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City Council Agenda

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

October 23, 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

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. Tort Claim - Avis Rent a Car System, L.L.C.

APPROVAL of Tort Claim of Avis Rent a Car System, L.L.C., in the amount of \$23,679.46 for damage to vehicle as the result of a motor vehicle accident on June 22, 2012.

B. Board Appointment - Board of Plumbing Examiners

BOARD APPOINTMENT recommending the re-appointment of Doug Snook to the Board of Plumbing Examiners for a term ending October 31, 2014. (Council District No. 7)

C. Board Appointment - Board of Mechanical Examiners

BOARD APPOINTMENT recommending the re-appointment of Robert Beaver to the Board of Mechanical Examiners for a term ending October 31, 2014. (Council District No. 8)

D. Resolution - Shara Monhollon - Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Chad Manspeaker granting Shara Monhollon an exception to the provisions of City of Topeka Code Section 9.45.170, et seq., concerning noise prohibitions. (Council District No. 6)

(City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for amplified music during the hours of 7:00 p.m. and 11:59 p.m. on October 27, 2012, at 1733 SW Seabrook Avenue.)

E. MINUTES of the regular meeting of October 16, 2012

F. APPLICATIONS:

5. PUBLIC HEARINGS:

A. Public Hearing and Ordinance - Neighborhood Revitalization Plan

 [ATTACHMENTS](#)

A PUBLIC HEARING to consider the adoption of a neighborhood revitalization plan.

AN ORDINANCE introduced by City Manager Jim Colson adopting a Neighborhood Revitalization Plan and designating a revitalization area all as provided for in K.S.A. 12-17, 114 et. seq., Neighborhood Revitalization Act. Final Reading.

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

(Approval would renew the City's Neighborhood Revitalization Plan through 2017 allowing tax rebates for property improvements in the "at risk" or "intensive care" neighborhoods and in the Downtown area.)

B. Public Hearing and Ordinance - Topeka Rescue Mission V12A/3



ATTACHMENTS

PUBLIC HEARING for vacation request V12A/3 by Topeka Rescue Mission requesting to vacate platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson relating to the vacation of platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V12A/3) (Council District No. 2)

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

(Approval would allow the Topeka Rescue Mission to vacate an alley internal to their new site and replace it with a utility easement and use the site for bicycle parking, automobile parking, and a fenced-in children's play area.)

6. UNFINISHED BUSINESS:

A. Ordinance - Topeka Rescue Mission PUD12/5



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 the northeast corner of NE Quincy Street and NE Curtis Street from "I-2" Heavy Industrial District TO "PUD" Planned Unit Development District ("X-2" Mixed Use District base zoning use group and also permitting a crisis center type II, churches and places of worship, boarding and lodging houses, group homes, farmers markets, pet shops/small animal clinics, and multi-family dwelling of more than four units per building or more than twelve units per acre). Final Reading. (PUD12/5) (Council District No. 2)

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

(Approval would allow Topeka Rescue Mission to convert this industrial zoned property with two buildings to mixed use zoning and allow them to provide a wide range of services to homeless persons, including having them as overnight guests.)

B. Ordinance - 2012 Standard Traffic Ordinance



ATTACHMENTS

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Section 10.15.010 and specifically repealing said original section concerning the adoption of the 2012 Standard Traffic Ordinance. Final Reading.

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

(Approval would adopt the 2012 edition of the Standard Traffic Ordinance. The City is currently operating under the 2011 edition. There are no substantial changes except for the addition of provisions regarding the refusal of preliminary breath testing for DUI's.)

C. Ordinance - 2012 Uniform Public Offense Code

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Section 9.05.080 and specifically repealing said original section, repealing Chapter 8.20 and Section 9.45.120 in their entirety, as well as, creating Section 9.05.090 all concerning the adoption of the 2012 Uniform Public Offense Code and amendments thereto. Final Reading.

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

(Approval would adopt the 2012 edition of the UPOC and amendments. The City is currently operating under the 2011 edition.)

D. Ordinance - Noise Regulations

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Sections 9.45.160, 9.45.170, 9.45.190 and 9.45.290 and specifically repealing said original sections, as well as, repealing in their entirety Sections 9.45.210, 9.45.230, 9.45.240, 9.45.250, 9.45.270 and 9.45.320 all concerning regulation of noise. Final Reading.

(Approval would amend the current regulations to be in compliance with recent court decisions and increase the enforceability of noise regulations.)

E. Ordinance - Intimidation of a Witness or Victim

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson creating City of Topeka Code Section 9.45.020 concerning intimidation of a witness or victim. Final Reading.

(Approval would adopt provisions that would allow the City to prosecute defendants who intimidate witnesses or victims of the alleged crime in municipal court.)

7. NEW BUSINESS:

A. Provisional Use Request - Jerry Penner

 [ATTACHMENTS](#)

APPROVAL of use of property located at 417 SE 13th Street for storage of junk, iron, and dismantled vehicles. *(Council District No. 3)*

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

(In order to secure a salvage yard permit, the property must be zoned appropriately. Approval would grant a provisional use for the property which is zoned "I-2" Heavy Industrial District. Approval would enable the applicant to proceed with the salvage yard permit process.)

B. Topeka Zoo Elephant Program

 [ATTACHMENTS](#)

APPROVE staff recommendation to continue managing an elephant program at the Topeka Zoo.

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. MISCELLANEOUS:

-

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

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

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DATE:	October 23, 2012	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
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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CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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SECOND PARTY/SUBJECT:		
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



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SECOND PARTY/SUBJECT:		
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



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

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
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October 1, 2012

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DATE: October 23, 2012
CONTACT PERSON: Dave Starkey **DOCUMENT #:**
SECOND PARTY/SUBJECT: Avis Rent a Car System, **PROJECT #:**
LLC/Tort Claim
Approval
CATEGORY/SUBCATEGORY 005 Claims / 006 Appeals
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of Tort Claim of Avis Rent a Car System, L.L.C., in the amount of \$23,679.46 for damage to vehicle as the result of a motor vehicle accident on June 22, 2012.

POLICY ISSUE:

Whether to approve payment of claim for damages as the result of motor vehicle accident.

STAFF RECOMMENDATION:

Approve payment of the claim.

BACKGROUND:

On June 22, 2012, a city employee was driving a 2001 Case bucket loader westbound on 21st Street in the inside lane. The claimant's vehicle was eastbound on 21st Street in the inside lane. At the intersection of 21st Street and Western Avenue, the city employee made a left turn without yielding the right of way to the vehicle. The bucket loader collided with the vehicle. The city employee's negligence was the proximate cause of the collision. The costs to repair the vehicle exceeded its fair market value. Avis Rent a Car System, LLC has submitted a claim in the amount of \$23,829.46 for damages.

BUDGETARY IMPACT:

\$23,829.46

SOURCE OF FUNDING:

Special liability fund.

ATTACHMENTS:

No Attachments Available

Item #6



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214 SE 8th Street
Topeka, Kansas 66603

October 4, 2012

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DATE:	October 23, 2012	
CONTACT PERSON:	Mayor Bunten	DOCUMENT #:
SECOND PARTY/SUBJECT:	Board of Plumbing Examiners	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 003 Requests	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the re-appointment of Doug Snook to the Board of Plumbing Examiners for a term ending October 31, 2014. *(Council District No. 7)*

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Councilman Harmon nominates and Mayor Bunten recommends the re-appointment of Doug Snook for a term that will end October 31, 2014. There is no official attendance policy, however, Mr. Snook has one absence.

BACKGROUND:

Ordinance 18382. The Board of Plumbing Examiners reviews applications and approves the issuance of licenses in accordance with the Topeka City Code. The board is empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances or waivers therefrom, provided they meet the intent of the adopted code.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available

Item #7



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Council Action Form

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214 SE 8th Street
Topeka, Kansas 66603

October 8, 2012

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DATE:	October 23, 2012	
CONTACT PERSON:	Mayor Bunten	DOCUMENT #:
SECOND PARTY/SUBJECT:	Board of Mechanical Examiners	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 003 Requests	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the re-appointment of Robert Beaver to the Board of Mechanical Examiners for a term ending October 31, 2014. *(Council District No. 8)*

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Councilwoman Hiller nominates and Mayor Bunten recommends the re-appointment of Robert Beaver for a term that would end October 31, 2014. There is no official attendance policy, however, Mr. Beaver has no absences.

BACKGROUND:

Ordinance 18382. The Board of Mechanical Examiners reviews applications and approves the issuance of licenses in accordance with Chapter 26 of the City Code. The board is empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances or waivers therefrom, provided they meet the intent of the adopted code.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available

Item #8



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Topeka, Kansas 66603

October 9, 2012

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DATE:	October 23, 2012	
CONTACT PERSON:	Chad Manspeaker	DOCUMENT #:
SECOND PARTY/SUBJECT:	Shara Monhollon	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Chad Manspeaker granting Shara Monhollon an exception to the provisions of City of Topeka Code Section 9.45.170, et seq., concerning noise prohibitions. *(Council District No. 6)*

(City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for amplified music during the hours of 7:00 p.m. and 11:59 p.m. on October 27, 2012, at 1733 SW Seabrook Avenue.)

POLICY ISSUE:

Shara Monhollon has requested that a noise exception be granted for a Halloween Party to take place during specified date and time.

STAFF RECOMMENDATION:

Staff is recommending the Council move to approve the resolution.

BACKGROUND:

Shara Monhollon 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 #9

1 RESOLUTION NO.

2
3 A RESOLUTION introduced by Councilmember Chad Manspeaker, granting Shara
4 Monhollon an exception to the provisions of City of Topeka Code §
5 9.45.170 concerning noise prohibitions.
6

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

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

15 WHEREAS, Shara Monhollon has requested that she be granted an exception to
16 the provisions of City of Topeka Code § 9.45.170 for the purposes, dates and times
17 described herein; and

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

21 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka
22 that Shara Monhollon is hereby granted an exception from the provisions of City of
23 Topeka Code § 9.45.170 for amplified outdoor music during a Halloween Party to be
24 located at 1733 SW Seabrook Avenue on October 27, 2012 between the hours of 7:00
25 p.m. and 11:59 p.m.
26

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

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September 10, 2012

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

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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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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214 SE 8th Street
Topeka, Kansas 66603

October 12, 2012

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DATE:	October 23, 2012	
CONTACT PERSON:	Bill Fiander	DOCUMENT #:
SECOND PARTY/SUBJECT:	Neighborhood Revitalization Plan	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 042 Community Development	
CIP PROJECT:	No	
ACTION OF COUNCIL:	10-16-12 First Reading	JOURNAL #: 12
	PAGE #:	

DOCUMENT DESCRIPTION:

A PUBLIC HEARING to consider the adoption of a neighborhood revitalization plan.

AN ORDINANCE introduced by City Manager Jim Colson adopting a Neighborhood Revitalization Plan and designating a revitalization area all as provided for in K.S.A. 12-17, 114 et. seq., Neighborhood Revitalization Act. Final Reading.

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

(Approval would renew the City's Neighborhood Revitalization Plan through 2017 allowing tax rebates for property improvements in the "at risk" or "intensive care" neighborhoods and in the Downtown area.)

POLICY ISSUE:

The proposed plan would:

- Revise the eligible area to reflect neighborhoods that are primarily "at risk" and "intensive care" based upon the adopted 2011 Neighborhood Element of the Comprehensive Plan.
- Reduce the percentage of rebates consistent with most other cities.
- Allow use of the special fund in conjunction with the City's in-fill housing projects to comply with adopted neighborhood design guidelines.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

- The Neighborhood Revitalization Plan was most recently renewed by all taxing entities through inter-

Item #12

- local agreements starting in 2010. The program has been administered through the City since 1995.
- Adopting the plan enables local taxing entities to offer a tax rebate to property owners who improve their property within designated areas of the city under certain conditions.
- Planning staff met with USD 501 and Shawnee County Commissioners to brief them on the proposed updates to the plan.
- A summary and history of the plan are included in the Council Packet for review.

BUDGETARY IMPACT:

The City would not lose existing property tax revenue as a result of the program; however, the City would be deferring new property taxes created by eligible improvements for the next 10 years.

SOURCE OF FUNDING:

Tax rebates are issued by the Shawnee County Clerk's Office and derived from the increased property tax revenue of all participating taxing entities within the eligible area including the City of Topeka, Shawnee County, United School District No. 501, United School District No. 345, Washburn University, Topeka Shawnee County Public Library, Metropolitan Topeka Airport Authority, and Topeka Metropolitan Transit Authority.

ATTACHMENTS:

[Ordinance](#)

[Summary Report](#)

[Map](#)

[Survey](#)

[Presentation](#)

[Health Map](#)

[Plan draft](#)

[Comprehensive Table](#)

[Public Hearing Notice](#)

(Published in the Topeka Metro News October 1, 2012 and October 8, 2012)

RESOLUTION NO. 8472

A RESOLUTION introduced by City Manager Jim Colson establishing a date for a public hearing concerning the adoption of a plan pursuant to the Neighborhood Revitalization Act, K.S.A. 12-17,114 *et seq.*

WHEREAS, the City of Topeka, Kansas, may pursuant to K.S.A. 12-17,114 *et seq.* adopt a plan to assist in the rehabilitation, conservation or redevelopment of any area within the City of Topeka which meets the conditions provided in said law; and

WHEREAS, the City of Topeka is desirous of exercising the authority provided in K.S.A. 12-17,114 *et seq.* in order to rehabilitate, conserve or redevelop certain designated areas in the City of Topeka.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Topeka, Kansas, in accordance with K.S.A. 12-17,114 *et seq.* the following notice is hereby given:

NOTICE

The City Council will consider the adoption of a Neighborhood Revitalization Plan, pursuant to K.S.A. 12-17,114 *et seq.*, at a public hearing at 6:00 p.m. on October 23, 2012, in the City Council Chambers, 214 E 8th Street, Topeka, Kansas.

The proposed Neighborhood Revitalization Plan and a description of the boundaries of the proposed Neighborhood Revitalization Area are available for inspection during the hours of 8:00 a.m. to 5:00 p.m. in the office of City Clerk, 215 E 7th Street, Room 166, Topeka, Kansas.

At the conclusion of the hearing, the Council of the City of Topeka will consider findings necessary for the adoption of the proposed Neighborhood Revitalization Plan and

the establishment of the proposed Neighborhood Revitalization Area, all as provided for in K.S.A. 12-17,114 *et seq.*

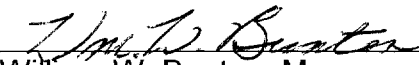
BE IT RESOLVED that the City Clerk shall cause a copy of this Resolution to be delivered to the other taxing entities within Shawnee County, Kansas.

BE IT FURTHER RESOLVED that the City Clerk shall cause this Resolution to be published in the official City newspaper at least once a week for two (2) consecutive weeks prior to the hearing.

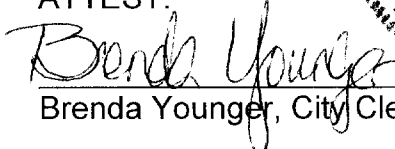
ADOPTED and APPROVED by City Council September 25, 2012.



CITY OF TOPEKA, KANSAS


William W. Bunten, Mayor

ATTEST:


Brenda Younger, City Clerk

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson adopting a neighborhood revitalization plan and designating a revitalization area, all as provided for in K.S.A. 12-17, 114 *et seq.*, Neighborhood Revitalization Act.

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

Section 1. Hearing.

The Council of the City of Topeka pursuant to Notice of Public Hearing as set forth in City of Topeka Resolution No. _____ did hold a public hearing on October 23, 2012 to hear and consider public comment on the neighborhood revitalization plan as required by K.S.A. 12-17, 114 *et seq.*

Section 2. Neighborhood Revitalization Plan.

The Council of the City of Topeka does hereby adopt the neighborhood revitalization plan, attached hereto, labeled Exhibit A and incorporated by reference as if fully set forth herein as provided for by K.S.A. 12-17, 114 *et seq.*

Section 3. Designation of Neighborhood Revitalization Area.

Pursuant to K.S.A. 12-17, 114 *et seq.*, the Council of the City of Topeka hereby designates the following described property as the neighborhood revitalization area and finds that said area is:

1. An area in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire and

other causes or a combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and which is detrimental to the public health, safety or welfare;

2. An area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, defective or inadequate streets, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is detrimental to the public health, safety or welfare in its present condition and use; or

3. An area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use.

The neighborhood revitalization area is described as follows:

PRIMARY AREA

Beginning at the intersection of the Centerline of US Highway 24 with the Centerline of NW Clay Street; thence easterly, on the Centerline of US Highway 24, to an intersection with the Centerline of NW Topeka Boulevard; thence southerly, on the Centerline of NW Topeka Boulevard, to an intersection with the Centerline of Old Soldier Creek; thence easterly and southerly, down the Centerline of Old Soldier Creek, to an intersection with the Centerline of the Mainline Track of the Union Pacific Railroad; thence southerly, on the centerline of said mainline track, to an intersection with the Centerline of the West Approach to the Sardou Bridge over the Kansas River; thence east-southeasterly, on the centerline of said approach and the Centerline of the Sardou Bridge, to an

57 intersection with the Centerline of the Kansas River; thence southwesterly, up the
 58 Centerline of the Kansas River, to an intersection with an extension of the Centerline of
 59 NE Chandler Street; thence southerly, on the Centerline of NE Chandler Street, to an
 60 intersection with the Centerline of NE Seward Avenue; thence westerly, on the
 61 Centerline of NE Seward Avenue, to an intersection with the Centerline of NE Branner
 62 Street; thence south-southwesterly, on the Centerline of Branner Street, to an
 63 intersection with the Centerline of the Mainline Track of the Burlington Northern – Santa
 64 Fe Railway; thence easterly, on the centerline of said mainline track, to an intersection
 65 with the East line of the Northeast Quarter of Section 33, Township 11 South, Range 16
 66 east of the 6th P.M.; thence southerly, on said East line, to the Southeast corner of said
 67 Northeast Quarter; thence easterly, on the North line of the Southwest Quarter of
 68 Section 34, Township 11 South, Range 16 east of the 6th P.M., to an intersection with
 69 the Centerline of Deer Creek; thence southwesterly and southerly, up the Centerline of
 70 Deer Creek, to an intersection with the Centerline of SE 6th Avenue; thence westerly, on
 71 the Centerline of SE 6th Avenue, to an intersection with the Centerline of SE Deer Creek
 72 Parkway; thence southerly, on the Centerline of SE Deer Creek Parkway, to an
 73 intersection with the Centerline of Interstate Highway 70; thence easterly, on the
 74 Centerline of Interstate Highway 70, to an intersection with the East line of the
 75 Southwest Quarter of Section 3, Township 12 South, Range 16 east of the 6th P.M.;
 76 thence southerly, on said East line, to the Southeast corner of said Southwest Quarter;
 77 thence easterly, on the North line of the Northeast Quarter of Section 10, Township 12
 78 South, Range 16 east of the 6th P.M., to the Northeast corner of the West Half of said
 79 Northeast Quarter; thence on an assumed bearing of South 00°48'00" West, on the
 80 East line of the West Half of said Northeast Quarter, 158.83 feet, to the North line of the
 81 Kansas Turnpike Right of Way, thence South 63°15'40" West, on said right of way line,
 82 790.86 feet; thence South 69°36'00" West, continuing on said right of way line, 452.77
 83 feet; thence North 70°46'40" West, continuing on said right of way line , 337.69 feet, to
 84 the Easterly Right of Way line of Service Road "L" of the Kansas Turnpike Authority;
 85 thence southwesterly, to the intersection of the Westerly Right of Way line of said
 86 Service Road "L" with the Northerly Right of Way line of the Kansas Turnpike; thence
 87 southwesterly, on the Northerly Right of Way line of the Kansas Turnpike, to an
 88 intersection with the Centerline of SE 37th Street; thence westerly, on the Centerline of
 89 37th Street, to an intersection with the Centerline of SW Topeka Boulevard; thence
 90 northerly, on the Centerline of SW Topeka Boulevard, to an intersection with the
 91 Centerline of SW 29th Street; thence easterly, on the Centerline of 29th Street, to an
 92 intersection with the Centerline of SE Adams Street; thence northerly, on the Centerline
 93 of SE Adams Street, to an intersection with the Centerline of SE 21st Street; thence
 94 westerly, on the Centerline of 21st Street, to an intersection with the Centerline of
 95 Washburn Avenue; thence northerly, and north-northeasterly, on the Centerline of
 96 Washburn Avenue, to an intersection with the Centerline of SW Willow Avenue; thence
 97 easterly, on the Centerline of SW Willow Avenue, to an intersection with the Centerline
 98 of Quinton Avenue; thence northerly, on the Centerline of Quinton Avenue, and its
 99 extension, to an intersection with the Centerline of Interstate Highway 70; thence
 100 southeasterly, on the Centerline of Interstate Highway 70, to an intersection with the
 101 Centerline of SW Topeka Boulevard; thence north-northeasterly, on the Centerline of

Topeka Boulevard, to an intersection with the Centerline of NW Laurent Street; thence west-northwesterly, on the Centerline of NW Laurent Street, to an intersection with the Centerline of NW Norris Street; thence west-northwesterly, on the Centerline of NW Norris Street, to an intersection with the Centerline of NW Lane Street; thence north-northeasterly, on the Centerline of NW Lane Street, to an intersection with the Centerline of NW Gordon Street; thence east-southeasterly, on the Centerline of NW Gordon Street, to an intersection with the Centerline of NW Buchanan Street; thence northerly, on the Centerline of NW Buchanan Street, to an intersection with the Centerline of NW Grant Street; thence easterly, on the Centerline of NW Grant Street, to an intersection with the Centerline of NW Western Avenue; thence northerly, on the Centerline of NW Western Avenue, to an intersection with the Centerline of NW St. John Street; thence easterly, on the Centerline of NW St. John Street, to an intersection with the Centerline of NW Taylor Street; thence northerly, on the Centerline of NW Taylor Street, to an intersection with the Centerline of NW Lyman Road; thence westerly, on the Centerline of NW Lyman Road, to an intersection with the Centerline of NW Clay Street; thence northerly, on the Centerline of NW Clay Street, to the point of beginning. Contains 12.77 square miles.

(AND IN ADDITION)

DRAKES FARM SUBDIVISION AREA

Drakes Farm Subdivision. Contains approximately 21.01 acres.

KANZA BUSINESS AND TECHNOLOGY PARK (OVERALL PUD BOUNDARY)

A TRACT OF LAND IN THE SOUTHEAST QUARTER, THE EAST HALF OF THE SOUTHWEST QUARTER, LOT 3 OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER, ALL IN SECTION 26, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SHAWNEE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE ON AN ASSUMED BEARING OF NORTH 00°00'22" EAST, 30.00 FEET, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89°36'04" WEST, 23.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°36'04" WEST, 2611.74 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER, 30.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00°06'23" WEST, 1118.90 FEET ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 86°16'38" EAST, 130.48 FEET; THENCE NORTH 42°55'39" EAST, 233.28 FEET; THENCE NORTH 01°25'17" WEST, 497.95 FEET; THENCE SOUTH 88°46'41" WEST, 278.01 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00°06'23" EAST, 120.24 FEET ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER TO THE NORTH LINE OF ARLINGTON HEIGHTS SUBDIVISION; THENCE SOUTH 89°54'32" WEST, 1309.28 FEET ALONG THE NORTH LINE OF SAID SUBDIVISION TO THE WEST

LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER; THENCE NORTH
 00°11'27" EAST, 953.94 FEET ALONG THE WEST LINE OF THE EAST HALF OF
 SAID SOUTHWEST QUARTER; THENCE NORTH 00°18'11" EAST, 663.92 FEET
 ALONG THE WEST LINE OF SAID LOT 3 TO THE SOUTHERLY RIGHT-OF-WAY
 LINE OF INTERSTATE HIGHWAY NO. 70; THENCE NORTH 88°53'30" EAST, 883.63
 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE ON A CURVE TO THE LEFT,
 ALONG SAID RIGHT-OF-WAY LINE, A RADIUS OF 1579.22 FEET, AN ARC
 DISTANCE OF 683.95 FEET, WITH A CHORD WHICH BEARS NORTH 76°29'04"
 EAST, 678.62 FEET; THENCE NORTH 64°04'38" EAST, 1046.28 FEET, ALONG SAID
 RIGHT-OF-WAY LINE; THENCE SOUTH 00°08'08" WEST, 213.32 FEET; THENCE
 SOUTH 78°48'28" EAST, 1483.53 FEET TO THE EAST LINE OF THE NORTHEAST
 QUARTER OF SAID SECTION; THENCE SOUTH 00°08'53" EAST, 87.25 FEET
 ALONG THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH
 16°33'51" WEST, 156.49 FEET; THENCE SOUTH 00°08'53" EAST, 539.57 FEET TO
 A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, 45.00 FEET
 WEST OF THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE
 SOUTH 00°00'22" WEST, 35.43 FEET; THENCE SOUTH 89°59'38" EAST, 21.50
 FEET; THENCE SOUTH 00°00'22" WEST, 2570.01 FEET TO THE POINT OF
 BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 258.943 ACRES, MORE
 OR LESS.

