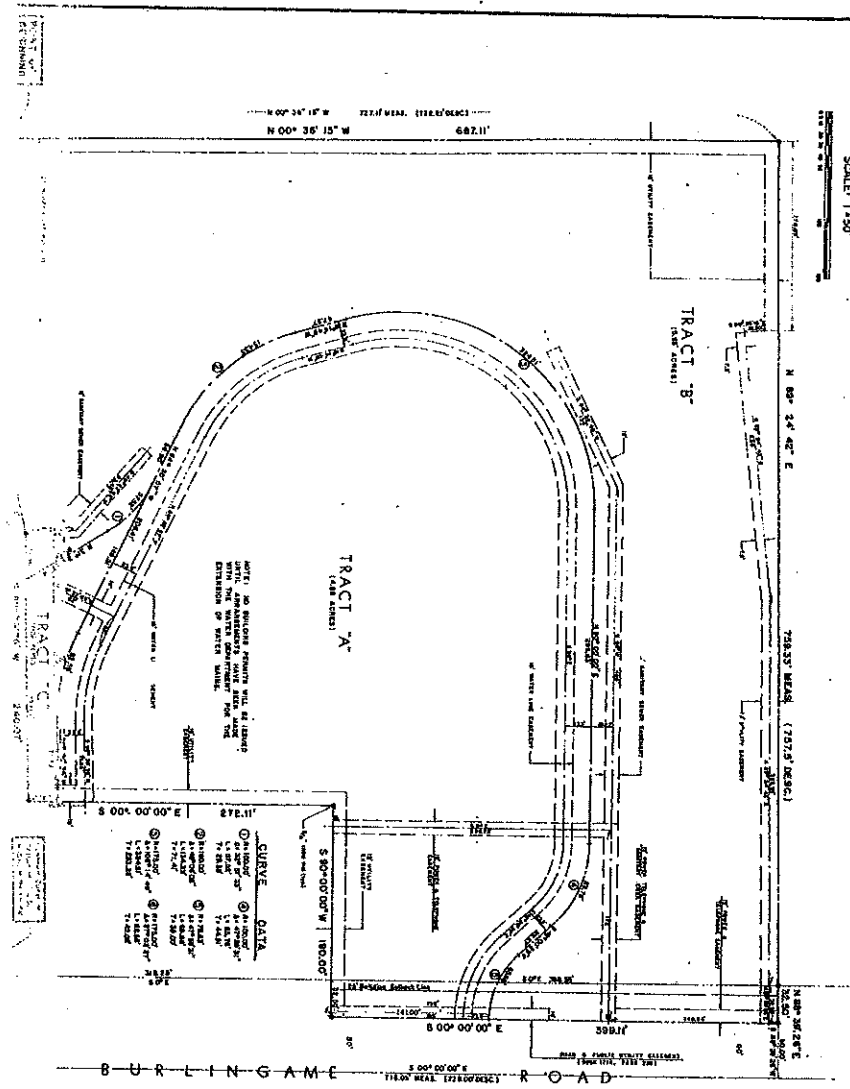
RECEIVED  
CITY CLERK

2012 JUL 19 P 2:38  
TOPEKA, KANSAS

# A FINAL PLAT OF MAYFAIR SUBDIVISION

A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4  
OF SECTION 14-12-15 AND IN THE SOUTHWEST 1/4 OF  
SECTION 13-12-15 CITY OF TOPEKA, SHAWNEE COUNTY K.S.,  
BEING A RE-PLAT OF BURLINGAME PLAZA SUBDIVISION  
EXCEPT  
LOT 6 BLOCK "C" AND BURLINGAME PLAZA SUBDIVISION  
NO. 2 EXCEPT LOT 8 BLOCK "C" ALSO VACATED WAYNE  
AVENUE AND VACATED WEST 36TH STREET PLAZA.

|       |   |        |    |        |     |      |
|-------|---|--------|----|--------|-----|------|
| 52774 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52775 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52776 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52777 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52778 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52779 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52780 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52781 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52782 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |
| 52783 | A | 106.20 | 14 | 155.00 | 0.7 | 0.01 |



LEGAL DESCRIPTION  
A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 14-12-15 AND IN THE SOUTHWEST 1/4 OF SECTION 13-12-15 CITY OF TOPEKA, SHAWNEE COUNTY K.S., BEING A RE-PLAT OF BURLINGAME PLAZA SUBDIVISION EXCEPT LOT 6 BLOCK "C" AND BURLINGAME PLAZA SUBDIVISION NO. 2 EXCEPT LOT 8 BLOCK "C" ALSO VACATED WAYNE AVENUE AND VACATED WEST 36TH STREET PLAZA.

APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF TOPEKA, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
Mayor

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
County Commissioner

APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF TOPEKA, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
Mayor

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE, KANSAS, THIS 23rd day of April, 1972.  
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APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF TOPEKA, KANSAS, THIS 23rd day of April, 1972.  
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APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
County Commissioner

APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF TOPEKA, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
Mayor

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE, KANSAS, THIS 23rd day of April, 1972.  
*James H. Hinkle*  
County Commissioner

# MINUTES

## TOPEKA PLANNING COMMISSION - POLICY

Monday, July 23, 2012

Holliday Building, 620 SE Madison, 1<sup>st</sup> floor Holliday Conference Room

### A. Roll Call:

**Members Present:** Richard Beardmore, Kevin Beck, Michelle Cuevas-Stubblefield, Scott Gales, Peter Hancock, Brett Klausman, and Mike Lackey-Chairman (7).

**Members Absent:** Junie Ewing and Dennis Haugh (2).

**Staff Present:** Mary Feighny-Deputy City Attorney, Bill Fiander-Deputy Planning Director, Bill Hoover-Planner III, David Thurbon-Planning Director and Chris Wickline – Office Specialist.

