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City Council Agenda

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

October 15, 2013

6:00 PM

Mayor: Larry E. Wolgast

Councilmembers

Karen A. Hiller	District No. 1	Chad Manspeaker	District No. 6
John Campos II	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Nathan Schmidt	District No. 8
Denise Everhart	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	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

☐ Back ☐ Print

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

"None scheduled at this time."

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Civil Service Commission

☐ [ATTACHMENTS](#)

BOARD APPOINTMENT recommending the re-appointment of Robert Bausch to the Civil Service Commission for a term ending October 31, 2017. *(Council District No. 7)*

B. Denial of Claim Appeal - Vicki Johnson

DENIAL of Tort Claim Appeal by Vicki Johnson seeking \$131 from the City for reimbursement costs associated with hiring a plumber to inspect the water service line at her residence.

C. MINUTES of the regular meeting of October 8, 2013

D. APPLICATIONS:

5. NEW BUSINESS:

A. 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.

(Retail Cereal Malt Beverage License applications and Scrap Metal Dealer applications must be approved by the governing body prior to issuance of the licenses.)

6. FIRST READINGS:

A. Ordinance - Historic Landmarks (ACZR 13/1)

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, concerning Historic Preservation, amending City of Topeka Code Sections 2.60.010, 2.60.020, 18.255.020, 18.255.030, 18.255.040, 18.255.060, 18.255.070, 18.255.090, 18.255.110, 18.255.140, 18.255.160 and 18.255.170 and specifically repealing said original sections, as well as, repealing in their entirety Sections 18.255.050, 18.255.080, 18.255.100, 18.255.120; and 18.255.130. First Reading. *(ACZR13/1)*

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

(Approval updates the local historic landmarks ordinance in order to maintain the City's standing as a Certified Local Government with the Kansas State Historic Preservation Office.)

7. MISCELLANEOUS:

-

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

-

9. PUBLIC COMMENT:

-

10. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

April 16, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
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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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

April 16, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	
CONTACT PERSON:		DOCUMENT #:
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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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August 22, 2013

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DATE:	October 15, 2013	DOCUMENT #:
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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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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 27, 2013

☐ Back ☐ Print

DATE: October 15, 2013
CONTACT PERSON: Mayor Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: Board Appointment to the Civil Service Commission **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the re-appointment of Robert Bausch to the Civil Service Commission for a term ending October 31, 2017. (Council District No. 7)

POLICY ISSUE:

The Civil Service Commission has control of exams, and the nature of the exams for the Police and Fire Departments. The Commission hears charges against individual officers alleging misconduct, failure to perform duties, offenses of a criminal nature or violations of the Rules and Regulations of the Police and Fire Departments. It also certifies the list of eligible applicants, and prepares an annual report for the City Manager.

STAFF RECOMMENDATION:

Councilmember Manspeaker nominates and Mayor Wolgast recommends the re-appointment of Robert Bausch for a term that will end October 31, 2017. Mr. Bausch was first appointed to this board May 21, 2013 to fill an unexpired term ending October 31, 2013. Mr. Bausch is not an employee of the City of Topeka and meets the work experience required to serve.

BACKGROUND:

This board is created by the City. Council members nominate and the Mayor appoints. To be eligible for appointment as a commissioner, a nominee must not be employed by the City and have at least three years of experience in a responsible position requiring knowledge of the legal issues involved in the hiring, or disciplining of employees.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

[Bausch Bio - CSC](#)

Robert Bausch

PROFESSIONAL EXPERIENCE

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKER'S LOCAL UNION #226

Assistant Business Agent- Membership Development: September 2010 to Present

- Provide current and prospective employees with information about policies, job duties, working conditions, wages, promotion opportunities and employee benefits.
- Plan and conduct new employee orientation to foster positive attitudes toward organizational objectives.
- Interpret contractual agreements for employers and employees engaged in collective bargaining.
- Monitor company or workforce adherence to labor agreements.

Executive Board Member: July 2010 to Present

- Confer with organization officials or staff members to discuss issues, coordinate activities and interest of Local Union #226.
- To hear all charges brought against members alleging a violation of the Constitution of the IBEW or the By-Laws and Working Rules of Local Union #226.
- Review and approve the financial transactions of Local Union #226.

