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City Council Agenda

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 9, 2012

6:00 PM

Mayor: William W. Bunten

Councilmembers

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

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:**
   "None scheduled at this time."

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

3. **ROLL CALL:**

4. **CONSENT AGENDA:**

A. **Resolution - Spot Tavern - Noise Exception**

ATTACHMENTS

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

(City of Topeka Code Section 9.45.170, et seq. authorizes the City Council to grant noise exceptions. Approval would allow amplified music at a family fundraiser event during the hours of 5:00 p.m. and 11:00 p.m. on October 13, 2012 at 2202 SW Buchanan Street.)

B. **Resolution - Country Legends - Noise Exception**

ATTACHMENTS

A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting Country Legends 106.9 an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions. *(Council District No. 3)*

(City of Topeka Code Section 9.45.170, et seq. authorizes the City Council to grant noise exceptions. Approval would allow for a live broadcast to take place during the hours of 3:00 p.m. and 8:00 p.m. on October 13, 2012 outside of the Kansas Expocentre.)

C. **MINUTES of the regular meeting of October 2, 2012**

D. **APPLICATIONS:**

5. **PUBLIC HEARINGS:**

A. **Public Hearing and Ordinance - Robert and Suzan Youse (V12E/3)**

ATTACHMENTS

A PUBLIC HEARING for vacation request V12E/3 by Robert and Suzan Youse, as property owners, requesting to vacate the southerly 40 feet of the platted green space easement on property located 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson relating to the partial vacation of a platted green space easement running along the southerly 40 feet

of property located at 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas. Final Reading. *(V12E/3) (Council District No. 7)*

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

(Approval would vacate the northern 36 feet of a 40-foot wide green space easement that encumbers all of the lot on the south side of the home. It would allow them to construct a below ground swimming pool and pergola within the vacated area.)

6. UNFINISHED BUSINESS:

A. Ordinance - Kent Nicolay Family Fundraiser

ATTACHMENTS

AN ORDINANCE introduced by Councilmember Sylvia Ortiz, 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 Kent Nicolay Family Fundraiser. Final Reading. *(Council District No. 3)*

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

(Approval would allow a state-licensed vendor to serve alcoholic beverages within the barricaded portion of the parking lot of the Spot Tavern located at 2202 SW Buchanan, and a portion of SW 22nd Street between SW Buchanan and SW Clay on October 13, 2012, from 5:00 p.m. to 11:00 p.m.)

7. NEW BUSINESS:

A. Notice of Public Hearing - 2012 Budget Amendments

ATTACHMENTS

AUTHORIZING a public hearing for November 13, 2012 for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2012 Operating Budget.

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

(Approval authorizes publication of the Notice of Public Hearing in the October 15, 2012 edition of the Topeka Metro Newspaper. The amendment would include the following: use the fund balance to increase the Tax Increment Financing Fund expenditures by $172,658 to cover part of the debt service payment; use the fund balance of the Transient Guest Tax Fund to increase expenditures to Visit Topeka by $50,000, Heartland Park by $50,000, to add $35,000 to contribute to the League of Municipalities annual conference being held in Topeka, and to increase the transfer to the Historical Asset Fund by $29,364; increase the Retirement Reserve Fund revenues by $105,000 to cover current projected retirees and to fund the negative fund balance from 2011. Also increase the expenditure amount by $50,000 to cover the current projected retirees; increase the Historical Asset Fund revenue from the Transient Guest Tax Fund by $29,364 and increase the expenditures by $56,763; use the fund balance to increase the JEDO Sales Tax Fund expenditure transfers by $1,460,328; use the fund balance to increase the Sales Tax Street Fund expenditures for curb and gutter projects by $584,554, alley projects by $217,782 and sidewalk projects by $310,000; and amend transfers from the Transient Guest Tax Fund to $114,364 to the Historical Asset Fund and amend transfers from the JEDO Fund to capital projects to $6,957,578.)

B. Joint Memorandum of Agreement - Group Healthcare Benefits

ATTACHMENTS

APPROVAL of a Joint Memorandum of Agreement concerning Group Healthcare Benefits with the FOP, IAFF, AFT, AFSCME Development Services, Water and Teamsters labor unions.

Voting Requirement: Majority of Governing Body, including Mayor.

(Approval of the two-year agreement will keep the City's 2013 budgeted contribution the same and will be funded through the Health Insurance Fund. All employees will contribute to the cost of healthcare.)

C. 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.)

8. ZONING:

A. Ordinance - Frank W. and Esta L. Meade (Z12/9)

ATTACHMENTS

AN ORDINANCE introduced by City Manager Jim Colson, 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 properties located in the 1100 block of SE Quincy Street between SE 11th and SE 12th Streets and precisely located at 1126 and 1104 SE Quincy Street, 221 SE 11th Street, 1111 and 1113 SE Monroe Street from "C-4" Commercial District, "M-3" Multiple-Family Dwelling District, "E" Multiple-Family Dwelling District, "O&I-2" Office & Institutional District ALL TO "D-1" Downtown District. Final Reading. *(Z12/9) (Council District No. 3)*

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

(Approval would allow for development of uses in the D-1 District.)

B. Ordinance - Frank W. and Esta L. Meade (Z12/10)

ATTACHMENTS

AN ORDINANCE introduced by City Manager Jim Colson, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 1129 SE Quincy Street, at the northwest corner of SE 12th Street and SE Quincy Street from "M-3" Multiple-Family Dwelling District TO "D-1" Downtown District. Final Reading. *(Z12/10) (Council District No. 3)*

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

(Approval would allow for development of the property consistent with uses in the "D-1" District.)

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

September 10, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #1

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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

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DATE:	**October 9, 2012**		
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SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #3

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214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

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DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #4

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 25, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Sylvia Ortiz**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**Lee Keeter/The Spot Tavern**	**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 The Spot Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq. concerning noise prohibitions. *(Council District No. 3)*

(City of Topeka Code Section 9.45.170, et seq. authorizes the City Council to grant noise exceptions. Approval would allow amplified music at a family fundraiser event during the hours of 5:00 p.m. and 11:00 p.m. on October 13, 2012 at 2202 SW Buchanan Street.)

POLICY ISSUE:

The Spot Tavern has requested that a noise exception be granted for a family fundraiser event to take place during specified date and time.

STAFF RECOMMENDATION:

Staff is recommending the Council move to approve the resolution.

BACKGROUND:

The Spot Tavern is requesting the noise exception due to amplified music at the event.

BUDGETARY IMPACT:

No budgetary impact to the City.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Resolution

Item #6

RESOLUTION NO.

A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting The Spot Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq. concerning noise prohibitions.

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

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

WHEREAS, The Spot Tavern has requested that it be granted an exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for the purposes, dates and times described herein, and

WHEREAS, upon review of the application of The Spot Tavern, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 9.45.150, et seq.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that The Spot Tavern is hereby granted an exception from the provisions of City of Topeka Code Section 9.45.150, et seq. for a live music located at 2202

SW Buchanan Street during the hours of 5:00 p.m. and 11:00 p.m. on October 13, 2012.

ADOPTED and APPROVED by the City Council ________________.

____
William W. Bunten, Mayor

ATTEST:

____
Brenda Younger, City Clerk

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 3, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Sylvia Ortiz**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**Megan Kirkwood**	**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 Country Legends 106.9 an exception to the provisions of City of Topeka Code Section 9.45.170 concerning noise prohibitions.
(Council District No. 3)

(City of Topeka Code Section 9.45.170, et seq. authorizes the City Council to grant noise exceptions. Approval would allow for a live broadcast to take place during the hours of 3:00 p.m. and 8:00 p.m. on October 13, 2012 outside of the Kansas Expocentre.)

POLICY ISSUE:

Country Legends 106.9 has requested that a noise exception be granted for a live broadcast to take place during specified date and time.

STAFF RECOMMENDATION:

Staff is recommending the Council move to approve the resolution.

BACKGROUND:

Country Legends 106.9 is requesting the noise exception due to amplified sound at the event.

BUDGETARY IMPACT:

No budgetary impact to the City.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Resolution

Item #7

RESOLUTION NO. ________

A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting Country Legends 106.9 an exception to the provisions of City of Topeka Code § 9.45.170 concerning noise prohibitions.

WHEREAS, City of Topeka Code § 9.45.170 makes it unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety or others within the limits of the city; and

WHEREAS, City of Topeka Code § 9.45.170 authorizes the City Council to grant exceptions to the prohibitions of this code section upon request and a showing that the proposed activity does not offend the spirit of the findings of City of Topeka Code § 9.45.150; and

WHEREAS, Country Legends 106.9 has requested that it be granted an exception to the provisions of City of Topeka Code § 9.45.170 for the purposes, dates and times described herein; and

WHEREAS, upon review of the application, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code § 9.45.150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Country Legends 106.9 is hereby granted an exception from the provisions of City of Topeka Code § 9.45.170 for amplified sound from 3:00pm to 8:00pm during a live broadcast outside of the Kansas Expocentre, One Expocentre Drive, on October 13, 2012.

ADOPTED and APPROVED by the City Council ____________________.

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

September 10, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #8

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #9

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 28, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Bill Fiander/Bill Hoover**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**Robert and Suzan Youse**	**PROJECT #:**	**V12E/3**
CATEGORY/SUBCATEGORY	**014 Ordinances – Non-Codified / 006 Vacations**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:	**10-02-12 First Reading.**	**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

A PUBLIC HEARING for vacation request V12E/3 by Robert and Suzan Youse, as property owners, requesting to vacate the southerly 40 feet of the platted green space easement on property located 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson relating to the partial vacation of a platted green space easement running along the southerly 40 feet of property located at 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas. Final Reading. *(V12E/3) (Council District No. 7)*

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

(Approval would vacate the northern 36 feet of a 40-foot wide green space easement that encumbers all of the lot on the south side of the home. It would allow them to construct a below ground swimming pool and pergola within the vacated area.)

POLICY ISSUE:

The applicant has requested a 36 foot vacation of a 40 foot Green Space Easement (GSE) running along the south side of their lot in order to build an below ground pool and pergola. T

The property is located in Misty Harbor Estates No. 4. The subdivision was approved by the City Council in 2008 with a 40-foot wide Green Space Easement consistent with the 40-foot GSE already platted to the west for Misty Harbor Estates No. 3 (approved 2007) and Misty Harbor Estates (approved 2003). The plat states the green space easements are intended for landscape amenities and shall not be fenced. The GSE is largely an aesthetic element of the Misty Harbor subdivisions along SE 45th that was initiated by the developer. The policy issue is whether or not it is in the public interest to maintain the GSE as platted, and if not, to what extent should there be any deviation.

STAFF RECOMMENDATION:

Kansas Statute 12.505 and Topeka Municipal Code Chapter 12.60 require an advertised public hearing by the Governing Body to determine vacation petitions.

Upon a field inspection associated with this request, it was discovered that the properties along SE 45th Street in both Misty Harbor Estates No. 3 and No. 4. have not complied with the 40-foot Green Space Easement by constructing privacy fencing in the Green Space Easement on 6 of the 7 affected lots. The Youse property is the 8th lot affected by the Green Space Easement. Based upon this finding and the lack of integrity of the Green Space Easement, the Planning Department is requesting that the Governing Body move to approve the subject vacation at 4422 SW Lakeside Drive and further recommends that the Governing Body initiate vacation of the remaining GSE along SE 45th Street in Misty Harbor Estates No. 3 and No. 4.

BACKGROUND:

- Kansas Statute 12.505 and Topeka Municipal Code Chapter 12.60 require an advertised public hearing by the governing body to determine vacation petitions.
- If the vacation is approved, the homeowners' proposed swimming pool and pergola would require building permits through Development Services prior to construction and they have been advised of such.

BUDGETARY IMPACT:

There would be no cost to the City of Topeka if the Green Space Easement is vacated as proposed.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Ordinance

Summary Report

Legal Publication

Application

Applicant Pictures

Aerial Photo

Final Plat

(Published in the Topeka Metro News ____)

ORDINANCE NO. _________

AN ORDINANCE introduced by City Manager Jim Colson relating to the partial vacation of a platted green space easement running along the southerly 40 feet of property located at 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas. **(V12E/3) (Council District No. 7)**

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

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Robert and Suzan Youse, as property owners, has been filed with the office of the City Clerk, requesting the partial vacation of the following described platted green space easement located within the City of Topeka, Shawnee County, Kansas:

The north 36 feet of a green space easement running along the southerly 40 feet of Lot 1, Block "C", Misty Harbor Estates No. 4.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on __________________**, 2012,** the petition is ready for determination by the Governing Body of the City of Topeka, Kansas.