### B. Approval of June 25, 2012 minutes

Michelle Cuevas-Stubblefield moved to approve, seconded by Richard Beardmore.

**APPROVAL. (7-0-0)**

### C. Z12/8 by William J Armstrong & Marietta Trustees for the Marietta Armstrong Trust

Bill Hoover provided the history of this project, explaining the request is to amend the District Zoning Classification from “R-1” Single-Family Dwelling District **TO** “C-2” Commercial District on property located on the south side of SW 37<sup>th</sup> Street approximately 400 feet west of SW Burlingame Road.

David Thurbon asked the Planning Commission if they had received the communications from Mary Feighny. All members of the Planning Commission stated they had and had no questions.

Peter Hancock questioned if a protest petition had been received regarding the zoning.

Mrs. Feighny asked Karen Exon, President of the Mayfair Homeowner’s Association, if she had filed one. Mrs. Exon stated yes.

Mr. Thurbon stated that any petition only affects the City Council.

Mr. Hancock asked what the basis of the protest petition was. Mrs. Feighny stated it was primarily a traffic concern.

Mr. Hancock asked if there were any future plans to improve or widen 37<sup>th</sup> Street.

Mr. Thurbon stated there are no immediate plans for improvement.

Mr. Lackey stated that property is intended to be used as for a liquor store. He questioned if there were additional plans with the remaining property of the two acre site.

Kevin Holland, Cook, Flatt and Strobel Engineers, spoke on behalf of the applicant. Mr. Holland stated that the liquor store building would be on the north end and take up about one acre.

Mr. Hancock asked what the total retail square footage was. Mr. Holland stated 4,000 square feet. He further explained this area includes storage and a cooler.

Mr. Lackey stated that the primary concern initially was overloading traffic on the 37<sup>th</sup> street arterial. Additional concerns include the effect on the neighborhood and communities that use 37<sup>th</sup> Street. In light of additional information provided by the Legal Office referring to the Golden and Taco Bell court case; this is no longer a concern of his.

Peter Hancock asked if there were traffic counts taken. Mr. Lackey stated, no, but Mr. Holland had provided traffic generation numbers at the July 16, 2012 Planning Commission Meeting, which was about 60 customers per day.

Michelle Cuevas-Stubblefield asked if traffic indicators could be a deciding factor. Mrs. Feighny stated only if the traffic generated was a significant amount.

Richard Beardmore asked what the estimated amount of traffic daily was. Mr. Holland stated approximately 60 clients daily. Mr. Hoover clarified that 60 clients is equivalent to 120 trips daily.

Mr. Lackey stated that the co-owner of Curves was concerned with the clientele of Vern's Liquor Store.

Mr. Thurbon stated that the Planning Commission is voting in regards to re-zoning to C-2, Commercial, not the establishment of a particular business.

Brett Klausman moved approval, seconded by Scott Gales.

**APPROVAL. (7-0-0)**

#### **D. Discussion items**

1. **Draft Ordinance** - David Thurbon said he is going to distribute a draft ordinance to the Planning Commission drawn up by Mary Feighny concerning boarded-up buildings. Mr. Thurbon is asking that Planning Commission review the draft and be prepared to discuss at the August Planning Commission Meeting. This document will be emailed to the members
2. **Topeka City Code Chapter 2.65 (Planning Commission)** - David Thurbon explained that each Planning Commission member has received a copy of their attendance for 2012. Mr. Thurbon further explained that there are requirements for attendance and reporting to the City Council.

**E. Smart Growth** – Bill Fiander gave an overview of June 27-28 EPA/Bay Area Economics Consultants workshop presentations. Included in this presentation were ideas presented for initiatives to begin Smart Growth for Topeka. Mr. Thurbon stated that this process could lead to an update of the Land Use and Growth Management Plan.

**F. Adjournment at 6:47 PM.**

DRAFT



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[www.topeka.org](http://www.topeka.org)

## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

July 13, 2012

Back Print

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|                       |                                                         |             |             |
|-----------------------|---------------------------------------------------------|-------------|-------------|
| DATE:                 | August 28, 2012                                         |             |             |
| CONTACT PERSON:       | Michelle Neiswender -<br>Wastewater Engineer            | DOCUMENT #: |             |
| SECOND PARTY/SUBJECT: | Oakland Secondary<br>Digester Lid<br>Replacement        | PROJECT #:  | T-291023.00 |
| CATEGORY/SUBCATEGORY  | 014 Ordinances – Non-Codified / 004 Public Improvements |             |             |
| CIP PROJECT:          | No                                                      |             |             |
| ACTION OF COUNCIL:    |                                                         | JOURNAL #:  |             |
|                       |                                                         | PAGE #:     |             |

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### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by City Manager Jim Colson, authorizing Improvement Project No. T-291023.00 for secondary digester lid replacements at the Oakland Wastewater Treatment Plant, approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1, and authorizing the borrowing of funds from the KDHE SRF Loan to pay the cost thereof. First Reading.

**Voting Requirement:** Two-thirds vote of the Governing Body, including the Mayor.

*(Approval would authorize \$5,976,053 for the replacement of three Secondary Digester Lid Replacements at the Oakland Wastewater Treatment Facility. The debt service for the project cost would be paid with utility operating funds.)*

### POLICY ISSUE:

To authorize the project and the expenditure of money to replace all three secondary digester lids prior to failure which will allow the City to remain in compliance with KDHE regulatory requirements.

### STAFF RECOMMENDATION:

Item #19

Staff recommends approval of the project and ordinance as presented.

**BACKGROUND:**

One of the three Secondary Digester Lids at the Oakland Wastewater Treatment Facility has deteriorated to the point of structural failure. This prompted hiring a consulting firm to evaluate the failure and the condition of the two remaining operational Secondary Digester Lids and to propose solutions. After a thorough evaluation, the Consultant presented two options to the City:

- 1) Replacement of the failed Digester Lid
- 2) Replacement of all three Digester Lids which would result in a minimum estimated savings of \$482,000 if all three lids were done concurrently instead of separately.