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 26,
 TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN,
 SHAWNEE COUNTY KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER
 OF SECTION 26; THENCE ALONG THE SOUTH LINE OF SAID QUARTER ON AN
 ASSUMED BEARING OF SOUTH 89°35'38" WEST, A DISTANCE OF 825.36 FEET;
 THENCE ON A BEARING OF NORTH 00°24'22" WEST, A DISTANCE OF 40.00 FEET
 TO THE POINT OF BEGINNING; THENCE PARALLEL WITH THE SOUTH LINE OF
 SAID QUARTER ON A BEARING OF SOUTH 89°35'38" WEST, A DISTANCE OF
 515.96 FEET; THENCE ON A BEARING NORTH 00°25'19" WEST, A DISTANCE OF
 2033.61 FEET; THENCE ON A BEARING OF NORTH 44°27'37" EAST, A DISTANCE
 OF 68.73 FEET; THENCE ON A BEARING OF SOUTH 63°56'06" EAST, A DISTANCE
 OF 18.56 FEET; THENCE ON A BEARING OF NORTH 19°56'13" EAST, A DISTANCE
 OF 44.30 FEET; THENCE ON A BEARING OF NORTH 34°34'08" EAST, A
 DISTANCE OF 25.22 FEET; THENCE ON A BEARING OF NORTH 72°13'53" EAST, A
 DISTANCE OF 27.65 FEET; THENCE ON A BEARING OF SOUTH 37°05'32" EAST, A
 DISTANCE OF 14.75 FEET; THENCE ON A BEARING OF SOUTH 54°25'19" EAST, A
 DISTANCE OF 16.30 FEET; THENCE ON A BEARING OF SOUTH 80°46'21" EAST, A
 DISTANCE OF 23.15 FEET; THENCE ON A BEARING OF SOUTH 87°13'11" EAST, A
 DISTANCE OF 11.70 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE
 ALONG SAID CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 75.00
 FEET, A CHORD BEARING OF SOUTH 74°03'00" EAST, AND A CHORD DISTANCE
 OF 34.18 FEET) A DISTANCE OF 34.48 FEET; THENCE ON A BEARING OF SOUTH
 60°52'49" EAST, A DISTANCE OF 42.96 FEET; THENCE ON A BEARING OF SOUTH

53°28'55" EAST, A DISTANCE OF 108.90 FEET; THENCE ON A BEARING OF
 SOUTH 31°54'18" EAST, A DISTANCE OF 87.45 FEET; THENCE ON A BEARING OF
 SOUTH 26°44'08" EAST, A DISTANCE OF 158.72 FEET; THENCE ON A BEARING
 OF SOUTH 28°30'48" EAST, A DISTANCE OF 137.12 FEET; THENCE ON A
 BEARING OF SOUTH 35°51'47" EAST, A DISTANCE OF 63.86 FEET; THENCE ON A
 BEARING OF SOUTH 44°53'50" EAST, A DISTANCE OF 71.01 FEET; THENCE ON A
 BEARING OF SOUTH 00°10'26" EAST, A DISTANCE OF 305.26 FEET; THENCE ON
 A BEARING OF SOUTH 41°48'53" WEST, A DISTANCE OF 216.94 FEET TO A
 POINT ON A CURVE TO THE LEFT; THENCE ALONG SAID CURVE TO THE LEFT
 (SAID CURVE HAVING A RADIUS OF 75.00 FEET, A CHORD BEARING OF SOUTH
 19°54'50" EAST, AND A CHORD DISTANCE OF 97.23 FEET) A DISTANCE OF
 105.78 FEET; THENCE ON A BEARING OF SOUTH 00°01'58" EAST, A DISTANCE
 OF 78.63 FEET; THENCE ON A BEARING OF SOUTH 34°02'36" EAST, A DISTANCE
 OF 118.96 FEET; THENCE ON A BEARING OF SOUTH 00°17'22" WEST, A
 DISTANCE OF 227.41 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE
 ALONG SAID CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 60.00
 FEET, A CHORD BEARING OF SOUTH 45°46'21" WEST, AND A CHORD DISTANCE
 OF 77.15 FEET) A DISTANCE OF 83.79 FEET; THENCE ON A BEARING OF SOUTH
 00°06'58" EAST, A DISTANCE OF 142.97 FEET; THENCE ON A BEARING OF
 SOUTH 86°22'32" WEST, A DISTANCE OF 30.69 FEET; THENCE ON A BEARING
 OF SOUTH 01°46'13" EAST, A DISTANCE OF 80.18 FEET; THENCE ON A BEARING
 OF SOUTH 89°57'22" WEST, A DISTANCE OF 20.82 FEET; THENCE ON A
 BEARING OF SOUTH 00°15'55" WEST, A DISTANCE OF 130.86 FEET; THENCE ON
 A BEARING OF SOUTH 89°40'17" EAST, A DISTANCE OF 21.15 FEET; THENCE ON
 A BEARING OF SOUTH 00°20'17" WEST, A DISTANCE OF 28.30 FEET TO A POINT
 ON A CURVE TO THE LEFT; THENCE ALONG SAID CURVE TO THE LEFT (SAID
 CURVE HAVING A RADIUS OF 118.49 FEET, A CHORD BEARING OF SOUTH
 21°22'45" EAST, A CHORD DISTANCE OF 60.15 FEET) A DISTANCE OF 60.82
 FEET; THENCE ON A BEARING OF SOUTH 32°29'33" EAST, A DISTANCE OF 24.43
 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE
 TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 194.67 FEET, A CHORD
 BEARING OF SOUTH 12°51'45" EAST, AND A CHORD DISTANCE OF 80.56 FEET)
 A DISTANCE OF 81.15 FEET; THENCE ON A BEARING OF SOUTH 01°52'31" EAST,
 A DISTANCE OF 26.20 FEET TO THE POINT OF BEGINNING. THE ABOVE
 DESCRIBED TRACT OF LAND CONTAINS 24.081 ACRES, MORE OR LESS, AND IS
 SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, RESTRICTIONS, AND
 COVENANTS OF RECORD, IF ANY.

(AND IN ADDITION)

KANZA BUSINESS AND TECHNOLOGY PARK SUBDIVISION. CONTAINS
 APPROXIMATELY 10.39-ACRES, MORE OR LESS.

EXCEPT

The property commonly known as the 501 Sports Complex and legally described as
 follows: A tract of land in the Southeast Quarter of Section 26, Township 11 South,

Range 15 East of the Sixth Principal Meridian, described as follows: Beginning at a point on the West line, 30.00-feet North of the Southwest Corner of said Quarter Section (said point being on the North right-of-way line of West Sixth Street); thence North 00 degrees, 06 minutes, 40 seconds West, along said West Line, 1,118.79-feet; thence South 86 degrees, 14 minutes, 23 seconds East, 130.46-feet; thence North 42 degrees, 56 minutes, 08 seconds East, 233.28-feet; thence North 01 degrees, 24 minutes, 28 seconds West, 497.95-feet; thence North 88 degrees, 48 minutes, 04 seconds East, 120.98-feet; thence on a 302.50-foot radius curve to the left, with a 170.62-foot chord bearing North 72 degrees, 25 minutes, 13 seconds East, an arc distance of 172.97-feet; thence North 56 degrees, 02 minutes, 21 seconds East, 399.91-feet; thence South 20 degrees, 26 minutes, 15 seconds East 750.52-feet; thence South 00 degrees, 24 minutes, 53 seconds East, 1, 344.97-feet to the North right-of-way line of West Sixth Street; thence South 89 degrees, 36 minutes, 04 seconds West, along said North right-of-way line, 1,162.82-feet to the Point of Beginning. The above contains 44.001-acres, more or less, all in the City of Topeka, Shawnee County, Kansas.

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 Council of the City of Topeka_____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: NEIGHBORHOOD REVITALIZATION PLAN

The Neighborhood Revitalization Plan (NRP) is set to expire at the end of 2012 and is being proposed for renewal through 2017. The NRP was originally adopted in 1995 by the City of Topeka to establish a program that offered tax rebates to owners who make improvements to their properties within certain areas of the city.

The purpose of the program has been to encourage re-investment in the city's older and more distressed neighborhoods which also includes the Downtown. The basic concept is that 95% of any additional property taxes created by new improvements would be rebated back to the owner over a 10-15 year period.

While the plan and program have had variations throughout the years (see "Comparison Chart"), it has been continuously administered by the City since 1995 resulting in almost \$280 million of new investment. With participating taxing entities rebating \$31 million over that time, the program has leveraged \$9 of private investment for every \$1 of public dollars rebated.

Since 2003, the eligible area for rebates was reduced to better mirror the "at risk" and "intensive care" neighborhoods of the city as determined by the health map of the Comprehensive Plan's Neighborhood Element. These areas constitute the highest priorities for re-investment.

The highlights of the proposed plan for 2013-2017 are:

- 1) revise the eligible area to reflect "at risk" and "intensive care" areas in the newly adopted 2011 Neighborhood Element;
- 2) decrease the rebate percentage to 50% in years 6-10 of the rebate period consistent with most other cities,
- 3) maintain a full 95% rebate over 10 years for historic properties and "intensive care" neighborhoods;
- 4) allow use of the special fund created in 2006-2008 with the City's in-fill housing projects and help comply with adopted neighborhood design guidelines.

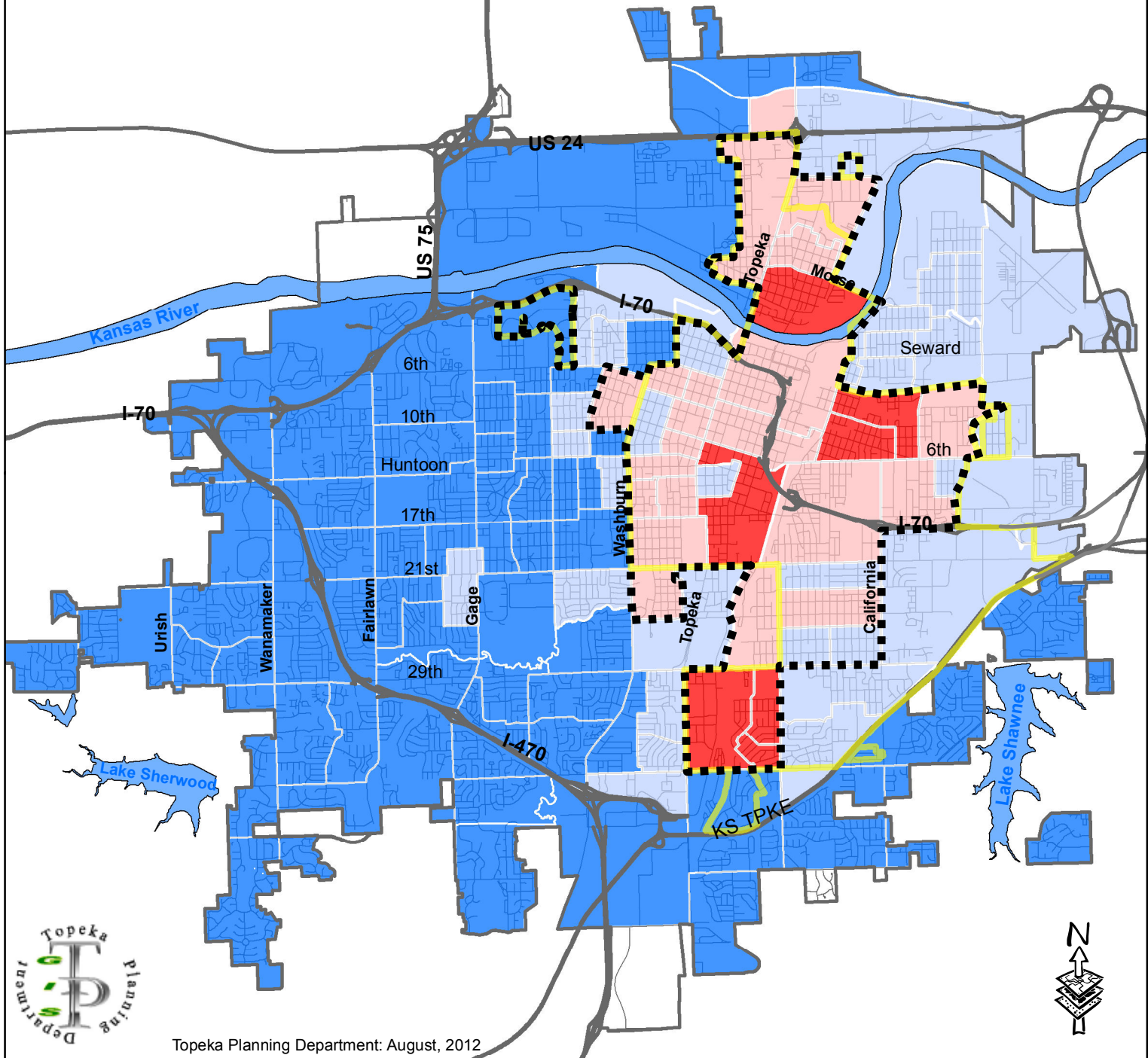
Planning staff has met with USD 501 and Shawnee County Commissioners to brief them on the proposed updates to the plan.

The Planning Department is recommending a motion to APPROVE the ordinance and plan in order to proceed with gaining approval from all other taxing entities.

DRAFT

City of Topeka
Neighborhood
Health 2011

Neighborhood Revitalization Area - 2013



Topeka Planning Department: August, 2012

Legend

- Healthy
- Out Patient
- At Risk
- Intensive Care
- City Limits



Existing NRA Boundary

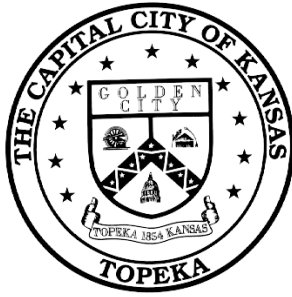
13.6



Proposed NRA Boundary

11.7

Square Miles



CITY OF TOPEKA

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

MEMORANDUM

To: Bill Fiander, Deputy Planning Director
From: Annie Driver, Planner II
Date: September 2012
RE: **Neighborhood Revitalization Program Survey**

Survey:

Planning staff surveyed 100 applicants from the Neighborhood Revitalization Program whose applications were approved in the years 2006 to 2012. This was done to gain input from their experiences with the program and assist in its renewal. 58% of the surveys were returned with responses.

The survey asked 5 questions. The first 2 questions determined the types of projects (commercial vs. residential) and the amount of investment involved in their particular project. The next 3 questions determined the effect the program has had on influencing current or future projects:

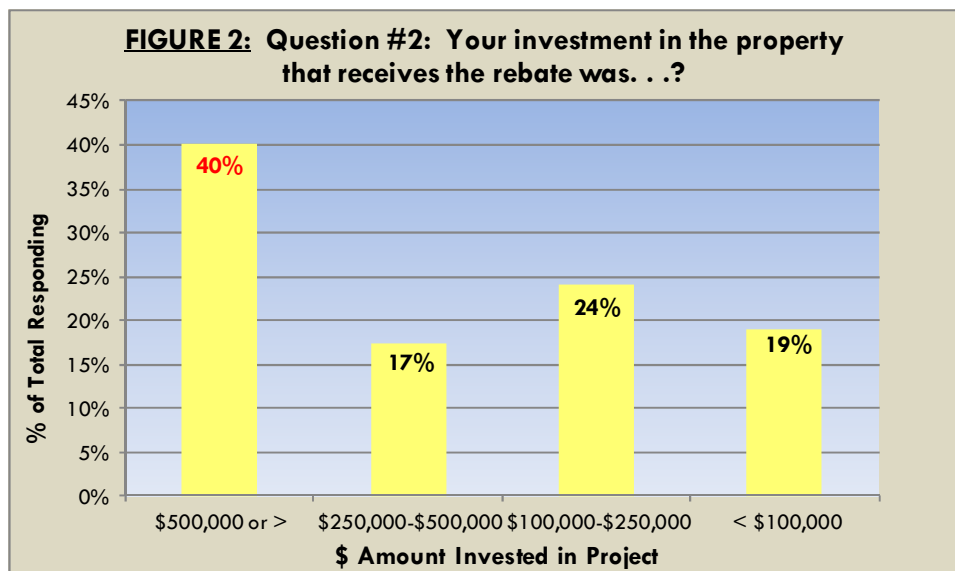
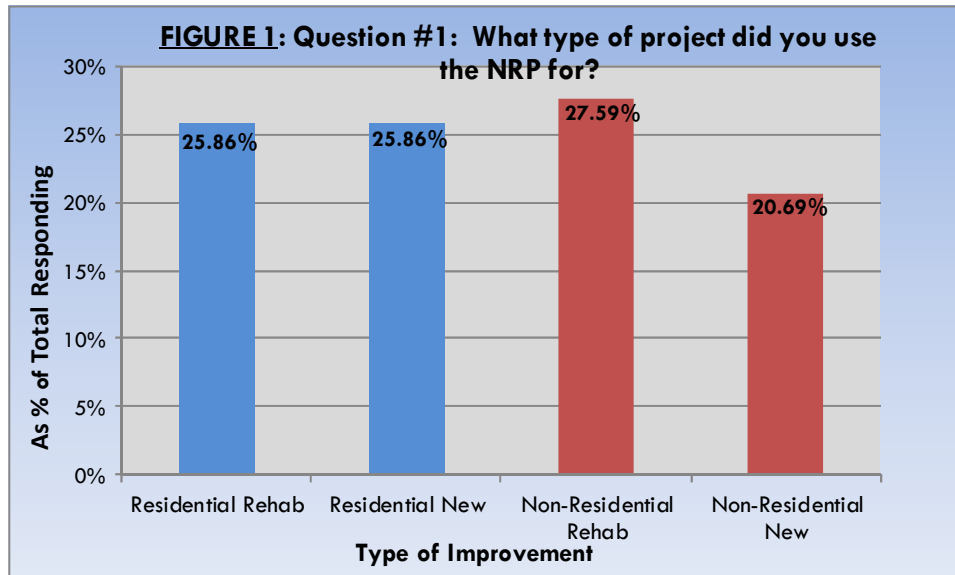
Question #3: How important was the tax rebate in your decision to make improvements in your property?

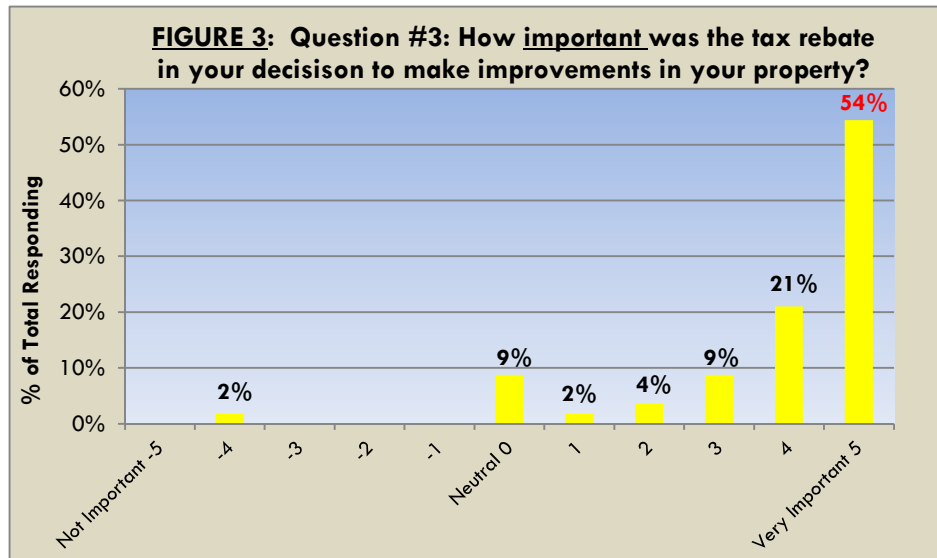
Question #4: If the NRP was not available for your property, how would this have affected your investment?

Question #5: If the NRP is renewed, how likely would you use it in the next five years?

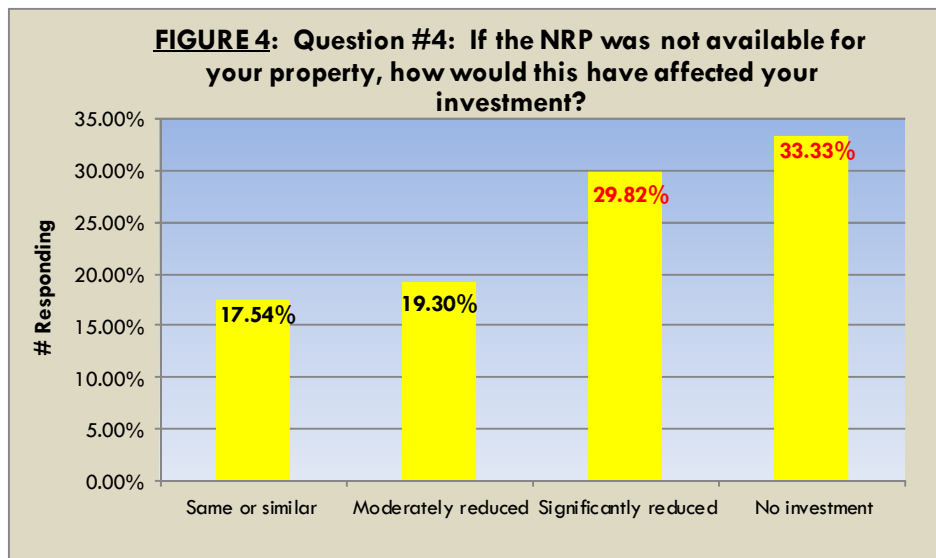
Based on those responses, some of the more prominent findings include:

- All types of projects were closely represented in the survey – New residential, Rehabilitation residential, New commercial, and Rehabilitation commercial.
- 75 % indicated the NRP was “very important” to their decision.
- 62 % indicated without the availability of the NRP for their property they would have made “no investment” or “significantly reduced” their investment.
- 17.5% indicated they would have made the same investment in their project even if the NRP was not available.
- 75% of the respondents indicated they would be “Likely” or “Very Likely” to use the program in the next five years.
- 70% of those investing greater than \$500,000 indicated they would have either made “no investment” or “significantly reduced” their investment if the NRP was (not?) available

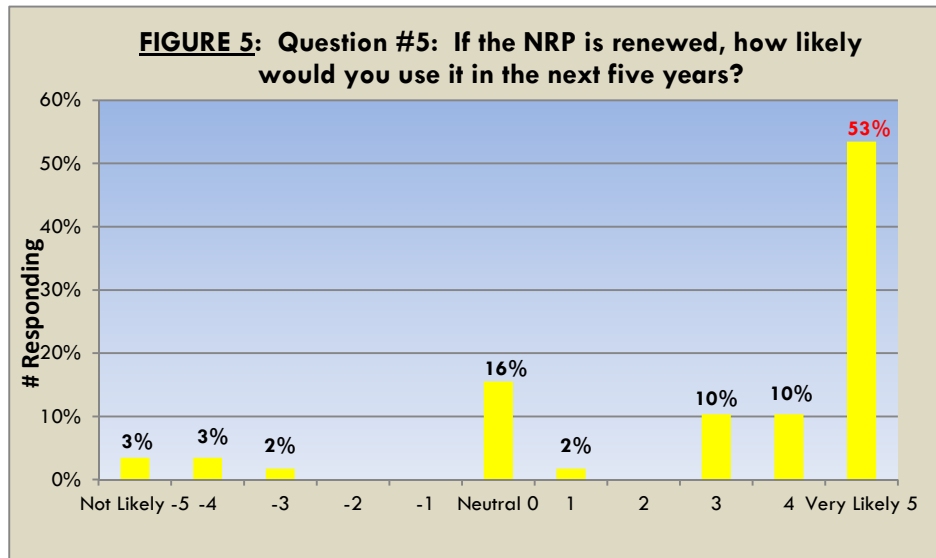




- 75 percent indicated “#4” or higher – meaning the NRP was “Very Important” or of strong importance to them in their decision.
- 11 percent (6 respondents) said the program either played no factor or was a neutral to their decision.



- 62 % indicated that without having the NRP they would have made “no investment” or “significantly reduced” their investment.
- 33 % said they would have made no investment at all without the availability of the NRP.
- Conversely, 17.5% indicated they would have made the same investment in their project even if the NRP was not available.



- 53 % indicated they would be “Very Likely” to use the program within the next five years.
- 75 % expressed some likelihood that they will make use of the program in the future.
- 24 % indicated they will not likely use the program in the near future.

Projects Investing > \$500,000

- 23 responses had investments over \$500,000
- 70% of those greater than \$500,000 indicated they would have either made “no investment” or “significantly reduced” their investment if the NRP was available
- 57% of those greater than \$500, 000 indicated the NRP was “Very Important” to their decision to invest.