Section 3. That the Governing Body of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

a. Legal notice was given as required by K.S.A. 12-504 as amended.

b. No private rights will be injured or endangered by such vacation.

c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Governing Body of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the partial vacation of the below described platted green space easement located within the City of Topeka, Kansas:

The north 36 feet of a green space easement running along the southerly 40 feet of Lot 1, Block "C", Misty Harbor Estates No. 4.

Section 5. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 6. 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 Bunten, Mayor

ATTEST:

____
Brenda Younger, City Clerk

To Be Codified ___

Not To Be Codified __X

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: V12E/3 ROBERT & SUZAN YOUSE

This is a request by Robert and Suzan Youse, homeowners at 4422 SW Lakeside Drive, to vacate the north 36 feet of a Green Space Easement (GSE) running along the south 40 feet of their property. Their lot is at the northeast corner of SW 45th Street and SW Lakeside Drive. Their lot also has another 30-foot GSE and Utility Easement along the east property line.

The applicants desire to construct a below ground pool and pergola on their site but found there is no place to locate those improvements due to the two GSE's covering most of their back and side yard.

Misty Harbor Estates No. 4 Subdivision was approved by the City Council in 2008 with a 40-foot wide GSE running along the south side of their lot consistent with the 40-foot GSE already platted to the west for Misty Harbor Estates No. 3 (approved 2007) and Misty Harbor Estates (approved 2003). The plat states the GSE's are intended for landscape amenities and shall not be fenced.

Upon a field inspection associated with this request, it was discovered that the 40-foot GSE has not been complied with for the properties along SE 45th in both Misty Harbor Estates No. 3 and No. 4. Privacy fencing is in the GSE on 6 of the 7 affected lots. The Youse property is the 8th lot affected by the GSE. There are 5 contiguous lots affected by the GSE in the original 2003 subdivision west of SW Misty Harbor Drive which are compliant.

The GSE is largely an aesthetic element of the Misty Harbor subdivisions along SE 45th that was first initiated by the developer originally in 2003. There are no utility easements in the GSE and therefore, no review by utility providers was requested.

Based upon the GSE within Misty Harbor Estates No. 3 and No. 4 being compromised by 86% all of affected lots, the Planning Department recommends approval of the applicant's request for a 36-foot vacation of the GSE at 4422 SW Lakeside Drive and further recommends that the Governing Body initiate vacation of the remaining GSE along SE 45th Street in said subdivisions.

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on September 17, 2012 and again on September 23, 2012.

IN THE MATTER OF THE PROPOSED VACATION OF:

Partial vacation of a platted green space easement running along the southerly 40 feet of property located at 4422 SW Lakeside Drive, City of Topeka, Shawnee County, Kansas. **(V12E/3) (Council District No. 7)**

NOTICE OF PUBLIC HEARING

(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed with the City Clerk by Robert and Suzan Youse, as property owners, praying the north 36 feet of the platted green space easement be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on October 9, 2012, at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

BY THE GOVERNING BODY, CITY OF TOPEKA, KANSAS

TOPEKA PLANNING DEPARTMENT

620 SE Madison Street-3rd Floor
Topeka, Kansas 66607
Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY	
Date Submitted	Date Advertised
Application No.	Date of Public Hearing
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee $ 200.00 Ck #1265	Receipt No. 662230

APPLICATION
City Vacation of Streets, Alleys and Easements

1. **Applicant(s):** Robert and Suzan Youse
2. **Applicant's Mailing Address:** 4422 SW Lakeside Dr.

   City Topeka **State:** Kansas **Zip:** 66610
3. **Telephone: Area Code:** 785 **No.:** 272-6548
4. **Legal description of property requested to be vacated as prepared by the City of Topeka Department of Public Works:**

Lot #1, Block C, Misty Harbor #4

5. **Check type of vacation: Street** ☐ **Alley** ☐ **Easement** ☑ **Other** ☑
6. **Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated:**

   Lots #1 **Block No.** C

   In ______ **Subdivision** Misty Harbor #4

Metes and Bounds Description, if unplatted:

7. Are there other owners of land who own property adjoining the subject street, alley or easement proposed to be vacated who, pursuant to K.S.A. 12-504, would be a property party to the petition to vacate? **Yes** ☐ **No** ☑

If yes, please list said owner's name(s) and mailing address.

8. Briefly, describe the proposed development of the subject property and your reasons for vacating the property:

To build a 14' X 30' in ground swimming pool and a 20' X 12' purgola inclosed with a black alum. fence.
The 40' of "Green Space" goes all the way to the south side of the residence.

9. Will the area proposed for vacation preclude, restrict, hamper or lessen ingress-egress to other similarly abutting properties?

No

10. Do you concur with the retention of the subject area as an easement should the reviewing utility or public agency request such to cover existing or proposed utility lines?

11. Will any permanent structures be constructed within the area proposed for vacation?

Yes, and inground pool, black alumi. fence and purgola .

12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions?

No

13. How are adjoining properties used?

Streets. (45th St. and Lakeside Dr.)

14. In your opinion, would the proposed vacation injure or endanger any private rights?

No

15. In your opinion, would the public suffer any loss or inconvenience should the petition to vacate be approved?

No

16. In the event this proposed vacation is to vacate street or alley right-of-way, are you aware of the applicability of the district zoning on the subject property? Please briefly explain:

No

Signature of Applicant(s) ______________________

____

____

(Please Attach Any Additional Information)

If the owner(s) of record is to be represented by legal counsel or an authorized agent, please complete the following so that communications pertaining to this application may be forwarded to the appropriate individual.

Name of Representative______________________

Street Address______________________

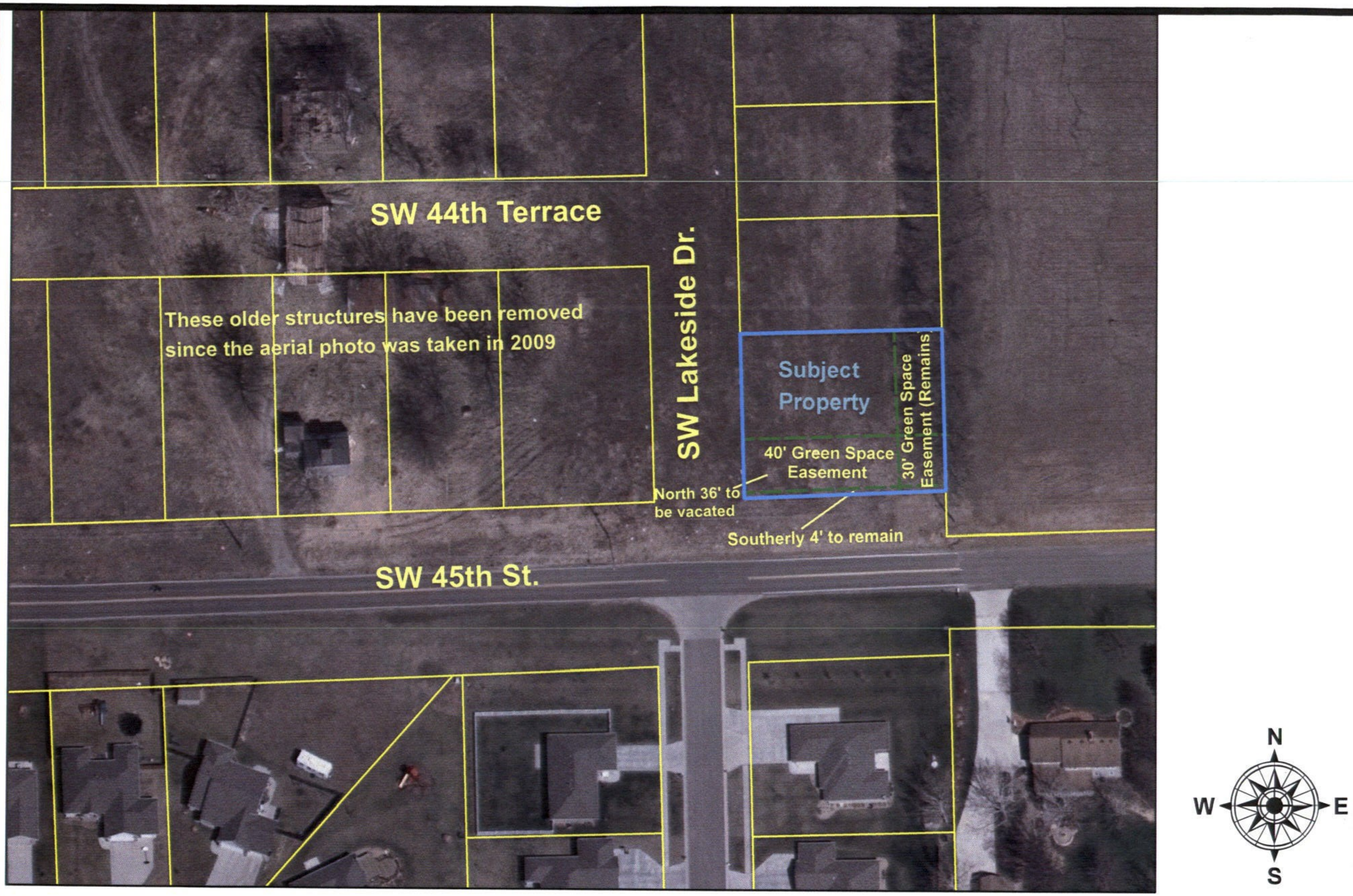
City______________ **State**______________ **Zip Code**______________

Telephone No. (_____)______________ **Fax No. (_____)**______________

Pictures Provided by Robert & Suzan Youse

View looking north from the south side of SW 45th Street towards the subject home. The green space easement area proposed for vacation is located between the rock garden and the south side of the home.

View looking east along the south side of the subject home, showing where the proposed swimming pool and pergola would be located.



V12E/3 YOUSE GREEN SPACE EASEMENT VACATION

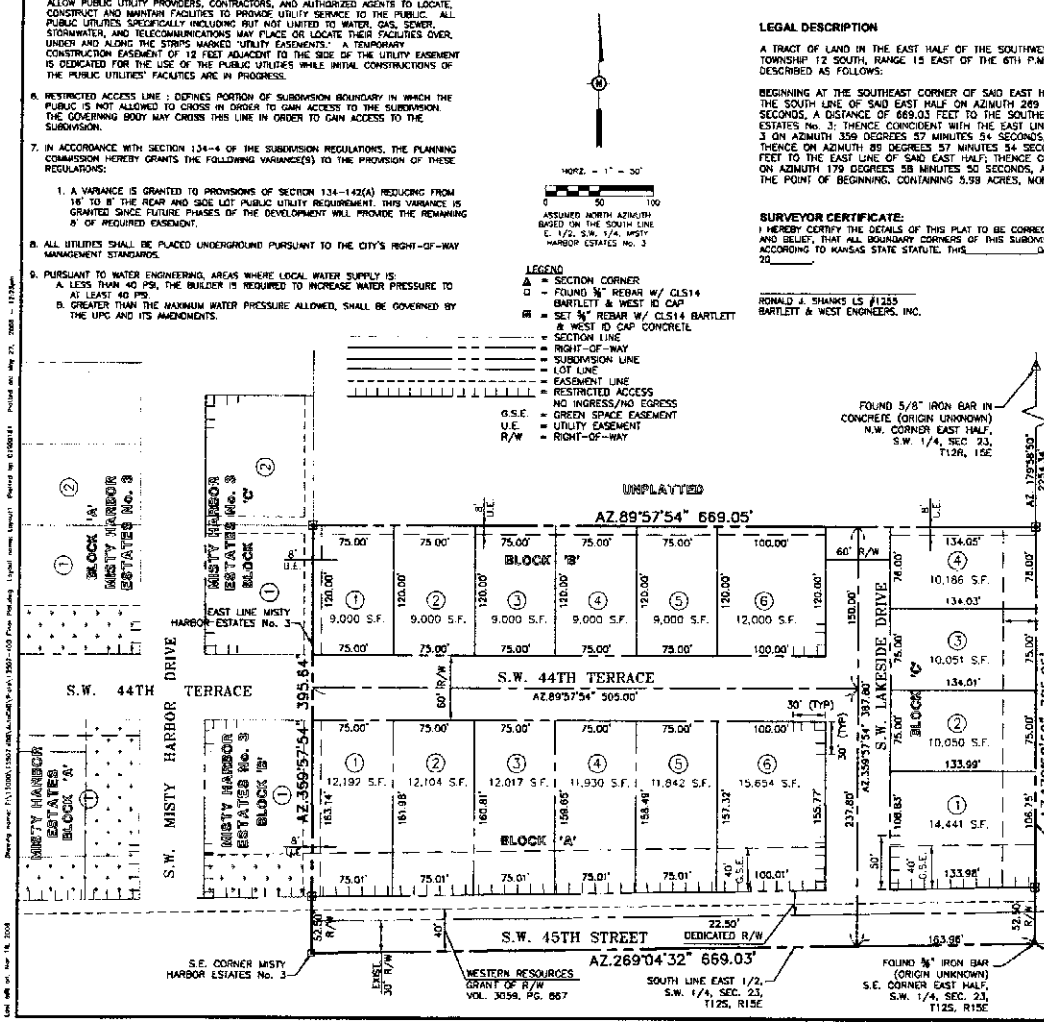
BOOK : ___ PAGE : ___
DATE : ________ TIME : ________