This project will replace the lids on all three Anaerobic Digesters. It will be more cost effective to replace all three lids now as well as reducing the risk of noncompliance with the City NPDES permit should the other digester lids fail.

**BUDGETARY IMPACT:**

Project budget \$5,976,053. Debt service to be paid from Utility Operating Funds.

**SOURCE OF FUNDING:**

Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes. Currently not in adopted CIB.

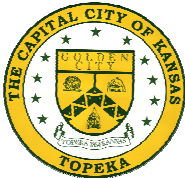
**ATTACHMENTS:**

[Fact Sheet](#)

[Project Budget and Debt Service](#)

[Notice of Intent](#)

[Ordinance](#)



## FACT SHEET

**Project Number T-291023.00**

**Oakland Secondary Digester Lid Replacement**

**Oakland Wastewater Treatment Plant - 1115 NE Poplar Street**

**June 30, 2012**

**Prepared by:** Don Rankin, Director Utilities Infrastructure Division

**Scope:** Design and construct replacement Secondary Floating Digester Lids to support the Anaerobic Digestion process at the Oakland Wastewater Treatment Plant.

**Design by:** CDM Smith, Inc

**Contractor:** To be determined by competitive bid.

### **Cost &**

**Financing:** Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes, or Kansas Department of Health and Environment SRF Loan

Project Budget - \$5,976,053

Currently not in the adopted CIB.

**Schedule:** Design fall 2012. Construction spring 2013.

**Background:** The Secondary Floating Digester Lids are a part of the wastewater treatment process called Anaerobic Digestion (AD). AD is the treatment of organic material under anaerobic conditions, that is, in the absence of air. The digestion process involves microbial degradation of material similar to composting. The outputs from AD systems are biogas and a solid residual.

- Biogas is mostly methane and carbon dioxide, with the most useful component being methane which can be used to generate power.
- The residual is called digestate which is a solid material similar to compost. The digestate is dried and then applied to land.

The Floating Digester Lids in the AD process are what create the absence of oxygen and collect the biogas. The City has 3 Anaerobic Digesters at the Oakland Wastewater Treatment Facility. Currently, one Anaerobic Digester out of service because it's digester lid has a structural failure which resulted in instability and some gas leakage. The lids on the remaining two Anaerobic Digesters are in poor shape and structural failure is likely within 3 to 5 years.

The project started as a result of the failure in one of the Floating Digester Lids. This prompted hiring CDM Smith consulting firm to evaluate the failure, the condition of the two remaining operational Digester Lids, and to propose solutions. After a thorough evaluation, they presented two options to the City:

- 1) Replacement of the failed Digester Lid

- 2) Replacement of all three Digester Lids which would result in a minimum estimated savings of \$482,000 if all three lids were done concurrently instead of separately.

**Project**

**Description:** The project will replace the lids on all three Anaerobic Digesters. Because it will be more cost effective to replace all three lids now as opposed to waiting for the likely failure in the remaining two digester lids. The electrical and control systems for each Digester will also be replaced.

The consulting firm of CDM Smith has already been hired. Upon approval of this project, CDM Smith will commence design of the replacement Digester Lids, the project will be bid for construction. It is anticipated the project will be completed in 2013.

**PROJECT BUDGET**  
**Project No. T-291023.00**  
**OWWTP - Secondary Digester Lid Replacement**

**LOCATION:**

The project is located at the Oakland Wastewater Treatment Plant 1115 NE Poplar Street.

**DESCRIPTION OF PROJECT:**

This project is for the design, and replacement of all three Secondary Floating Digester Lids at the Oakland Wastewater Treatment Plant. Including all electrical, instrumentation and control equipment, procurement of long lead items and reveiw and investigation of gas production capacity.

Currently Secondary Digester No. 1 was taken out of service due to the deterioration of the floating steel cover, which resulted in instability and some gas leakage. With this digester out of service, the WWTP's solids processing capacity and redundancy capabilities are being compromised.

**SOURCE OF FUNDS:**

Utility Operation Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes, Kansas Department of Health and Environment SRF Loan or any other legally available funds.

Currently not in the adopted CIB

|                                     | <b>Proposed</b>    |               | <b>Total</b>       |
|-------------------------------------|--------------------|---------------|--------------------|
| <b><u>COST ESTIMATE:</u></b>        |                    |               |                    |
| Construction:                       | \$4,445,000        | \$0.00        | \$4,445,000        |
| Design:                             | \$444,500          | \$0.00        | \$444,500          |
| Construction Service Fees:          |                    |               |                    |
| <i>Construction Staking (5%)</i>    | \$0                | \$0.00        | \$0                |
| <i>Construction Inspection (8%)</i> | \$355,600          | \$0.00        | \$355,600          |
| <i>City of Topeka Admin. (2%)</i>   | \$0                | \$0.00        | \$0                |
| <i>Geotechnical Report</i>          | \$0                | \$0.00        | \$0                |
| Right-of Way Acquisition:           | \$0                | \$0.00        | \$0                |
| Property Acquisition                | \$0                | \$0.00        | \$0                |
| Contingency Amount:                 | \$351,200          | \$0.00        | \$351,200          |
| Temporary Note Interest             | \$181,055          | \$0.00        | \$181,055          |
| COI (2%)                            | \$103,460          | \$0.00        | \$103,460          |
| Bond Reserve (10%)                  | \$95,238           | \$0.00        | \$95,238           |
| <b>Total:</b>                       | <b>\$5,976,053</b> | <b>\$0.00</b> | <b>\$5,976,053</b> |