City of Topeka's Neighborhood Revitalization Program (NRP)

Briefing of City of Topeka Governing Body
(July 10, 2012)

Potential Renewal of the Program

NRP Overview

- ▶ Property tax rebates for improvements in specified area of city
- ▶ All taxing entities participate through inter-local agreements
- ▶ First in State to adopt local program 1995
- ▶ Renewed every 3 years; expires end of 2012

NRP History

▶ 1995

- 95%/10 yrs. in 25 sq. miles
- 60 days to apply after building permit;
- Unlimited timeframe for “out-of-time” apps

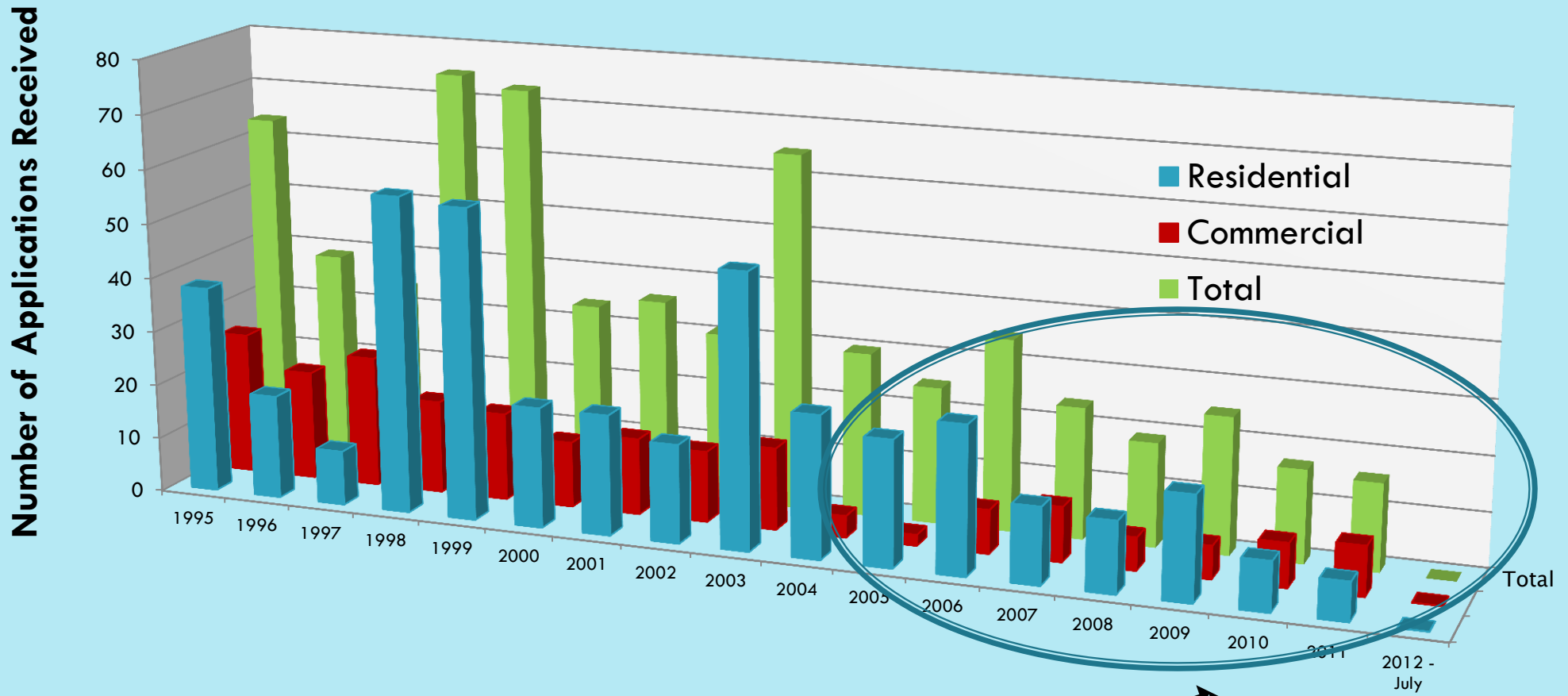
▶ 2004

- Shrunk area to correspond with “At Risk” and “Intensive Care” neighborhoods
- 80%/10 yrs. in 13 sq. miles w/ Special Fund
- No “out-of-time” applications

▶ 2007

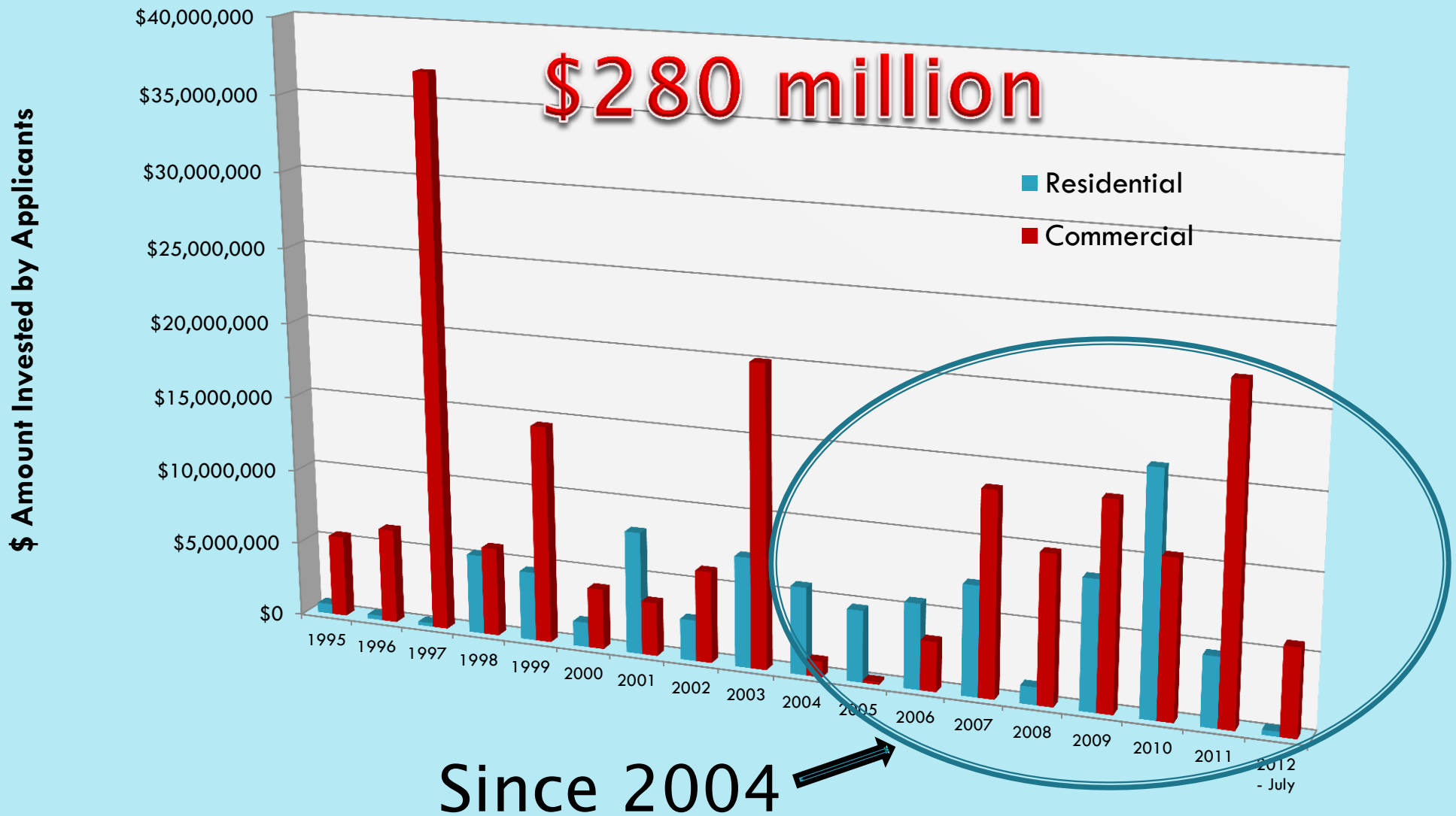
- Back to 95%/10 yrs. and no Special Fund
- “Out-of-time” apps have 1 year to show prior intent

NRP Applications (1995-2012)

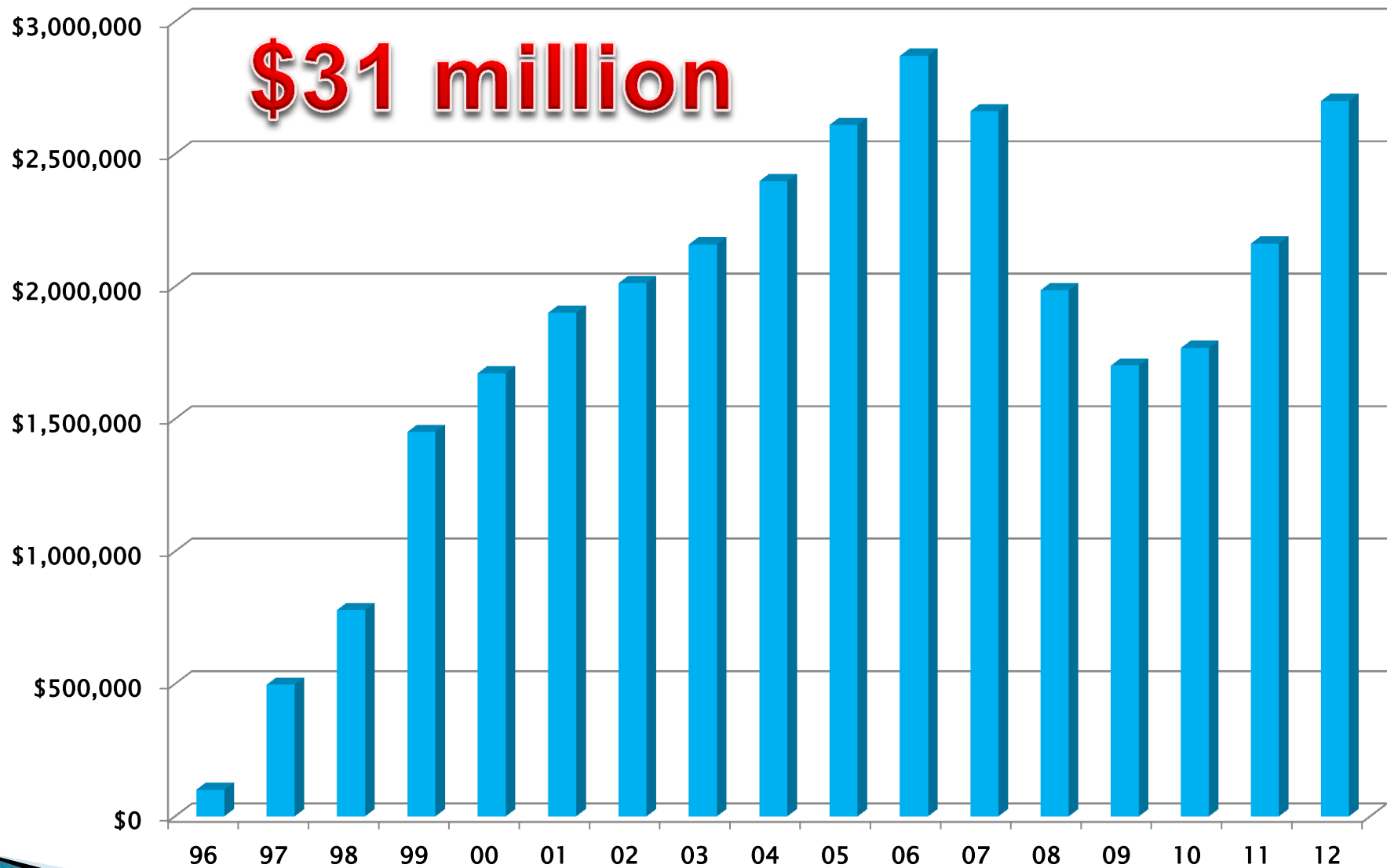


Since 2004

NRP Private Investment (1995-2012)



All Taxing Entities Rebate \$ (1996-2012*)



*2012 is projected

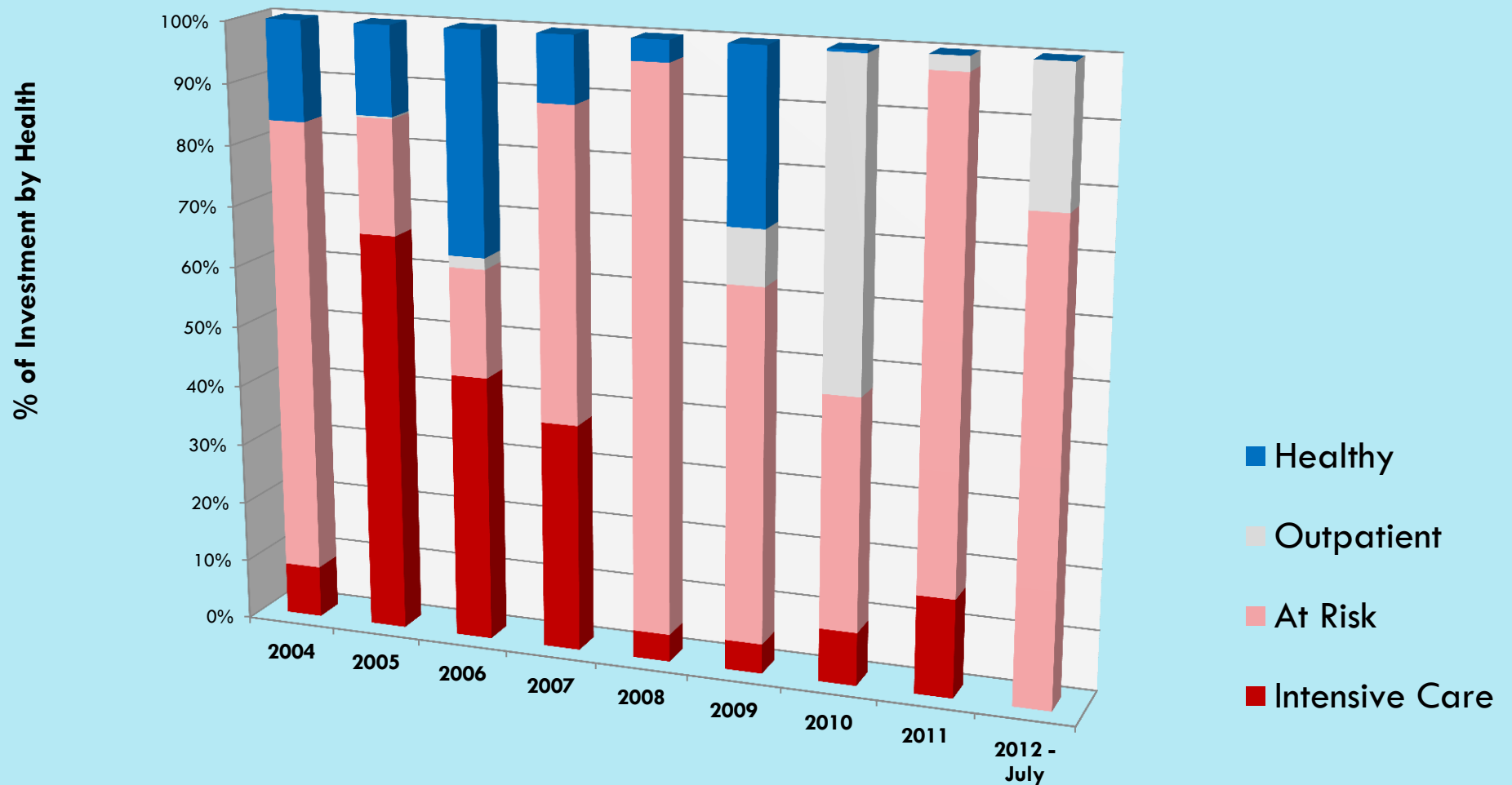
NRP Return on Investment

For Every Tax \$ Rebated

=

\$9 Invested Privately

By Neighborhood Health



Application Year (Jan 1 - Dec 31)

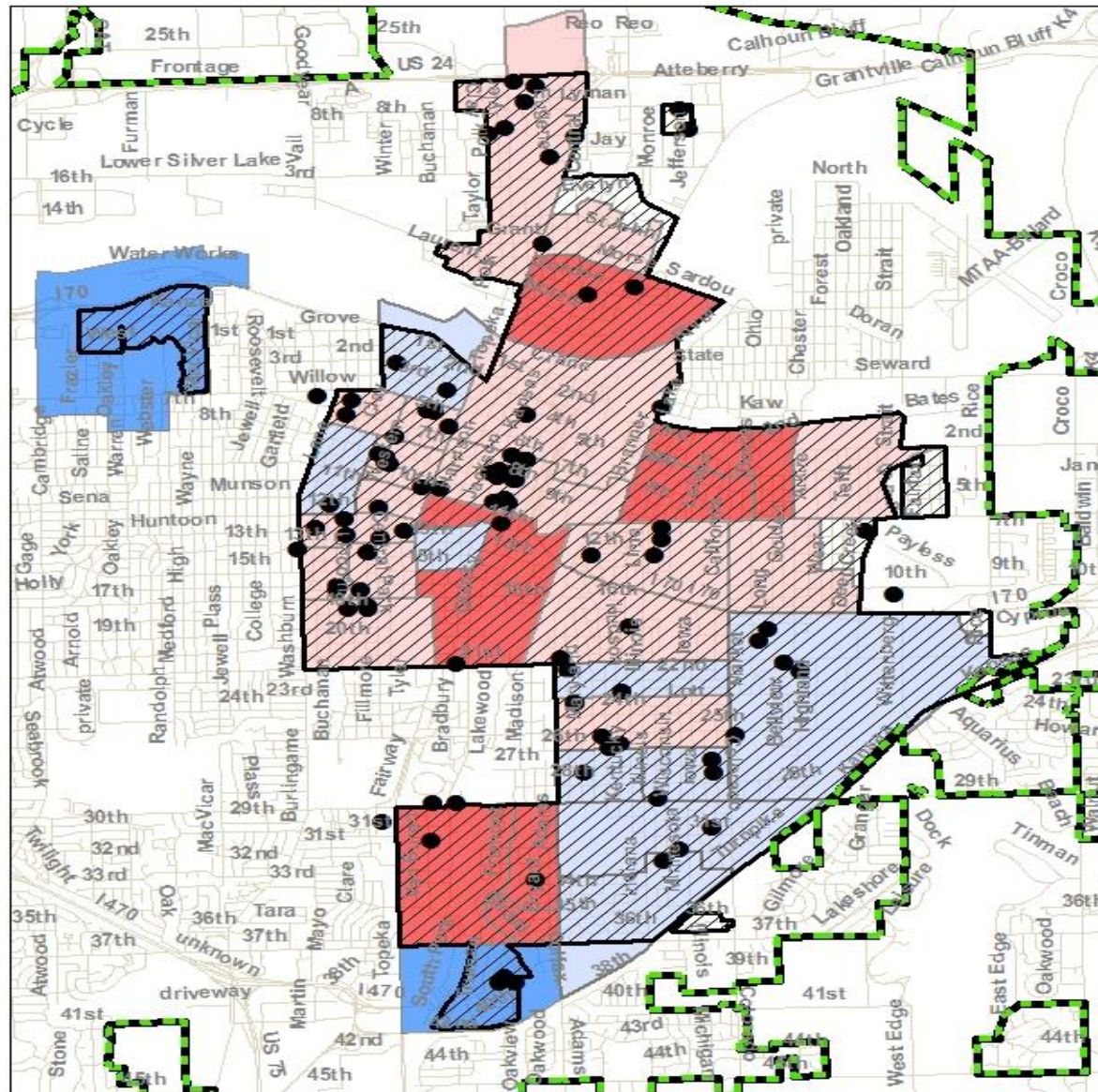
Other Cities

- ▶ Most Kansas cities of size have NRP.
- ▶ Topeka is most generous @ 95% full 10 years, but we have higher investment thresholds.
- ▶ Most all other cities start at 95–100% but then gradually decrease % up to 10 years.
- ▶ Lawrence requires Commission approval for each
- ▶ Many make application deadline “prior to commencement of construction”. Greensburg has no exceptions to this rule.

Neighborhood Revitalization Program Changes?

- ▶ Adjust area to match new Health Map? Add new “At Risk”, and drop new “Out-Patient”.
- ▶ Reduce rebate from full 95% to 50% in last 5 years. Keep at full amount (95%/10 years) for historic and Intensive Care areas?
- ▶ Use special fund to help with infill housing details not HUD-eligible (e.g. detached garages, fencing) to be consistent w/ neighborhood design guidelines?

Neighborhood Revitalization Program: Applications Received (2007- July 2012)



Neighborhood Revitalization Area

2011 Health Composite

Healthy

Out Patient

At Risk

Intensive Care

N/A

Project location



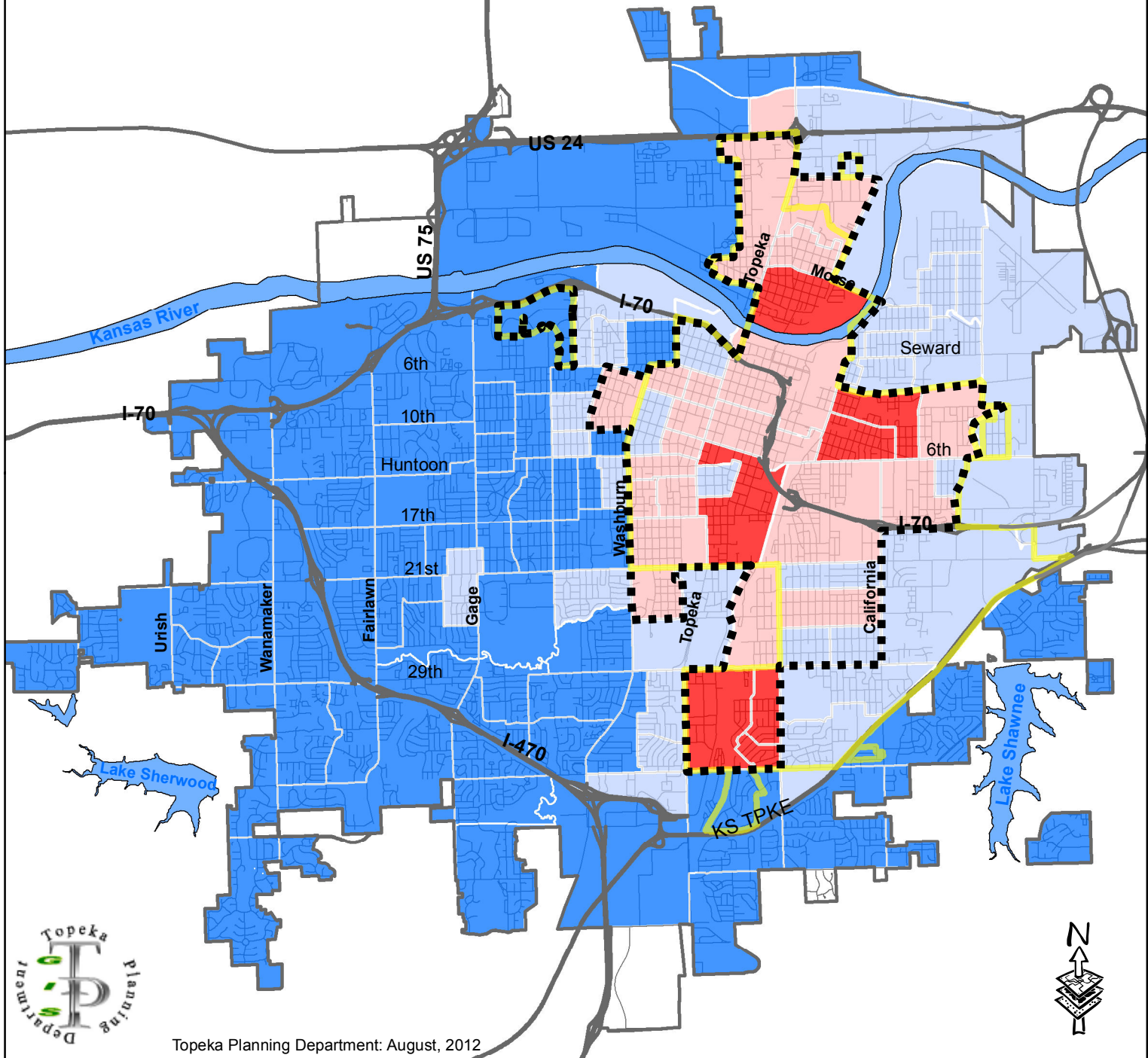
City of Topeka
Neighborhood Revitalization Program (1996-2013)

Issue	1996-2003	2004-2006	2007-2012	2013
Area	25.3 square miles	12.8 sq. miles (contiguous) 0.6 sq. miles (islands)	12.8 sq. miles (contiguous) 0.8 sq. miles (islands)	11.3 sq. miles (contiguous) 0.4 sq. miles (island)
“Islands”	None	Kanza Business Park, Belmont Addition, Southern Hills B/C, Cowdin Sub, Drakes Farm	Kanza Business Park, Belmont Addition, Southern Hills A/B/C, Cowdin Sub, Drakes Farm	Kanza Business Park, Belmont Addition, Southern Hills A/B/C, Cowdin Sub, Drakes Farm
Boundaries	Properties must be inside boundary to be eligible	Properties may be inside boundary OR front the boundary to be eligible	No change	No change
Rebate Rate <i>(assumes all taxing entities participate)</i>	95% rebate /10 years 100% rebate /15 years (historic)	80% rebate /10 years 100% rebate /15 years (historic)	95% rebate /10 years 100% rebate /15 years (historic)	95% rebate /5 years 50% rebate/5 years 95% rebate /10 years (historic or Intensive Care)
Use Eligibility	Single-family and commercial eligible anywhere, multi-family and industrial eligible in special districts only.	Any use as permitted by zoning. New single-family dwellings must be owner-occupied	No change	No change
Improvement Threshold	Residential >5% appraised value Non-Resid. >15% appraised value	Residential >10% appraised value Non-Resid. >20% appraised value	No change	No change
Application/ Appeals Deadline	Up to 60 days after building permit. “Out-of-time” appeals go to CAO. <u>Unlimited</u> timeframe to appeal.	Up to 60 days after building permit. <u>No</u> “out-of-time” appeals.	Up to 60 days after building permit. “Out-of-time” appeals within <u>1 year</u> if evidence is presented to Planning of intent prior to building permit.	No change
Special Fund	None	Special Fund created using 15% of rebate and 11 th year (repealed) for infrastructure or housing in Area.	None	May be used in conjunction with in-fill housing projects to comply with design guidelines (e.g., detached garages, trees)
Other	Improvements must conform to all codes and Comp Plan for rebate period.	- Current on <u>all</u> property taxes - Conform to all codes and design guidelines of Comp Plan during rebate period. 2 years to complete project	No change	Renew program every 5 years instead of 3 years <i>City of Topeka Planning Department 10/11/2012</i>

DRAFT

City of Topeka
Neighborhood
Health 2011

Neighborhood Revitalization Area - 2013



Topeka Planning Department: August, 2012

Legend

- Healthy
- Out Patient
- At Risk
- Intensive Care
- City Limits



Existing NRA Boundary

13.6



Proposed NRA Boundary

11.7

Square Miles

Exhibit "A"

*Neighborhood
Revitalization
Plan
(DRAFT)*

City of Topeka, Kansas

effective January 1, 2013

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Purpose

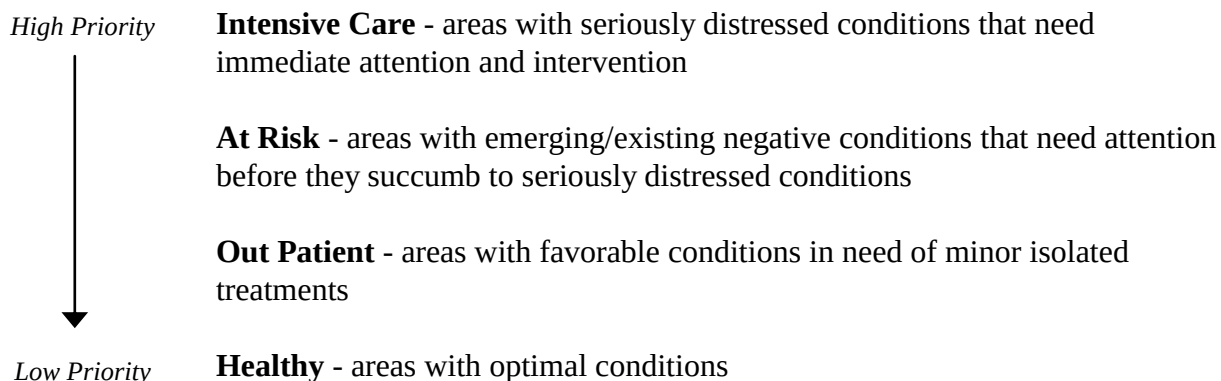
This Plan is intended to promote the revitalization of the inner urban area hereinafter described as the "Neighborhood Revitalization Area" of the City of Topeka through the rehabilitation, conservation and redevelopment of the area in order to protect the public health, safety welfare of the residents of the City. More specifically, in accordance with KSA 12-17, 118 (d), a tax rebate incentive will be available to property owners for certain improvements that raise the appraised value of residential property 10% and commercial property 20%.