A FINAL PLAT FOR:
MISTY HARBOR ESTATES No. 4

A TRACT OF LAND IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., SHAWNEE COUNTY, KANSAS

NOTES:

1. GREEN SPACE EASEMENTS ARE NON-BUILDABLE AND RESERVED FOR LANDSCAPING AMENITIES SUCH AS TREES, SHRUBS, TRAILS, GAZEBOS, ETC. THE LOT OWNER(S) SHALL NOT FENCE OR BUILD ANY HABITABLE STRUCTURES WITHIN SAID EASEMENTS. MAINTENANCE SHALL BE BY THE LOT OWNER(S).
2. THIS PROPERTY LIES WITHIN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 2003310125C WITH AN EFFECTIVE DATE OF JUNE 1, 1982.
3. THE OWNER OF RECORD OF THE DESCRIBED REAL ESTATE DOES HEREBY EVIDENCE ITS COMPLETE AND IRREVOCABLE CONSENT TO ANNEXATION BY THE CITY OF TOPEKA, IN ACCORDANCE WITH THE LAWS OF THE STATE OF KANSAS. THIS CONSENT SHALL RUN WITH THE LAND AND SHALL BE BINDING UPON THE HEIRS, SUCCESSORS AND ASSIGNS OF THE UNDERSIGNED.
4. ALL AZIMUTHS AND DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
5. EASEMENTS ARE HEREBY GRANTED TO THE PUBLIC AS FOLLOWS : "UTILITY EASEMENTS" TO ALLOW PUBLIC UTILITY PROVIDERS, CONTRACTORS, AND AUTHORIZED AGENTS TO LOCATE, CONSTRUCT AND MAINTAIN FACILITIES TO PROVIDE UTILITY SERVICE TO THE PUBLIC. ALL PUBLIC UTILITIES SPECIFICALLY INCLUDING BUT NOT LIMITED TO WATER, GAS, SEWER, STORMWATER, AND TELECOMMUNICATIONS MAY PLACE OR LOCATE THEIR FACILITIES OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS." A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF THE UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE INITIAL CONSTRUCTIONS OF THE PUBLIC UTILITIES' FACILITIES ARE IN PROGRESS.
6. RESTRICTED ACCESS LINE : DEFINES PORTION OF SUBDIVISION BOUNDARY IN WHICH THE PUBLIC IS NOT ALLOWED TO CROSS IN ORDER TO GAIN ACCESS TO THE SUBDIVISION. THE GOVERNING BODY MAY CROSS THIS LINE IN ORDER TO GAIN ACCESS TO THE SUBDIVISION.
7. IN ACCORDANCE WITH SECTION 134-4 OF THE SUBDIVISION REGULATIONS, THE PLANNING COMMISSION HEREBY GRANTS THE FOLLOWING VARIANCE(S) TO THE PROVISION OF THESE REGULATIONS:
   1. A VARIANCE IS GRANTED TO PROVISIONS OF SECTION 134-142(A) REDUCING FROM 16' TO 8' THE REAR AND SIDE LOT PUBLIC UTILITY REQUIREMENT. THIS VARIANCE IS GRANTED SINCE FUTURE PHASES OF THE DEVELOPMENT WILL PROVIDE THE REMAINING 8' OF REQUIRED EASEMENT.
8. ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
9. PURSUANT TO WATER ENGINEERING, AREAS WHERE LOCAL WATER SUPPLY IS:
   A. LESS THAN 40 PSI, THE BUILDER IS REQUIRED TO INCREASE WATER PRESSURE TO AT LEAST 40 PSI.
   B. GREATER THAN THE MAXIMUM WATER PRESSURE ALLOWED, SHALL BE GOVERNED BY THE UPC AND ITS AMENDMENTS.



LEGAL DESCRIPTION

A TRACT OF LAND IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID EAST HALF; THENCE COINCIDENT WITH THE SOUTH LINE OF SAID EAST HALF ON AZIMUTH 269 DEGREES 04 MINUTES 32 SECONDS, A DISTANCE OF 669.03 FEET TO THE SOUTHEAST CORNER OF MISTY HARBOR ESTATES No. 3; THENCE COINCIDENT WITH THE EAST LINE OF MISTY HARBOR ESTATES No. 3 ON AZIMUTH 359 DEGREES 57 MINUTES 54 SECONDS, A DISTANCE OF 395.64 FEET; THENCE ON AZIMUTH 89 DEGREES 57 MINUTES 54 SECONDS, A DISTANCE OF 669.05 FEET TO THE EAST LINE OF SAID EAST HALF; THENCE COINCIDENT WITH SAID EAST LINE ON AZIMUTH 179 DEGREES 58 MINUTES 50 SECONDS, A DISTANCE OF 385.25 FEET TO THE POINT OF BEGINNING. CONTAINING 5.59 ACRES, MORE OR LESS.

SURVEYOR CERTIFICATE:

I HEREBY CERTIFY THE DETAILS OF THIS PLAT TO BE CORRECT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL BOUNDARY CORNERS OF THIS SUBDIVISION HAVE BEEN MONUMENTED, ACCORDING TO KANSAS STATE STATUTE. THIS__________DAY OF__________ 20______.

RONALD J. SHANKS LS #1255
BARTLETT & WEST ENGINEERS, INC.

DEDICATION:

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

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

IN TESTIMONY WHEREOF: THE OWNER(S), F & L ENTERPRISES, INC., A KANSAS CORPORATION BY CHRISTINA K. LEIFRIED, PRESIDENT, HAS CAUSED THESE PRESENTS TO BE SIGNED THIS________ DAY OF__________, 20______.

CHRISTINA K. LEIFRIED, PRESIDENT,
F & L ENTERPRISES, INC.

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS________ DAY OF__________, 20______, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME CHRISTINA K. LEIFRIED, PRESIDENT, OF F & L ENTERPRISES, INC., WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC　　MY COMMISSION EXPIRES

CERTIFICATE OF APPROVALS:

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS________ DAY OF__________ 20______.

__________, CHAIRMAN, TPC　　DAVID F. THURBON, PLANNING DIRECTOR

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

WILLIAM W. BUNTEN, MAYOR　　BRENDA YOUNGER, CITY CLERK

REVIEWED BY THE COUNTY SURVEYOR THIS______ DAY OF __________ 20______.

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

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS THIS______ DAY OF__________, 20______

CYNTHIA A. BECK, COUNTY CLERK

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS THIS______ DAY OF__________, 20______ AT ________ O'CLOCK.

MARILYN L. NICHOLS, REGISTER OF DEEDS

BARTLETT & WEST

FINAL PLAT

MISTY HARBOR ESTATES No. 4
SHAWNEE COUNTY, KANSAS

DESIGNED BY:	WBV
DRAWN BY:	MOS
APPROVED BY:	RJS
DESIGN PROJ:	13507.400
SCALE:	AS SHOWN
DATE:	MAR. 2008
DRAWING NO:	P08/13
SHEET NO:	1 of 1

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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 28, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Councilmember Sylvia Ortiz**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**Kent Nicolay Family Fundraiser**	**PROJECT #:**	
CATEGORY/SUBCATEGORY	**013 Ordinances - Codified / 010 Alcoholic Beverages**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:	**10-02-12 First Reading.**	**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Sylvia Ortiz, 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 Kent Nicolay Family Fundraiser. Final Reading. *(Council District No. 3)*

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

(Approval would allow a state-licensed vendor to serve alcoholic beverages within the barricaded portion of the parking lot of the Spot Tavern located at 2202 SW Buchanan, and a portion of SW 22nd Street between SW Buchanan and SW Clay on October 13, 2012, from 5:00 p.m. to 11:00 p.m.)

POLICY ISSUE:

Whether or not to authorize the removal of a barricaded portion of the parking lot of the Spot Tavern, located at 2202 SW Buchanan, and a portion of SW 22nd Street between SW Buchanan and SW Clay from City right-of-way to facilitate the sale, possession, and consumption of alcoholic liquor for the Kent Nicolay Family Fundraiser.

STAFF RECOMMENDATION:

Approval of the ordinance.

BACKGROUND:

This ordinance would remove a barricaded portion of the parking lot of the Spot Tavern, located at 2202 SW Buchanan, and a portion of SW 22nd Street between SW Buchanan and SW Clay from City right-of-way to facilitate the sale, possession, and consumption of alcoholic liquor on October 13, 2012, from 5:00 p.m. to 11:00 p.m. for the Kent Nicolay Family Fundraiser.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Ordinance

(Published in the Topeka Metro News ____)

ORDINANCE NO. _________________

AN ORDINANCE introduced by Councilmember Sylvia Ortiz 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 Kent Nicolay Family Fundraiser.

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

Section 1. Authorization is given to barricade the parking lot of the Spot Tavern, located at 2202 SW Buchanan and a portion of 22nd Street between SW Buchanan and SW Clay on October 13, 2012, from 5:00 p.m. to 11:00 p.m. for the Kent Nicolay Family Fundraiser event. Attendance to the celebration is open to the public between these hours.

Section 2. The barricaded portion of the parking lot of the Spot Tavern, located at 2202 SW Buchanan and a portion of 22nd Street between SW Buchanan and SW Clay 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 on October 13, 2012, from 5:00 p.m. to 11:00 p.m. 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 the parking lot of the Spot Tavern, located at 2202 SW Buchanan and a portion of 22nd Street between SW Buchanan and SW Clay on October 13, 2012, from 5:00 p.m. to 11:00 p.m.

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 the parking lot of the Spot Tavern, located at 2202 SW Buchanan and a portion of 22^{nd} Street between SW Buchanan and SW Clay on October 13, 2012, from 5:00 p.m. to 11:00 p.m.

<u>Section 4.</u> The Kent Nicolay Family Fundraiser 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).

<u>Section 5.</u> 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

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Pam Simecka**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**Public Hearing for 2012 Operating Budget Amendments**	**PROJECT #:**	
CATEGORY/SUBCATEGORY	**004 Budgets or Appropriations / 007 Other**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

AUTHORIZING a public hearing for November 13, 2012 for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2012 Operating Budget.

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

(Approval authorizes publication of the Notice of Public Hearing in the October 15, 2012 edition of the Topeka Metro Newspaper. The amendment would include the following: use the fund balance to increase the Tax Increment Financing Fund expenditures by $172,658 to cover part of the debt service payment; use the fund balance of the Transient Guest Tax Fund to increase expenditures to Visit Topeka by $50,000, Heartland Park by $50,000, to add $35,000 to contribute to the League of Municipalities annual conference being held in Topeka, and to increase the transfer to the Historical Asset Fund by $29,364; increase the Retirement Reserve Fund revenues by $105,000 to cover current projected retirees and to fund the negative fund balance from 2011. Also increase the expenditure amount by $50,000 to cover the current projected retirees; increase the Historical Asset Fund revenue from the Transient Guest Tax Fund by $29,364 and increase the expenditures by $56,763; use the fund balance to increase the JEDO Sales Tax Fund expenditure transfers by $1,460,328; use the fund balance to increase the Sales Tax Street Fund expenditures for curb and gutter projects by $584,554, alley projects by $217,782 and sidewalk projects by $310,000; and amend transfers from the Transient Guest Tax Fund to $114,364 to the Historical Asset Fund and amend transfers from the JEDO Fund to capital projects to $6,957,578.)

POLICY ISSUE:

Cities are authorized by K.S.A. 79-2929a to amend budgets to spend money not in the original budget. The additional expenditures cannot be financed by additional tax levy. The policy question is whether to set a public hearing and consider amending the 2012 budget to include certain transfers and authorize other expenditure adjustments.

STAFF RECOMMENDATION:

Motion by Council to set the Public Hearing for November 13, 2012

BACKGROUND:

Here are the proposed amendments to the 2012 budget.

Transient Guest Tax Fund (271) – This amendment would use the fund balance to increase expenditures to Visit Topeka ($50,000), Heartland Park ($50,000), League of Municipalities ($35,000), and increase the transfer to the Historical Asset Fund by $29,364. The Historical Asset Fund is determined after all the tax money has been received for the previous year. Our budget estimate for 2012 was low. The actual amount to be transferred by the formula is $114,364 not $85,000 as originally budgeted. This leaves an estimated fund balance of $52,085 in the Transient Guest Tax Fund. However, indications are that additional revenue may come in this year bringing the fund balance up by year end. At minimum, staff recommends Council should authorize $35,000 to the League of Municipalities, for its 2012 Annual Conference held in Topeka October 5th to 7th. Since this amount has already been paid. All other items are optional and if the fund expenditure level is not amended the money will remain in the fund balance.