VARIOUS UNION ELECTRICAL CONTRACTORS in Topeka, Kansas

Journeyman Wireman/Foreman: May 1999 to August 2013

- Read specifications, such as blueprints, to determine electrical construction requirements and to plan procedures for installation of electrical components.
- Supervise, coordinate, or schedule the activities of electrical construction workers.
- Estimate material or worker requirements to complete jobs.
- Assign work to employees based on material or worker requirements of specific jobs.
- Look out for the employers interests

EDUCATION

SEAMAN HIGH SCHOOL- TOPEKA, KANSAS

- Graduated 1992

TOPEKA ELECTRICAL JOINT APPRENTICESHIP & TRAINING COMMITTEE- TOPEKA, KANSAS

- 1994-1999 - Completion with Apprentice of the Year Honors in 1999



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 30, 2013

☐ Back ☐ Print

DATE: October 15, 2013
CONTACT PERSON: Seth Lowry, Assistant City Attorney **DOCUMENT #:**
SECOND PARTY/SUBJECT: Vicki Johnson/Claim No. 13-026 **PROJECT #:**
CATEGORY/SUBCATEGORY 005 Claims / 006 Appeals
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of Tort Claim Appeal by Vicki Johnson seeking \$131 from the City for reimbursement costs associated with hiring a plumber to inspect the water service line at her residence.

POLICY ISSUE:

The recommendation to deny the claim is based upon the fact that there is no evidence to indicate that the City knew or should have known that any obstruction in the City main would cause a drain back-up in the basement of the claimant's residence.

STAFF RECOMMENDATION:

Staff recommends the Council move to deny the claim in the amount of \$131.

BACKGROUND:

Vicki Johnson filed her claim after the claimant hired a plumber to correct a back-up that occurred in the claimant's basement. The plumber subsequently contacted the City and requested that the City check the City main for any obstructions in the main. A City crew cleaned the City main and televised the main to ensure that it was serviceable.

BUDGETARY IMPACT:

If the claim is approved funds will be allocated in the amount of \$131 from the Special Liability Fund.

SOURCE OF FUNDING:

Special Liability Fund

ATTACHMENTS:

No Attachments Available

Item #7



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE:	October 15, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE: October 15, 2013
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.

(Retail Cereal Malt Beverage License applications and Scrap Metal Dealer applications must be approved by the governing body prior to issuance of the licenses.)

POLICY ISSUE:

Approval helps ensure businesses are in compliance with City regulations.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the license application(s) as presented.

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.

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.

BUDGETARY IMPACT:

Budgetary impact is based on the number of licenses issued.

SOURCE OF FUNDING:

City Clerk's Operating Budget

ATTACHMENTS:

No Attachments Available

Item #10



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 26, 2013

☐ Back ☐ Print

DATE: October 15, 2013
CONTACT PERSON: Tim Paris/Bill Fiander, **DOCUMENT #:**
Planning Director
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 080 Historic Preservation
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, concerning Historic Preservation, amending City of Topeka Code Sections 2.60.010, 2.60.020, 18.255.020, 18.255.030, 18.255.040, 18.255.060, 18.255.070, 18.255.090, 18.255.110, 18.255.140, 18.255.160 and 18.255.170 and specifically repealing said original sections, as well as, repealing in their entirety Sections 18.255.050, 18.255.080, 18.255.100, 18.255.120; and 18.255.130. First Reading. (ACZR13/1)

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

(Approval updates the local historic landmarks ordinance in order to maintain the City's standing as a Certified Local Government with the Kansas State Historic Preservation Office.)

POLICY ISSUE:

This amendment is designed to improve and streamline the process used by the City of Topeka Planning Department and the Topeka Landmarks Commission in the performance of their duties as assigned by the Governing Body. The Governing Body has the following options to consider:

- (1) Adopt the recommendation of the Planning Commission by a majority vote of the Governing Body.
- (2) Reject or amend the Planning Commission's recommendation by a two-thirds vote of the Governing Body.
- (3) Remand back to the Planning Commission with direction.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

Item #11

BACKGROUND:

The proposed changes ensure the status and eligibility of the City of Topeka as a Certified Local Government, as determined by the National Park Service on behalf of the United States Secretary of Interior. As recommended by the Topeka Landmarks Commission and the Topeka Planning Commission, key changes to the ordinance include:

Historic Resources: The proposed ordinance removes the designation of a Historic Resource. The Historic Resource designation was structured to enable the Landmarks Commission to identify and designate qualifying properties as Historic Resources without owner consent. The functional protection this designation imposed on such properties was an automatic 60-day delay in the issuance of a demolition permit. New designations of Historic Resources are being removed with this proposal. All existing designations will remain in effect.