In accordance KSA (2000 Supp.) 12-17, 114 et. seq., the City Council has held a public hearing and considered the existing conditions and alternatives with respect to the described area, the criteria and standards for a tax rebate and the necessity for interlocal cooperation among the other taxing units. Accordingly, the Council has reviewed, evaluated, and found that the described area meets one or more of the conditions contained in KSA (2000 Supp) 12-17,115 (c).

PART 1

DESCRIPTION OF NEIGHBORHOOD REVITALIZATION AREA

The Neighborhood Revitalization Area (Map #1) follows the boundaries of *Intensive Care* and *At Risk* neighborhoods as identified in the Neighborhood Element of the Comprehensive Plan. This element, originally approved in 2000 and updated in 2011, establishes four (4) health classifications for neighborhoods (intensive care, at risk, out patient, and healthy) to determine priorities for re-investment and planning assistance. They are described below in order of priority:



The four health classifications were based on five (5) vital signs that measured the relative health of all neighborhood areas in Topeka. This neighborhood health assessment was used to develop a “triage” approach to revitalization. Those areas that had more “life-threatening” or urgent needs as measured by the vital signs should receive higher priority for treatment over those areas with less urgent needs. These higher priority areas (*intensive care/at risk*) are the focus for neighborhood planning efforts and public re-investment. A summary of the vital signs include:

Poverty (2006-2010 American Community Survey 5-Year Estimates, U.S Census) - High concentrations of poverty are one of the most reliable indicators of performance in school, crime rates, family fragmentation, job readiness, housing conditions, etc.

Public Safety (January 2009 – December 2010, Topeka Police Dept.) – Public Safety, as measured by number of Part 1 crimes reported for the last two full years, is a symptom indicating the local environmental conditions conducive to crime and how well a neighborhood is organized to prevent crime from occurring.

Residential Property Values (June 2011, Shawnee County Appraisers Office) – Property values are in part a reflection of the quality of housing supply and the image of a neighborhood. The median value of a house purchased in Shawnee County was \$110,000 in 2010 (Topeka Association of Realtors).

Single Family Housing Tenure (June 2011 Shawnee County Appraisers Office)
The percentage of homeowners residing in a neighborhood can be an indication of the willingness (or confidence) to invest in the area. The most relevant measure of this is how many single-family dwellings are owner-occupied since these homes were built for individual ownership.

Boarded Houses & Unsafe Structures (2010 City of Topeka Code Enforcement Unit) -
A boarded-up house is one of the most evident physical displays that will undermine confidence in an area for investment and precipitates a downward spiral for the block and/or neighborhood.

Vital Sign Ranges (2011)



Neighborhood Health Composite (avg. score)	Persons Per Part 1 Crime Reported (score)	% of Persons Below Poverty Level (score)	% Owner Occupied Housing Units (score)	Boarded Houses & Unsafe Structures (score)	Average Residential Property Levels (score)
Healthy (3.3 – 4.0)	9 or More (4)	0 - 9% (4)	70 - 100% (4)	None (4)	\$103,001 and Above (4)
Out-Patient (2.7 – 3.2)	6 – 8 (3)	10 - 18% (3)	50 - 69% (3)	1-2 (3)	\$67,501 - \$103,000 (3)
At-Risk (1.9-2.6)	4 – 5 (2)	19 - 30% (2)	34 - 49% (2)	3-5 (2)	\$40,001 - \$67,500 (2)
Intensive Care (1.0 – 1.8)	1 – 3 (1)	31 – 100% (1)	0 - 33% (1)	6 + (1)	\$40,000 and Below (1)

Area Profile

Health rankings are determined by averaging all vital sign levels for each neighborhood area. *Intensive care* and *at risk* neighborhoods have the lowest vital sign measurements, and hence are the primary focus of the Neighborhood Revitalization (NR) Area. Below is a comparison profile of the NR Area and non-NR Area:

Total Primary Neighborhood Revitalization Area (2011)

Neighborhood Health Rating	Persons Per Part 1 Crime Reported	% of Persons Below Poverty Level*	% Owner Occupied Single-Family Housing Units	Boarded Houses & Unsafe Structures	Average Residential Property Levels
Intensive Care	4 Persons	52%	40%	31	\$28,040
At Risk	5 Persons	32%	52%	40	\$54,070
Out Patient	7 Persons	16%	57%	3	\$56,800
Total Primary NR Area	5 Persons	33%	50%	74	\$48,955

*Represents the average poverty level status of selected Census Block Groups.

Total Non-Neighborhood Revitalization Area (2011)

Neighborhood Health Rating	Persons Per Part 1 Crime Reported	% of Persons Below Poverty Level*	% Owner Occupied Single-Family Housing Units	Boarded Houses & Unsafe Structures	Average Residential Property Levels
Out Patient	6 Persons	24%	65%	9	\$71,120
Healthy	13 Persons	8%	84%	8	\$141,830
Total Non-NR Area	12 Persons	13%	79%	17	\$133,740

*Represents the average poverty level status of the selected Census Block Groups.

General Characteristics (2011)

Area	Square Miles	% Total	# of Parcels	% Total	Vacant Parcels*	% Total
Intensive Care (Primary)	2.8	8.8%	3,228	6.4%	522	12.8%
At Risk (Primary)	7.2	3.3%	8,038	15.8%	1,073	26.7%
Out Patient (Primary)	1.1	1.6%	2,113	4.2%	184	4.5%
Kanza/USD 501 District	.3	.7%	13	.03%	3	.03%
Total NR Area	11.4	14.4%	13,392	26.4%	1,782	44%
Non-NR Area	45.5	85.6%	37,275	73.6%	2,233	55.6%
Total (All Topeka)	56.9	100%	50,709	100%	4,015	100%

* Excludes parcels for public purposes (e.g., parks)

General Characteristics (2011)

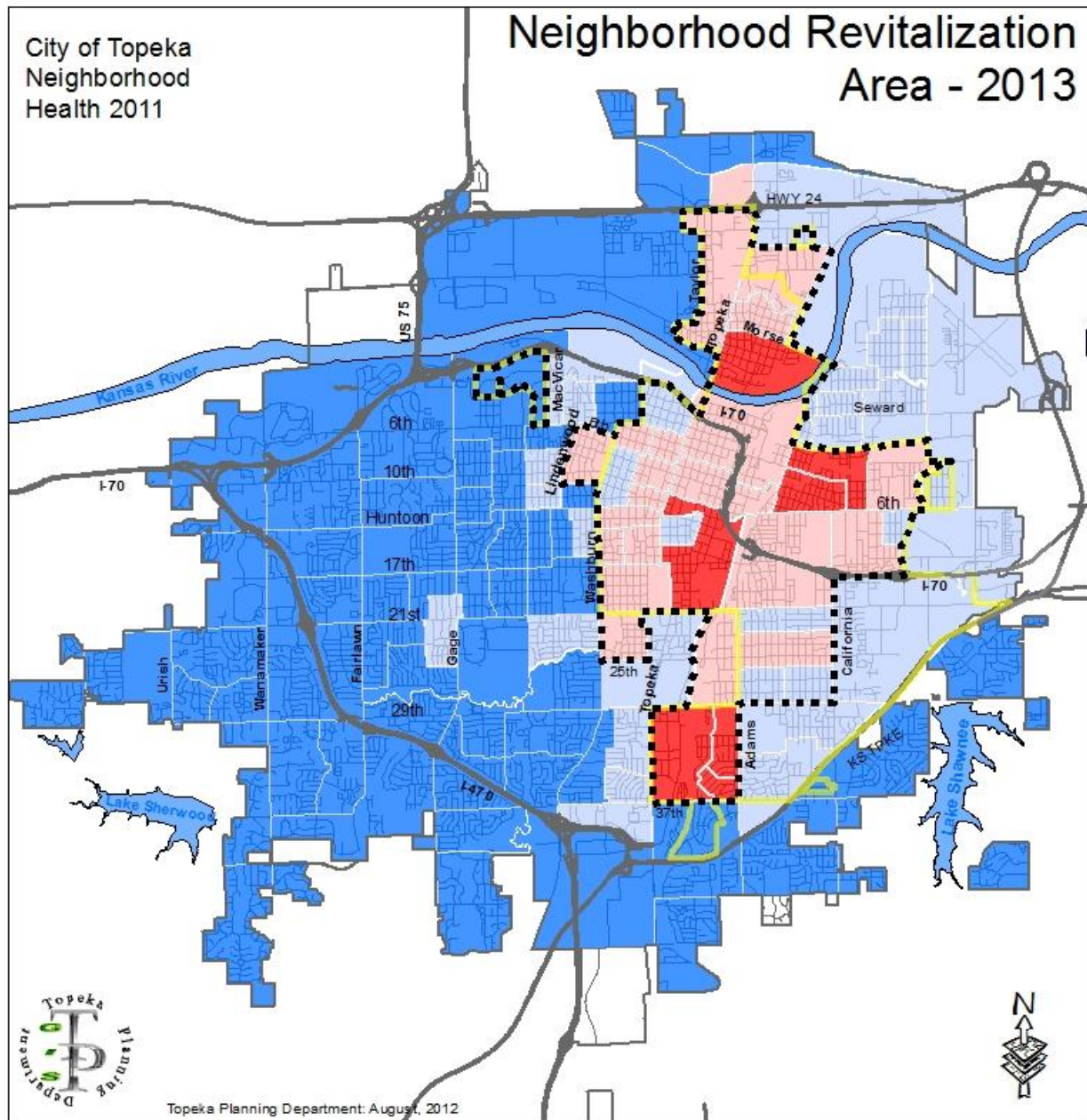
Area	Estimated Population (2010 Census)	Total Housing Units (2006-2010 ACS)	Real Property Valuation
Intensive Care (Primary)	6,335	2,537	\$266,848,040
At Risk (Primary)	20,396	14,193	\$1,160,436,490
Out Patient (Primary)	5,141	2,407	\$161,385,710
Total NR Area	31,872	19,137	\$1,588,670,240
Non-NR Area*	95,598	45,283	\$5,918,331,430
Total (All Topeka)	127,470	64,420	\$7,507,001,670

*Includes the non-primary Kanza/USD 501 property in this table only.

Summary

- The primary NR Area comprises only 14% of the land area of Topeka, but contains 44% of all vacant parcels in the City.
- The poverty rate in the primary NR Area is two and a half times the poverty rate of the non-NR Area.
- Average residential property values are nearly three times greater outside of the NR Area than within its boundaries.
- The homeownership rate is substantially greater outside of the primary NR Area boundary (79% versus 50%).
- 81% of all boarded houses and unsafe structures in the City are located within the NR Area boundary.

Map #1 (Draft)



Legal Description of Neighborhood Revitalization Area

Primary Area

Beginning at the intersection of the Centerline of US Highway 24 with the Centerline of NW Clay Street; thence easterly, on the Centerline of US Highway 24, to an intersection with the Centerline of NW Topeka Boulevard; thence southerly, on the Centerline of NW Topeka Boulevard, to an intersection with the Centerline of Old Soldier Creek; thence easterly and southerly, down the Centerline of Old Soldier Creek, to an intersection with the Centerline of the Mainline Track of the Union Pacific Railroad; thence southerly, on the centerline of said mainline track, to an intersection with the Centerline of the West Approach to the Sardou Bridge over the Kansas River; thence east-southeasterly, on the centerline of said approach and the Centerline of the Sardou Bridge, to an intersection with the Centerline of the Kansas River; thence southwesterly, up the Centerline of the Kansas River, to an intersection with an extension of the Centerline of NE Chandler Street; thence southerly, on the Centerline of NE Chandler Street, to an intersection with the Centerline of NE Seward Avenue; thence westerly, on the Centerline of NE Seward Avenue, to an intersection with the Centerline of NE Branner Street; thence south-southwesterly, on the Centerline of Branner Street, to an intersection with the Centerline of the Mainline Track of the Burlington Northern – Santa Fe Railway; thence easterly, on the centerline of said mainline track, to an intersection with the East line of the Northeast Quarter of Section 33, Township 11 South, Range 16 east of the 6th P.M.; thence southerly, on said East line, to the Southeast corner of said Northeast Quarter; thence easterly, on the North line of the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., to an intersection with the Centerline of Deer Creek; thence southwesterly and southerly, up the Centerline of Deer Creek, to an intersection with the Centerline of SE 6th Avenue; thence westerly, on the Centerline of SE 6th Avenue, to an intersection with the Centerline of SE Deer Creek Parkway; thence southerly, on the Centerline of SE Deer Creek Parkway, to an intersection with the Centerline of Interstate Highway 70; thence easterly, on the Centerline of Interstate Highway 70, to an intersection with the East line of the Southwest Quarter of Section 3, Township 12 South, Range 16 east of the 6th P.M.; thence southerly, on said East line, to the Southeast corner of said Southwest Quarter; thence easterly, on the North line of the Northeast Quarter of Section 10, Township 12 South, Range 16 east of the 6th P.M., to the Northeast corner of the West Half of said Northeast Quarter; thence on an assumed bearing of South 00°48'00" West, on the East line of the West Half of said Northeast Quarter, 158.83 feet, to the North line of the Kansas Turnpike Right of Way, thence South 63°15'40" West, on said right of way line, 790.86 feet; thence South 69°36'00" West, continuing on said right of way line, 452.77 feet; thence North 70°46'40" West, continuing on said right of way line, 337.69 feet, to the Easterly Right of Way line of Service Road "L" of the Kansas Turnpike Authority; thence southwesterly, to the intersection of the Westerly Right of Way line of said Service Road "L" with the Northerly Right of Way line of the Kansas Turnpike; thence southwesterly, on the Northerly Right of Way line of the Kansas Turnpike, to an intersection with the Centerline of SE 37th Street; thence westerly, on the Centerline of 37th Street, to an intersection with the Centerline of SW Topeka Boulevard; thence northerly, on the Centerline of SW Topeka Boulevard, to an intersection with the Centerline of SW 29th Street; thence easterly, on the Centerline of 29th Street, to an intersection with the Centerline of SE Adams Street; thence northerly, on the Centerline of SE Adams Street, to an intersection with the Centerline of SE 21st Street; thence westerly, on the Centerline of 21st Street, to an intersection with the Centerline of Washburn Avenue; thence northerly, and north-northeasterly, on the Centerline of Washburn Avenue, to an intersection with the Centerline of SW Willow Avenue; thence easterly, on the Centerline of SW Willow Avenue, to an intersection with the Centerline of Quinton Avenue; thence northerly, on the Centerline of Quinton Avenue, and its extension, to an intersection with the Centerline of Interstate Highway 70; thence southeasterly, on the Centerline of Interstate Highway 70, to an intersection with the Centerline of SW Topeka Boulevard; thence north-northeasterly, on the Centerline of Topeka Boulevard, to an intersection with the Centerline of NW Laurent Street; thence west-northwesterly, on the Centerline of NW Laurent Street, to an intersection with the Centerline of NW Norris Street; thence west-northwesterly, on the Centerline of NW Norris Street, to an intersection with the Centerline of NW Lane Street; thence north-northeasterly, on the Centerline of NW Lane Street, to an intersection with the Centerline of NW Gordon Street; thence east-southeasterly, on the Centerline of NW Gordon Street, to an intersection with the Centerline of NW Buchanan Street; thence northerly, on the Centerline of NW Buchanan Street, to an intersection with the Centerline of NW Grant Street; thence easterly, on the

Centerline of NW Grant Street, to an intersection with the Centerline of NW Western Avenue; thence northerly, on the Centerline of NW Western Avenue, to an intersection with the Centerline of NW St. John Street; thence easterly, on the Centerline of NW St. John Street, to an intersection with the Centerline of NW Taylor Street; thence northerly, on the Centerline of NW Taylor Street, to an intersection with the Centerline of NW Lyman Road; thence westerly, on the Centerline of NW Lyman Road, to an intersection with the Centerline of NW Clay Street; thence northerly, on the Centerline of NW Clay Street, to the point of beginning. Contains 12.77 square miles.

(AND IN ADDITION)

DRAKES FARM SUBDIVISION AREA

Drakes Farm Subdivision. Contains approximately 21.01 acres.

KANZA BUSINESS AND TECHNOLOGY PARK (OVERALL PUD BOUNDARY)

A TRACT OF LAND IN THE SOUTHEAST QUARTER, THE EAST HALF OF THE SOUTHWEST QUARTER, LOT 3 OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER, ALL IN SECTION 26, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SHAWNEE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE ON AN ASSUMED BEARING OF NORTH 00°00'22" EAST, 30.00 FEET, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89°36'04" WEST, 23.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°36'04" WEST, 2611.74 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER, 30.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00°06'23" WEST, 1118.90 FEET ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 86°16'38" EAST, 130.48 FEET; THENCE NORTH 42°55'39" EAST, 233.28 FEET; THENCE NORTH 01°25'17" WEST, 497.95 FEET; THENCE SOUTH 88°46'41" WEST, 278.01 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00°06'23" EAST, 120.24 FEET ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER TO THE NORTH LINE OF ARLINGTON HEIGHTS SUBDIVISION; THENCE SOUTH 89°54'32" WEST, 1309.28 FEET ALONG THE NORTH LINE OF SAID SUBDIVISION TO THE WEST LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER; THENCE NORTH 00°11'27" EAST, 953.94 FEET ALONG THE WEST LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER; THENCE NORTH 00°18'11" EAST, 663.92 FEET ALONG THE WEST LINE OF SAID LOT 3 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY NO. 70; THENCE NORTH 88°53'30" EAST, 883.63 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE ON A CURVE TO THE LEFT, ALONG SAID RIGHT-OF-WAY LINE, A RADIUS OF 1579.22 FEET, AN ARC DISTANCE OF 683.95 FEET, WITH A CHORD WHICH BEARS NORTH 76°29'04" EAST, 678.62 FEET; THENCE NORTH 64°04'38" EAST, 1046.28 FEET, ALONG SAID RIGHT-OF-WAY LINE; THENCE SOUTH 00°08'08" WEST, 213.32 FEET; THENCE SOUTH 78°48'28" EAST, 1483.53 FEET TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE SOUTH 00°08'53" EAST, 87.25 FEET ALONG THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 16°33'51" WEST, 156.49 FEET; THENCE SOUTH 00°08'53" EAST, 539.57 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, 45.00 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 00°00'22" WEST, 35.43 FEET; THENCE SOUTH 89°59'38" EAST, 21.50 FEET; THENCE SOUTH 00°00'22" WEST, 2570.01 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 258.943 ACRES, MORE OR LESS.

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SHAWNEE COUNTY KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 26; THENCE ALONG THE SOUTH LINE OF SAID QUARTER ON AN ASSUMED BEARING OF SOUTH 89°35'38" WEST, A DISTANCE OF 825.36 FEET; THENCE ON A BEARING OF NORTH 00°24'22" WEST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE PARALLEL WITH THE SOUTH LINE OF SAID QUARTER ON A BEARING OF SOUTH 89°35'38"

WEST, A DISTANCE OF 515.96 FEET; THENCE ON A BEARING NORTH 00°25'19" WEST, A DISTANCE OF 2033.61 FEET; THENCE ON A BEARING OF NORTH 44°27'37" EAST, A DISTANCE OF 68.73 FEET; THENCE ON A BEARING OF SOUTH 63°56'06" EAST, A DISTANCE OF 18.56 FEET; THENCE ON A BEARING OF NORTH 19°56'13" EAST, A DISTANCE OF 44.30 FEET; THENCE ON A BEARING OF NORTH 34°34'08" EAST, A DISTANCE OF 25.22 FEET; THENCE ON A BEARING OF NORTH 72°13'53" EAST, A DISTANCE OF 27.65 FEET; THENCE ON A BEARING OF SOUTH 37°05'32" EAST, A DISTANCE OF 14.75 FEET; THENCE ON A BEARING OF SOUTH 54°25'19" EAST, A DISTANCE OF 16.30 FEET; THENCE ON A BEARING OF SOUTH 80°46'21" EAST, A DISTANCE OF 23.15 FEET; THENCE ON A BEARING OF SOUTH 87°13'11" EAST, A DISTANCE OF 11.70 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 75.00 FEET, A CHORD BEARING OF SOUTH 74°03'00" EAST, AND A CHORD DISTANCE OF 34.18 FEET) A DISTANCE OF 34.48 FEET; THENCE ON A BEARING OF SOUTH 60°52'49" EAST, A DISTANCE OF 42.96 FEET; THENCE ON A BEARING OF SOUTH 53°28'55" EAST, A DISTANCE OF 108.90 FEET; THENCE ON A BEARING OF SOUTH 31°54'18" EAST, A DISTANCE OF 87.45 FEET; THENCE ON A BEARING OF SOUTH 26°44'08" EAST, A DISTANCE OF 158.72 FEET; THENCE ON A BEARING OF SOUTH 28°30'48" EAST, A DISTANCE OF 137.12 FEET; THENCE ON A BEARING OF SOUTH 35°51'47" EAST, A DISTANCE OF 63.86 FEET; THENCE ON A BEARING OF SOUTH 44°53'50" EAST, A DISTANCE OF 71.01 FEET; THENCE ON A BEARING OF SOUTH 00°10'26" EAST, A DISTANCE OF 305.26 FEET; THENCE ON A BEARING OF SOUTH 41°48'53" WEST, A DISTANCE OF 216.94 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE ALONG SAID CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 75.00 FEET, A CHORD BEARING OF SOUTH 19°54'50" EAST, AND A CHORD DISTANCE OF 97.23 FEET) A DISTANCE OF 105.78 FEET; THENCE ON A BEARING OF SOUTH 00°01'58" EAST, A DISTANCE OF 78.63 FEET; THENCE ON A BEARING OF SOUTH 34°02'36" EAST, A DISTANCE OF 118.96 FEET; THENCE ON A BEARING OF SOUTH 00°17'22" WEST, A DISTANCE OF 227.41 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 60.00 FEET, A CHORD BEARING OF SOUTH 45°46'21" WEST, AND A CHORD DISTANCE OF 77.15 FEET) A DISTANCE OF 83.79 FEET; THENCE ON A BEARING OF SOUTH 00°06'58" EAST, A DISTANCE OF 142.97 FEET; THENCE ON A BEARING OF SOUTH 86°22'32" WEST, A DISTANCE OF 30.69 FEET; THENCE ON A BEARING OF SOUTH 01°46'13" EAST, A DISTANCE OF 80.18 FEET; THENCE ON A BEARING OF SOUTH 89°57'22" WEST, A DISTANCE OF 20.82 FEET; THENCE ON A BEARING OF SOUTH 00°15'55" WEST, A DISTANCE OF 130.86 FEET; THENCE ON A BEARING OF SOUTH 89°40'17" EAST, A DISTANCE OF 21.15 FEET; THENCE ON A BEARING OF SOUTH 00°20'17" WEST, A DISTANCE OF 28.30 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE ALONG SAID CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 118.49 FEET, A CHORD BEARING OF SOUTH 21°22'45" EAST, A CHORD DISTANCE OF 60.15 FEET) A DISTANCE OF 60.82 FEET; THENCE ON A BEARING OF SOUTH 32°29'33" EAST, A DISTANCE OF 24.43 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 194.67 FEET, A CHORD BEARING OF SOUTH 12°51'45" EAST, AND A CHORD DISTANCE OF 80.56 FEET) A DISTANCE OF 81.15 FEET; THENCE ON A BEARING OF SOUTH 01°52'31" EAST, A DISTANCE OF 26.20 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 24.081 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, RESTRICTIONS, AND COVENANTS OF RECORD, IF ANY.