Retirement Reserve (286) – This fund is used to pay the sick and vacation accruals for employees that are retiring. The estimate of sick and vacation for 2012 is $599,990.82. Staff suggestion is to take it up to $650,000 in case additional employees wish to retire in 2012. We are also adding additional revenue to the fund to offset a negative fund balance from 2011 and the additional expenses in 2012.

Historical Asset Tourism Fund (289) – This amendment would allow the additional revenue from the Transient Guest Tax Fund to be accounted for in this fund. Also it increases the expenditure level for 2012 to be at the higher amount of the transfer ($114,364). If the amendment is not passed, then the additional funds will remain in the fund balance to be used in future years.

JEDO Sales Tax Fund (290) – This amendment would increase the expenditure level by $1,460,328. In 2012, the City has spent more on JEDO sponsored projects and need to increase our expenditure authority. All the money for the additional expenditures is coming from JEDO funds but by State law, we still need the authority to transfer it to the capital projects. If not amended then the City would have to carry the expenses longer before getting reimbursed for them by JEDO in 2013.

Sales Tax Street Fund (292) – This amendment would increase the expenditure level for curb and gutter projects by $584,554, alley projects by $217,782 and sidewalk projects by $310,000. Basically the sidewalk projects are already done. Office of Utilities and Transportation feels the alley and the curb and gutter projects will also be completed by the end of 2012. This is using money within the fund balance of the fund. This leaves the fund with and estimated fund balance of $6,881,878. If the amendment is not passed the alley and curb and gutter projects would be delayed until 2013. The sidewalk projects are already done, so budget authority would have to be taken from street projects and so less would be done on streets. The unauthorized funds would remain within the fund balance to be spent in future years.

Tax Increment Financing Fund (293) – This amendment of $172,658 would use the fund balance to pay the 2012 principal and half of the interest payment for College Hill Tax Increment Financing District debt service. This is the first time since the establishment of the College Hill District that the City has had enough money collected from the district to pay a debt service payment. This should still leave enough fund balance with the additional taxes to be collected next year to again pay the principal and interest payment in 2013. Expenditures were not budgeted in 2012, because we were not sure there would be enough funds available to pay the debt service payment. (If not passed the debt service will be paid from the property tax based fund instead.)

Transfers from one Fund to Another – We will need to transfer the additional funds from the Transient Guest Tax Fund to the Historical Asset Fund (see reason above). We also need to transfer the funds received from JEDO to the Capital Projects to cover expenses for the construction projects.

If the amendments to the Transient Guest Tax and the JEDO fund are not approved then there is no need for the transfer authorization either.

BUDGETARY IMPACT:

All of these amendments will increase the authorized 2012 budget. Either 2012 revenue will be used for the new expenditures or the fund balance will be used.

SOURCE OF FUNDING:

Tax Increment Financing - Fund balance and current revenue
Transient Guest Tax Fund - Current revenue and fund balance
Historical Tourism Asset Fund - Current revenue
JEDO Fund - JEDO funds
Sales Tax Street Fund - Fund balance and current revenue
Retirement Reserve - requires additional funds to be pulled from the department operating budgets of 1.2%

ATTACHMENTS:

Budget Sheet Amendments

Legal Notice

Summary

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
271 TRANSIENT GUEST TAX FUND			
FUND BALANCE, BEGINNING	$ 556,449	$ 556,449	
REVENUE:			
TRANSIENT GUEST TAX RECEIPTS	1,830,600	1,830,600	-
Subtotal Revenue	1,830,600	1,830,600	-
TOTAL BALANCE AND REVENUE	2,387,049	2,387,049	-
EXPENDITURES:			
VISIT TOPEKA	905,150	955,150	50,000
VISIT TOPEKA BID FUND	150,000	150,000	-
EXPO CENTER	50,000	50,000	-
HEARTLAND PARK	265,450	315,450	50,000
LEAGUE OF MUNICIPALITIES	-	35,000	35,000
OPERATING TRANSFERS			
RAILROAD HERITAGE (GRT OVERLAND S'	94,000	94,000	-
RIVERFRONT PARK	106,000	106,000	-
HISTORICAL PRESERVATION FUND	85,000	114,364	29,364
TRANSFER TO GENERAL FUND	175,000	175,000	-
Net Prior/Current Year Encumbrances	340,000	340,000	-
TOTAL EXPENDITURES	2,170,600	2,334,964	164,364
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	$ 216,449	$ 52,085	$ -

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
286 RETIREMENT RESERVE			
FUND BALANCE, BEGINNING	$ (51,764)	$ (51,764)	$ -
REVENUE:			
FEES FOR SERVICES	600,000	705,000	105,000
Subtotal Revenue	600,000	705,000	105,000
TOTAL BALANCE AND REVENUE	548,236	653,236	105,000
EXPENDITURES:			
PERSONNEL SERVICES	600,000	650,000	50,000
TOTAL EXPENDITURES	600,000	650,000	50,000
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	$ (51,764)	$ 3,236	

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
289 HISTORICAL ASSETS			
FUND BALANCE, BEGINNING	$ 328,351	$ 328,351	-
REVENUE:			
TRANSER FROM TRANSIENT GUEST	85,000	114,364	29,364
INTEREST INCOME			
REFUND AND RECOVERIES			
Subtotal Revenue	85,000	114,364	29,364
TOTAL BALANCE AND REVENUE	413,351	442,715	29,364
EXPENDITURES:			
CONTRACTUAL SERVICES	57,601	114,364	56,763
Net Prior/Current Year Encumbrances	281,305	281,305	-
TOTAL EXPENDITURES	338,906	395,669	56,763
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	$ 74,445	$ 47,046	

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
290 JEDO SALES TAX FUND			
FUND BALANCE, BEGINNING	$ 1,605,267	$ 1,605,267	$ -
REVENUE:			
SALES TAX FROM JEDO	8,000,000	8,000,000	-
INTEREST INCOME			
REFUND AND RECOVERIES			
Subtotal Revenue	8,000,000	8,000,000	-
TOTAL BALANCE AND REVENUE	9,605,267	9,605,267	-
EXPENDITURES:			
PROJECT EXPENSES (See transfers)	-	-	-
HALF GO TOPEKA COST	2,500,000	2,500,000	-
HALF AUDIT CHARGES	2,250	2,250	-
HALF BANK CHARGES	500	500	-
Net Prior/Current Year Encumbrances			
TOTAL EXPENDITURES	2,502,750	2,502,750	-
RESIDUAL EQUITY TRANSFER	5,497,250	6,957,578	1,460,328
FUND BALANCE, ENDING	$ 1,605,267	$ 144,939	

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
292 SALES TAX STREET			
FUND BALANCE, BEGINNING	$ 9,489,556	$ 9,489,556	$ -
REVENUE:			
SALES TAX REVENUE	13,500,000	13,500,000	-
INTEREST INCOME			
REFUND AND RECOVERIES			
Subtotal Revenue	13,500,000	13,500,000	-
TOTAL BALANCE AND REVENUE	22,989,556	22,989,556	-
EXPENDITURES:			
PERSONNEL SERVICES	132,308	132,308	-
STREET PROJECTS	14,053,034	14,053,034	-
CURB PROJECTS	500,000	1,084,554	584,554
ALLEY PROJECTS	250,000	467,782	217,782
SIDEWALKS	60,000	370,000	310,000
Net Prior/Current Year Encumbrances			
TOTAL EXPENDITURES	14,995,342	16,107,678	1,112,336
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	$ 7,994,214	$ 6,881,878	

City of Topeka, Kansas Operating Budget for Fiscal Year 2012

Summary of Resources and Appropriations

Resources and Appropriations	2012 Adopted	2012 Amended	Difference
293 TAX INCREMENT FINANCING			
FUND BALANCE, BEGINNING	$ 278,170	$ 278,170	$ -
REVENUE:			
PROPERTY TAX-EASTGATE	44,000	44,000	-
SALES TAX-EASTGATE	10,000	10,000	-
OTHER PAYMENTS-EASTGATE	54,000	54,000	-
PROPERTY TAX-COLLEGE HILL			
INTEREST INCOME			
Subtotal Revenue	108,000	108,000	-
TOTAL BALANCE AND REVENUE	386,170	386,170	-
EXPENDITURES:			
DEBT SERVICE PAYMENT COLLEGE HILL	-	172,658	172,658
TOTAL EXPENDITURES	-	172,658	172,658
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	$ 386,170	$ 213,512	

NOTICE OF BUDGET HEARING AMENDING THE 2012 BUDGET

The governing body of the CITY OF TOPEKA, KANSAS will meet on the **13th day of November** at 6:00 pm, at the CITY COUNCIL CHAMBERS at 214 E. Eighth Street, for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.
Detailed budget information is available at OFFICE OF FINANCE, CITY HALL and will be available at this hearing.

The amendments would increase the expenditure limit for the Transient Guest Tax Fund, Retirement Reserve Fund, Historical Asset Tourism Fund, JEDO Sales Tax Fund, Sales Tax Street Repair Fund, and Tax Increment Financing Fund will be using additional revenues received or cash balance and unbudgeted for 2012.

	Adopted Budget 2012			Proposed Amendment 2012
Fund	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
Transient Guest Tax Fund (271)	--	$ -	$ 1,830,600	$ 1,994,964
Retirement Reserve (286)			$ 600,000	$ 650,000
Historical Asset Tourism Fund (289)			$ 338,906	$ 395,669
JEDO Sales Tax Fund (290)			$ 8,000,000	$ 9,460,328
Sales Tax Street Fund (292)			$ 14,995,342	$ 16,107,678
Tax Increment Financing (293)			$ -	$ 172,658

Transfers	Adopted 2012 Budget	Proposed Amendment 2012
	Transfer Amount	Transfer Amount
Transient Guest Tax Fund Transfer Out to Historical Asset Tourism Fund	$ 85,000	$ 114,364
JEDO Fund transfer to Capital Projects	$ 5,497,250	$ 6,957,578

By Order of the governing Body:

City Clerk

Budget Amendments for 2012 Operating Budget

Transient Guest Tax Fund (271) – This amendment would use the fund balance to increase expenditures to Visit Topeka ($50,000), Heartland Park ($50,000), League of Municipalities ($35,000) and increase transfers to the Historical Asset Fund by $29,364. The Historical Asset Fund is determined after all the tax money has been received for the previous year. Our budget estimate for 2012 was low, the actual amount to be transferred by the formula is $114,364 not $85,000 as originally budgeted. The amendment would leave us an estimated fund balance of $52,085. However, -the indications are that additional revenue may come in this year bringing the fund balance up by year end.

Retirement Reserve (286) – This fund is used to pay the sick and vacation accruals for employees that are retiring. The estimate of sick and vacation for 2012 is $599,990.82. Staff suggestion is to increase it to $650,000 in case additional employees wish to retire in 2012. We are also adding additional revenue to the fund to offset a negative fund balance from 2011 and the additional expenses in 2012.

Historical Asset Tourism Fund (289) – This amendment is to allow the additional revenue from the Transient Guest Tax Fund to be accounted for in this fund. Also it increases the expenditure level for 2012 to be at the higher amount of the transfer ($114,364).

JEDO Sales Tax Fund (290) – This amendment would increase the expenditure level by $1,460,328. In 2012 we have spent more on JEDO sponsored projects and need to increase our expenditure authority. All the money for the additional expenditures is coming from JEDO funds but by State law we still need the authority to transfer it to the capital projects.

Sales Tax Street Fund (292) – This amendment would increase the expenditure level for curb and gutter projects by $584,554, alley projects by $217,782, and sidewalk projects by $310,000. Basically the sidewalk projects are already done and Office of Utilities and Transportation feels the alley and the curb and gutter projects will also be completed by the end of 2012. This is using money within the fund balance of the fund. This leaves the fund with an estimated fund balance of $6,881,878

Tax Increment Financing Fund (293) – This amendment of $172,658 would use the fund balance to pay the 2012 principal and half of the interest payment for College Hill debt service. This is the first time since the establishment of the College Hill TIF that the City has had enough money collected from the district to pay a debt service payment. This should still leave enough fund balance with the additional taxes to be collected next year to again pay the principal and interest payment in 2013. It was not budgeted in 2012 because we were not sure there would be enough funds available to pay the debt service payment.

Transfers from one Fund to Another – We will need to transfer the additional funds from the Transient Guest Tax Fund to the Historical Asset Fund ($29,354) (see reason above).

We also need to transfer the funds received from JEDO to the Capital Projects to cover expenses for the construction projects ($1,460,328).