Local Commercial Landmark Districts: The proposed ordinance allows for the designation of local commercial historic landmark districts. The existing ordinance excludes the allowance for a local commercial landmark district, reserving this status only for residential properties. This change preserves the status of the City of Topeka as a Certified Local Government. The current proposal also lowers the property-owner consent threshold from 65% to 60%. A minimum of 3 properties are needed to form a district, and 75% of principle structures must be contributing to the district's character and integrity.

"Opt-Out" Provision: The proposed ordinance removes the unilateral ability of a property owner to "opt – out" of a local historic district. At such time a district is established, the process will be initiated by local property owners under criteria established by this ordinance in the same manner in which a change in zoning classification is adopted. Property owners are afforded opportunities to comment on the establishment of a local historic landmark district both prior to, and during the adoption process. District boundaries may be reduced, but only on the perimeter.

Demolition Procedures: The proposed ordinance alters the procedures for the demolition of a local historic landmark. At present, it is the Topeka Landmarks Commission's responsibility to notify a property owner when a local historic landmark is being subjected to demolition by neglect, or is exemplifying conditions that threaten its historic or structural integrity. The notification and enforcement process is proposed to be placed with the City of Topeka's Code Enforcement Unit, until demolition is warranted. At that point in time, the Topeka Landmarks Commission will consider a Certificate of Appropriateness for the building's demolition.

Design Guidelines: The proposed ordinance allows the Topeka Landmarks Commission to adopt and establish appropriate design guidelines to be used for reviews for alterations and new construction within designated local historic districts. These guidelines will be reviewed and adopted along with the zoning overlay that establishes the district, and will be subject to the approval of the Topeka Planning Commission.

Design Review Criteria: A definition for "*Design-Review Criteria*" was added as the basis for all reviews for the consideration and approval of a Certificate of Appropriateness. Design-Review Criteria are specifically identified as the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Design Review Guidelines: The definition of "*Design-Review Guidelines*" was modified to reflect their requisite established base as the defined "Design Review Criteria," hence the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Certificates of Appropriateness: The protocol for the issuance of a Certificate of Appropriateness is codified as a review based on the Secretary of the Interior's Standards for the Treatment of Historic Properties.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Summary Report](#)

[Ordinance](#)

[Summary of Revisions](#)

[March Landmarks Commission Minutes](#)

[April Landmarks Commission Minutes](#)

[May Planning Commission Minutes](#)

[June Planning Commission Minutes](#)

[July Planning Commission Minutes](#)

[August Planning Commission Minutes](#)

CITY OF TOPEKA PLANNING DEPARTMENT SUMMARY REPORT

Re: ACZR13/1 Historic Landmarks Ordinance

This is an amendment to the City of Topeka's Historic Landmarks Ordinance, intended to clarify and streamline the duties assigned to the Topeka Planning Department and the Topeka Landmarks Commission in the performance of their assigned duties.

2011 - The process was initiated by Christy Davis, Chair of the Topeka Landmarks Commission. Ms. Davis noticed several inefficiencies in the ordinance, the most significant of which was the absence of the ability for the City of Topeka to establish local commercial historic landmark districts. Ms. Davis assembled a committee consisting of one additional Landmarks Commissioner, and Christy Caldwell of the Greater Topeka Chamber of Commerce. During discussions between Ms. Davis and Ms. Caldwell, The State of Kansas Historic Preservation Office notified the Topeka Planning Department that the codified exclusion of locally recognized and designated historic districts was in conflict with the City's standing as a Certified Local Government, thus jeopardizing this status, and the federal funding that this status provides to the City.

2012 – Stacey Keller, Chair of the Commission in 2012 continued discussions with Ms. Caldwell, and they together agreed on substitute language in the ordinance that enabled the designation of local historic districts, while simultaneously protecting the interests and concerns of commercial property owners.