**PUBLIC HEARING:****PROJECT AUTHORITY:**

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

**PROJECT ENGINEER:**      Michelle Neiswender P.E. \_\_\_\_\_

## Oakland WWTP - Biofilter

## PROJECT:

|                                                |                                                           |
|------------------------------------------------|-----------------------------------------------------------|
| Interest rate                                  | 5.00%                                                     |
| Number of Years                                | 30                                                        |
| Cost of Issuance                               | 2.00%                                                     |
| Bond Reserve                                   | 10.00%                                                    |
| Temp Note interest                             | 3.500%                                                    |
| Principal                                      | <span style="border: 1px solid black;">\$5,173,000</span> |
| Bond Reserve                                   | \$517,300                                                 |
| Plus Temp Note Interest                        | \$181,055                                                 |
| Plus Cost of Issuance                          | <u>\$103,460</u>                                          |
| <b>Total Project Budget</b>                    | <b>\$5,974,815</b>                                        |
| Annual Debt Service                            | <b>\$388,670</b>                                          |
| Annual Debt Service as Percent of Total        | 6.5%                                                      |
| Total Debt Service (principal and interest)    | \$11,660,109                                              |
| Difference Project Cost and Total Debt Service | \$5,685,294                                               |

(Published in the Topeka Metro News \_\_\_\_\_)

## NOTICE OF INTENTION

NOTICE OF INTENTION of the governing body of the City of Topeka, Kansas, to make improvements under Improvement Project No. T-291023.00 which provides for secondary digester lids replacements at the Oakland Wastewater Treatment Plant and to use utility operation funds, and to issue and sell revenue bonds of said City pursuant to K.S.A. 10-101 and 10-1201, *et seq.*, and all amendments thereto, and to issue general obligation bonds pursuant to City of Topeka Code § A12-1, and to borrow funds from the Kansas Department of Health and Environment, or any combination thereof, to pay the cost of the project.

Notice is hereby given that as provided by Ordinance No. \_\_\_\_\_ of the City of Topeka, Shawnee County, Kansas, (the "City") that the Governing Body of the City intends to make improvements to the City-owned water, water pollution control, and stormwater utility system (the "System") under Improvement Project No. T-281049.00 which provides for the design and replacement of three secondary digester lids. This project will include, but is not limited to, design and replacement of the lids including all electrical, instrumentation and control equipment, procurement of long lead items and review and investigation of gas production capacity and related appurtenances for a complete project (the "Project").

Notice is further given that as provided by Ordinance No. \_\_\_\_\_ of the City, the Governing Body of the City intends to issue and sell one or more separate series of revenue bonds of the City pursuant to K.S.A. 10-1201 *et seq.* and all amendments thereto, and/or to issue general obligation bonds pursuant to City of Topeka code § A12-1, and/or to borrow funds from the Kansas Department of Health and Environment State Revolving Loan Fund, or any combination thereof, payable from revenues of the System, in an

32 aggregate principal amount not to exceed five million nine hundred seventy-six thousand  
33 fifty-three dollars (\$5,976,053.00) and to so improve the System and make public  
34 improvements to the City by completing the Project.

35 Unless written protests against the proposed Project signed by not less than twenty  
36 percent (20%) of the qualified electors of the City are filed with the City Clerk within fifteen  
37 (15) days after the publication of this Notice, the Governing Body will proceed in  
38 accordance with the intention as set forth above to complete the Project and issue and sell  
39 its revenue bonds and/or general obligation bonds and/or borrow funds from the Kansas  
40 Department of Health and Environment, payable from revenues of the System as above  
41 stated.

42 Done by order and direction of the Governing Body of the City of Topeka, Shawnee  
43 County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

44 CITY OF TOPEKA, KANSAS

45  
46  
47  
48 \_\_\_\_\_  
49 William W. Bunten, Mayor

50 ATTEST:

51  
52  
53  
54 \_\_\_\_\_  
55 Brenda Younger, City Clerk

1 (Published in the Topeka Metro News \_\_\_\_\_)

2  
3 ORDINANCE NO. \_\_\_\_\_

4  
5 AN ORDINANCE introduced by City Manager Jim Colson, authorizing Improvement  
6 Project No. T-291023.00 for secondary digester lid replacements at  
7 the Oakland Wastewater Treatment Plant, approving cost estimates  
8 of the proposed improvements, and doing all other things necessary  
9 and incidental thereto, and authorizing the use of utility operation  
10 funds, authorizing the publication of the Notice of Intention of the  
11 governing body of the City of Topeka, Kansas, to issue and sell  
12 revenue bonds of said City to make such improvements which  
13 constitutes improvements to the municipally owned water, water  
14 pollution control, and stormwater utility system of the City of Topeka,  
15 Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, *et*  
16 *seq.*, and all amendments thereto, authorizing issuance of general  
17 obligation bonds to pay the costs of the project which further  
18 constitutes a general improvement to the City's sanitary and/or  
19 stormwater and sewage disposal system pursuant to City of Topeka  
20 Code § A12-1, and authorizing the borrowing of funds from the KDHE  
21 SRF Loan to pay the cost thereof.  
22

23 WHEREAS, the City is a municipality as defined by K.S.A. 10-101 and 10-1201 *et*  
24 *seq.* and all amendments thereto; and

25 WHEREAS, the City is authorized by the laws of the State of Kansas to issue and  
26 sell revenue bonds of the City for the improvement of its water, water pollution control, and  
27 stormwater utility system (the "System") pursuant to K.S.A. 10-1201 *et seq.* and all  
28 amendments thereto; and

29 WHEREAS, it is deemed by the governing body of the City to be necessary and  
30 advisable that the City to improve its System by replacing all three secondary floating  
31 digester lids at the Oakland Wastewater Treatment Plant and any related appurtenances  
32 needed for a complete project and doing all things necessary and incidental thereto (the  
33 "Project") and that the preliminary plans, specifications and cost estimates for the Project  
34 heretofore duly prepared and filed in the office of the City Clerk of said City, which

estimates show a total cost of the improvements to be approximately five million nine hundred seventy-six thousand fifty-three dollars (\$5,976,053.00) be approved; and