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 1, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Catherine Walter - Senior Assistant Attorney**	**DOCUMENT #:**	
SECOND PARTY/SUBJECT:	**FOP, IAFF, AFT, AFSCME Development Services, AFSCME Water, Teamsters**	**PROJECT #:**	
CATEGORY/SUBCATEGORY	**007 Contracts and Amendments / 020 Employee Agreements**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

APPROVAL of a Joint Memorandum of Agreement concerning Group Healthcare Benefits with the FOP, IAFF, AFT, AFSCME Development Services, Water and Teamsters labor unions.

Voting Requirement: Majority of Governing Body, including Mayor.

(Approval of the two-year agreement will keep the City's 2013 budgeted contribution the same and will be funded through the Health Insurance Fund. All employees will contribute to the cost of healthcare.)

POLICY ISSUE:

Whether or not to approve the healthcare cost-sharing agreement as negotiated in good faith by management and unions.

STAFF RECOMMENDATION:

Staff recomends the Governing Body move to approve the Joint Memorandum of Agreement.

BACKGROUND:

On September 25, 2012, a tentative agreement was reached with 6 of the 7 labor unions related to healthcare cost-sharing. Ratification votes by each participating labor union will be held prior to October 9, 2012. On or before October 9, 2012 the results of the ratification votes will be shared with the City. If the Joint Memorandum of Agreement is ratified by the separate bargaining units, the Agreement will be presented to the Governing Body for approval.

Item #13

BUDGETARY IMPACT:

The Agreement is for a two year period. The City of Topeka's 2013 budgeted contribution remains the same. All employees will now contribute to the cost of healthcare. Employees enrolled in the single base medical plan will pay 5% of the premium equivalent, with an extra $25 payment dedicated to the healthcare reserve fund for 2013 and 2014 (total payment for 2013 will be $49.34). The City and active employees cost sharing percentages for dependent tiers will be 58% by City and 42% by employee for 2013 and 59% by City and 41% by employee for 2014.

SOURCE OF FUNDING:

Funding of group healthcare benefits is through the health insurance fund. Revenue for this fund is generated by City of Topeka healthcare and employee contributions of applicable premium equivalents.

ATTACHMENTS:

Cost Sharing Analysis

Memorandum of Agreement

City of Topeka - January 2013 Cost Sharing Analysis - 58 / 42 TA Dated 9 25 2012
ACTIVE EMPLOYEES ONLY

	Premium Equivalents w/o Dental	EO Reserve Amount	EO % Amount	Total Monthly Cont. Amount	%	COT Cont.	%	Enrollment	EE Cont. (applying to Health Fund)	Total Monthly	# of Months	EE Annual Total Cont.	COT Cont.	Total Monthly	# of Months	COT Annual Total Cont.
Base Plan																
Employee only	**$486.77**	$25.00	$24.34	**$49.34**	5%	**$462.43**	95%	500	$24.34	$12,169.25	12	$146,031.00	$462.43	$231,215.75	12	$2,774,589.00
Employe & Spouse	**$1,035.85**			**$435.06**	42%	**$600.79**	58%	44	$435.06	$19,142.51	12	$229,710.10	$600.79	$26,434.89	12	$317,218.70
Employee & Child(ren)	**$939.80**			**$394.72**	42%	**$545.08**	58%	119	$394.72	$46,971.20	12	$563,654.45	$545.08	$64,865.00	12	$778,379.95
Employee & Family	**$1,478.53**			**$620.98**	42%	**$857.55**	58%	65	$620.98	$40,363.87	12	$484,366.43	$857.55	$55,740.58	12	$668,886.97
Base Plan Total Headcount								**728**		**$118,646.83**		**$1,423,761.97**		**$378,256.22**		**$4,539,074.63**
Buy-Up Plan																
Employee only	**$526.36**	$25.00	$63.93	**$88.93**	12%	**$462.43**	88%	240	$63.93	$15,342.84	12	$184,114.08	$462.43	$110,983.56	12	$1,331,802.72
Employe & Spouse	**$1,120.97**			**$520.18**	46%	**$600.79**	54%	34	$520.18	$17,686.02	12	$212,232.22	$600.79	$20,426.96	12	$245,123.54
Employee & Child(ren)	**$1,016.93**			**$471.85**	46%	**$545.08**	54%	37	$471.85	$17,458.30	12	$209,499.62	$545.08	$20,168.11	12	$242,017.30
Employee & Family	**$1,599.94**			**$742.39**	46%	**$857.55**	54%	12	$742.39	$8,908.71	12	$106,904.53	$857.55	$10,290.57	12	$123,486.83
Buy-Up Plan Total Headcount								**323**		**$59,395.87**		**$712,750.45**		**$161,869.20**		**$1,942,430.39**

	Dental Premium Equivalents with adm fees	EO Reserve Amount	EO % Amount	Total Monthly Cont. Amount	%	COT Cont.	%	Enrollment	EE Cont. (applying to Health Fund)	Total Monthly	# of Months	EE Annual Total Cont.	COT Cont.	Total Monthly	# of Months	COT Annual Total Cont.
DENTAL																
Employee only	**$29.76**			**$1.49**	5%	**$28.27**	95%	740	$1.49	$1,101.12	12	$13,213.44	$28.27	$20,921.28	12	$251,055.36
Employe & Spouse	**$59.78**			**$25.11**	42%	**$34.67**	58%	78	$25.11	$1,958.39	12	$23,500.71	$34.67	$2,704.45	12	$32,453.37
Employee & Child(ren)	**$64.07**			**$26.91**	42%	**$37.16**	58%	156	$26.91	$4,197.87	12	$50,374.40	$37.16	$5,797.05	12	$69,564.64
Employee & Family	**$106.95**			**$44.92**	42%	**$62.03**	58%	77	$44.92	$3,458.76	12	$41,505.16	$62.03	$4,776.39	12	$57,316.64
Dental Plan Total Headcount								**1051**		**$10,716.14**		**$128,593.71**		**$34,199.17**		**$410,390.01**
Combined Plan Total										**$188,758.84**		**$2,265,106.13**		**$574,324.59**		**$6,891,895.03**

TOTAL ANNUAL EMPLOYEE CONTRIBUTION	2,265,106.13
TOTAL ANNUAL COT CONTRIBUTION	6,891,895.03
TOTAL ANNUAL EMPLOYEE & COT CONTRIBUTIONS	**9,157,001.16**

COT Contributions for the reserve fund ($7,186,998-$6,891,895)	**$295,102.97**
$25 per EO tier - ALLOCATED FOR RESERVE FUND	**$222,000.00**

Analysis assumes enrollment distribution as shown above. Enrollment based on BCBS KS May 2012 Reports.
Employee Contribution Amount is percentage of entire premium equivalent amount.
Does not include additional FTEs.

Willis note: If actual enrollment in the ES, EC, EF tiers increases, COT's liability increases as well.

DATED: 9/26/2012

JOINT MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into between the City of Topeka and the [set forth unions participating] pursuant to an Agreement to jointly meet and confer concerning the topic of employee healthcare cost sharing. The terms of the Agreement take precedence over any conflicting language concerning healthcare costs in any current agreement between the City and any one of the signatory unions.

To commence calendar year 2013, ratification vote by each participating union must be held on or before October 7, 2012.

Participating unions:

AFT: Article 12 (Miscellaneous Benefits), Section 3 (Health Insurance).

Development Services AFSCME: Article 15 (Benefits), Section 15 (Group Insurance).

FOP: Article 13 (Wages), Section 4 (Group Health Insurance).

IAFF: Article 15 (Wages), Section 5 (Health Insurance).

Teamsters: Article 17 (Health and Safety), Section 2 (Health Insurance).

Water AFSCME: Article 4 (Employee Benefits), Section 5 (Health Insurance).

The City agrees to make group healthcare benefits available to all employees who are eligible -- as set forth in the provisions of the City's group healthcare benefits plan -- and who sign up for such healthcare benefits. The City retains the authority to define group health insurance coverage and select the carrier to maintain a cost effective program.

For the calendar years of 2013 and 2014, the City and the unions ratifying this Agreement agree to jointly share in the cost of provided group health benefits for City employees under the following cost-sharing formula based upon premium equivalents established by City administration prior to open enrollment each year:

1) Premium equivalent for Base -Employee Only plan: 95% paid by the City and 5% paid by the employee for calendar years 2013 and 2014, with the employee paying an additional $25 per month to the health insurance fund for calendar years 2013 and 2014.

2) Premium equivalents for Base plans for all dependent tiers: 58% paid by the City and 42% paid by the employee for calendar year 2013; 59% paid by the City and 41% paid by the employee for calendar year 2014. For calendar year 2014, in the unlikely event the City experiences budget shortfalls or faces legal requirements that, if not resolved during the budget year, would result in the layoff of represented employees, reduction in pay or benefits of represented employees, or the significant curtailment of services provided by represented employees to the City's citizens, premium equivalents will revert to previously stated levels for calendar year 2013.

3) Employees shall pay 100% of the difference between the premium equivalent for buy-up plans and the amount paid by the City toward the comparable base plan.

4) For calendar year 2014, a 1% discount off the premium equivalent of the employee contribution for the Single Base plan will be available for employees who acknowledge non-tobacco use. Additional cost saving initiatives will be explored through the Healthcare Advisory Committee.

5) Healthcare cost sharing for 2015 forward will be reopened for discussion during the month of April 2014, by the City providing written notice to each of the unions no later than April 1, 2014. Negotiations shall commence within thirty days of the notice unless such time is extended by mutual agreement of the parties.

This Memorandum of Agreement shall remain in full force and effect during any period of negotiations and/or conclusion of other procedures established within KSA 75-4321 et.seq..

The Employer and Union agree to discuss and consider changes in coverage in continuing efforts to contain and control escalating costs of group healthcare benefits. These discussions will take place through the Healthcare Advisory Committee.

Under no circumstances will the Employer be liable for any additional payment or cost beyond the provisions of this section. The City agrees to notify the Union in advance in the event of changes in coverage or carrier.

Jacque Russell
Jacque Russell 9/25/2012

Catherine Walter 9/25/2012
Catherine Walter

R. Worden 9-25-12 – Dev. Serv
Richard Worden

Kent Biggs 9-25-12

Randall S. Phillips Randall S. Phillips 9-25-12 IAFF Local 83

Ron Perry Ron Perry 9-25-12 AFSCME

Matt Hall Matt Hall 9-25-12 Teamsters

Dean W. Sprecker President AFT|KS Local 6406 9/25/12

[illegible]

A Capital City Government Working For You…

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

Back Print

DATE:	**October 9, 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

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 28, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Bill Fiander/Bill Hoover**	**DOCUMENT #:**	**Z12/9**
SECOND PARTY/SUBJECT:	**Frank W. and Esta L. Meade**	**PROJECT #:**	
CATEGORY/SUBCATEGORY	**014 Ordinances – Non-Codified / 007 Zoning**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:	**10-02-12 First Reading.**	**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, 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 properties located in the 1100 block of SE Quincy Street between SE 11th and SE 12th Streets and precisely located at 1126 and 1104 SE Quincy Street, 221 SE 11th Street, 1111 and 1113 SE Monroe Street from "C-4" Commercial District, "M-3" Multiple-Family Dwelling District, "E" Multiple-Family Dwelling District, "O&I-2" Office & Institutional District ALL TO "D-1" Downtown District. Final Reading. *(Z12/9) (Council District No. 3)*

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

(Approval would allow for development of uses in the D-1 District.)

POLICY ISSUE:

The request for "D-1" will be consistent with the Downtown Topeka Redevelopment Plan if the Downtown Design Guidelines are strictly adhered to with any new development. The Planning Department recommended it alternatively be rezoned to the "D-2" District since it would better encourage compatible development with the existing residences and historic sites, and provide a better transition area from the Core Central Business District area. Rezoning of the property to the "D-1" District will provide a benefit to the applicants.

STAFF RECOMMENDATION:

The Planning Department requests the Governing Body move to "approve the rezoning request and adopt the zone change.

"The Topeka Planning Commission recommended the proposal be APPROVED for "D-1" Downtown District as requested by the applicant by a vote of 9-0-0 at its September 17, 2012 meeting, as referenced in the attached minutes. The Planning Department recommended the rezoning proposal rather be approved for the "D-2" Downtown District, as referenced in the attached staff report.

BACKGROUND:

- See staff report
- Governing Body options:
  - Adopt the recommendation of the Planning Commission by a majority (6 votes) of the Governing Body;
  - Override the recommendation of the Planning Commission by a two-thirds majority (7 votes) of the Governing Body; or
  - Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a majority (6 votes) of the Governing Body.

BUDGETARY IMPACT:

There would be no budgetary impact to the City, all costs associated with development will be paid for by the developer.