March 2013 - At the **March 14** meeting of the Topeka Landmarks Commission, the ordinance was formally considered, where minor additional changes were recommended. The ordinance was then returned to the Landmarks Commission at their April meeting, where it was unanimously **APPROVED**, and forwarded to the Topeka Planning Commission for their consideration and review.

May 2013 - The ordinance was presented to the Topeka Planning Commission in May of 2013, for informational purposes, only.

June 2013 – The Ordinance was again considered by the Topeka Planning Commission, at which time minor additional changes were recommended.

July 2013 - The proposed revisions were scheduled for a Public Hearing before the Planning Commission at their July 15 Policy Committee meeting, at which time concerns were heard from the public, resulting in additional minor changes.

August 2013 - These changes were subsequently accommodated and returned to the Planning Commission for the continuation of the Public Hearing on **August 26, 2013**. Comments were again received from the public, both in support of and in opposition to the suggested revisions. Following the Public Hearing, the Planning Commission voted to **APPROVE** the revised ordinance by a vote of **9-0-0**.

The following is a specific summary of the major changes proposed within the ordinance.

Significant Changes:

Historic Resources: The proposed ordinance removes the designation of a Historic Resource. The Historic Resource designation was structured to enable the Landmarks Commission to identify and designate qualifying properties as Historic Resources without owner consent. The functional protection this designation imposed on such properties was an automatic 60-day delay in the issuance of a demolition permit. New designations of Historic Resources are being removed with this proposal. All existing designations will remain in effect.

Local Commercial Landmark Districts: The proposed ordinance allows for the designation of local commercial historic landmark districts. The existing ordinance excludes the allowance for a local commercial landmark district, reserving this status only for residential properties. This change preserves the status of the City of Topeka as a Certified Local Government. The current proposal also lowers the property-owner consent threshold from 65% to 60%. A minimum of 3 properties are needed to form a district, and 75% of principle structures must be contributing to the district's character and integrity.

"Opt-Out" Provision: The proposed ordinance removes the unilateral ability of a property owner to "opt –out of a local historic district. At such time a district is established, the process will be initiated by local property owners under criteria established by this ordinance in the same manner in which a change in zoning classification is adopted. Property owners are afforded opportunities to comment on the establishment of a local historic landmark district both prior to, and during the adoption process. District boundaries may be reduced, but only on the perimeter.

Demolition Procedures: The proposed ordinance alters the procedures for the demolition of a local historic landmark. At present, it is the Topeka Landmarks Commission's responsibility to notify a property owner when a local historic landmark is being subjected to demolition by neglect, or is exemplifying conditions that threaten its historic or structural integrity. The notification and enforcement process is proposed to be placed with the City of Topeka's Code Enforcement Unit, until demolition is warranted. At that point in time, the Topeka Landmarks Commission will consider a Certificate of Appropriateness for the building's demolition.

Design Guidelines: The proposed ordinance allows the Topeka Landmarks Commission to adopt and establish appropriate design guidelines to be used for reviews for alterations and new construction within designated local historic districts. These guidelines will be reviewed and adopted along with the zoning overlay that establishes the district, and will be subject to the approval of the Topeka Planning Commission and the Topeka Governing Body.

Design Review Criteria: A definition for “*Design-review Criteria*” was added as the basis for all reviews for the consideration and approval of a Certificate of Appropriateness. Design-review Criteria are specifically identified as the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

Definition of Design Review Guidelines: The definition of “*Design-Review Guidelines*” was modified to reflect their requisite established base as the defined “Design Review Criteria,” hence the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

Certificates of Appropriateness: The protocol for the issuance of a Certificate of Appropriateness is codified as a review based on the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager, concerning Historic Preservation, amending City of Topeka Code §2.60.010, §2.60.020, §18.255.020, §18.255.030, §18.255.040, §18.255.060, §18.255.070, §18.255.090, §18.255.110, §18.255.140, §18.255.160 and § 18.255.170 and specifically repealing said original sections as well as repealing in their entirety §18.255.050, §18.255.080, §18.255.100, §18.255.120; and §18.255.130.

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

Section 1. That section 2.60.010, Topeka landmarks commission – Created, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Topeka landmarks commission – Created.