WHEREAS, it is found by the governing body that such Project will not cause a duplication of existing utility service furnished by a private utility; and

WHEREAS, the City of Topeka, Shawnee County, Kansas, is authorized pursuant to City of Topeka Code § A12-1, to issue general obligation bonds for the purposes of paying for improvement, repair or extension to the City's waterworks system and sanitary and stormwater sewage disposal system; and

WHEREAS, the City desires to issue and sell revenue bonds and/or general obligation bonds of the City and/or to borrow funds from the KDHE SRF Loan to fund the cost of the improvements or any combination thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the estimates of costs of the Project as contained in the project budget, in the total amount of five million nine hundred seventy-six thousand fifty-three dollars (\$5,976,053.00) which are set out on the project budget attached hereto and on file in the office of the City Clerk of said City, be and the same are hereby approved.

Section 2. That the general nature of the Project is as follows:

This project is for the design and replacement of all three secondary floating digester lids at the Oakland Wastewater Treatment Plant including all electrical, instrumentation and control equipment, procurement of long lead items, and review and investigation of gas production capacity.

57        Section 3.     That notice be given by the governing body of the City of its intention  
58     to complete the Project in accordance with the plans, specifications and cost estimates and  
59     use utility operation funds, and/or to sell revenue bonds and/or general obligation bonds of  
60     the City and/or to borrow funds from the KDHE SRF Loan in a total amount not exceeding  
61     five million nine hundred seventy-six thousand fifty-three dollars (\$5,976,053.00) to pay the  
62     cost thereof. Such notice shall be signed by the Mayor and attested by the City Clerk and  
63     shall be published in the official City newspaper. Such notice shall describe the nature of  
64     the proposed improvements and shall state the amount of revenue and/or general  
65     obligation bonds proposed to be issued and/or loan funds to be borrowed, or any  
66     combination thereof for the payment of the cost of the project and otherwise, the notice  
67     shall be in the form as provided by law.

68        Section 4.     That unless written protests against such proposed improvements  
69     signed by not less than twenty percent (20%) of the qualified electors of the City are filed  
70     with the City Clerk within fifteen (15) days after publication of the notice herein authorized  
71     the City both reasonably expects and intends to finance the costs as hereinbefore  
72     described from the proceeds of revenue bonds and/or general obligation bonds and/or loan  
73     funds or any combination thereof, payable from the rates, fees and charges of the System.  
74     The City does hereby express its official intent to reimburse any expenditures made in  
75     connection with the Project from System enterprise fund, or obligations incurred by, on or  
76     after the date which is sixty (60) days before the effective date of this Ordinance from the  
77     proceeds of its revenue bonds as aforesaid in the maximum principal amount previously  
78     described in accordance with U.S. Treasury Regulation 1.150-2. This Ordinance, as the  
79     expression of the governing body's official intent regarding the matters described herein,

will be available, for public inspection in the City Clerk's office at City Hall during regular business hours of the City.

Section 5. That this Ordinance shall take effect and be in force from and after its adoption by the Council of the City by at least a two-thirds (2/3) vote of the members thereof 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



*A Capital City Government Working For You...*

[www.topeka.org](http://www.topeka.org)

## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

July 13, 2012

Back Print

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|                       |                                                         |             |             |
|-----------------------|---------------------------------------------------------|-------------|-------------|
| DATE:                 | August 28, 2012                                         |             |             |
| CONTACT PERSON:       | Larry Wilms - Water Engineer                            | DOCUMENT #: |             |
| SECOND PARTY/SUBJECT: | Flood Protection Relief Well Rehabilitation             | PROJECT #:  | T-281039.01 |
| CATEGORY/SUBCATEGORY  | 014 Ordinances – Non-Codified / 004 Public Improvements |             |             |
| CIP PROJECT:          | No                                                      |             |             |
| ACTION OF COUNCIL:    |                                                         | JOURNAL #:  |             |
|                       |                                                         | PAGE #:     |             |

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### DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, authorizing Improvement Project No. T-281039.01 for the rehabilitation of flood protection relief wells approving cost estimates of the proposed improvements, and doing all other things necessary and incidental thereto, and authorizing the use of utility operation funds, authorizing the publication of the Notice of Intention of the governing body of the City of Topeka, Kansas, to issue and sell revenue bonds of said City to make such improvements which constitutes improvements to the municipally owned water, water pollution control, and stormwater utility system of the City of Topeka, Shawnee County, Kansas, pursuant to K.S.A. 10-101 and 10-1201, et seq., and all amendments thereto, authorizing issuance of general obligation bonds to pay the costs of the project which further constitutes a general improvement to the City's sanitary and/or stormwater and sewage disposal system pursuant to City of Topeka Code Section A12-1. First Reading.

**Voting Requirement:** Two-thirds vote of the Governing Body, including the Mayor.

*(Approval would authorize \$1,239,315 for the rehabilitation of the Flood Protection Relief Wells at the Water Treatment Plant. The debt service for the project cost would be paid with utility operating funds.)*

### POLICY ISSUE:

To authorize the project and the expenditure of money to correct a deficiency identified in the US Army Corp of Engineers periodic inspection.

### STAFF RECOMMENDATION:

Staff recommends approval of the project budget and ordinance as presented.

Item #20

**BACKGROUND:**

Nine (9) of the eleven (11) existing flood protection relief wells and connected well discharge piping (header system) were constructed in circa 1958-59. In 1980, the water treatment plant was expanded and two (2) additional relief wells were installed that same year.