SOURCE OF FUNDING:

Associated costs will be paid for by the developer.

ATTACHMENTS:

Ordinance

Summary Report

Zoning Map

Aerial Map

Planning Commission Minutes 9-17-12

(Published in the Topeka Metro News ____________________)

ORDINANCE NO. _________________________

AN ORDINANCE introduced by Jim Colson, 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 properties located in the 1100 block (even) of SE Quincy Street between SE 11th and SE 12th Streets and precisely located at 1126 and 1104 SE Quincy Street, 221 SE 11th Street, 1111 and 1113 SE Monroe Street from “C-4” Commercial District, "M-3” Multiple-Family Dwelling District, “E” Multiple-Family Dwelling District, “O&I-2” Office & Institutional District **ALL TO** “D-1” Downtown District. **(Z12/9) (Council District No. 3)**

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:

All of Lots 362-384 (even), South ½ of Lot 388, all of Lots 390-392 (even), North ½ of Lot 394, Quincy Street in Ritchie’s Addition Subdivision and East 87’ and West 31’ of Lots 361- 365 (odd), all of Lots 367-391 (odd) and the North 12’ of the West 59.7’ and East 90.3’ of Lot 393, Monroe Street within Ritchie’s Addition Subdivision, City of Topeka, Shawnee County, Kansas

From “C-4” Commercial District, "M-3” Multiple-Family Dwelling District, “E” Multiple-Family Dwelling District, “O&I-2” Office & Institutional District **ALL TO** “D-1” Downtown 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____

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: Z12/9 FRANK W. AND ESTA L. MEADE

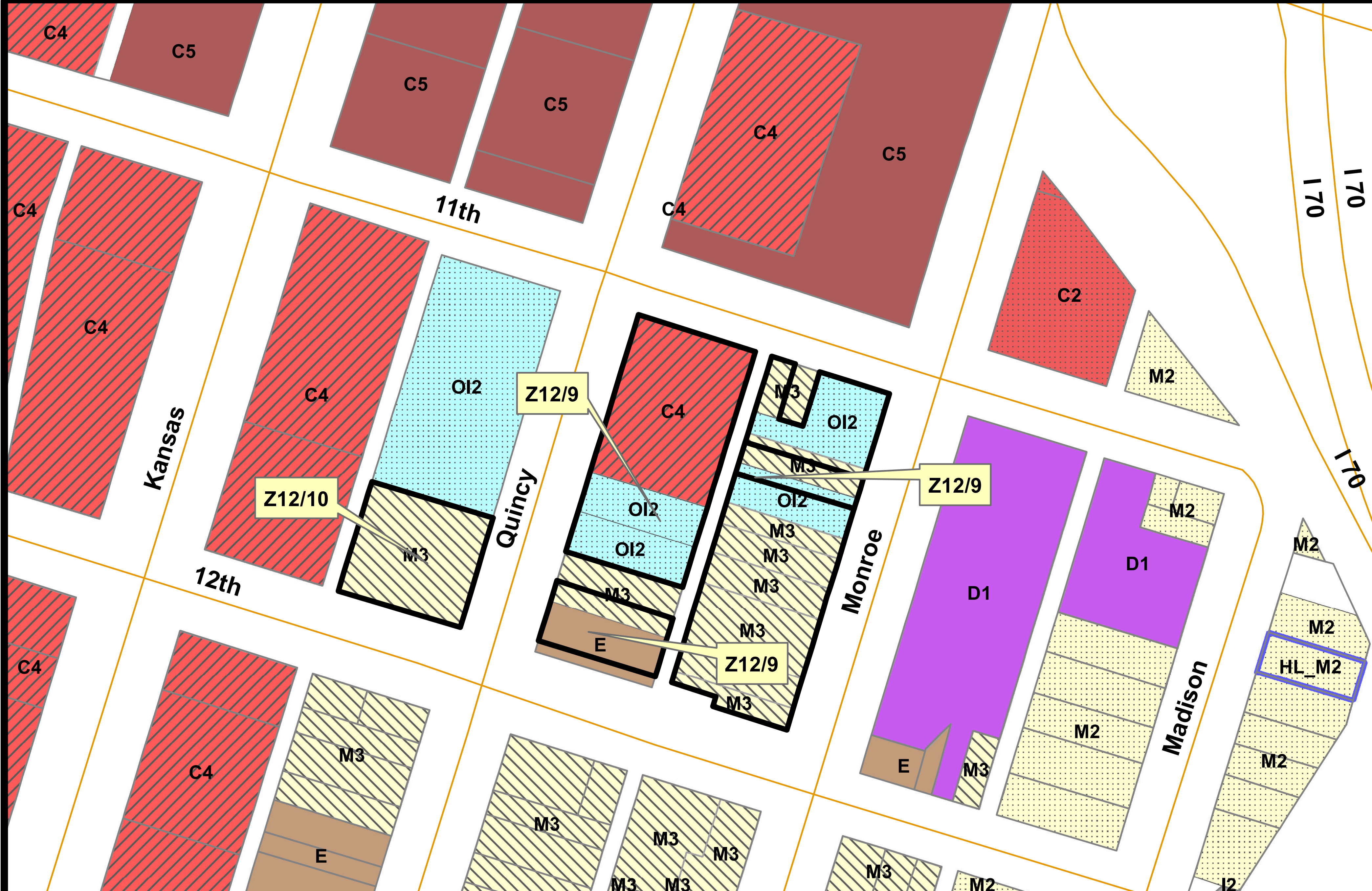
This is a rezoning request from Frank and Esta Meade for numerous adjacent lots totaling about 3 acres located just east of the City's downtown water tower. These lots comprise almost the entire city block located at the NE corner of SE Quincy St. and SE 12th Street.

The request is to rezone these properties that have commercial, office/institutional, and multi-family residential zoning all to the "D-1" Downtown District, which allows mixed use zoning. The applicant's proposed use is a State of Kansas office building.

This area used to be the northern end of the Monroe Neighborhood but over time the residences have been torn down and many of the lots are now being used as surface parking lots to serve nearby commercial uses. The John Ritchie House is located about one block to the east and is being utilized as a historic museum. The Bowker House, another designated historic landmark, is located directly to the south across SE 12th Street and is being used as a single-family residence.

The Planning Director identified some concerns with "D-1" zoning allowing uses by right that may be incompatible with the Ritchie House and residential uses located to the south across SE 12th Street. The question became how far south should the traditional Central Business District character extend and would that serve the best interest of a walkable and cohesive Downtown core. The Planning Director recommended a "D-2" Downtown District eliminates uses such as automobile service stations, car washes, motor vehicle sales, and vehicle surface parking lots. The "D-2" Downtown District is intended for moderate intensity land uses and limits building heights to 50 feet and maximum building coverage of a lot to 75%. This was in comparison to the "D-1" Downtown District which has no building height limit or maximum lot coverage requirements.

At its September 17th public hearing, the Planning Commission unanimously recommended approval that the subject property be rezoned to the "D-1" Downtown District due to the proximity of a "D-1" property already in the area and the impacts from the City water tower located on the block to the west.



Z12/9 By: Frank W. & Esta L. Meade

Z12/10 By: Frank W. Meade

Z12/9 By: Frank W. & Esta L. Meade
Z12/10 By: Frank W. Meade

Topeka Planning Department

Minutes of the
Topeka Planning Commission
Monday, September 17, 2012

Z12/9 Meade Development by Frank W. and Esta L. Meade requesting to amend the District Zoning Classification from “C-4” Commercial District, “O&I-2” Office and Institutional District, “M-3” Multiple-Family Dwelling District and “E” Multiple-Family Dwelling District **ALL TO** “D-1” Downtown District on property located in the 1100 block (even) of SE Quincy Street, lying between SE 11th and SE 12th Streets, excluding three parcels. **(Driver)**

Discussion by members: Annie Driver summarized the staff report for both cases by Frank L. Meade. Mrs. Driver explained that while the applicant requested “D-1” zoning, the Topeka Planning Department staff is recommending “D-2” zoning for the proposals. Mrs. Driver explained that D-2 zoning supports scaling down intensity from the business core district. If D-2 is approved, the applicant would also need a conditional-use permit.

Richard Beardmore asked if there was any advanced correspondence with the applicant indicating the staff recommendation of “D-2”. Mrs. Driver explained the applicant had received the staff report and continues with the requests of “D-1” zoning change.

Proponents:
Frank Meade, applicant, spoke in favor of the proposal. Mr. Meade explained that he is planning to build a $10 million building. Requesting and approval of the zoning change would afford the applicant the opportunity to ensure he can complete the building for future business investments. Mr. Meade further explained that he had met with the Topeka Planning Department Staff for a pre-application meeting. Mr. Meade received the staff report in the mail with the recommendation of changing the zoning to “D-2”.

Mr. Meade explained there has not been new housing construction in over 100 years in the proposed zoning change location. All residential properties are vacant with no plans to occupy them. Mr. Meade explained that the restrictions set forth with the “D-2” zoning change will not allow him to continue with the intended plans. Mr. Meade explained the history of the proposed uses of the properties, to include plans for a hotel that were not built. Mr. Meade presented a signed agreement with the NIA that indicates support of the “D-1” zoning change. Mr. Meade explained there have been no indications of any concern regarding the height of proposed buildings.

Mr. Meade explained that he needs an area zoned D-1 in a timely matter, with no additional restrictions. Mr. Meade explained he owns the majority of properties on the block. The D-2 zoning change would not work for the office buildings Mr. Meade is planning to build.

Mike Lackey asked the height of the building plans for the proposed property. Mr. Meade explained it is a “twin” one-story building. Mr. Meade explained due to a fast land drop in elevation, there are 2 first floors.

Mr. Klausman asked for clarification of how the building would sit on the property. Mr. Meade clarified the plans. Mr. Meade stated the plans would require a full city block for parking. Mr. Meade explained that he owns all of the properties in the proposed zoning change. The D-2 zoning would increase costs, time needed for the project and the inability to meet their timeline requirements.

June Ewing asked what Mr. Meade is intending to build. Mr. Meade stated he is attempting to make a bid for the State Department of Education.

Peter Hancock asked if the State of Kansas is committed to the project. Mr. Meade said they are committed but cannot indicate whether the State of Kansas is committed to his project specifically.

Richard Beardmore asked what the advantage of D-1 would be over D-2 zoning changes in response to the RFP presented by the State of Kansas. Mr. Meade explained that he would be able to use 100% of the land proposed. Additionally Mr. Meade stated the D-1 would afford the area needed for attached parking, the auxiliary building and water retention plan for the building and parking.

David Thurbon clarified that the D-1 zoning does not have a parking requirement whereas the D-2 does require additional restrictions. Mr. Thurbon explained all of Mr. Meade's requests could be done with the D-2, but would require the additional step of conditional use permits. Mr. Thurbon explained that during the pre-application meeting, it was suggested to Mr. Meade to vacate the alley and Mr. Meade stated he would think about it. Mr. Thurbon explained during the pre-application meeting it was communicated that other zoning classifications would be considered in the staff report.

Mr. Beardmore asked for clarification of timing with the additional requirements of the conditional use permits. Mr. Thurbon explained that it could be done concurrently if Mr. Meade had plans completed and available to the staff. If the D-2 is approved, Mr. Thurbon explained the additional requirements would be on the normal timeline of a zoning change request.

Mr. Beardmore asked Mr. Meade if the Planning Commission approved D-2, would he withdraw his request or would it be acceptable. Mr. Meade stated it would be okay for other projects but it will not be compatible with the RFP for the State of Kansas.

Scott Gales asked Mr. Thurbon about the history behind the property that is currently zoned D-1 immediately across the Ritchie House. Mr. Thurbon explained that the zoning was changed by the Planning Commission a proposed Value Place Hotel that was never built there. Mr. Gales asked if D-1 was approved due to the location of the highway. Mr. Meade explained that all plans for that location supported that. Mr. Thurbon stated that commercial properties would have been supported by the City. Mr. Thurbon clarified that commercial~~,~~ and entertainment district activity was intended for that area with a scale down in intensity from the downtown~~,~~ business district. Mr. Meade interjected that he could move the location of the proposed building to 11th and Monroe but it would cause the building to be next to the residents. Mr. Thurbon explained that the Ritchie House was consulted about having the commercial building next to them and they did not have any concerns.

No one spoke in opposition to the proposal.

Michelle Cuevas-Stubblefield asked for clarification on whether the staff recommendation of D-2 was only for height and scaling. Mr. Thurbon confirmed and added it was for parking requirements also.

Mr. Beardmore asked for clarification on the vote being only for zoning change, not the proposed building. Mr. Thurbon confirmed and clarified that the Planning Commission can grant a lower classification of zoning than the applicant requests.