(AND IN ADDITION)

KANZA BUSINESS AND TECHNOLOGY PARK SUBDIVISION. CONTAINS APPROXIMATELY 10.39-ACRES, MORE OR LESS.

EXCEPT

The property commonly known as the 501 Sports Complex and legally described as follows: A tract of land in the Southeast Quarter of Section 26, Township 11 South, Range 15 East of the Sixth Principal Meridian, described as follows: Beginning at a point on the West line, 30.00-feet North of the Southwest Corner of said Quarter Section (said point being on the North right-of-way line of West Sixth Street); thence North 00 degrees, 06 minutes, 40

seconds West, along said West Line, 1,118.79-feet; thence South 86 degrees, 14 minutes, 23 seconds East, 130.46-feet; thence North 42 degrees, 56 minutes, 08 seconds East, 233.28-feet; thence North 01 degrees, 24 minutes, 28 seconds West, 497.95-feet; thence North 88 degrees, 48 minutes, 04 seconds East, 120.98-feet; thence on a 302.50-foot radius curve to the left, with a 170.62-foot chord bearing North 72 degrees, 25 minutes, 13 seconds East, an arc distance of 172.97-feet; thence North 56 degrees, 02 minutes, 21 seconds East, 399.91-feet; thence South 20 degrees, 26 minutes, 15 seconds East 750.52-feet; thence South 00 degrees, 24 minutes, 53 seconds East, 1, 344.97-feet to the North right-of-way line of West Sixth Street; thence South 89 degrees, 36 minutes, 04 seconds West, along said North right-of-way line, 1,162.82-feet to the Point of Beginning. The above contains 44.001-acres, more or less, all in the City of Topeka, Shawnee County, Kansas.

PART 2

APPRAISED VALUATION OF REAL PROPERTY

The appraised valuation of the real estate contained in the Neighborhood Revitalization Area as of January 4, 2010 for each parcel by land and building values is on file in the Topeka Planning Department. The 2009 appraised valuation for the 14,675 parcels contained in the area is:

Land	\$ 200,095,330
<u>Improvements</u>	<u>\$1,104,145,210</u>
Total Appraised Valuation	\$1,274,240,540

PART 3

LISTING OF OWNERS OF RECORD IN AREA

Each owner of record of each parcel of land is listed together with the corresponding address on file in the Topeka Planning Department.

PART 4

EXISTING ZONING BOUNDARIES & EXISTING/PROPOSED LAND USES

Descriptions of zoning districts, current boundaries, existing land uses, and future land use maps within the Neighborhood Revitalization Area are all found on file in the Topeka Planning Department.

PART 5
MAJOR IMPROVEMENTS
PROPOSED FOR NEIGHBORHOOD REVITALIZATION AREA

A list of the proposed major improvements within the Neighborhood Revitalization Area are identified within the adopted neighborhood and area plans of the City's Comprehensive Plan. Copies of those plans are on file with the Topeka Planning Department and on-line at www.topeka.org:

- Central Highland Park Neighborhood Plan (2010)
- Central Park Neighborhood Plan (1998/2008)
- Chesney Park Neighborhood Plan (1998/2009)
- Holliday Park Neighborhood Plan (1998/2008)
- Historic North Topeka Revitalization Plan (1999)
- Elmhurst Neighborhood Plan (2001)
- Tennessee Town (2001)
- Downtown Topeka Redevelopment Plan (2001)
- Ward-Meade Neighborhood Plan (2001/2010)
- Wasburn-Lane Parkway Plan (2001)
- East Topeka Neighborhood Revitalization Plan (2002)
- Old Town Neighborhood Plan (2003)
- Hi-Crest Neighborhood Plan (2003)
- Oakland Neighborhood Plan (2004)

Proposed housing, infrastructure, and public facility improvements within these plans are intended to guide the City's future resource allocation as targeted within the Neighborhood Revitalization Area. Actual approved resource allocations are found with the City's Capital Improvement Budget and Consolidated Plan.

PART 6
STATEMENT SPECIFYING THE ELIGIBILITY REQUIREMENTS
FOR A TAX REBATE

Residential New Construction/Rehabilitation

All residential improvements legally permitted by applicable zoning regulations and building codes within the Neighborhood Revitalization Area are eligible for the specified tax rebate provided the new appraised valuation is increased by a minimum of 10%. Improvement projects that are **not** eligible without City Council approval include:

- New construction renter-occupied single-family dwellings.
- Conversion of single-family dwellings to two (2) or more dwelling units.

Commercial New Construction/Rehabilitation

Commercial, office and institutional, and industrial projects legally permitted by applicable zoning regulations and building codes within the Neighborhood Revitalization Area are eligible for the specified tax rebate provided the new appraised valuation is increased by a minimum of 20%.

PART 7

CRITERIA FOR DETERMINATION OF ELIGIBILITY

- (a) Construction of an improvement must have begun on or after January 1, 2013 the date of designation of the neighborhood revitalization area by the City under Ordinance No. 19362. Such improvement project shall remain eligible in the event of any re-adoption of the 2013 Neighborhood Revitalization Program by a subsequent ordinance. An improvement project constructed pursuant to a building permit and an application for tax rebate filed before January 1, 2013, may be eligible for a rebate under the Neighborhood Revitalization Program created by City Ordinance No. 18847 as amended by City Ordinance No. 19034 and Ordinance No. 19362.
- (b) A rebate application or letter of intent to file an application must be filed prior to or within sixty (60) days of the issuance of a building permit or initiation of work (if no building permit is required) as determined by the Planning Director. An application determined to be “out-of-time” shall be accepted by the Planning Director if the applicant can demonstrate that prior to commencing the improvements, he or she intended to use the program’s benefits for the specific improvement proposed in the application. Some factors that may be used to determine the intent and prior knowledge of the program include previous written or verbal communication with city staff, contractors, or other interested parties in the project. The fact that the applicant was not made aware of the program by city staff shall not be used as a factor in this determination. An application shall not be accepted “out-of-time if the building permit was issued to correct a past zoning or building code violation. The applicant must submit all evidence in writing that supports the above criteria to the Planning Department within one (1) year of the issuance of the building permit. The applicant may appeal the Planning Director’s decision to the City Manager who has final authority over the matter.
- (c) The improvements must conform with the Comprehensive Plan, design guidelines within applicable Neighborhood Plans, Downtown façade guidelines, and Zoning Regulations in effect at the time the improvements are made.
- (d) New and existing improvements on property must conform with all other applicable codes, rules, and regulations in effect at the time the improvements are made, and for the length of the rebate or the rebate may be terminated.
- (e) Any property that is delinquent in any real property tax payment or special assessment shall not be eligible for any rebate or future rebate until such time as all real property taxes and special assessments have been paid. Additionally, taxes on all real property owned by the applicant must be current.

- (f) Commercial or industrial property eligible for tax incentives under any adopted Neighborhood Revitalization Plan and Topeka's existing tax abatement program pursuant to Article 11, Section 13 of the Kansas Constitution and Topeka Ordinance 17270, may receive one exemption/rebate per project from the City as a tax incentive.
- (g) Any property that fronts a public street boundary of the Neighborhood Revitalization Area shall be eligible for the rebate, except those properties that front a public highway.
- (h) Projects completed or eligible to be approved after two (2) years from the issuance of a building permit or initiation of eligible work items shall not be eligible for a tax rebate.

PART 8

CONTENTS OF APPLICATION FOR TAX REBATE

Part 1 - General Information

- (a) Owner's Name
- (b) Owner's Mailing Address.
- (c) School District No.
- (d) Parcel I.D. No.
- (e) Building Permit No.
- (f) Address of Property.
- (g) Legal Description of Property
- (h) Day Phone Number.
- (i) Proposed Property Use.
- (j) Improvements
- (k) Estimated Cost of Improvements.
- (l) Proof of Historical Register Listing.
- (m) List of Buildings proposed to be or actually demolished.
- (n) Date of commencement of construction.
- (o) Estimated date of completion of construction.

Part 2 - Status of Construction/Completion

- (a) County Appraiser's Statement of Percentage Test.
- (b) County Clerk's Statement of Tax Status.
- (c) Planning's Statement of Application Conformance for Tax Rebate.

PART 9

APPLICATION PROCEDURE

- (a) The owner/applicant shall obtain an Application for Tax Rebate from Topeka Planning Department (Planning) or the City's Development Services Office prior to or concurrent with obtaining a building permit application.
- (b) The applicant shall complete and sign the application and file the original with Planning, prior to or within sixty (60) days of issuance of the building permit or as permitted under Part 7(b).
- (c) Planning shall forward the application to the Shawnee County Appraiser's Office for determination of the appraised valuation of the improvements and when necessary, shall indicate the base tax year in order to determine the property's pre-demolition value for historic resources or landmarks that were demolished to make way for the improvements.
- (d) On or about January 1, the County Appraiser shall conduct an on-site inspection of the construction project, determine the new valuation of the real-estate, complete his portion of the application, and report the new valuation to the Shawnee County Clerk by June 1 of that same year. The tax records on the project shall be revised by the County Clerk's Office.
- (e) Upon determination by the Appraiser's office that the improvements meet the percentage test for rebate and the Clerk's office has determined the status of the taxes on the property, Planning shall certify to the County Clerk the project and application does or does not meet the requirements for a tax rebate and shall notify the applicant.
- (f) Upon the payment of the real estate tax for the subject property for the initial and each succeeding tax year period extending through the specified rebate period, and within a thirty (30) day period following the date of tax distribution by Shawnee County to the other taxing units, a tax rebate in the amount of the tax increment (less any fees as specified in the Interlocal Agreement) shall be made to the applicant.

The tax rebate amount will be based on the appraised property value increment between the application year and the completion year directly attributable to the improvement itself. The actual rebate may vary year to year depending upon the approved mill levy for all participating taxing jurisdictions. The tax rebate shall be made by Audit and Finance, Shawnee County through the Neighborhood Revitalization Fund established in conjunction with the City of Topeka and the other taxing units participating in an Interlocal Agreement.

PART 10
STANDARDS AND CRITERIA FOR APPROVAL

- (a) Project improvements shall be 100% complete.
- (b) The appraised value of residential property must be increased by a minimum of 10%.
- (c) The appraised value of commercial and industrial property must be increased by a minimum of 20%.
- (d) New improvements must conform with all applicable codes, rules, and regulations in effect at the time the improvements are made, including design guidelines of the Comprehensive Plan, for the length of the rebate.
- (e) Any property that is delinquent in any real property tax payment or special assessment shall not be eligible for any rebate or future rebate until such time as all real property taxes and special assessments have been paid. Additionally, taxes on all real property owned by the applicant must be current.

PART 11

STATEMENT SPECIFYING REBATE FORMULA

Program Period:

The Neighborhood Revitalization Fund and tax rebate incentive program shall expire on December 31, 2017.

Rebate Period:

All Eligible Uses	10 years
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Rebate Amount:

All Eligible Uses	95%* (years 1-5) 50% (years 6-10)
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Intensive Care areas (2011 Neighborhood Element)	
National/State Register/Districts	
Local Historic Landmarks/Districts by the City of Topeka	100%

*5 % to remain in Neighborhood Revitalization Fund for administrative costs.

Part 12

OTHER MATTERS

1. The governing body may declare a structure outside of a neighborhood revitalization area eligible if it satisfies the conditions set forth in subsection (a) of KSA 12-17, 115 as a “dilapidated structure” due to its deteriorated conditions and/or is worthy of preservation. As a matter of course, the governing body shall forward said declaration to the participating taxing entities for their approval as well.

2. The Special Fund created under Ordinance No. 18222 shall only be used to augment in-fill housing projects administered by the City of Topeka within the Neighborhood Revitaization Area. Eligible activities shall include any improvements associated with the infill-housing projects that are typically not eligible with federal funding sources such as detached garages, fencing, landscape plantings, drives, etc. or for any infrastructure necessary to complete the in-fill housing project. All improvements must be consistent with any adopted design guidelines of Neighborhood Plans approved by the governing body. The Special Fund shall not be used as substitute funding for eligible sources or programs. Adoption of this Plan shall have the effect of repealing all previous matters with administration of the Special Fund under Ordinance No. 18222.

SHAWNEE COUNTY TAX LEVY SCHEDULE 2009

Tax Levies per \$1,000 Assessed Valuation

	<u>Taxing Jurisdiction (within USD 501 area)</u>	<u>Mill Levy</u>	<u>% of Total Levy</u>
1.	Shawnee County	40.965	28.1%
2.	City of Topeka	32.592	22.3%
3.	USD 501 (Topeka)	54.429	37.3%
4.	Washburn University	3.316	2.3%
5.	Topeka-Shawnee County Public Library	9.018	6.2%
6.	MTTA (Transit)	4.404	3.0%
7.	MTAA (Airport)	<u>1.293</u>	<u>0.9%</u>
	Total	146.017	100%

	<u>Taxing Jurisdiction (within USD 345 area)</u>	<u>Mill Levy</u>	<u>% of Total Levy</u>
1.	Shawnee County	40.965	28.7%
2.	City of Topeka	32.592	22.8%
3.	USD 345 (Seaman)	51.320	35.9%
4.	Washburn University	3.316	2.3%
5.	Topeka-Shawnee County Public Library	9.018	6.3%
6.	MTTA (Transit)	4.404	3.1%
7.	MTAA (Airport)	<u>1.293</u>	<u>0.9%</u>
	Total	142.908	100%

Note: State of Kansas mill levy = 1.500

Source: Shawnee County Clerk's Office



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 12, 2012

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DATE:	October 23, 2012		
CONTACT PERSON:	Bill Fiander/Bill Hoover	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Topeka Rescue Mission V12A/3	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 006 Vacations		
CIP PROJECT:	No		
ACTION OF COUNCIL:	10-16-12 First Reading	JOURNAL #:	12
		PAGE #:	

DOCUMENT DESCRIPTION:

PUBLIC HEARING for vacation request V12A/3 by Topeka Rescue Mission requesting to vacate platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson relating to the vacation of platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V12A/3) (Council District No. 2)

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

(Approval would allow the Topeka Rescue Mission to vacate an alley internal to their new site and replace it with a utility easement and use the site for bicycle parking, automobile parking, and a fenced-in children's play area.)

POLICY ISSUE:

The proposed petition to vacate this alley and replace it with a utility easement has been submitted to applicable City Departments and utility providers for their review and no objections to this petition have been received. The Topeka Rescue Mission provides a vital community service by providing for immediate needs for homeless persons and assisting them with more mid-term needs so they may return back to being contributing members of the community.

The vacation of the alley is important to expand operations from the existing facility at 600 N. Kansas #13 Avenue to the new site located at the northeast corner of NE Quincy Street and NE Curtis Street and will

allow them to use the new site much more efficiently.

STAFF RECOMMENDATION:

Staff is requesting that the Council move to adopt the ordinance.

BACKGROUND:

On April 17, 2012, the City Council approved a rezoning to "X-2" Mixed Use and a Conditional Use Permit that would allow the Topeka Rescue Mission to have an intake center for homeless persons at 206 NW Norris Street. About the same time the Topeka Rescue Mission was contacted by Bailey Moving and Storage to see if they were interested in their site, which is located at the northeast corner of NE Quincy Street and NE Curtis Street. The Topeka Rescue Mission felt their best option would be to relocate their proposed intake center for homeless persons to the old Bailey Moving and Storage site. The former site located at 206 NW Norris Street will be used for their bulk food storage and distribution services which is also allowed with their zoning.

BUDGETARY IMPACT:

There is no impact on the City's budget.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

[Aerial Map](#)

[Site Plan](#)

[Public Hearing Notice](#)

[Summary](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson relating to the vacation of platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas. **(V12A/3) (Council District No. 2)**

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 Barry Feaker, Executive Director of Topeka Rescue Mission, as property owner, has been filed with the office of the City Clerk, requesting the vacation of the following described platted alley public rights-of-way located within the City of Topeka, Shawnee County, Kansas:

That part of the Alley between NE Quincy Street and NE Monroe Street lying North of Curtis Street in Eugene's Addition to the City of Topeka, Shawnee County, Kansas being described as follows: Beginning at the Southeast corner of Lot 70 on NE Quincy Street in said Eugene's Addition; thence N18°32'31"E along the East line of lots 70 and 72 a distance of 143.37 feet; thence S82°12'01"E, 10.18 feet to the centerline of said Alley; thence along the centerline of said Alley S18°32'31"W, 12.00 feet; thence S84°21'59"E, 10.26 feet to a point on the West line of Lot 71 on Monroe Street; thence S18°32'31"W along the West line of Lots 69 and 71 on Monroe Street a distance of 135.50 feet to the intersection of the East line of said alley and the North line of said NE Curtis Street; thence N71°38'35"W, 20.00 feet to the Point of Beginning.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on October 16, 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 vacation of the below

described platted alley public rights-of-way located within the City of Topeka, Kansas:

That part of the Alley between NE Quincy Street and NE Monroe Street lying North of Curtis Street in Eugene's Addition to the City of Topeka, Shawnee County, Kansas being described as follows: Beginning at the Southeast corner of Lot 70 on NE Quincy Street in said Eugene's Addition; thence N18°32'31"E along the East line of lots 70 and 72 a distance of 143.37 feet; thence S82°12'01"E, 10.18 feet to the centerline of said Alley; thence along the centerline of said Alley S18°32'31"W, 12.00 feet; thence S84°21'59"E, 10.26 feet to a point on the West line of Lot 71 on Monroe Street; thence S18°32'31"W along the West line of Lots 69 and 71 on Monroe Street a distance of 135.50 feet to the intersection of the East line of said alley and the North line of said NE Curtis Street; thence N71°38'35"W, 20.00 feet to the Point of Beginning.

Section 5. That the Governing Body of the City of Topeka does hereby find that justice further requires the provision for the retention of a utility easement over the described property as set forth in Section 4 and does hereby order the retention of the below described area as a utility easement:

That part of the Alley between NE Quincy Street and NE Monroe Street lying North of Curtis Street in Eugene's Addition to the City of Topeka, Shawnee County, Kansas being described as follows: Beginning at the Southeast corner of Lot 70 on NE Quincy Street in said Eugene's Addition; thence N18°32'31"E along the East line of lots 70 and 72 a distance of 143.37 feet; thence S82°12'01"E, 10.18 feet to the centerline of said Alley; thence along the centerline of said Alley S18°32'31"W, 12.00 feet; thence S84°21'59"E, 10.26 feet to a point on the West line of Lot 71 on Monroe Street; thence S18°32'31"W along the West line of Lots 69 and 71 on Monroe Street a distance of 135.50 feet to the intersection of the East line of said alley and the North line of said NE Curtis Street; thence N71°38'35"W, 20.00 feet to the Point of Beginning.

Section 6. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

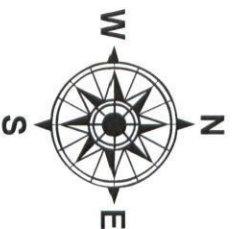
Section 7. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body, _____.

William Bunten, Mayor

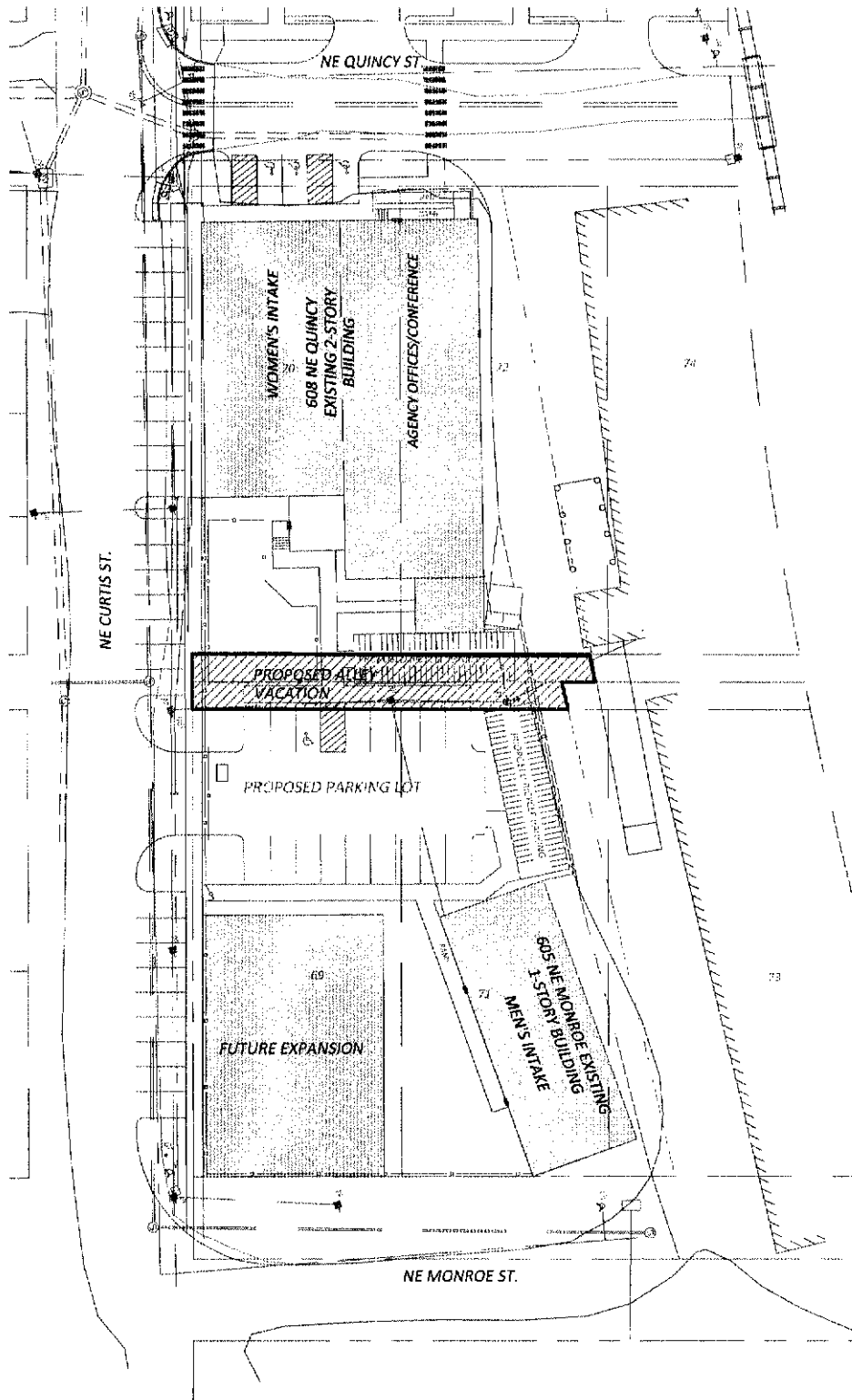
ATTEST:

Brenda Younger, City Clerk



V12A/3 TOPEKA RESCUE MISSION

TOPEKA RESCUE MISSION ALLEY VACATION



Scale: 1"=60'



Prepared for :

The Topeka Rescue Mission
600 N. Kansas Ave.
Topeka, KS 66608

**Schmidt, Beck & Boyd
Engineering, LLC**

1415 SW TOPEKA BLVD. | TOPEKA, KANSAS 66612
785.215.8630 | 785.215.8634 (F)

12-042

Date:
September 20, 2012

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on September 24, 2012 and again on October 1, 2012.

IN THE MATTER OF THE PROPOSED VACATION OF:

Vacation of a platted alley public rights-of-way on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street, City of Topeka, Shawnee County, Kansas. **(V12A/3) (Council District No. 2)**

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 Barry Feaker, Executive Director of Topeka Rescue Mission, as property owner, praying that part of the Alley between NE Quincy Street and NE Monroe Street lying North of Curtis Street in Eugene's Addition to the City of Topeka, Shawnee County, Kansas being described as follows: Beginning at the Southeast corner of Lot 70 on NE Quincy Street in said Eugene's Addition; thence N18°32'31"W along the East line of lots 70 and 72 a distance of 143.32 feet; thence S82°12'01"E, 10.18 feet to the centerline of said Alley; thence along the centerline of said Alley S18°32'31"E, 12.00 feet; thence S84°21'59"E, 10.26 feet to a point on the West line of Lot 71 on Monroe Street; thence S18°32'31"E along the West line of Lots 69 and 71 on Monroe Street a distance of 135.50 feet to the intersection of the East line of said alley and the North line of said NE Curtis Street; thence N71°38'35"W, 20.00 feet to the Point of Beginning.