A US Army Corps of Engineers (US-ACE) Flood Protection Inspection was performed in 2010. Based on age and operational testing results, the US-ACE questioned the ability of the relief wells to operate at a capacity acceptable to provide flood protection to the water treatment facility. The City retained the services of the Layne-Christensen Company to pull each of the Flood Protection Relief Well pumps, bail the well, install a test pump and perform a well capacity test, and then conduct a CCTV inspection of each well. The test results determined that all relief wells were ineffective and needed rehabilitation or replacement.

**BUDGETARY IMPACT:**

Project budget \$1,239,315. Debt service to be paid from Utility Operating Funds.

**SOURCE OF FUNDING:**

Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes. Currently not in adopted CIB.

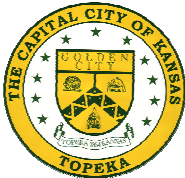
**ATTACHMENTS:**

[Fact Sheet](#)

[Project Budget and Debt Service](#)

[Notice of Intent](#)

[Ordinance](#)



**FACT SHEET**  
**Project Number T-281039.01**  
**Flood Protection Relief Well Rehabilitation**  
**July 03, 2012**

**Prepared by:** Don Rankin – Director Utilities Infrastructure Division

**Scope:** The project consists of rehabilitation of eleven (11) existing Flood Protection Relief Wells, nine constructed in 1958-59 and two constructed in 1980, to protect the critical water plant structures in the event of a major flood on the Kansas River which is located immediately adjacent to the water treatment plant complex. These eleven Flood Protection Relief Wells are an integral part of the City's overall Kansas River Flood Protection Levee/Relief Well system. All eleven wells were deemed inoperative when pumping assessment tests were performed in Fall 2011. A contractor was selected to evaluate, develop concepts/methods for and implement the necessary flood relief well rehabilitation strategies in accordance with US Army Corp of Engineers (US-ACE) directives and requirements.

**Project Engineer:** Larry Wilms

**Design by:** Contractor selected based on Qualification Statement submittals.

**Contractor:** Contractor selected based on Qualification Statement submittals.

**Cost & Financing:** Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes

Project Budget - \$1,239,315

Currently not in adopted CIB

**Background:** Nine (9) of the eleven (11) existing flood protection relief wells and connected well discharge piping (header system) were constructed in circa 1958-59. In 1980, the water treatment plant was expanded and two (2) additional relief wells were installed that same year.

A US Army Corps of Engineers (US-ACE) Flood Protection Inspection was performed in 2010. Based on age and operational testing results, the US-ACE questioned the ability of the relief wells to operate at a capacity acceptable to provide flood protection to the water treatment facility. The City retained the services of the Layne-Christensen Company to pull each of the Flood Protection Relief Well pumps, bail the well, install a test pump and perform a well capacity test, and then conduct a CCTV inspection of each well. The test results determined that all relief wells were ineffective and needed rehabilitation or replacement.

**Project Description:** Contractor was selected to evaluate, develop concepts/methods for and implement the following general flood relief well rehabilitation strategies in accordance with US-ACE directives and requirements:

- Rehabilitation of eleven (11) existing flood protection relief wells or replacement by constructing new wells;
- Size, furnish and install complete new pumping units in each well;
- Size, furnish and install complete new pump motor starters in 4-X stainless steel panels;
- Motor starters shall have additional contactors for SCADA System integration, alarms and water level sensors for individual pump operational control;
- Install new or replacement piezometers in close proximity to relief wells and as required;
- Water level sensors will be mutually selected with Owner approval;
- Reconnect all hydraulic and electrical connections in each well;
- Test operation of each installed unit to validate performance.

**Schedule:** The project will proceed with:

1. an assessment of each relief well biological condition and develop up to three strategies for rehabilitation of each well,
2. sizing for replacement pumping equipment,
3. procurement and installation of pumps and new piezometers and level sensing/ SCADA controls and
4. final performance testing for each well, requiring about one year, including US-ACE approvals required on overall and respective project elements.

**PROJECT BUDGET**  
**Project No. T-281039.01**  
**Rehabilitation of Flood Protection Relief Wells**

**LOCATION:**

The project is located on the Water Treatment Plant site at 3245 NW Water Works Drive, which is immediately adjacent to the Kansas River.

**DESCRIPTION OF PROJECT:**

The project consists of rehabilitation of eleven (11) existing Flood Protection Relief Wells, nine constructed in 1958-59 and two constructed in 1980, to protect the critical plant piping and in-ground structures in the event of a major flood on the Kansas River located immediately adjacent to the water plant complex. These eleven Flood Relief Wells are an integral part of the overall City's Kansas River Flood Protection Levee/Relief Well system. All eleven wells were deemed inoperative when pumping assessment tests were performed in Fall 2011. Contractor was selected to evaluate, develop concepts/methods for and implement the following flood relief well rehabilitation strategies in accordance with US-ACE directives and requirements:

- Rehabilitation of eleven (11) existing flood protection relief wells or replacement by constructing new wells;
- Size, furnish and install complete new pumping units in each well;
- Size, furnish and install complete new pump motor starters in 4-X stainless steel panels;
- Motor starters shall have additional contactors for SCADA System integration, alarms and water level sensors for individual pump operational control;
- Install new or replacement piezometers in close proximity to relief wells and as required;
- Water level sensors will be mutually selected with Owner approval;
- Reconnect all hydraulic and electrical connections in each well;
- Test operation of each installed unit to validate performance.
- All other items necessary with making the Flood Protection Relief Wells fully operational.