Mr. Lackey asked if there is a restriction of distance for parking from the location it would serve. Mr. Thurbon stated it requires a conditional use permit or the BZA may grant parking within 300 ft. Mr. Lackey questioned existing State of Kansas parking distances in Topeka. Mr. Thurbon clarified there is a C-5 zoning for those properties.

Mr. Gales asked for clarification of the previous D-1 zoning change for adjacent property not having additional parking restrictions. Mr. Thurbon confirmed. Mr. Gales explained that if a D-1 zoning classification is appropriate for the area, he did not understand why the parking had to be required or what the justification was. Mr. Thurbon stated the Planning Commission should consider the best use of the property for zoning and the parking.

Mr. Beardmore asked if the height restrictions would be eliminated if zoned D-1. It was confirmed. Mr. Thurbon explained that previous zoning changes in the area did not support the scaling down in intensity starting at 11th Street and south.

Kevin Beck asked if the parking garage on 11th Street was owned by Mr. Meade. Mr. Meade confirmed his ownership of that property and some additional properties. Mr. Beck asked if the garage was filled to capacity. Mr. Meade confirmed it is filled to capacity by some State of Kansas agencies.

Mary Feighny asked for clarification of the Planning Commission's ability to grant a lesser zoning classification. Mr. Thurbon explained that there is a provision in the state law stating the Planning Department is responsible for publishing the proposed zoning classification~~s~~ and to notify property owners within 200 ft. of the proposed property. Mr. Thurbon explained a zoning hierarchy is sent with property owner notifications.

Peter Hancock asked if D-2 has a lesser intensity than D-1. Mr. Thurbon explained why it was.

Mr. Beck commented that he understood the scaling down of buildings and that the intent of the Planning Department is moving in that direction. However, with the previous rezoning of the property adjacent to the proposed being D-1, it makes it difficult to further restricting the classification.

Mrs. Ewing caveated Mr. Beck's statement and stated that a precedent had been set with the previous rezoning of the adjacent property.

June Ewing moved for approval as requested by the applicant of rezoning to the D-1 zoning classification, seconded by Scott Gales.

Mr. Thurbon requested that the rezoning cases, 1a and 1b, be voted on separately. Mr. Lackey agreed.

1a - APPROVAL. (9-0-0)

A Capital City Government Working For You…

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 28, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:	**Bill Fiander/Bill Hoover**	**DOCUMENT #:**	**Z12/10**
SECOND PARTY/SUBJECT:	**Frank W. Meade**	**PROJECT #:**	
CATEGORY/SUBCATEGORY	**014 Ordinances – Non-Codified / 007 Zoning**		
CIP PROJECT:	**No**		
ACTION OF COUNCIL:	**10-02-12 First Reading.**	**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 1129 SE Quincy Street, at the northwest corner of SE 12th Street and SE Quincy Street from "M-3" Multiple-Family Dwelling District TO "D-1" Downtown District. Final Reading. *(Z12/10) (Council District No. 3)*

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

(Approval would allow for development of the property consistent with uses in the "D-1" District.)

POLICY ISSUE:

The request for "D-1" will be consistent with the Downtown Topeka Redevelopment Plan if the Downtown Design Guidelines are strictly adhered to with any new development. The Planning Department recommended for the "D-2" District since it would better encourage compatible development with the existing residences and historic sites and provide a better transition area from the Core Central Business District area.

STAFF RECOMMENDATION:

The Planning Department requests the Governing Body motion to "approve the rezoning request and adopt the zone change."The Topeka Planning Commission recommended the proposal be APPROVED for "D-1" Downtown District as requested by the applicant by a vote of 9-0-0 at its September 17, 2012 meeting, as referenced in the attached minutes. The Planning Department recommended the proposal be approved for the "D-2" Downtown District, as referenced in the attached staff report.

Item #16

BACKGROUND:

- See staff report
- Governing Body options:
- Adopt the recommendation of the Planning Commission by a majority (6 votes) of the Governing Body;
- Override the recommendation of the Planning Commission by a two-thirds majority (7 votes) of the Governing Body;
- Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a majority (6 votes) of the Governing Body.

BUDGETARY IMPACT:

There would be no budgatary impact to City, all costs associated with development will be paid for by the developer.

SOURCE OF FUNDING:

None; all costs associated with development would be paid for by the developer.

ATTACHMENTS:

Ordinance

Summary Report

Planning Commission Minutes 09-17-12

Zoning Map

Aerial Map

Staff Report

(Published in the Topeka Metro News __________________)

ORDINANCE NO. ________________________

AN ORDINANCE introduced by Jim Colson, 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 at 1129 SE Quincy Street, at the northwest corner of SE 12th Street and SE Quincy Street from "M-3" Multiple-Family Dwelling District **TO** "D-1" Downtown District. **(Z12/10) (Council District No. 3)**

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:

South ½ of Lot 383, all of Lots 385-393 (odd), SE Quincy Street, Ritchie's Addition Subdivision, City of Topeka, Shawnee County, Kansas

from "M-3" Multiple-Family Dwelling District **TO** "D-1" Downtown 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___

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: Z12/10 FRANK W. AND ESTA L. MEADE

This is a rezoning request from Frank W. Meade and Esta L. Meade for a one-half acre lot located directly south of the City's downtown water tower. This vacant lot is located at the NW corner of SE Quincy St. and SE 12th Street.

The request is to rezone this lot from "M-3" Multiple-Family zoning to the "D-1" Downtown District, which allows mixed use zoning. This is a companion re-zoning case (Z12/9) by the same owners. The applicant's proposed use would be in conjunction with a State of Kansas office building.

This area used to be the northern end of the Monroe Neighborhood but over time the residences have been torn down and many of the lots are now being used as surface parking lots to serve nearby commercial uses. The John Ritchie House is located about one block to the east and is being utilized as a historic museum. The Bowker House, another designated historic landmark, is located directly to the south across SE 12th Street and is being used as a single-family residence.

The Planning Director identified some concerns with "D-1" zoning allowing uses by right that may be incompatible with the Ritchie House and residential uses located to the south across SE 12th Street. The question became how far south, should the traditional Central Business District character extend, and would that serve the best interest of a walkable and cohesive Downtown core. The Planning Director recommended a "D-2" Downtown District eliminates uses such as automobile service stations, car washes, motor vehicle sales, and vehicle surface parking lots. The "D-2" Downtown District is intended for moderate intensity land uses and limits building heights to 50 feet and maximum building coverage of a lot to 75%. This was in comparison to the "D-1" Downtown District which has no building height limit or maximum lot coverage requirements.

At its September 17th public hearing, the Planning Commission unanimously recommended approval that the subject property be rezoned to the "D-1" Downtown District due to the proximity of a "D-1" property already in the area and the impacts from the City water tower located on the block to the west.

Minutes of the
Topeka Planning Commission
Monday, September 17, 2012

Z12/10 Meade Development by Frank W. Meade requesting to amend the District Zoning Classification from "M-3" Multiple Family Dwelling District **TO** "D-1" Downtown District on property located at 1129 SE Quincy, at the northwest corner of SE Quincy Street and SE 12th Street. **(Driver)**

Discussion by members: Annie Driver summarized the staff report for both cases by Frank L. Meade. Mrs. Driver explained that while the applicant requested "D-1" zoning, the Topeka Planning Department staff is recommending "D-2" zoning for the proposals. Mrs. Driver explained that D-2 zoning supports scaling down intensity from the business core district. If D-2 is approved, the applicant would also need a conditional-use permit.

Richard Beardmore asked if there was any advanced correspondence with the applicant indicating the staff recommendation of "D-2". Mrs. Driver explained the applicant had received the staff report and continues with the requests of "D-1" zoning change.

Proponents:
Frank Meade, applicant, spoke in favor of the proposal. Mr. Meade explained that he is planning to build a $10 million building. Requesting and approval of the zoning change would afford the applicant the opportunity to ensure he can complete the building for future business investments. Mr. Meade further explained that he had met with the Topeka Planning Department Staff for a pre-application meeting. Mr. Meade received the staff report in the mail with the recommendation of changing the zoning to "D-2".

Mr. Meade explained there has not been new housing construction in over 100 years in the proposed zoning change location. All residential properties are vacant with no plans to occupy them. Mr. Meade explained that the restrictions set forth with the "D-2" zoning change will not allow him to continue with the intended plans. Mr. Meade explained the history of the proposed uses of the properties, to include plans for a hotel that were not built. Mr. Meade presented a signed agreement with the NIA that indicates support of the "D-1" zoning change. Mr. Meade explained there have been no indications of any concern regarding the height of proposed buildings.

Mr. Meade explained that he needs an area zoned D-1 in a timely matter, with no additional restrictions. Mr. Meade explained he owns the majority of properties on the block. The D-2 zoning change would not work for the office buildings Mr. Meade is planning to build.

Mike Lackey asked the height of the building plans for the proposed property. Mr. Meade explained it is a "twin" one-story building. Mr. Meade explained due to a fast land drop in elevation, there are 2 first floors.

Mr. Klausman asked for clarification of how the building would sit on the property. Mr. Meade clarified the plans. Mr. Meade stated the plans would require a full city block for parking. Mr. Meade explained that he owns all of the properties in the proposed zoning change. The D-2 zoning would increase costs, time needed for the project and the inability to meet their timeline requirements.

June Ewing asked what Mr. Meade is intending to build. Mr. Meade stated he is attempting to make a bid for the State Department of Education.

Peter Hancock asked if the State of Kansas is committed to the project. Mr. Meade said they are committed but cannot indicate whether the State of Kansas is committed to his project specifically.

Richard Beardmore asked what the advantage of D-1 would be over D-2 zoning changes in response to the RFP presented by the State of Kansas. Mr. Meade explained that he would be able to use 100% of the land proposed. Additionally Mr. Meade stated the D-1 would afford the area needed for attached parking, the auxiliary building and water retention plan for the building and parking.

David Thurbon clarified that the D-1 zoning does not have a parking requirement whereas the D-2 does require additional restrictions. Mr. Thurbon explained all of Mr. Meade’s requests could be done with the D-2, but would require the additional step of conditional use permits. Mr. Thurbon explained that during the pre-application meeting, it was suggested to Mr. Meade to vacate the alley and Mr. Meade stated he would think about it. Mr. Thurbon explained during the pre-application meeting it was communicated that other zoning classifications would be considered in the staff report.

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Mr. Beardmore asked Mr. Meade if the Planning Commission approved D-2, would he withdraw his request or would it be acceptable. Mr. Meade stated it would be okay for other projects but it will not be compatible with the RFP for the State of Kansas.

Scott Gales asked Mr. Thurbon about the history behind the property that is currently zoned D-1 immediately across the Ritchie House. Mr. Thurbon explained that the zoning was changed by the Planning Commission a proposed Value Place Hotel that was never built there. Mr. Gales asked if D-1 was approved due to the location of the highway. Mr. Meade explained that all plans for that location supported that. Mr. Thurbon stated that commercial properties would have been supported by the City. Mr. Thurbon clarified that commercial~~,~~ and entertainment district activity was intended for that area with a scale down in intensity from the downtown~~,~~ business district. Mr. Meade interjected that he could move the location of the proposed building to 11th and

Monroe but it would cause the building to be next to the residents. Mr. Thurbon explained that the Ritchie House was consulted about having the commercial building next to them and they did not have any concerns.

No one spoke in opposition to the proposal.

Michelle Cuevas-Stubblefield asked for clarification on whether the staff recommendation of D-2 was only for height and scaling. Mr. Thurbon confirmed and added it was for parking requirements also.

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Kevin Beck asked if the parking garage on 11th Street was owned by Mr. Meade. Mr. Meade confirmed his ownership of that property and some additional properties. Mr. Beck asked if the garage was filled to capacity. Mr. Meade confirmed it is filled to capacity by some State of Kansas agencies.