There is created and established a commission to be known as the “Topeka landmarks commission” ~~of the city of Topeka in place of and instead of the body heretofore known as the Topeka Shawnee County landmarks commission. The Topeka landmarks commission will hereafter be called the “Topeka landmarks commission.”~~

(a) Scope of Duties. ~~The duties of the Topeka landmarks commission are to~~ shall advise the city council on historic assets and ~~to~~ safeguard the architectural and cultural heritage of the community through the preservation of ~~historic resources,~~ historic landmarks and local historic districts. The Topeka landmarks commission may carry out these duties through the identification, documentation and designation of historic ~~assets~~ landmarks; development and implementation of a historic preservation plan; administration of ordinances governing the designation, alteration and removal of historic ~~assets~~ landmarks; assistance with educational and incentive programs,

economic development and tourism, and coordination of public and private historic preservation activities.

(b) Members. The Topeka landmarks commission shall be composed of nine members. The nine members shall be appointed by the mayor with approval of the city council and will serve without compensation. The Topeka landmarks commission membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the commission shall be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas. A minimum of four members shall be preservation related professionals.

(c) Terms. ~~The initial terms of office shall be as follows:~~

One-year terms	Three members
Two-year terms	Three members
Three-year terms	Three members

~~Thereafter, all~~ terms shall be for a three-year period commencing on January 1st and terminating on December 31st, ~~three years hence~~. No member shall serve beyond the end of his or her appointed term. Upon expiration of a term, the position shall remain vacant until a successor is appointed.

(d) Officers. The Topeka landmarks commission shall elect a chairperson and one vice-chairperson from its members.

(e) Meetings. The Topeka landmarks commission shall meet at least once each month, with additional meetings upon call by the chairperson or upon petition of a majority of the members. All meetings shall be open to the public and notification shall be ~~given in the official newspaper~~ provided on the City's website and to those who request notification. Unless otherwise required herein, five members present shall constitute a quorum for the transaction of business.

(f) Ex Officio Members. The following may ~~sit~~ serve on the Topeka landmarks commission as ex officio members:

- (1) The director or designee of the development services office;
- (2) The director or designee of the city planning department.

(g) Jurisdiction. The chapter shall apply to the city of Topeka.

(h) Committees and Subcommittees. The Topeka landmarks commission may establish through its bylaws ~~such committees~~, including a design review committee, as deemed necessary or convenient to carry out the various functions and duties of the commission. Such committees or subcommittees ~~may be made up of part or all of the members of the commission and may include members outside the Topeka landmarks commission~~ any person appointed by the chairperson and may meet upon such schedule and for such purposes as established by the commission.

(i) Staff of the Topeka Landmarks Commission. The Topeka landmarks commission shall receive such staff support as directed by the city administration.

Section 2. That section 2.60.020, Topeka landmarks commission – Functions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Topeka landmarks commission – Functions.

73 The Topeka landmarks commission ~~shall have the~~ may perform the following
74 functions:

75 (a) ~~The Topeka landmarks commission shall familiarize itself with the historic~~
76 ~~assets within the community and those which may be eligible for designation as historic~~
77 ~~resources, historic landmarks or historic districts and shall a~~Administer the identification,
78 documentation and designation of ~~such~~ historic landmarks and local historic districts,
79 and ~~shall present verification of significance to the city planning department, or the city~~
80 ~~council.~~

81 (b) ~~The Topeka landmarks commission, using the criteria identified herein,~~
82 ~~shall d~~Determine whether certain buildings, structures, land areas, and interiors (only for
83 historic landmarks and with owner consent) should be designated as historic landmarks
84 or local historic districts.

85 (c) ~~The Topeka landmarks commission shall a~~Administer certificate of
86 appropriateness reviews according to design criteria as defined review guidelines to
87 determine whether to grant or deny approval of proposed undertakings.

88 (d) ~~The Topeka landmarks commission shall r~~Review and comment on
89 projects which may ~~be determined~~ to pose a threat to ~~an~~ a recorded archaeological site
90 ~~as designated by the Kansas State Historical Office.~~

91 (e) ~~The Topeka landmarks commission may a~~Apply for or suggest sources of
92 funds for preservation, acquisition, and restoration activities ~~for acquisition, to include~~
93 ~~federal, state, municipal, private and foundation sources.~~

94 (f) ~~The Topeka landmarks commission may i~~Implement incentive programs
95 for preservation.