**SOURCE OF FUNDS:**

Utility Operation Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes,  
 Currently not in the adopted CIB

|                                     | <b>Proposed</b>    |               | <b>Total</b>       |
|-------------------------------------|--------------------|---------------|--------------------|
| <b><u>COST ESTIMATE:</u></b>        |                    |               |                    |
| Construction:                       | \$1,021,900        | \$0.00        | \$1,021,900        |
| Design:                             | \$0                | \$0.00        | \$0                |
| Construction Service Fees:          |                    |               |                    |
| <i>Construction Staking (5%)</i>    | \$0                | \$0.00        | \$0                |
| <i>Construction Inspection (8%)</i> | \$0                | \$0.00        | \$0                |
| <i>City of Topeka Admin. (2%)</i>   | \$0                | \$0.00        | \$0                |
| <i>Geotechnical Report</i>          | \$0                | \$0.00        | \$0                |
| Right-of Way Acquisition:           | \$0                | \$0.00        | \$0                |
| Property Acquisition                | \$0                | \$0.00        | \$0                |
| Contingency Amount:                 | \$51,100           | \$0.00        | \$51,100           |
| Temporary Note Interest             | \$37,555           | \$0.00        | \$37,555           |
| COI (2%)                            | \$21,460           | \$0.00        | \$21,460           |
| Bond Reserve (10%)                  | \$107,300          | \$0.00        | \$107,300          |
| <b>Total:</b>                       | <b>\$1,239,315</b> | <b>\$0.00</b> | <b>\$1,239,315</b> |

**PUBLIC HEARING:****PROJECT AUTHORITY:**

- a. Statutes: \_\_\_\_\_
- b. Capital Budget Year.: 2012-2013
- c. Improvement District: \_\_\_\_\_
- d. City at Large: \_\_\_\_\_
- e. Method of Assessment: \_\_\_\_\_

**PROJECT ENGINEER:** Larry Wilms

## PROJECT:

|                                                |                    |
|------------------------------------------------|--------------------|
| Interest rate                                  | 5.00%              |
| Number of Years                                | 30                 |
| Cost of Issuance                               | 2.00%              |
| Bond Reserve                                   | 10.00%             |
| Temp Note interest                             | 3.500%             |
| Principal                                      | <b>\$1,073,000</b> |
| Bond Reserve                                   | \$107,300          |
| Plus Temp Note Interest                        | \$37,555           |
| Plus Cost of Issuance                          | <u>\$21,460</u>    |
| <b>Total Project Budget</b>                    | <b>\$1,239,315</b> |
| Annual Debt Service                            | <b>\$80,619</b>    |
| Annual Debt Service as Percent of Total        | 6.5%               |
| Total Debt Service (principal and interest)    | \$2,418,577        |
| Difference Project Cost and Total Debt Service | \$1,179,262        |

1 (Published in the Topeka Metro News \_\_\_\_\_)  
2  
3

4 NOTICE OF INTENTION  
5

6 NOTICE OF INTENTION of the Governing Body of the City of Topeka, Kansas, to make  
7 improvements under Improvement Project No. T-281039.01  
8 which provides for rehabilitation of flood protection relief wells  
9 and to use utility operation funds, and to issue and sell  
10 revenue bonds of said City pursuant to K.S.A. 10-101 and 10-  
11 1201, *et seq.*, and all amendments thereto, and to issue  
12 general obligation bonds pursuant to City of Topeka Code §  
13 A12-1, or any combination thereof, to pay the cost of the  
14 project.  
15

16 Notice is hereby given that as provided by Ordinance No. \_\_\_\_\_ of the City of  
17 Topeka, Shawnee County, Kansas, (the "City") that the Governing Body of the City intends  
18 to make improvements to the City-owned water, water pollution control, and stormwater  
19 utility system (the "System") under Improvement Project No. T-281039.01 which provides  
20 for improvements to its System by the rehabilitation of flood protection relief wells and  
21 related appurtenances for a complete project (the "Project").

22 Notice is further given that as provided by Ordinance No. \_\_\_\_\_ of the City, the  
23 Governing Body of the City intends to issue and sell one or more separate series of  
24 revenue bonds of the City pursuant to K.S.A. 10-1201 *et seq.* and all amendments thereto,  
25 and/or to issue general obligation bonds pursuant to City of Topeka code § A12-1, or any  
26 combination thereof, payable from revenues of the System, in an aggregate principal  
27 amount not to exceed one million two hundred thirty-nine thousand three hundred fifteen  
28 dollars (\$1,239,315.00) and to so improve the System and make public improvements to  
29 the City by completing the Project.

30 Unless written protests against the proposed Project signed by not less than twenty  
31 percent (20%) of the qualified electors of the City are filed with the City Clerk within fifteen

(15) days after the publication of this Notice, the Governing Body will proceed in accordance with the intention as set forth above to complete the Project and issue and sell its revenue bonds and/or general obligation bonds and/or borrow funds from the Kansas Department of Health and Environment, payable from revenues of the System as above stated.

Done by order and direction of the Governing Body of the City of Topeka, Shawnee County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

1 (Published in the Topeka Metro News \_\_\_\_\_)

2  
3 ORDINANCE NO. \_\_\_\_\_

4  
5 AN ORDINANCE introduced by City Manager Jim Colson, authorizing Improvement  
6 Project No. T-281039.01 for the rehabilitation of flood protection relief  
7 wells approving cost estimates of the proposed improvements, and  
8 doing all other things necessary and incidental thereto, and  
9 authorizing the use of utility operation funds, authorizing the  
10 publication of the Notice of Intention of the governing body of the City  
11 of Topeka, Kansas, to issue and sell revenue bonds of said City to  
12 make such improvements which constitutes improvements to the  
13 municipally owned water, water pollution control, and stormwater  
14 utility system of the City of Topeka, Shawnee County, Kansas,  
15 pursuant to K.S.A. 10-101 and 10-1201, *et seq.*, and all amendments  
16 thereto, authorizing issuance of general obligation bonds to pay the  
17 costs of the project which further constitutes a general improvement  
18 to the City's sanitary and/or stormwater and sewage disposal system  
19 pursuant to City of Topeka Code § A12-1.  
20

21 WHEREAS, the City is a municipality as defined by K.S.A. 10-101 and 10-1201 *et*  
22 *seq.* and all amendments thereto; and