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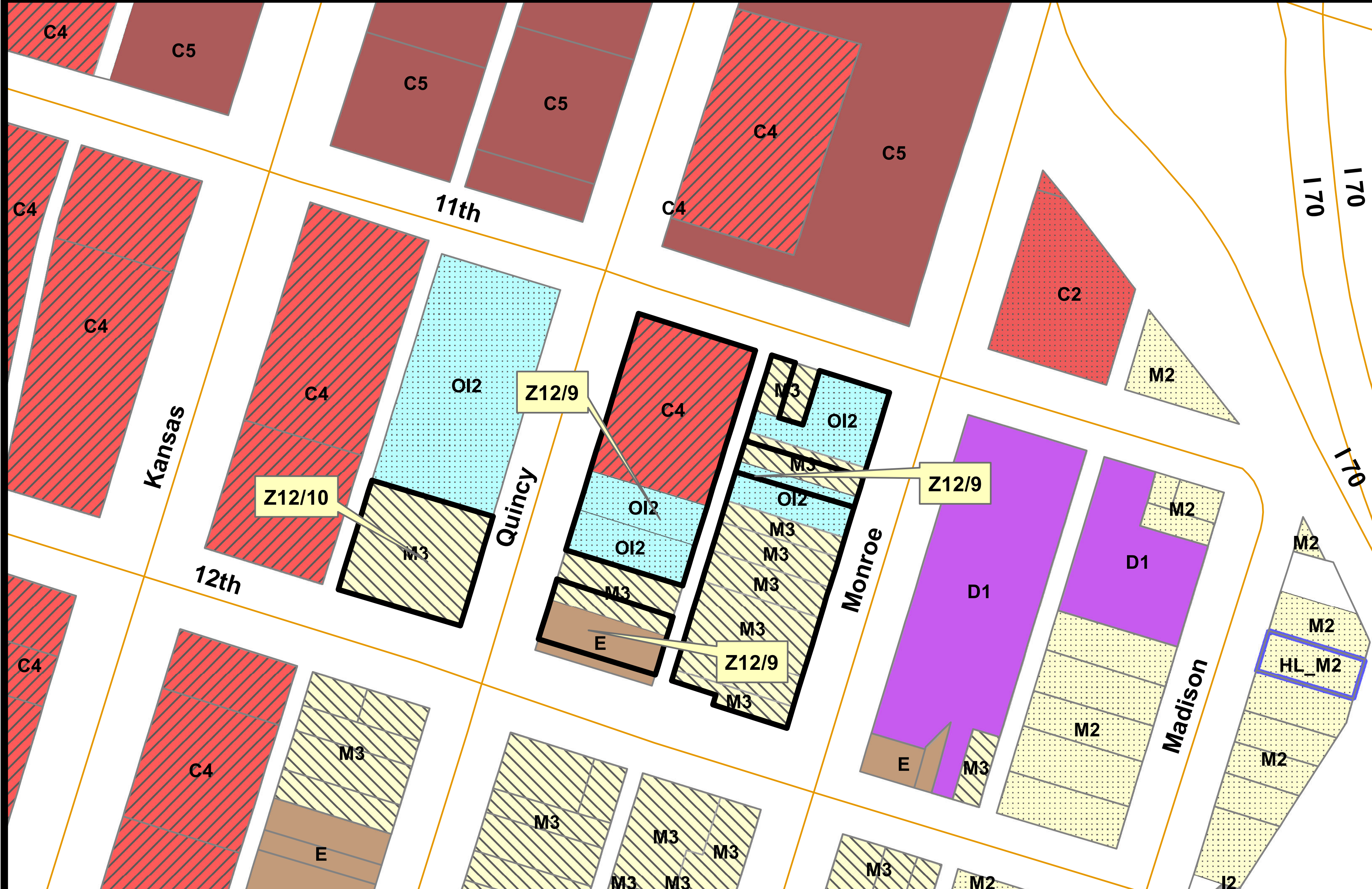
Mr. Beck commented that he understood the scaling down of buildings and that the intent of the Planning Department is moving in that direction. However, with the previous rezoning of the property adjacent to the proposed being D-1, it makes it difficult to further restricting the classification.

Mrs. Ewing caveated Mr. Beck's statement and stated that a precedent had been set with the previous rezoning of the adjacent property.

Mr. Thurbon requested that the rezoning cases, 1a and 1b, be voted on separately. Mr. Lackey agreed.

Scott Gales moved to approval as requested by the applicant of rezoning to D-1 zoning classification, seconded by Brett Klausman.

1b- APPROVAL. (9-0-0)



Z12/9 By: Frank W. & Esta L. Meade
Z12/10 By: Frank W. Meade

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Topeka Planning Department

Z12/9 By: Frank W. & Esta L. Meade
Z12/10 By: Frank W. Meade

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Topeka Planning Department

September 17, 2012
Agenda Item # F-1b

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z12/10 **by: Frank W. Meade**

PROPOSAL: Zone change from "M-3" Multiple-Family Dwelling District **TO** "D-1" Downtown District.

LOCATION: 1129 SE Quincy Street, northwest corner of SE 12th and SE Quincy Streets. **(In conjunction with Case #Z12/9 on property to the east of SE Quincy)**

PRESENT USE: Vacant (½ acre)

PROPOSED USE: Parking in association with the principal use of the proposed office building located east of SE Quincy Street

BACKGROUND: The property lies in the northern portion of the Monroe neighborhood. This sector of the neighborhood was originally constructed as low- to-moderate density single-family residential, but began to change with the construction of the water tower at the southwest intersection of 11th and Quincy in 1942.

There have been proposals presented in the past to redevelop the portion of the Monroe neighborhood, east of Kansas Avenue into a mixed-use entertainment district. The initial proposal occurred in 1985 and was called "Water Tower Place". This proposal offered mixed-uses, including office, retail, and high-density residential townhomes. Though this proposal was never adopted, it did raise awareness in creating a TIF District in order to spur redevelopment. This appears to have had an effect on discouraging single-family homeownership, and contributed to the area's steady decline in residential. In 2001, the TIF District was lifted after a failed attempt to produce such an entertainment, retail, and office development that included the subject properties.

The blocks east of the subject property along SE Monroe Street were rezoned to "D-1" Downtown District in 2006 to allow for construction of an extended stay hotel, which was subsequently never constructed *(Case #Z06/3)*. Rather than supporting the "D-1" District on that property, planning staff recommended a "D-2" Downtown zoning with Conditional Use Permit for a hotel or a Planned Unit Development to allow a height taller than 50 ft. In its staff report, the Planning Department indicated that the "D-1" District on those properties would allow commercial uses too intense for appropriate mixed-use development within proximity to residential uses and historic sites. That block was also closer to Interstate-70 where one may expect some higher density development than the blocks that are the subject of the current request.

CHARACTER OF THE NEIGHBORHOOD: The Monroe neighborhood has decreased substantially in population over the course of recent decades, with a population estimate of four to five times less than what it was 40 years ago. Former residences in the northern portions of the neighborhood have been razed since then. Many of the vacant properties in the neighborhood were developed in the past for surface parking lots. The John Hale and Ritchie House lies east of this area along SE Madison and has been restored as a heritage tourism site. Several residences dating to the 1900s lie along SE Madison adjacent the Ritchie House and along the south side of SE 12th Street. The subject property is directly to the south of the old City water tower.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"O&I-2" Office & Institutional District	Old City water tower
South:	"M-3" Multiple Family Dwelling District	Single-family residential
East:	"O&I-2" Office & Institutional District; "M-3" and "E" Multiple Family Dwelling Districts; "C-4" Commercial District	Vacant; parking lot; residence **(Case #Z12/9)**
West:	"C-4" Commercial District	Vacant; fast food restaurant

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: Multi-family residential zoning on the subject property dates back to the 1940s when much of the area was zoned "E" Multiple-Family Dwelling District for either offices or residential. Up until at least 2002 a single-family residence was located on the subject property.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is not as suitable any longer as presently restricted for the "M-3" Multiple-Family Dwelling District since it is adjacent to commercial zoning and the water tower. However, redevelopment of this property would best be accomplished as a single mixed-use Downtown zoning district with a comprehensive development plan for the broader area south of SE 11th Street that would allow for a transitional area from the *Downtown Core* of the Central Business District into lower density residential uses south of 12th Street. Redevelopment of the area would be more feasible if combined with all adjacent properties to the east and developed as a single mixed-use retail, office, and high-to- moderate density residential district as recommended by the Downtown Plan.

CONFORMANCE TO COMPREHENSIVE PLAN: The Downtown Topeka Redevelopment Plan (2000) designates the area for a mix of uses consisting of office, moderate- to high-density residential uses, and light commercial/retail as a coherent, single mixed-use district. The Plan specifically recognizes the "mutually supportive" potential for heritage tourism in the area due to the presence of the Ritchie House and Monroe School. The plan encourages compatible development that also compliments the scale and character of these existing destinations.

Guiding principles of the *Draft* Monroe Neighborhood Plan (2003) recognize the area for "destination" commercial uses near the major image corridor and gateway intersection of Kansas Avenue and SW 10th Street, as well as, to promote the area as a community destination for tourism while preserving the water tower. Commercial development that complements the area as a community destination and gateway is recommended by the plan on this property in the blocks between S. Kansas and Quincy Streets.

Although the “D-1” Downtown District provides for mixed-uses and incorporates the Downtown Design Guidelines for new development, there are some uses allowed by-right in “D-1” that may be incompatible with the character defining historic structures in the area and within proximity to residential. Some examples of incompatible uses include, additional vehicle surface parking lots; carwashes; automobile service stations, types I and II; home improvement and building supply centers; motor vehicle sales; and RV campgrounds. (i.e. All “C-3” Commercial District uses are allowed by-right in the “D-1” Downtown District.)

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: There may be some detrimental effect upon nearby properties by removal of the present restrictions for “M-3”. Although, the purpose of the “D-1” District is to facilitate the type of mixed-use activity in Downtown as recommended in the Downtown Plan, some of the uses allowed in “D-1”, as well as, the District’s performance standards are not appropriate for a transition area. This subject area is located on the furthest southern limits of the core Central Business District and is adjacent to residential. Approval of the zone change to “D-1” within these blocks would enable a hard-line relationship between the *Downtown Core* and the greater Monroe neighborhood that also includes the historical sites of the Ritchie House and Monroe School rather than a stepping down of land uses and zoning that is desired for properties proximate to residential.

Alternatively, the “D-2” District is intended to better integrate mixed-use activity with urban residential neighborhoods and balance residential, cultural, office, and neighborhood commercial of low to moderate intensity that complement the neighborhood. The district limits the floor area of retail/personal service shops to 10,000 sq. ft., proposes a 50 ft. height limit, 75% maximum building coverage, and requires of several more intensive “D-1” permitted uses (i.e. large office buildings, surface parking lots, and hotels) to obtain a Conditional Use Permits rather than being allowed by-right. On the other hand, the “D-1” District allows for 100% building coverage per lot with no height limitations. A “D-1” zoning on the subject property may still facilitate a mixed use district as recommended by the Plan, but would require strict application of the Downtown Design Guidelines to not have any residential impacts on properties south of SE 12th Street. Of particular concern with the “D-1” District is the height allowance. The “D-2” District is intended to scale down outwardly from the core Central Business District.

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: There may be a hardship placed upon the individual landowner by maintaining the present restrictions as the subject property is no longer best suited for strictly residential since it is adjacent with commercial zoning to its west and the water tower. However, absent an overall comprehensive redevelopment plan for the area, there may be harm caused to the public health, safety, and welfare as the “D-1” District allows a breadth of uses that may be too intense within proximity to residential and in a mixed-use transition area. The “D-2” District would better integrate mixed-use retail, office, and higher-density residential with the existing Monroe neighborhood to the south by limiting commercial uses and the individual floor areas of retail/service establishments, as well as, limiting building height and coverage

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area or will be extended at developer expense. Water mains are adequately sized to provide the subject property with water service and fire protection for new development, but will need to be extended at site plan review to provide service to the overall development east of SE Quincy.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: Chapter 18.200.090 Design and Appearance guidelines of the "D" Downtown Districts will apply to new development. At the site development plan stage, the subject property will have to comply with any additional City regulations prior to building permits being issued. Access to a new parking lot should be taken off the existing alley.

Minimum Lot Area: **Compliant –** No existing structures ("D-1" allows 100% building coverage; "D-2" allows 75% building coverage)

Setbacks**:** **Compliant** – No existing structures

Platting: **Compliant** – Platted as South ½ of Lots 383 and All of Lots 385-393 (odd), Ritchie's Addition 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 building permit stage. The City Engineer will review and approve all necessary Stormwater Management Plans during the building permit review stage.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association/Neighborhood Association: The Monroe NIA is presently inactive and does not currently have executive body.
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: The property is within the environs of the John and Hale Ritchie House. The Topeka Landmarks Commission will review the rezoning request at its September 13, 2012 meeting. The Planning Commission will be updated regarding that recommendation at the public hearing.

STAFF RECOMMENDATION: Based upon the above findings and analysis, planning staff recommends:

1. Approval of the "D-2" Downtown District on the subject property rather than the requested "D-1". (A subsequent Conditional Use Permit will have to be approved for the proposed office building and parking lot/parking garage.)

Prepared by:
Annie Driver,
Planner II

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

Back Print

DATE:	**October 9, 2012**		
CONTACT PERSON:		**DOCUMENT #:**	
SECOND PARTY/SUBJECT:		**PROJECT #:**	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #17

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CIP PROJECT:	**No**		
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		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

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		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available

Item #19

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CATEGORY/SUBCATEGORY			
CIP PROJECT:	**No**		
ACTION OF COUNCIL:		**JOURNAL #:**	
		PAGE #:	

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available