96 (g) ~~If the Topeka landmarks commission finds that certain historic assets~~
 97 ~~cannot be preserved without acquisition, the Topeka landmarks commission may~~
 98 ~~recommend to the city council that the fee or a lesser interest in the property be~~
 99 ~~acquired by gift, or purchase, using funds or facilities available for preservation or~~
 100 ~~restoration.~~Recommend acquisition of historic assets to the council.

101 (h) ~~The Topeka landmarks commission shall annually r~~Review annually the
 102 ~~status of designated historic resources, historic landmarks and local historic districts~~
 103 ~~and include in the Topeka landmarks commission minutes a report of such review.~~

104 (i) ~~The Topeka landmarks commission shall make~~Prepare and adopt a
 105 ~~historic preservation plan as an element for inclusion in the City's comprehensive plan~~
 106 ~~and review and update the plan as needed. The plan may include a list of historic~~
 107 ~~assets.~~resources which may not have attained the status of a historic landmark or as
 108 ~~historic district. Twenty days prior to a historic resource listing determination by the~~
 109 ~~Topeka landmarks commission, the following procedures shall be initiated and~~
 110 ~~administered by the preservation staff:~~

111 (1) ~~Property owners of those sites and structures which are being~~
 112 ~~considered for nomination as historic resources shall be notified of a pending~~
 113 ~~decision to list their property as historic resources.~~

114 (2) ~~Property owners of nominated historic resources shall be provided~~
 115 ~~the opportunity to "agree" or "not agree" with the inclusion of their property in the~~
 116 ~~listing.~~

117 (3) ~~If the owner agrees to the historic resource listing, notice of the~~
 118 ~~"historic resource" listing of a property shall be filed with the register of deeds and~~

~~recorded as an official notice subject to subsequent property owners. If the owner does not agree to the "historic resource" listing, the property shall not be listed as a "historic resource."~~

(j) ~~The Topeka landmarks commission may i~~Implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the city and monitored by the Topeka landmarks commission.

(k) ~~The Topeka landmarks commission may r~~Recommend programs and legislation to the city council to encourage historic preservation.

(l) ~~The Topeka landmarks commission, upon request of the property owner, may a~~Assist in the preparation of national and/or state register nominations, upon request of the property owner.

(m) ~~The Topeka landmarks commission, Upon request of the property owner, may render advice and provide~~ guidance with respect to any proposed work on a historic asset.

(n) Adopt and implement design review guidelines for historic landmarks and local historic districts.

(o) Review nominations of properties within the city proposed for inclusion in the National Register of Historic Places.

Section 3. That section 18.255.020, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

As used in this chapter, the following words, terms and phrases shall have the meanings set out below:

“Appurtenances and environmental setting” includes, but is not limited to walkways and driveways (whether paved or not) fences, gateways, open space and waterways. Interiors of structures are included only ~~when a historic resource is designated a~~ for historic landmarks and the owner consents upon consent of the owner ~~to the addition of the interior of the structure.~~

“Certificate of appropriateness” is the approval ~~given by the Topeka landmarks commission for projects impacting historic landmarks and assets within historic districts~~ of plans for the alteration, construction, removal or demolition of historic landmarks or historic assets located within local historic districts.

“Contributing feature” is a significant building, site, structure, or object which adds to the architectural qualities, historic association, or archeological values of a local historic district because (1) the item was present during the district’s period of significance and (2) possesses significant historic character or is capable of yielding important information about the period of significance.

“Demolition” shall mean any and all activity that requires a demolition permit.

“Demolition by neglect” is the failure to provide ordinary and necessary maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.