The petition will be presented to the Council of the City of Topeka for hearing on October 16, 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**

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: V12A/3 TOPEKA RESCUE MISSION (ALLEY VACATION)

This is a petition from Barry Feaker, Executive Director of Topeka Rescue Mission requesting the vacation of a platted alley and replacing it with a utility easement on property located directly north of NE Curtis Street, approximately halfway between NE Quincy Street and NE Monroe Street. This 20-foot wide alley splits the property that was recently purchased by Topeka Rescue Mission from Bailey Moving and Storage. The new site is proposed to act as Topeka Rescue Mission's intake center for homeless persons with related uses.

This alley is not being used for an access to the grain elevators to the north as their property obtains access via both NE Quincy Street and NE Monroe Street. Several power lines are in this alley but those will not be affected as a utility easement will replace the alley. Topeka Rescue Mission's site plan shows the alley area proposed for vacation to be utilized for bicycle parking, automobile parking, and a fenced-in children's play area.

This petition has been sent out to other City Departments and utility providers for their review and comment. The City staff has received no objections to this vacation petition. **The Planning Department recommends that the Governing Body initiate the vacation of this alley and replace it with a utility easement.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 18, 2012

Back Print

DATE:	October 23, 2012	
CONTACT PERSON:	Bill Fiander	DOCUMENT #:
SECOND PARTY/SUBJECT:	Topeka Rescue Mission (PUD12/5)	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 161 Comprehensive Zoning Cases	
CIP PROJECT:	No	
ACTION OF COUNCIL:	10-16-12 First Reading	JOURNAL #: 12
	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 the northeast corner of NE Quincy Street and NE Curtis Street from "I-2" Heavy Industrial District TO "PUD" Planned Unit Development District ("X-2" Mixed Use District base zoning use group and also permitting a crisis center type II, churches and places of worship, boarding and lodging houses, group homes, farmers markets, pet shops/small animal clinics, and multi-family dwelling of more than four units per building or more than twelve units per acre). Final Reading. (PUD12/5) (Council District No. 2)

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

(Approval would allow Topeka Rescue Mission to convert this industrial zoned property with two buildings to mixed use zoning and allow them to provide a wide range of services to homeless persons, including having them as overnight guests.)

POLICY ISSUE:

The Topeka Rescue Mission provides a vital community service by providing for immediate needs for homeless persons and assisting them with more mid-term needs so they may return back to being contributing members of our community. This PUD Rezoning is necessary for them to expand their operations from the existing facility at 600 N. Kansas Avenue. During periods of inclement weather the Topeka Rescue Mission has more homeless overnight guests than they can accommodate.

STAFF RECOMMENDATION:

Staff is requesting the Governing Body move to adopt the ordinance.

Item #14

BACKGROUND:

The Planning Department recommended approval in their staff report to the Planning Commission. The Planning Commission reviewed the petition at their September 17, 2012 public hearing and also recommended approval to the Council by a vote of 8-0-1.

On April 17, 2012, the City Council approved a rezoning to "X-2" Mixed Use and a Conditional Use Permit that would allow the Topeka Rescue Mission to have an intake center for homeless persons at 206 NW Norris Street. About the same time the Topeka Rescue Mission was contacted by Bailey Moving and Storage to see if they were interested in their site, which is the subject of this PUD Rezoning. The Topeka Rescue Mission felt their best option would be to relocate their proposed intake center for homeless persons to the old Bailey Moving and Storage site. The former site located at 206 NW Norris Street will be used for their bulk food storage and distribution services which is also allowed with their zoning.

BUDGETARY IMPACT:

There is no impact on the City's budget

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

[Map](#)

[Zoning Map](#)

[Summary](#)

[Staff Report](#)

[Planning Commission Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

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 (TMC), by providing for certain changes in zoning on property located at the northeast corner of NE Quincy Street and NE Curtis Street from "I-2" Heavy Industrial District TO "PUD" Planned Unit Development District ("X-2" Mixed Use District base zoning use group and also permitting a crisis center type II, churches and places of worship, boarding and lodging houses, group homes, farmers markets, pet shops/small animal clinics, and multi-family dwelling of more than four units per building and/or more than twelve units per acre).
(PUD12/5) (Council District No. 2)

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 Ordinance by Section 18.50.050 of the Topeka Municipal Code (TMC), be and the same is hereby amended, by reclassifying the following described property:

A PART OF LOTS 70 AND 72 ON QUINCY STREET AND A PART OF LOTS 69, 71 AND 73 ON MONROE STREET, AND A PART OF A VACATED ALLEY ADJACENT TO SAID LOTS, ALL IN EUGENE, COMMONLY CALLED NORTH TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 70 ON QUINCY STREET; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOTS 70 AND 72 ON QUINCY STREET ON AN ASSUMED BEARING OF N18°26'02"E, 111.67 FEET, (111.72 FEET DESCRIBED); THENCE S82°12'01"E, 183.20 FEET, (183.23 FEET DESCRIBED) TO A POINT ON THE CENTER LINE OF SAID VACATED ALLEY, WHICH POINT IS DESCRIBED AS 75.0 FEET SOUTH OF THE SOUTHERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILWAY COMPANY; THENCE S18°32'31"W, ALONG THE CENTER LINE OF SAID VACATED ALLEY, 12.0 FEET; THENCE S84°21'59"E, 184.19 FEET TO A POINT ON THE EAST LINE OF SAID LOT 73 ON MONROE; THENCE S18°28'41" W ALONG THE EAST LINE OF SAID LOTS 69, 71 AND 73 A DISTANCE OF 173.80 FEET TO THE SOUTHEAST CORNER OF SAID LOT 69 AND MONROE; THENCE N71°38'35" W 359.51 FEET TO THE POINT OF BEGINNING.

Section 2. The development of the site is from "I-2" Heavy Industrial District **TO** "PUD" Planned Unit Development District ("X-2" Mixed Use District base zoning use group and also permitting a crisis center type II, churches and places of worship, boarding and lodging houses,

group homes, farmers markets, pet shops/small animal clinics, and multi-family dwelling of more than four units per building and/or more than twelve units per acre).

Subject to:

1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan for Topeka Rescue Mission.

Section 3. The PUD Master Plan for Topeka Rescue Mission shall be recorded with the Shawnee County Register of Deeds in accordance with Section 18.190.060(b) of the Topeka Municipal Code (TMC). Following the recording of the PUD Master Plan and prior to any building and/or land development on the site, a site development plan shall be submitted for review and administrative approval by the Planning Director.

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

Section 5. This Ordinance Number shall be fixed upon the "District Map".

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED by the Governing Body, _____.

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: PUD12/5 TOPEKA RESCUE MISSION (PUD REZONING)

This is a request from Barry Feaker, Executive Director of Topeka Rescue Mission, to rezone property they recently purchased from Bailey Moving and Storage at the northeast corner of NE Quincy Street and NE Curtis Street. They are proposing to rezone this 1.16-acre parcel from “I-2” Heavy Industrial to “PUD” Planned Unit Development (a customized zoning district) with mixed uses including those customarily associated with a facility providing short-term and mid-term services for homeless persons.

On April 17, 2012, the City Council approved a rezoning to “X-2” Mixed Use and a Conditional Use Permit that would allow the Topeka Rescue Mission to have an intake center for homeless persons at 206 NW Norris Street. At about the same time, the Topeka Rescue Mission was contacted by Bailey Moving and Storage to see if they were interested in their site, which is located at the northeast corner of NE Quincy Street and NE Curtis Street. After careful study of their options, the Topeka Rescue Mission felt their best option would be to relocate their proposed intake center, for homeless persons, to the old Bailey Moving and Storage site. The Topeka Rescue Mission could utilize the site at 206 NW Norris Street for their bulk food storage and food distribution services. This usage is permissible with their current zoning. The two existing commercial buildings at the new site are more suitable for modifying to fit their needs and are also closer and more convenient to the main facility at 600 NE Kansas Avenue, which will only be 250 feet away to the west.

This new site is heavily influenced by four intensive land uses: the Kansas River levee located about 200 feet to the south, the Cargill grain elevators directly to the north, BNSF railroad property just to the north of the grain elevators, and the elevated Kansas Avenue Bridge about 100 feet to the west. An e-mail has been forwarded from the operators of the grain elevator and it states that their board of directors supports the expansion of the Topeka Rescue Mission to this new site.

The Topeka Rescue Mission has an excellent track record of fitting in and being a good neighbor in this neighborhood of intense land uses. This extension of their facilities, to the east, should be a good re-use of the Bailey Moving and Storage site. No opposition to this PUD Rezoning has been received by the Planning Department.

The Planning Department recommended approval of this PUD rezoning to the Planning Commission. At the September 17th public hearing, the Planning Commission unanimously recommended approval of the PUD rezoning to the City Council.

September 17, 2012
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ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD12/5 Topeka Rescue Mission PUD

by: Barry Feaker, Executive Director
Topeka Rescue Mission

PROPOSAL: A request to amend the District Zoning Classification from “I-2” Heavy Industrial District to “PUD” Planned Unit Development District (with an “X-2” Mixed Use group plus a crisis center type II, churches and places of worship, boarding and lodging houses, group homes, farmers markets, pet shops/small animal clinics, and multi-family dwelling of more than four units per building and/or more than twelve units per acre).

LOCATION: At the northeast corner of NE Quincy Street and NE Curtis Street.

PRESENT USE: The subject property is 1.16 acres in size and there are two existing commercial/industrial buildings and one old residential home on the site. All of the buildings are empty at this time.

PROPOSED USE: A crisis center type II including an intake center with facilities for providing temporary food and shelter and related services so homeless persons may transition back into the community. The two existing commercial buildings would be modified for new crisis center type II uses while the old home would be demolished and used for future expansion.

BACKGROUND/EXISTING CONDITIONS: The subject property has been zoned “I-2” Heavy Industrial District as far back as the City’s zoning records go.

CHARACTER OF NEIGHBORHOOD: This neighborhood is heavily influenced by four intensive land uses: the Kansas River levee located 200 feet south of the subject site, the Cargill grain elevators directly to the north of the site, BNSF railroad property with heavily traveled railroad lines just to the north of the grain elevators, and the elevated Kansas Avenue Bridge located about 100 feet west of the site. Just to the west of the Kansas Avenue Bridge are other existing facilities owned and operated by the Topeka Rescue Mission.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	”I-2” Heavy Industrial District	Grain elevators and then railroad uses
South:	”I-2” Heavy Industrial District	Storage uses and then a levee
East:	”I-2” Heavy Industrial District	Vacant industrial tract (owned by Cargill)
West:	ROW then “I-2” Heavy Industrial District	Parking area and then the Kansas Avenue Bridge

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property’s two commercial/

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industrial buildings have been used by Bailey Moving & Storage for approximately the last 40 years while an old house in the southeast corner of the site has been more recently abandoned and boarded up.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site's present classification is still consistent with the established pattern of zoning and land uses in the area but the proposed uses may be just as appropriate due to the surrounding land uses and the other nearby facilities of the Topeka Rescue Mission.

CONFORMANCE TO COMPREHENSIVE PLAN: The Historic North Topeka Plan's Future Land Use Map designates this area east of the Kansas Avenue Bridge as "Industrial" and the area west of this bridge as "Mixed Use – North Crossings". Since this Plan was adopted in 1999, this area has been in transition and this proposal is thus considered to be consistent with the Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The proposed amendment would permit the subject property to develop consistent with the established pattern of zoning and land uses in the area and the proposed changes should have not have any negative impacts on nearby properties.

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: As no detrimental results are anticipated there would appear to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this property and will not be overburdened by this proposal.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: Complete.

Minimum Lot Area: Compliant.

Setbacks: Compliant.

Platting: Compliant.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. The outside reviewing staff had no concerns related to the proposed zoning changes for this project other than those that will be addressed during the site plan and building permit review stages.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: North Topeka East (inactive).

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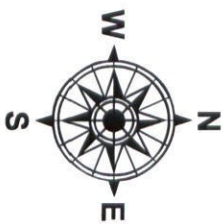
2. Capitol Plaza Area: Not applicable.
3. Flood Hazard Area: Not applicable.
4. Airport Hazard Area: Not applicable.
5. Historic Properties: Not applicable.

STAFF RECOMMENDATION:

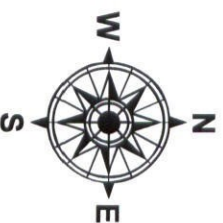
Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of the proposal subject to the following conditions:

1. Use and development of the site in substantial accordance with the recorded PUD Master Plan of the Topeka Rescue Mission Planned Unit Development Plan.

Prepared by: Bill Hoover, AICP
Planner III



PUD12/5 TOPEKA RESCUE MISSION



PUD12/5 TOPEKA RESCUE MISSION

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

PUD 12/5 Topeka Rescue Mission Planned Unit Development by Barry Feaker, Executive Director requesting to amend the District Zoning Classification from "I-2" Heavy Industrial District **TO** "PUD" Planned Unit Development ("X-2" District use group; including: Crisis Center Type II, group home, farmers markets, pet shops/small animal clinics, multi-family residential dwelling units (exceeding four per building and a density of 12 per acre), boarding and lodging houses, and religious uses on property located at the northeast corner of NE Quincy and NE Curtis Streets. **(Hoover). Kevin Beck left the room.**

Discussion by members: David Thurbon summarized the staff report. Mr. Thurbon explained a similar request was approved for the north side of the railroad tracks. This is the same request however on the south side of the tracks.

Peter Hancock asked why there was a new request if previous request was approved. Mr. Thurbon explained that the new proposal would better serve the Topeka Rescue Mission.

Proponents:

Barry Feaker, Executive Director for the Topeka Rescue Mission, spoke in favor of the proposal. Mr. Feaker explained that the proposed property became available for purchase after they had initiated the zoning on the other property and that they have purchased the new property which they felt better suits their needs. The other property that was recently rezoned would be used for their food storage and distribution if the new PUD was approved. The proposed PUD would emphasize safety of residents and recipients. Mr. Feaker further explained the proposed property would afford collaboration of surrounding resources and expansion capability. Mr. Feaker also explained the existing properties would be less costly to repair and maintain.

No one spoke in opposition to the proposal. Brett Klausman moved to approval as requested by the applicant, seconded by Dennis Haugh. **APPROVAL. (8-0-1)**



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 12, 2012

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DATE: October 23, 2012
CONTACT PERSON: Craig Spomer, Chief of Prosecution
DOCUMENT #:
SECOND PARTY/SUBJECT: 2012 STO adoption **PROJECT #:**
CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 142 Traffic and Vehicles
CIP PROJECT: No
ACTION OF COUNCIL: 10-16-12 First Reading **JOURNAL #:** 12
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Section 10.15.010 and specifically repealing said original section concerning the adoption of the 2012 Standard Traffic Ordinance. Final Reading.

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

(Approval would adopt the 2012 edition of the Standard Traffic Ordinance. The City is currently operating under the 2011 edition. There are no substantial changes except for the addition of provisions regarding the refusal of preliminary breath testing for DUI's.)

POLICY ISSUE:

Whether or not Governing Body wants to adopt the new edition

STAFF RECOMMENDATION:

Staff is recommending the Council move to adopt the ordinance

BACKGROUND:

The City's standard practice is to adopt the most recent version of the Standard Traffic Ordinance (STO) for Kansas Cities as compiled and published by the League of Kansas Municipalities (LKM). The City is currently operating under the 2011 version of the STO as provided in TMC 10.15.010. When the 2011 STO was adopted, some sections were omitted or amended to better serve the City as provided in TMC 10.15.020. The LKM has now published the 2012 version. There are no changes to the City's omissions and amendments from the 2011 STO. TMC 10.15.020 remains the same with the adoption of the 2012 version. Therefore, it is not necessary to amend that city code section in this ordinance. The 2012 STO does include new provisions for the refusal of preliminary breath alcohol content (BAC) testing for DUI. This

addition is required by a change in state law.

BUDGETARY IMPACT:

No impact to the City's budget.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 10.15.010 and specifically repealing said original section concerning the adoption of the 2012 Standard Traffic Ordinances.

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

Section 1. That section 10.15.010, Incorporation of Standard Traffic Ordinance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Incorporation of Standard Traffic Ordinance.

(a) Generally – Copies. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the city of Topeka, Kansas, the Standard Traffic Ordinance for Kansas Cities, Edition of ~~2011~~2012, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections or parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of the Standard Traffic Ordinance shall be marked or stamped “Official Copy as Adopted by Ordinance No. ~~19652~~____,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the ordinance codified in this chapter and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of the Standard Traffic Ordinance similarly marked, as may be deemed expedient.

(b) Traffic Infractions and Traffic Offenses.

(1) A traffic infraction is a violation of any section of this title or of the Standard Traffic Ordinance that prohibits or requires the same behavior as that prohibited or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, and amendments thereto.

(2) All traffic violations which are included within this title and which are not traffic infractions as defined in subsection (b)(1) of this section shall be considered traffic offenses.

Section 2. That original § 10.15.010 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk



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October 12, 2012

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DATE: October 23, 2012
CONTACT PERSON: Craig Spomer, Chief of Prosecution
DOCUMENT #:
SECOND PARTY/SUBJECT: 2012 UPOC
PROJECT #:
CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 054 Criminal Code
CIP PROJECT: No
ACTION OF COUNCIL: 10-16-12 First Reading
JOURNAL #: 12
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Section 9.05.080 and specifically repealing said original section, repealing Chapter 8.20 and Section 9.45.120 in their entireties, as well as, creating Section 9.05.090 all concerning the adoption of the 2012 Uniform Public Offense Code and amendments thereto. Final Reading.

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

(Approval would adopt the 2012 edition of the UPOC and amendments. The City is currently operating under the 2011 edition.)

POLICY ISSUE:

Whether or not the Governing Body wants to adopt the new edition

STAFF RECOMMENDATION:

Staff is requesting that the Governing Body move to adopt the ordinance.

BACKGROUND:

The City's standard practice is to adopt the most recent version of the Uniform Public Offense Code for Kansas Cities (UPOC) as compiled and published by the League of Kansas Municipalities (LKM). The City is currently operating under the 2011 version as provided in TMC 9.05.080. The LKM has now published the 2012 version. This ordinance adopts the 2012 UPOC except for Section 3.1.1 pertaining to domestic battery and Section 11.11 pertaining to cruelty to animals. Domestic battery is excepted because those offenses are prosecuted by the district attorney. Cruelty to animals is excepted because the provisions related to that offense are in TMC 6.05.040. In previous years, when adopting the latest version of the UPOC the City omitted the sections regarding smoking and prostitution. The smoking section was omitted because the City

adopted a smoking ordinance as provided in Chapter 8.20 TMC. K.S.A. 21-6114 provides that any city may regulate smoking within its boundaries so long as the city's regulation is at least as strict as that imposed by the Kansas Indoor Clean Air Act. The City's code section may not comply with that state requirement. This ordinance repeals the City's code sections pertaining to smoking and adopts the equivalent of the Kansas Indoor Clean Air Act as contained in Section 10.24. The prostitution section was omitted because the City adopted the prostitution offense and related offenses in TMC 9.45.120. Law enforcement and prosecutors agree the reason for adoption of the city code section no longer exists. Therefore, this ordinance repeals the city code section, and the UPOC's provisions regarding prostitution are adopted. Additionally, the LKM opted to divide Section 10.1, Criminal Use of Weapons, into two sections—one pertaining to criminal use of weapons and one for the criminal carrying of weapons. When this was done a provision regarding the transportation of a loaded firearm in an occupied vehicle was inadvertently left out. (The LKM advises this omission will be corrected in the next version of the UPOC.) In prior years, this provision was in Section 10.1 (a)(5). The omitted section is important for the protection of law enforcement officers. Thus, in Section 2 of this offense of transporting a loaded weapon in an occupied vehicle is adopted. This is the same offense as contained in previous adopted versions of the UPOC but is being adopted in a different manner this year for the reasons cited above.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 9.05.080 and specifically repealing said original section, repealing Chapter 8.20 and §9.45.120 in their entireties, as well as creating § 9.05.090, all concerning the adoption of the 2012 Uniform Public Offense Code and amendments thereto.

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

Section 1. That section 9.05.080, Uniform Public Offense Code, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Uniform Public Offense Code.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city of Topeka, Kansas, that certain code known as the Uniform Public Offense Code, Edition of ~~2011~~2012, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except Sections 3.1.1 ("Domestic Battery"), ~~4.3 ("Prostitution"), 4.4 ("Promoting Prostitution"), 4.5 ("Patronizing a Prostitute"), 10.24 ("Smoking Prohibited"), 10.25 ("Smoking; Posting Premises"), 10.26 ("Smoking Prohibited; Penalties")~~ and 11.11 ("Cruelty to Animals"), which are specifically deleted and omitted. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as adopted by Ordinance No. ~~19703~~____," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of said ordinance and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

29 The Uniform Public Offense Code, Edition of ~~2011~~2012, is hereby further
30 amended by adding the following exception to Section 10.6:

31 Exception: Operation of a bow and arrow is permitted in accordance with
32 the provisions set forth in TMC 6.05.070.

33 The Uniform Public Offense Code, Edition of ~~2011~~2012, is hereby further
34 amended by adding the following exception to Section 10.5:

35 Exception: Discharge of a firearm is permitted in accordance with the
36 provisions set forth in TMC 6.05.070.

37 Section 2. That The Code of the City of Topeka, Kansas, is hereby amended
38 by adding a section, to be numbered 9.05.090, which said section reads as follows:

39 **Criminal carrying of a weapon; transporting firearms.**

40 (a) Article 10, OFFENSES AGAINST PUBLIC SAFETY, Section 10.1.1,
41 Criminal Carrying of a Weapon, of the 2012 UPOC is hereby amended with the
42 following additional language to subsection (a):

43 (5) Any firearm in an occupied motor vehicle, unless such firearm is
44 unloaded and encased in a container which completely encloses the firearm.

45 (b) This section, TMC 9.05.090(a)(5), may be referred to as UPOC
46 10.1.1(a)(5).

47 (c) This section is a class A violation.

48 (d) The exceptions set forth in UPOC 10.1.1 (d)(1 through 8) shall apply to
49 TMC 9.05.090(a)(5).

50 Section 3. That Chapter 8.20, SMOKING IN PUBLIC PLACES AND PLACES
51 OF EMPLOYMENT (TMC § 8.20.010 through § 8.20.160), of The Code of the City of
52 Topeka, Kansas, is hereby repealed in its entirety.

53 Section 4. That section 9.45.120, Prostitution, sodomy, soliciting acts of
54 prostitution or sodomy, and establishment of prostitution elimination zones, of The Code
55 of the City of Topeka, Kansas, is hereby repealed.

56 ~~**Prostitution, sodomy, soliciting acts of prostitution or sodomy, and**~~
57 ~~**establishment of prostitution elimination zones.**~~

58 ~~(a) Prohibited. It shall be unlawful within the corporate limits of the city for any person to~~
59 ~~perform prostitution or sodomy, or solicit or agree with any other person to participate in~~
60 ~~an act of prostitution or sodomy. A person is guilty of prostitution if the person:~~

61 ~~(1) Regularly conducts sexual activity for money or other things of value in a house of~~
62 ~~prostitution; or~~

63 ~~(2) Engages in sexual activity for money or other things of value or offers or agrees to~~
64 ~~engage in sexual activity for money or other things of value; or~~

65 ~~(3) Loiters in or within view of any public place for the purpose of being hired to engage~~
66 ~~in sexual activity; or~~

67 ~~(4) Loiters in a prostitution elimination zone after being banned from such zone pursuant~~
68 ~~to subsection (d) of this section, for the purpose of being hired to engage in sexual~~
69 ~~activity.~~

70 ~~(b) Definitions. For the purposes of this section, the following terms shall have the~~
71 ~~meanings respectively ascribed to them:~~

~~“Emergency circumstances” means the imminent death or serious bodily injury of a person living with the person charged with violating this section, or the imminent death or serious bodily injury of that person’s spouse, mother, father, siblings or children.~~

~~“Prostitution” means performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:~~

~~(1) Sexual intercourse;~~

~~(2) Sodomy; or~~

~~(3) Manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of any person.~~

~~“Prostitution elimination zone” means the city block in which the person is arrested and four adjacent city blocks in each direction surrounding the city block of the current arrest for a violation of this section, which zone shall be specifically defined by the judge at the time of pronouncing sentence for a conviction of this section.~~

~~“Public place” means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose.~~

~~“Sodomy” means oral or anal copulation between persons who are not husband and wife or consenting adult members of the opposite sex, or between a person and an animal, or coitus with an animal.~~

~~“Solicit” means to approach another person with an offer of sexual services.~~

~~(c) On the issue of whether a place is a house of prostitution, the following shall be admissible in evidence:~~

~~(1) The place’s general repute;~~

~~(2) The repute of the persons who reside in or frequent the place;~~

~~(3) The frequency, timing and duration of visits by nonresidents of the place; and~~

~~(4) Prior convictions within one year of persons found in violation of this section while within such place.~~

~~(d) Prostitution and sodomy, and solicitation of prostitution or sodomy, are misdemeanors. Persons convicted of prostitution or sodomy, or solicitation of prostitution or sodomy, shall be sentenced as follows:~~

~~(1) Upon a first conviction, the court shall impose a mandatory minimum jail sentence of not less than 30 days, and order such person banned from the prostitution elimination zone defined above for a period of one year unless they live in such zone or emergency circumstances require their presence in such zone. The court shall also order a presentence evaluation to be performed by a community-based alcohol and drug safety action program certified in accordance with K.S.A. 8-1008, or another provider approved by the court. The presentence evaluation report shall be made available to the court, the defendant or defendant's attorney and the prosecuting attorney, and shall be considered by the court prior to sentencing. The presentence evaluation report shall contain a history of the defendant's prior criminal record, characteristics and alcohol or drug problems, and a recommendation concerning the amenability of the defendant to education, rehabilitation and mental health counseling. The cost of any education, rehabilitation and treatment programs for any defendant shall be paid by the defendant, and will be levied as costs in the action, but any assessment fee may be waived by the court if the court finds that the defendant is an indigent person. If financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence. In lieu of a jail~~

~~sentence, the court may sentence the person to a 30-day mandatory treatment program deemed acceptable to the court.~~

~~(2) Upon a second conviction, the court shall impose a mandatory minimum jail sentence of not less than 90 days and a 30-day mandatory treatment program deemed acceptable to the court. The court shall also order such person banned from the prostitution elimination zone defined above for a period of two years unless they live in such zone or emergency circumstances require their presence in such zone.~~

~~(3) Upon a third or subsequent conviction, the court shall impose a mandatory minimum jail sentence of not less than 150 days and a 30-day mandatory treatment program deemed acceptable to the court. The court shall also order such person banned for a period of five years from the prostitution elimination zone unless they live in such zone or emergency circumstances require their presence in such zone. No person convicted of a second or subsequent offense shall be eligible for probation or parole from the mandatory minimum sentences established by this subsection.~~

Section 5. That original § 9.05.080 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 6. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 7. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 8. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on _____.