23 WHEREAS, the City is authorized by the laws of the State of Kansas to issue and  
24 sell revenue bonds of the City for the improvement of its water, water pollution control, and  
25 stormwater utility system (the "System") pursuant to K.S.A. 10-1201 *et seq.* and all  
26 amendments thereto; and

27 WHEREAS, it is deemed by the Governing Body of the City to be necessary and  
28 advisable that the City to improve its System by rehabilitation of flood protection relief  
29 wells. This project will include, but is not limited to, rehabilitation or replacement of eleven  
30 (11) existing flood protection relief wells with new pumping units, new pump motor starters,  
31 installation of new or replacement piezometers, new water level sensors and any related  
32 appurtenances needed for a complete project and doing all things necessary and incidental  
33 thereto (the "Project") and that the preliminary plans, specifications and cost estimates for

the Project heretofore duly prepared and filed in the office of the City Clerk of said City, which estimates show a total cost of the improvements to be approximately one million two hundred thirty-nine thousand three hundred fifteen dollars (\$1,239,315.00) be approved; and

WHEREAS, it is found by the Governing Body that such Project will not cause a duplication of existing utility service furnished by a private utility; and

WHEREAS, the City of Topeka, Shawnee County, Kansas, is authorized pursuant to City of Topeka Code § A12-1, to issue general obligation bonds for the purposes of paying for improvement, repair or extension to the City's waterworks system and sanitary and stormwater sewage disposal system; and

WHEREAS, the City desires to issue and sell revenue bonds and/or general obligation bonds of the City to fund the cost of the improvements or any combination thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the estimates of costs of the Project as contained in the project budget, in the total amount of one million two hundred thirty-nine thousand three hundred fifteen dollars (\$1,239,315.00) which are set out on the project budget attached hereto and on file in the office of the City Clerk of said City, be and the same are hereby approved.

Section 2. That the general nature of the Project is as follows:

The project consists of rehabilitation of eleven (11) existing Flood Protection Relief Wells, to protect the critical plant piping and in-ground structures in the event of a major flood on the Kansas River located immediately adjacent to the water plant complex. A

contractor was selected to evaluate, develop concepts/methods for and implement the following flood relief well rehabilitation strategies in accordance with US-ACE directives and requirements:

- Rehabilitation of eleven (11) existing flood protection relief wells or replacement by constructing new wells;
- Size, furnish and install complete new pumping units in each well;
- Size, furnish and install complete new pump motor starters in 4-X stainless steel panels;
- Motor starters shall have additional contactors for SCADA System integration, alarms and water level sensors for individual pump operational control;
- Install new or replacement piezometers in close proximity to relief wells and as required;
- Water level sensors will be mutually selected with Owner approval;
- Reconnect all hydraulic and electrical connections in each well;
- Test operation of each installed unit to validate performance.
- All other items necessary with making the Flood Protection Relief Wells fully operational.

The project will include an assessment of each relief well biological condition and develop up to three strategies for rehabilitation of each well; sizing for replacement pumping equipment; procurement and installation of pumps and new piezometers and level sensing/ SCADA controls; and final performance testing for each well, requiring about one year, including US-ACE approvals required on overall and respective project elements.

80        Section 3.    That notice be given by the governing body of the City of its intention  
81 to complete the Project in accordance with the plans, specifications and cost estimates and  
82 use utility operation funds, and/or to sell revenue bonds and/or general obligation bonds of  
83 the City in a total amount not exceeding one million two hundred thirty-nine thousand three  
84 hundred fifteen dollars (\$1,239,315.00) to pay the cost thereof. Such notice shall be  
85 signed by the Mayor and attested by the City Clerk and shall be published in the official  
86 City newspaper. Such notice shall describe the nature of the proposed improvements and  
87 shall state the amount of revenue and/or general obligation bonds proposed to be issued  
88 or any combination thereof for the payment of the cost of the project and otherwise, the  
89 notice shall be in the form as provided by law.

90        Section 4.    That unless written protests against such proposed improvements  
91 signed by not less than twenty percent (20%) of the qualified electors of the City are filed  
92 with the City Clerk within fifteen (15) days after publication of the notice herein authorized  
93 the City both reasonably expects and intends to finance the costs as hereinbefore  
94 described from the proceeds of revenue bonds and/or general obligation bonds or any  
95 combination thereof, payable from the rates, fees and charges of the System. The City  
96 does hereby express its official intent to reimburse any expenditures made in connection  
97 with the Project from System enterprise fund, or obligations incurred by, on or after the  
98 date which is sixty (60) days before the effective date of this Ordinance from the proceeds  
99 of its revenue bonds as aforesaid in the maximum principal amount previously described in  
100 accordance with U.S. Treasury Regulation 1.150-2. This Ordinance, as the expression of  
101 the governing body's official intent regarding the matters described herein, will be available,

for public inspection in the City Clerk's office at City Hall during regular business hours of the City.

Section 5. That this Ordinance shall take effect and be in force from and after its adoption by the Council of the City by at least a two-thirds (2/3) vote of the members thereof 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

July 27, 2012

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|-----------------------|-----------------|-------------|
| DATE:                 | August 28, 2012 |             |
| CONTACT PERSON:       |                 | DOCUMENT #: |
| SECOND PARTY/SUBJECT: |                 | PROJECT #:  |
| CATEGORY/SUBCATEGORY  |                 |             |
| CIP PROJECT:          | No              |             |
| ACTION OF COUNCIL:    |                 | JOURNAL #:  |
|                       |                 | PAGE #:     |

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### DOCUMENT DESCRIPTION:

### POLICY ISSUE:

### STAFF RECOMMENDATION:

### BACKGROUND:

### BUDGETARY IMPACT:

### SOURCE OF FUNDING:

### ATTACHMENTS:

No Attachments Available



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**PROJECT #:**

**CATEGORY/SUBCATEGORY**

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No Attachments Available