“Design-review criteria” are standards identified in the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

163 ~~“Design-review criteria guidelines” is~~ are standards used in addition to the design-
 164 review criteria for issuing a certificate of appropriateness for individual projects or
 165 projects located within national or local historic districts. ~~The criteria shall be based~~
 166 ~~upon the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for~~
 167 ~~Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based~~
 168 ~~upon criteria of the Secretary of the Interior’s Standards as recommended by the~~
 169 ~~Topeka landmarks commission and approved by the respective jurisdiction. Examples~~
 170 ~~illustrating said standards shall be made available by the preservation staff.~~

171 “Historic asset” is a site, land area, building, structure or object, which may also
 172 include appurtenances and environmental setting, which ~~has~~ may have historical,
 173 cultural, aesthetic, architectural and/or archaeological significance but has not been
 174 designated as ~~a historic resource, an~~ historic landmark, ~~or as contributing to a local~~
 175 ~~historic district by the Topeka landmarks commission.~~

176 ~~“Historic district” is a group of residential historic resources, consisting of three or~~
 177 ~~more principal use residential structures or a residentially zoned tract of ground five~~
 178 ~~acres or larger which are significant as a cohesive unit and contribute to the historical,~~
 179 ~~architectural, archaeological or cultural values of the city, county, state, or nation which~~
 180 ~~is so designated by the city council. “Historic district” includes all state and national~~
 181 ~~registered districts, provided the owner(s) of record consents in writing to the inclusion.~~
 182 ~~The historic district may also include appurtenances and environmental setting with~~
 183 ~~written consent from the owner(s) of record.~~

184 “Historic integrity” is the authenticity of a property’s historic identity, evidenced by
 185 the survival of physical characteristics that existed during the property’s prehistoric or

186 historic period. It is a composite of original and historic characteristics, construction,
 187 elements, qualities, design, architectural features, distinctive style, craftsmanship,
 188 composition, color, texture, and other visual characteristics.

189 “Historic landmark” is an historic asset that has been designated, with the written
 190 consent of the owner(s) of record, as having historical, architectural, archaeological, or
 191 cultural importance or value which the city council determines shall be protected,
 192 enhanced and preserved in the interest of the culture, prosperity, education and welfare
 193 of the public. “Historic landmark” may also include the interior of a structure
 194 appurtenances and environmental setting with written consent from the owner(s) of
 195 record. “Historic landmark” includes all state and ~~national~~ nationally registered
 196 structures, provided the owner(s) of record consents in writing to the inclusion.

197 ~~“Historic resource” is a site, land area, building, structure or object, which may~~
 198 ~~also include appurtenances and environmental setting, which has been determined as~~
 199 ~~having historical, cultural, aesthetic, architectural and/or archaeological significance, or~~
 200 ~~is a site, land area, building, structure, or object with potential importance or value.~~

201 “Local historic district” encompasses a group of historic assets, consisting of
 202 three or more buildings, structures or objects which are significant as a cohesive unit
 203 and contribute to the historical, architectural, archaeological or cultural values of the
 204 city, county, state, or nation which is so designated by the city council. The district may
 205 also include appurtenances and environmental setting with written consent from the
 206 owner(s) of record.

207 “Overlay zoning” means any zoning that functions in addition to the existing land
 208 use zoning, as in the case of historic landmark or local historic district zoning.

209 “Period of significance” is the span of time in which a historic landmark or local
 210 historic district attained the significance for which it is designated.

211 “Permit” means authorization whether by administrative action or actions by the
 212 city council and includes a building, demolition, moving, zoning, sign, fence, parking lot,
 213 roofing, sidewalk, siding, or swimming pool permit which is issued by the development
 214 services office.

215 “Preservation plan” means a document developed, adopted and implemented by
 216 the Topeka landmarks commission that identifies trends affecting and impacting historic
 217 assets and provides guidance for their preservation. The preservation plan will include a
 218 list of all ~~historic resources~~, historic landmarks and local historic districts within Topeka.
 219 The preservation plan will be a component of the comprehensive plan for the city.

220 “Preservation program” means the ~~overall~~ program administered by the Topeka
 221 landmarks commission ~~that involves the implementation of~~ implementing the historic
 222 preservation ordinance, the historic preservation plan, and all activities relating to the
 223 furtherance of historic preservation in Topeka.

224 “Preservation staff” means personnel assigned to provide staff services for the
 225 Topeka landmarks commission.

226 Project Classification. For the purpose of the certificate of appropriateness review
 227 procedure, proposed work involving a historic landmark or property within a local
 228 historic district shall be classified as major or minor.

229 (1) “Major projects” include:

230 (i) Any undertaking requiring a ~~permit~~ certificate of
 231 appropriateness ~~on~~ for an historic landmark ~~unless determined minor by~~

the preservation staff; or a structure within a local historic district unless determined minor by preservation staff;

(ii) Any demolition permit or moving permit for any structure listed as an historic landmark or historic asset within a local historic district.