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

October 12, 2012

Back Print

DATE:	October 23, 2012		
CONTACT PERSON:	Mary Feighny, Deputy City Attorney	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Noise regulations	PROJECT #:	
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 054 Criminal Code		
CIP PROJECT:	No		
ACTION OF COUNCIL:	10-16-12 First Reading	JOURNAL #:	12
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson amending City of Topeka Code Sections 9.45.160, 9.45.170, 9.45.190 and 9.45.290 and specifically repealing said original sections, as well as, repealing in their entireties Sections 9.45.210, 9.45.230, 9.45.240, 9.45.250, 9.45.270 and 9.45.320 all concerning regulation of noise. Final Reading.

(Approval would amend the current regulations to be in compliance with recent court decisions and increase the enforceability of noise regulations.)

POLICY ISSUE:

Whether to adopt amendments to the noise ordinances

STAFF RECOMMENDATION:

Staff is recommending the Council move to adopt the ordinance.

BACKGROUND:

The Kansas Court of Appeals recently determined that a noise ordinance - similar to the Topeka ordinance - was unconstitutional on vagueness grounds because the standard set forth in the ordinance subjects a person to the particular sensibilities of the complainant. The purpose of the amendments is to comport with the standard set forth in the opinion and to repeal certain out-dated provisions (e.g. steam whistles, transporting metal rails, hawkers, peddlers).

BUDGETARY IMPACT:

None

Item #17

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 9.45.160, § 9.45.170, § 9.45.190 and § 9.45.290 and specifically repealing said original sections as well as repealing in their entireties § 9.45.210, § 9.45.230, § 9.45.240, § 9.45.250, § 9.45.270 and § 9.45.320 all concerning regulation of noise.

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

Section 1. That section 9.45.160, Standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Standards.

The standards which shall be considered in determining whether a violation of this article exists shall include, but shall not be limited to, the following:

- (a) The volume of the noise;
- (b) The intensity of the noise;
- (c) Whether the nature of the noise is usual or unusual;
- (d) Whether the origin of the noise is natural or unnatural;
- (e) The volume and intensity of the background noise, if any;
- (f) The proximity of the noise to ~~residential sleeping facilities~~ residences;
- (g) The nature and zoning of the area within which the noise emanates;
- (h) The density of the inhabitation of the area within which the noise emanates;
- (i) The time of the day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent or constant; and

(l) Whether the noise is produced by a commercial or noncommercial activity.

Section 2. That section 9.45.170, Prohibition generally, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Prohibition generally.

(a) It shall be unlawful for any person to make, continue or ~~cause~~allow to be made or continued, ~~any loud~~excessive, unnecessary, ~~or unusual~~ or loud noise ~~or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city~~ of any person of reasonable sensibilities, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of an individual; provided, that the provisions of this article shall not apply to such occasional and infrequent uses as authorized by resolution approved by the city council, upon a showing by an applicant and determination by the council that the proposed use does not offend the spirit of the findings of TMC 9.45.150.

(b) The acts mentioned in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

Section 3. That section 9.45.190, Radios, phonographs, etc., of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Radios, phonographs, etc~~Sound-producing device.

(a) ~~The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or~~ use or

operation of any device ~~for the~~ capable of producing or ~~reproducing or amplifying~~ sound in such manner as to disturb the peace, quiet and comfort of ~~the neighboring inhabitants~~ or ~~at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners thereto~~ any person of reasonable sensibilities is unlawful.

(b) The use or operation of any ~~radio receiving set, musical instrument, phonograph, machine or device~~ identified in subsection (a) between the hours of 11:00 p.m. and 7:00 a.m. ~~in such a manner as to be plainly~~ which is audible at a distance of 50 feet from the premises, building, structure or vehicle in which ~~the device~~ the device is located shall be prima facie evidence of a violation of this section.

Section 4. That section 9.45.290, Construction or repairing of buildings, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Construction or repairing of buildings and exterior construction projects.

The erection (including excavating), demolition, exterior alteration or exterior repair of any building or exterior construction project is ~~permitted~~ prohibited between the hours of 7:00 a.m. p.m. and 7:00 p.m. a.m. ~~Monday through Saturday~~. Exceptions may be granted in the interest of public health and safety with authorization from the ~~code enforcement director~~ city manager or designee. ~~Written permission for such work may be granted by the code enforcement officer after receipt of written justification.~~

Section 5. That section 9.45.210, Steam whistles, of The Code of the City of Topeka, Kansas, is hereby repealed.

Steam whistles.

~~The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler or other signal device except to give notice of the time to begin or stop work or as a warning of fire, danger or upon request or authorization of proper city authorities is unlawful.~~

Section 6. That section 9.45.230, Defect in vehicle or load, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Defect in vehicle or load.~~

~~The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises is unlawful.~~

Section 7. That section 9.45.240, Metal rails, pillars and columns – Transportation thereof, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Metal rails, pillars and columns – Transportation thereof.~~

~~The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner when so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places is unlawful.~~

Section 8. That section 9.45.250, Loading or unloading vehicle – Opening or destruction of boxes, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Loading or unloading vehicle – Opening or destruction of boxes.~~

~~The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is unlawful.~~

99 Section 9. That section 9.45.270, Hawkers, peddlers, of The Code of the City
100 of Topeka, Kansas, is hereby repealed.

101 **~~Hawkers, peddlers.~~**

102 ~~The shouting and crying of peddlers, hawkers and vendors which disturbs the~~
103 ~~peace and quiet of the neighborhood is unlawful.~~

104 Section 10. That section 9.45.320, In proximity to schools, courts, churches,
105 hospitals, of The Code of the City of Topeka, Kansas, is hereby repealed.

106 **~~In proximity to schools, courts, churches, hospitals.~~**

107 ~~The creation of any excessive noise on any street adjacent to any school,~~
108 ~~institution of learning, church or court while the same is in use, or which disturbs the~~
109 ~~workings of such institution, or which disturbs or unduly annoys patients in a hospital,~~
110 ~~provided conspicuous signs are displayed in such streets indicating that the street is a~~
111 ~~school, hospital or court street, is unlawful.~~

112 Section 11. That original § 9.45.160, § 9.45.170, § 9.45.190 and § 9.45.290 of
113 The Code of the City of Topeka, Kansas, are hereby specifically repealed.

114 Section 12. This ordinance shall take effect and be in force from and after its
115 passage, approval and publication in the official City newspaper.

116 Section 13. This ordinance shall supersede all ordinances, resolutions or rules,
117 or portions thereof, which are in conflict with the provisions of this ordinance.

118 Section 14. Should any section, clause or phrase of this ordinance be declared
119 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
120 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.
121

PASSED AND APPROVED by the City Council on _____.

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

October 12, 2012

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DATE:	October 23, 2012		
CONTACT PERSON:	Craig Spomer, Chief of Prosecution	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Criminal Code-Intimidation	PROJECT #:	
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 054 Criminal Code		
CIP PROJECT:	No		
ACTION OF COUNCIL:	10-16-12 First Reading	JOURNAL #:	12
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson creating City of Topeka Code Section 9.45.020 concerning intimidation of a witness or victim. Final Reading.

(Approval would adopt provisions that would allow the City to prosecute defendants who intimidate witnesses or victims of the alleged crime in municipal court.)

POLICY ISSUE:

Whether or not the Council wants to adopt this provision

STAFF RECOMMENDATION:

Staff is recommending the Council move to adopt the ordinance.

BACKGROUND:

Often, victims and witnesses are coerced into not cooperating or proceeding with the prosecution of city code violations in municipal court, especially in family violence situations. This ordinance, modeled after state law, will provide a tool for law enforcement and prosecutors to thwart such attempts.

BUDGETARY IMPACT:

No impact on the City's budget.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

Item #18

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Jim Colson, City Manager, creating City of Topeka
6 Code § 9.45.020 concerning intimidation of a witness or victim.

7
8 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

9
10 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
11 by adding a section, to be numbered 9.45.020, which said section reads as follows:

12 **Intimidation of a witness or victim.**

13 (a) Definitions. In this section, the following definitions shall apply:

14 "Civil injury or loss" means any injury or loss for which a civil remedy is
15 provided under the laws of this state, any other state or the United States;

16 "Victim" means any individual (1) against whom any crime under the laws
17 of this state or a misdemeanor ordinance violation, has been or is attempted to
18 be committed; or (2) who suffers a civil injury or loss.

19 "Witness" means any individual (1) who has knowledge of the existence or
20 nonexistence of facts relating to any misdemeanor ordinance violation, civil or
21 criminal trial, proceeding or inquiry authorized by law; (2) whose declaration
22 under oath is received or has been received as evidence for any purpose; (3)
23 who has reported any misdemeanor ordinance violation, crime or any civil injury
24 or loss to any law enforcement officer, prosecutor, probation officer, parole
25 officer, correctional officer, community correctional services officer or judicial
26 officer; (4) who has been served with a subpoena issued under the authority of
27 the municipal court or any court or agency of this state, any other state or the

28 United States; or (5) who is believed by the offender to be an individual described
 29 in this subsection.

30 (b) Intimidation of a witness or victim is preventing or dissuading, or
 31 attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any
 32 way another person or an intent to thwart or interfere in any manner with the orderly
 33 administration of justice:

34 (1) Any witness or victim from attending or giving testimony in
 35 municipal court or at any civil or criminal trial, proceeding or inquiry
 36 authorized by law; or

37 (2) Any witness, victim or person acting on behalf of a victim from:

38 (A) Making any report of the victimization of a victim to any law
 39 enforcement officer, prosecutor, probation officer, parole officer,
 40 correctional officer or judicial officer;

41 (B) Causing a complaint, indictment or information to be sought
 42 and prosecuted, or causing a violation of probation or parole to be
 43 reported and prosecuted, and assisting in its prosecution;

44 (C) Causing a civil action to be filed and prosecuted and
 45 assisting in its prosecution; or

46 (D) Arresting or causing or seeking the arrest of any person in
 47 connection with the victimization of a victim.

48 (c) Intimidation of a witness or victim is a class B person misdemeanor.

49 Section 2. This ordinance shall take effect and be in force from and after its
 50 passage, approval and publication in the official City newspaper.

53 Section 4. Should any section, clause or phrase of this ordinance be declared
54 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
55 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

56 PASSED AND APPROVED by the City Council on _____.

57
58 CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

64 ATTEST:

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67
68
69 Brenda Younger, City Clerk



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October 12, 2012

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DATE:	October 23, 2012	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	JOURNAL #:
ACTION OF COUNCIL:		PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of use of property located at 417 SE 13th Street for storage of junk, iron, and dismantled vehicles. *(Council District No. 3)*

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

(In order to secure a salvage yard permit, the property must be zoned appropriately. Approval would grant a provisional use for the property which is zoned "I-2" Heavy Industrial District. Approval would enable the applicant to proceed with the salvage yard permit process.)

POLICY ISSUE:

Approval of the Provisional Use would allow the applicant to develop an automobile salvage yard within an industrial area. Two auto salvage operations and numerous other industrial businesses already exist in the area. The determination the City Council must make in reviewing this Provisional Use is compatibility of the site with adjacent properties.

STAFF RECOMMENDATION:

Staff is requesting the Council move to approve the Provisional Use request from Jerry Penner, Sr., for an automobile salvage yard located at 417 SE 13th Street, with the following conditions:

- Satisfactory inspection of the site and approval of the Salvage Yard Permit by the Fire Department.
- Allow no parking along SW 13th Street or on the sidewalk as required by the City Traffic Engineer.
- Construction of an eight-foot tall privacy fence along SW 13th Street.
- Annual renewal of the Salvage Yard Permit by the applicant. If the request is denied the applicant would need to find another industrial-zoned site where his proposed business could be located.

BACKGROUND:

Item #19

Since 2003, the applicant has applied unsuccessfully three different times for a Provisional Use for an automobile salvage yard at this site, with the last denial in 2008. The Planning Department did not support the request in 2008, due to concerns of further intensification of salvage operations near the Williams Magnet School and National Park Service site as well as its location in a flood zone. However, in 2008, a construction debris recycling facility was legally developed directly south of Mr. Penner's site and that facility has intensified over the last four years including removing several older homes along SE Madison Avenue and causing additional daily truck traffic into the area. The increased traffic, noise, and dust from the construction debris recycling facility altered the character of the area to the point Mr. Penner's proposal would be compatible to the surroundings. The property is within the 100 year flood plain making this area less likely to experience building construction in the future.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

[Site Plan](#)

[Aerial Map](#)

[Zoning Map](#)

[Inspection List](#)

[Summary](#)

[Application](#)



CITY OF TOPEKA

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

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

NEW SALVAGE YARD APPLICATION

APPLICANT INFORMATION

(Salvage Yard Owner)

Name: Jerry L. Penner, Sr

Residence Address: 1533 SW Tyler Topeka Zip: 66612

Telephone Number: 785-640-0766

Social Security Number: [REDACTED]

Drivers License Number: [REDACTED]

BUSINESS INFORMATION

(Salvage Yard)

Name: Penner Motors U-Pull-IT

Address: 417 SE 13th St Zip: 66607

Mailing Address: P O BOX 556 Topeka 66601
(If Different)

Telephone Number: Pending

State Sales Tax Number: Pending

Zoning: I-2 Heavy Industrial

Property Legal ID Number: 1330601019002000

Legal Description: Attached

Area of Property, Square Feet and/or Acres: 1 1/4 Acres

Are There Any Covenants of Record Which Prohibit the Proposed Salvage Operation: No

Present Use of Property: Auto Salvage (Closed Since Jan 2007)

Page 2: Salvage Yard Application

Zoning of All Adjacent Properties of Record:

North: I-2West: I-2South: I-2East: I-2

Briefly Describe Your Proposed Salvage Operation:

Removal and Sales of Used partsMisc. Scrap metal Small parts removedby customer, major parts by yard, Scrapped
vehicles to be sold to metal recycler

Explain in Summary:

The Materials to be Stored within the Salvage Yard:

maximum of 1 55 gal barrel of used motoroil, anti-freeze & gasoline. used auto partsand vehicles to be recycled

The Methods of Operation and Material Handling Operations:

Removal of small parts by customer w/ hand
tools. Removal of major parts by yard with
air tools and forklift

All Operations Which May Have Air Emissions, Including But Not Limited To: Smelting, Stationary Cranes, Generators, Incinerators, Waste Oil Burners, Etc. Indicate Permit Numbers If Applicable:

6,000 lb forklift, gas engine2,000 lb forklift, propane engine

Indicate the Name and Largest Amount of Liquid Stored of any type at any given time.

55 gallon barrel anti-freeze, motor
oil and gasoline

Page 3: Salvage Yard Application

On-Site Fire Control Systems.

Fire extinguishersCity water

Sec. 5.135.020 to 05.135.110 City Code

Sec. 5.135.020 Submit Site Plan with New Applications

New License Fee: \$280.00 January 1 to December 31 Sec. 5.135.050Renewal Fee: \$140.00 January 1 to December 5.135.050

TAX STATUS FORM Sec. 5.05.090

Sec. 5.135.050 Permit not transferable

(Office Use Only)

License Fee: \$ 280.00 Cash ☐ Charge ☐ Check ☒ Check No. 1088Date Paid: 8/17/12Date Sent to Planning Department: 8/17/12Planning: David Thurben * Date: 8-21-12Date Sent to Fire Department: 8/17/12

Fire Inspector: _____ Date: _____

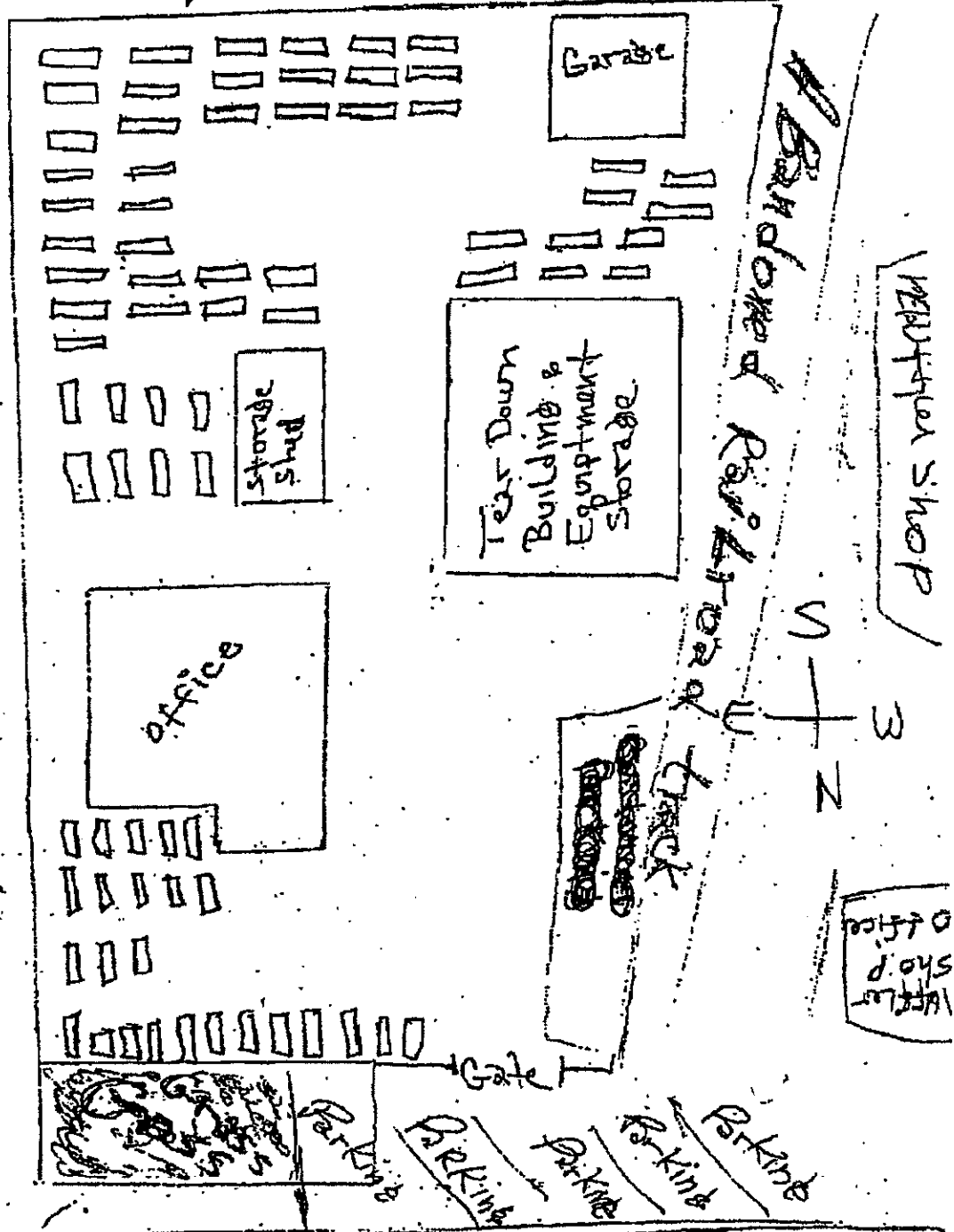
License No.: PEND
SVYD

Vehicles Storage - Becker Oil Co.

Vacant - Former
Residential House

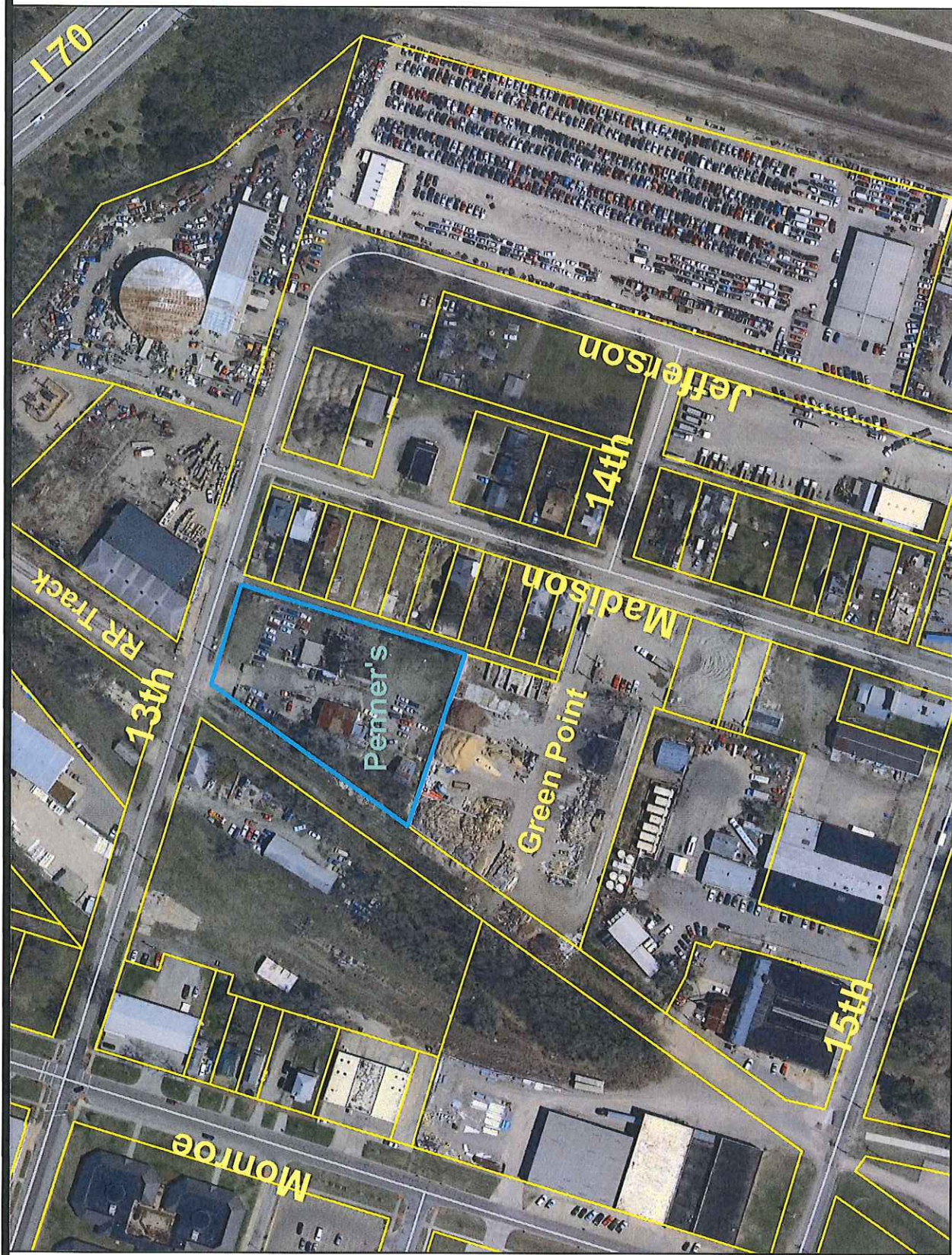
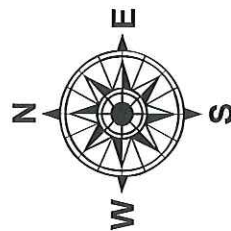
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Alley

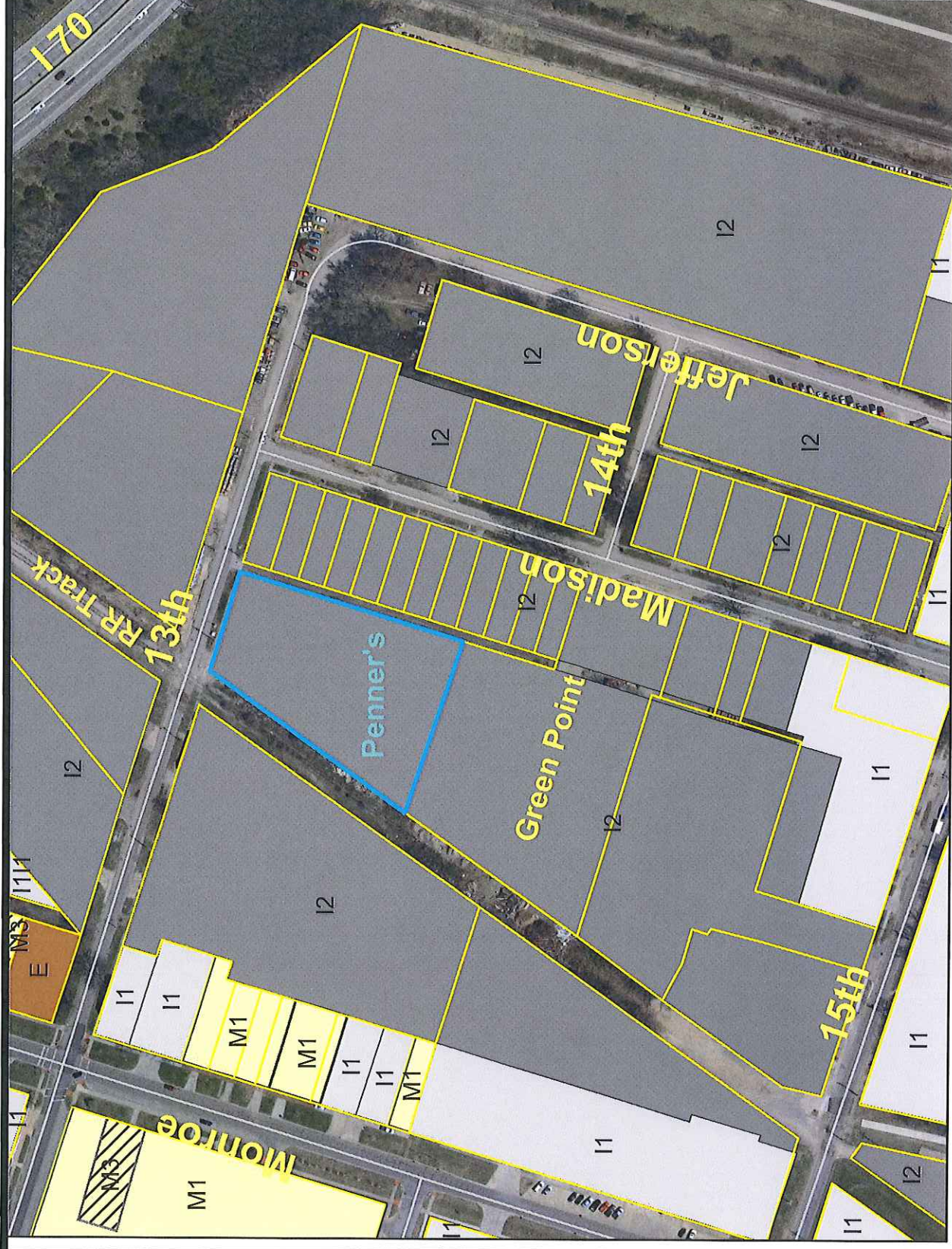
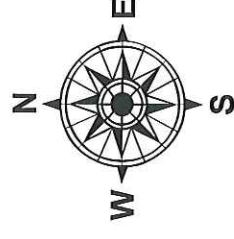


13th Street

Penner Motors V-Poll-F
417 SE 13th St.
Topeka KS 66607



SV12/1 PENNER SALVAGE YARD



SV12/1 PENNER SALVAGE YARD

REVIEW ITEMS BY FIRE DEPARTMENT FOR SALVAGE YARD APPLICATION

1. The salvage yard and items stored in the yard were maintained in a sanitary condition.
2. All salvage area proposed to be used is to be permitted as legally described on the attached legal description.
3. Water is not allowed to stand on the premises in a manner conducive to breeding mosquitoes.
4. Weeds and vegetation on the premises in lawn areas are below a height of 12”.
5. Garbage and wastes which give off foul odors or attract vermin are not kept on the premises.
6. Junk is not stored in piles exceeding 10’ in height and is arranged to permit easy access for fire-fighting purposes.
7. Unnecessary combustible materials not beneficial to the permitted business are not kept on the premises.
8. Gasoline and other petroleum based fluids are removed from scraped or dismantled engines or vehicles on the premises.
9. Junk and other material are not burned on the premises except in accordance with K.A.R. 28-19-40.
10. Rackable salvage materials are stored on racks or bins with at least 18” clearance off the ground. Racked, binned, and loosely stored materials are kept at least 48” from the property perimeter and between racks.
11. All ground surface except lawn areas are free of weeds and vegetative growth.
12. Rodents are effectively controlled.
13. A sight prohibitive fence is installed and in good condition and on all necessary property lines.
14. The zoning certification, completed by the Topeka/Shawnee County Metropolitan Planning Agency, states of this property.
15. Welding and cutting operations are in compliance with UFC, Article 49.
16. “No Smoking” signs are posted at areas of combustible storage.
17. NFPA 704 placarding is required.

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: SV12/1JERRY L. PENNER, SR.

This is a request from Jerry L. Penner, Sr. requesting approval of a Provisional Use for an automobile salvage yard at 417 SE 13th Street. This property is 1.41 acres in size and is zoned "I-2" Heavy Industrial. It is located near the middle of an approximate 40-acre area virtually all zoned "I-2" Heavy Industrial, except for some parcels fronting on SW 15th Street zoned "I-2" Light Industrial. This industrial area extends on the north to I-70, on the east to the railroad lines running parallel to and west of SE Adams Street, on the south to SE 15th Street, and on the west to approximately 125 feet east of SE Monroe Street.

A Provisional Use for an automobile salvage yard in the "I-2" Heavy Industrial District requires review and approval by the City Council regarding compatibility with adjacent properties and satisfactory inspection of the site regarding fire issues by the Fire Department.

Since 2003, the applicant has unsuccessfully applied three different times for a Provisional Use for an automobile salvage yard at this site, with the last denial in 2008. The Planning Department did not support the request in 2008, due to concerns of further intensification of salvage operations near the Williams Magnet School and National Park Service site, as well as its location in a flood zone. However, in about 2008, a construction debris recycling facility legally developed directly south of Mr. Penner's site and that facility has intensified over the last four years. Additionally, several older homes on SE Madison Avenue were demolished. Consequently, daily truck traffic has increased in the area. The intensification of traffic, noise, and dust from the construction debris recycling facility has altered the character of the area to the point where Mr. Penner's proposal would be compatible to its surroundings (under the above conditions). The property is within the 100 year flood plain making this area less likely to experience building construction in the future; therefore, uses for storage becomes even more appropriate.

Based on the industrial zoning and intensive land uses in this area, the Planning Department believes the site is now compatible with adjacent properties. This petition was sent to other City Departments for their review and comment. The Planning Department has received a comment from the City Traffic Engineer stating if this proposal is approved, the site's employees and customers will not be allowed to park along SW 13th Street or on its sidewalks. The Fire Department has conditionally approved it, subject to a satisfactory site inspection regarding fire issues. The Planning Department recommends that the Governing Body move to conditionally approve the Penner Provisional Use, subject to:

1. Satisfactory inspection of the site and approval of the Salvage Yard Permit by the Fire Department.
2. No parking along SW 13th Street or on its sidewalk (per City Traffic Engineer).
3. Construction of an eight-foot tall privacy fence along SW 13th Street.
4. Annual renewal of the Salvage Yard Permit by the applicant.



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 4, 2012

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DATE:	October 23, 2012	
CONTACT PERSON:	Brendan Wiley	DOCUMENT #:
SECOND PARTY/SUBJECT:	Elephant Program	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

APPROVE staff recommendation to continue managing an elephant program at the Topeka Zoo.

POLICY ISSUE:

Staff supports the continuation of the Topeka Zoo Elephant Program with the two elephants. To do that, \$60,000 would be used from the Zoo's 2013 budget to make improvements to the existing elephant exhibit/program. Any request for capital improvements related to the elephant program will be made to the Council as part of the City's general capital improvement plan. No staff decision has been made regarding possible expansion of the Topeka Zoo Elephant Program.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the recommendation to continue managing the Topeka Zoo Elephant Program.

BACKGROUND:

In February of 2010, the Council debated the question of whether or not the Zoo should send its elephants to a sanctuary in Tennessee. Action was deferred until the time when the Zoo had a Zoo director. This question is now being addressed through the form of a policy question as to whether or not to continue to manage an elephant program at the Topeka Zoo.

BUDGETARY IMPACT:

To Continue an Elephant Program would cost \$60,000 to be expended from the 2013 Zoo Operating Budget.

To Discontinue Elephant Program and convert the elephant exhibit and holding facility for a different species and transferring elephants to another facility would cost approximately \$450,000. Item #20

SOURCE OF FUNDING:

Continuing Program - 2013 Zoo Operating Budget and the Friends of the Topeka Zoo (FOTZ) Program Support Budget.

Discontinue the Program - 2013 Capital Improvement Budget

ATTACHMENTS:

[Program Analysis](#)

[Program Recommendation](#)

Analysis of Topeka Zoo Elephant Situation

Purpose:

The purpose of this analysis is to provide information on the current situation of the elephants at the Topeka Zoo, evaluate relevance of an elephant program at the Topeka Zoo, and to recommend a future direction for the Topeka Zoo's elephant program.

Executive Summary:

Elephants managed at the Topeka Zoo are managed in accordance with accrediting standards. Both elephants' are in good health. As the program currently exists, the program is not sustainable. Through a process of working with industry professionals and several on-site consultants, the Zoo has evaluated all potential options for the future of the elephant program. The Zoo is recommending continuation of an elephant program at the Topeka Zoo.

History:

In 1966, the Topeka Zoo acquired an Asian elephant named Sunda acquired to be exhibited in the newly built Animal and Man building. In 1976, the Zoo acquired a second elephant; an African elephant named Tembo. Both elephants have lived together since 1976.

It was not uncommon to manage Asian and African elephants together during that time. Elephant Endotheliotropic Herpes Virus (EEHV) which is commonly carried in African Elephants but not Asians, EEHV was not well understood until the late 80's and early 90's. With a better understanding of how the virus effects the two different species, the practice of setting up new exhibits containing both species was discontinued.

The program was originally operated under a free contact elephant management protocol and the elephants were routinely walked amongst Zoo visitors. In 1996, the Zoo transitioned to a protected contact management system.

In 2004, the exhibit was expanded, which included the addition of an outdoor shade structure and elephant misting system. In 2007, the Zoo built an addition to the Animal and Man building to serve as a new elephant holding facility with the capability of housing up to four elephants.

Current Status:

The Topeka Zoo currently houses two elephants; Sunda, a 52 year old Asian elephant and Tembo, a 42 year old African elephant. Tembo and Sunda have access to ¾ acre exhibit space and a holding facility with 4000 sq. ft. of space. The holding facility features heated floors, natural ambient lighting, an elephant restraint device and a scale.

Utilization of Consultants for Program Evaluation Purposes:

Since the fall of 2009, the Topeka Zoo has welcomed a number of different consultants through the elephant program for a variety of reasons. Below is a list of consultants who were tasked with evaluating the Zoo's elephant program in this time frame and their purpose for being at the Zoo.

December 2009 – AZA Special Inspection

Gary Geddes, Director, Point Defiance Zoo and Northwest Wildlife Trek

Dr. Eric Miller, Veterinarian, St. Louis Zoo

Dr. Tom Mehan, Chicago Zoological Society

February 2010 – Potential Council Action regarding Elephant Program

Mark Reed – Director, Sedgwick County Zoo

Dr. Wayne Bryant – Veterinarian, Sedgwick County Zoo

October 2010 – Animal Training Consultant

Gary Priest – Curator of Applied Behavior, San Diego Zoo and Wild Animal Park

January 2011 – Follow up to AZA Special Inspection

Gary Geddes, Director, Point Defiance Zoo and Northwest Wildlife Trek

Dr. Eric Miller, Veterinarian, St. Louis Zoo

February 2011 – Elephant Thermography Study

Dr. Kirk Suedmeyer – Veterinarian, Kansas City Zoo

March 2012 – Accreditation Mentor

Jim Fleshman – Director, Cameron Park Zoo

July 2012 – Accreditation Inspection

Steve McCusker – Director, San Antonio Zoo

Mike Quick – General Curator, Elephant TAG, Sedgwick County Zoo

Dr. Joe Smith – Veterinarian, Fr. Wayne's Children's Zoo

August 24-25, 2012 – Elephant Program Assessment

Daryl Hoffman – Curator of Large Mammals, Elephant TAG Liaison, Houston Zoo

August 29, 2012 – Digital Radiology Consultation

Dr. Kester – Veterinarian, Topeka, Kansas

October 15-17, 2012 – Elephant Program Assessment

Alan Roocroft – Elephant Business

The Zoo and the elephant program have benefited greatly from all of the consultant visits. Based on feedback, the Zoo has improved its safety program, management program and numerous operational procedures. All consultants agreed, the two elephants are in good health. Many of the consultants agreed that while the elephants are in good health today, the Zoo needs to be preparing for a time when health may begin to deteriorate simply as a result of the two elephants continuing to age. Several of the consultants also recommended adding an additional elephant to the current pair.

Facility Assessment:

The existing facility is adequate for the current elephants and could potentially hold a third elephant in the future if the opportunity arose. A few modifications that could be made to the facility to increase safety, increase elephant mobility and ease in accomplishing daily husbandry were recommended and implemented. An “ear” door was added to increase safety when collecting blood from Sunda. This allows her to be “leaned in” so that the ear can protrude out of the ear door to more safely allow for the collection of the blood.

“Pad eyes” welded to several of the bollards to allow for lightweight, removable foot stands have been added. By wrapping some chain with fire hose and clipping it to the pad eyes. The use of hose covered chain in between the “pad eyes” can be set up ahead of time and the elephants cannot destroy or remove it.

The addition of hay feeders would be a useful tool to get the elephants hay off the ground promoting them to reach for their food. The feeders promote the use of new muscle groups and would be more pleasing to view by Zoo guests because the elephants are not eating their hay out of the sand, dirt and mud. Inside the barn the addition of a winch and pulley system to raise and lower hay nets would be very beneficial for the elephants, as well, as hay boxes mounted to the mesh in front of the stalls. All of these tactics increase foraging time, use new muscle groups, keep the hay off of the ground, reduce swaying and promote a better public perception. This is currently being addressed.

Most recently, an approach to better management of the elephants’ outside habitat has been recommended. This approach will be addressed later in this document.

Program and Staff Assessment:

The Zoo’s elephant program has a good base. The Zoo has continuously focused on the professional development of elephant staff. Currently elephant staff takes care of a variety of other animals, as well as, the elephants during their normal work day. Multiple consultants recommend a dedicated elephant staff to the elephant program. Currently, six to ten hours of staff time are spent on the elephant program per day. It has been suggested that the Zoo increase staff time to 14 to 16 hours of dedicated staff time per day. Having a dedicated elephant staff will allow for more formal keeper chats and demonstrations for the Zoo guests. Keeper chats and guest interactions need to increase. Habitat preparation and alteration need to increase.

Currently, the Zoo's elephant program centers around the maintenance of collection animals. A different approach of centering the program on the biology and natural tendencies of the elephants has been suggested. From a program perspective this would greatly increase the activity level of the elephants, create a healthier environment and increase visitor stay time.

Conservation Status:

Elephants in the wild are facing great hardships chiefly due to a human population explosion issue. Currently there are less than 30,000 Asian elephants left in the wild. Every Asian elephant is listed as being critically endangered. Asian elephants left in the wild live in isolated pockets surrounded by humans.

Not every African elephant is listed as critically endangered; it depends on their country of origin. However, over the last 25 years, their population has been reduced from 1.6 million elephants to less than 500,000 elephants. Most of this is the direct result of human animal conflict relating to agriculture.

Zoos currently manage an aging population. Zoos know that unless something changes, over the next twenty to thirty years the elephant population in zoos will be reduced by half simply as a result of old age.

In May of 2011, at an elephant holder's meeting, zoos committed to work together to better manage the crisis that elephants face.

Initial Recommendation:

Based on the St. Louis meeting, the Zoo Director made the following recommendation to both the Friends of the Zoo Board of Directors and the Interim City Manager. The recommendation was simple, based on what we currently know about conservation status, conservation trends and population demographics; the Topeka Zoo needs to make a choice, either dedicate themselves to elephant conservation 110% or get out of the elephant program and transfer the Zoo's elephants to an accredited facility where Tembo and Sunda could be active participants in elephant conservation. While the elephants here are both post reproductive, they could still play a significant role in the social make up of a breeding herd.

Options:

In February of 2012, the Interim City Manager directed the Zoo director to evaluate all options for the Zoo's elephants and the elephant program. Four options were considered:

1. Surplus the Zoo's elephants and replace with an alternate species.
2. Remain the same and manage the species to extinction at the Topeka Zoo.
3. Add one or two African elephants to the Zoo's current exhibit and program.
4. Expand barn and exhibit to accommodate 6-8 elephants including a bull elephant and become a center for elephant conservation, education and breeding.

Analysis Process:

AZA elephant professionals, consultants and Zoo stake holders were contacted and asked their opinions on how the Topeka Zoo might meet this challenge. As each group was approached, it was always made clear that the best interest of the elephants was the first priority. Public comment was also taken during two public meetings.

Analysis of Option 1 – Surplusing the Zoo’s Elephants

Prior to the analysis, this was the leading option being presented by the Zoo director to both the Interim City Manager and the FOTZ Board of Directors for two primary reasons. First, the Topeka Zoo is committed to conservation and the Zoo was questioning if managing two geriatric elephants by themselves was the best way to contribute to elephant conservation. Secondly, knowing that committing to elephant conservation and breeding on a large scale is not a cheap endeavor, it was felt this would be the safest choice for the Zoo.

During the analysis process, one point became very clear. As an accredited zoo we are expected to operate with a level of ethics that looks out for the best interests of the animals in our care for their entire life. The over lying theme of all consultants that evaluated the situation was simple and direct. The elephants are in good health. This is not a crisis; however, they are geriatric. They are not use to moving, not only would the move be stressful on them but adjusting to a new situation would also be stressful. There is a fair amount of literature describing the effects of relocation on elephants. It is not believed that the two would integrate with another herd. They might coexist in the same space but to move them with the expectation that they would actually integrate with other elephants is a false aspiration unless baby elephants are involved. The question was turned back on me, “Why would you consider moving them? Why would you risk their health?”

Furthermore, not one consultant that evaluated the situation recommended that we separate these two elephants. Zoo staff members concur with this evaluation.

Staff does not recommend this option.

Analysis of Option 2 – Remain the Same

This option would respect the health and well-being of the elephants as they continue to live out the rest of their lives. Following the time when one of the elephants dies, the Zoo would have to regularly evaluate the well-being of the solitary elephant. This process would be expected to play itself out within the next ten years but it could happen much sooner.

Staff does not recommend this option.

Analysis of Option 3 – Add one or Two Elephants

This option has several merits. First, it adds to the health and well being of our current elephants. Secondly, when one of our current elephants dies it provides a companion animal to the other elephant.

Additionally, it allows the Zoo and the Topeka community to stay in the elephant program.

The drawbacks to this option are twofold. First, as female elephants that are still at a reproductive age will be managed in breeding groups, the Zoo will continuously be looking for post reproductive elephants in an effort to maintain a population of three elephants at all times. Secondly, this option will only carry the Zoo for another 15 – 20 years. At that point there will not be any aging post reproductive elephants available as they will all have died of old age at that point.

Because this option is not sustainable over the long term, the Zoo does not recommend this option.

Analysis of Option 4 – Elephant Conservation, Education and Breeding Center

Of all the options provided, this is potentially the most exciting and is the only option to insure long-term involvement with an elephant program. What is unique about our situation is that our facility and exhibit could be expanded. We would not have to start over new. Additionally, the current zoo footprint could accommodate a three acre exhibit space for our elephants.

An endeavor like this is not cheap. To do it really well could potentially cost between 8 and 10 million dollars.

While this may be the first choice of staff, staff can not recommend this option without a funding plan to support it.

A new option – Do it Better

All consultants agreed on two key things. First, none of them recommended that the Topeka Zoo should stop managing an elephant program. Secondly, all consultants agreed that our two elephants should not be separated. The general consensus was that if you want to do what is right for these two elephants, leave them here. The last consultant added to that, “but be better elephant managers.”

Recommendation:

Staff recommends continuing the Topeka Zoo’s elephant program. Continuing the elephant program would involve a shift in elephant management philosophy from the current approach of maintaining the elephants to a new approach of managing an elephant habitat. The goal of this management philosophy is to provide enough activity and options for the elephants so they have to make choices on how they are going to spend their time. This philosophy will utilize feeding strategies, variable habitat arrangements and the use of interactive exploration, and training activities to engage both the elephants and Zoo guests.

With a new philosophy in place, the Zoo can be confident that it is providing exceptional care in a leading program in the country. From there, we can continue to shape our future. The community consensus appears to be one that is to continue to manage elephants here. If we are to do this long

term, it will mean acquiring additional elephants in the next few years and the future development of a breeding facility. That notion may require a non-traditional funding plan. This recommendation will allow the Zoo to operate a leading edge elephant program and allow us to keep future options open.

Topeka Zoo Elephant Program Recommendation

Consultant Overview

On October 15-16, 2012, Topeka Zoo staff worked with Alan Roocroft, Elephant Behavior Consultant, to evaluate the current condition and future of the Topeka Zoo's elephant program. Alan has worked with over 100 zoos in more than 20 countries consulting on a range of elephant issues. Alan is known as an elephant expert as it relates to elephant management and foot care.

Alan did conduct a health assessment of both elephants and found them to be in extremely good health. In regards to the issue of bone disease, there is no evidence. This was based on both a physical exam and review of radiographs taken in August. There are no signs in either elephant of arthritis or joint issues. While there are toe nail lesions, they are not severe. The underlying cause for these lesions is most likely the hard surfaces that they encounter when they lie down inside their barn. While swaying is present in our Asian elephant and is a stereotypic behavior, it does not appear to be stressful or harmful but more of an anticipatory behavior.

In regards to managing the two species together, Alan's opinion is that because they have been housed together for so long there is a definite familiarity. It could be stressful to separate them. There is no need to separate them. His speculation is that they do communicate.

Consultant Recommendation

Leave the elephants at the Topeka Zoo but manage them better by doing a better job of managing their habitat.

Zoo Recommendation

Staff recommends continuing the Zoo's elephant program. Continuing the elephant program would involve a shift in elephant management philosophy from the current approach of maintaining the elephants to a new approach of managing an elephant habitat. The goal of this management philosophy is to provide enough activity and options for the elephants so they have to make choices on how they are going to spend their time. This philosophy will utilize feeding strategies, variable habitat arrangements and the use of interactive exploration, and training activities to engage both the elephants and Zoo guests. This approach may lead to a future expansion of facility, habitat and herd.

New Program Strategies

We will begin this process by developing a habitat that encourages an elephant to explore their natural abilities through an understanding of their biology and needs. Steps to begin this process will include:

1. Installation of a 24 hour surveillance system both inside and outside of the facility. This will help us understand how the elephants use their time, such as sleep patterns, and how they interact with each other. We will have better indicators to monitor their health. (\$2,500 onetime cost)
2. Separation of husbandry space from habitat space. (\$1,000 one time cost)

3. Develop resting, sleeping and climbing places in the outside habitat through the addition of substrates such sand mounds, rocks or logs. (\$10,000 annually recurring cost)
4. Develop a hay distribution system that offers hay in smaller quantities at various levels in both the inside and outside habitat. Explore the use of timer systems that can deliver hay throughout a 24 hour period to provide a longer range of feeding opportunities for the elephant. (\$10,000 one time cost)
5. Browse program – offer browse or tree limbs daily – vary the amounts and the distribution multiple times a day to stimulate natural behaviors.
6. Trunk Tubes – install and bury culverts at base of fence line that have trunk size holes drilled into them for the purpose of offering enrichment that can be manipulated by the trunk. (\$4,000 one time cost)
7. Daily habitat preparation – rearrange the habitat each morning (as the habitat is cleaned) changing items and activity areas. In the process, engage Zoo guests to be involved as habitat is refreshed in the afternoon. (\$4,000 one time cost)
8. Install a training wall outside in prominent view of Zoo guests. The elephant interactions with the staff would be done at this viewing (climate dependant). Interactions would include but not limited to training, daily husbandry and health care with the elephants over the course of the year while the zoo is open and available to guests. Training to occur at this wall will include baths, foot trims, blood collection, radiographs, mouth exams and body inspections etc. (\$10,000 one time cost)
9. Implement a Geriatric Elephant Management Plan that anticipates changing needs of our elephants as they continue to age. In the plan, include the following: observation tactics, data tracking, husbandry needs, outward communication strategy and equipment needs.
10. Reallocate existing equipment and resources to support program goals:
 - a. Skid Loader – use will be needed daily, base the equipment out of the elephant facility.
 - b. Develop a browse acquisition network and storage area.
 - c. Assign consistent use of staff time to the program on a daily basis with the focus of 16 hours a day dedicated to the elephants. (\$20,000 annually recurring cost)

Implementation Cost

Cost to implement the above program is estimated to be \$59,500. This sum includes an amount of \$20,000 for an additional half keeper.

Implementation Timeline

Within 90 days of approval, feeding mechanisms, training wall and other mechanical devices can be designed. In the same 90 day period, staff can be trained and adjust to the new philosophy. Within 180 days, the full plan can be in place.

Summary

Staff recommends that this is the next right step for the two elephants at the Zoo. This philosophy will always evolve. It will never be a project that will be completed. This program will continuously increase

to meet the needs of our changing elephants with the ever driving spirit being one that understands their biology. We always strive to allow our elephants to celebrate who they are.



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Council Action Form

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214 SE 8th Street
Topeka, Kansas 66603

September 10, 2012

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DATE: October 23, 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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		PAGE #:

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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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