(2) Minor Project. ~~For the purpose of certificate of appropriateness review, a “minor project” is any project~~Any undertaking requiring a ~~permit~~certificate of appropriateness on afor an historic landmark or property within a local historic district that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing. A list of minor projects, which can be reviewed and approved by preservation staff, shall be adopted by the Topeka landmarks commission.

“Uniform Code for Building Conservation” means a national code adopted by the city that provides for more flexible code review for older and historic properties.

Section 4. That section 18.255.030, Historic landmark designation, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Historic landmark; local historic district designation.

The ~~city council~~governing body may designate ~~certain historic assets as~~ historic landmarks or local historic districts by imposing historic overlay zoning. Such ~~designation shall be in addition to any other zoning designation established in the comprehensive zoning regulations of the city and be known as historic overlay zoning.~~ An official register of all historic designations in the city shall be created, and

maintained ~~and filed for public information and use in the office of the city clerk by the~~
planning department.

Section 5. That section 18.255.040, Historic landmark designation criteria, of
 The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Historic landmark or local historic district designation criteria.

(a) Historic landmark. ~~In the designation of buildings, structures and objects
 as historic landmarks or districts certain criteria must be met. These properties must be
 50 years or older. In addition, the property must meet one or more of the following
 criteria~~The governing body may designate an historic asset as an historic landmark if
 the following requirements are met:

(1) The asset is at least 50 years old; and

(2) The asset possesses integrity of location, design, setting, materials
 and workmanship.

(3) In addition to (a)(1) and (a)(2), at least one of the following
 requirements shall be met:

~~(1)~~ (i) Is associated with events that have made a significant contribution
 to the broad pattern of history of the city, county, state or nation;

~~(2)~~ (ii) Is associated with a significant person or group of persons in the
 history of the city, county, state or nation;

~~(3)~~ (iii) Embodies distinctive characteristics of a type, period, or method of
 construction; represents the work of a master builder/architect; possesses high
 artistic values; or represents a distinguishable entity whose components may
 lack individual distinction; or

(4) (iv) Yields or is likely to yield information important in prehistory or history; or

(5) ~~Possesses integrity of location, design, setting, materials and workmanship.~~

(b) Local historic district. ~~Properties less than 50 years old may be eligible for designation, provided they are of extreme historical significance. All other criteria listed herein shall apply. The governing body may designate an area as a local historic district if at least seventy-five percent (75%) of the structures within the district boundaries are of architectural, historical, or cultural importance or value and are classified as contributing features.~~

Section 6. That section 18.255.050, Historic district designation criteria, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Historic district designation criteria.~~

~~(a) In the designation of buildings, structures and objects as historic districts certain criteria must be met. The historic assets within the historic district must be located on residentially zoned property and must be 50 or more years old. In addition, the historic assets must meet one or more of the following criteria:~~

~~(1) Are associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;~~

~~(2) Are associated with a significant person or group of persons in the history of the city, county, state or nation;~~

~~(3) Embody distinctive characteristics of a type, period, or method of construction; represent the work of a master builder/architect; possess high artistic~~

values; or represent a distinguishable entity whose components may lack individual distinction;

(4) Yield or are likely to yield information in prehistory or history; or

(5) Possess integrity of location, design, settings, materials and workmanship.

(b) The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one or more of the above criteria; provided, that at least 75 percent of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Topeka landmarks commission.

Section 7. That section 18.255.060, Nomination, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Historic landmark or local historic district Nnomination process.

(a) Nomination. The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Topeka landmarks commission. Copies of the nomination form shall be retained by the city clerk, and the city planning department. Any owner of an historic asset may nominate such asset as an historic landmark. Any person may nominate an area within the city as a local historic district in accordance with this section. The nomination form shall include The applicant shall supply the following information on a form provided by the planning department:

(1) A description of the specific historic asset nominated as an historic landmark or a list of specific historic assets located within the proposed district boundaries and a description of the particular importance or value of each such historic assets, such description to include the following:

(i) A brief property history, including approximate date of construction, and dates of major alterations, if known;

(ii) Builder and/or architect, if known;

(iii) Architectural style;

(iv) Primary building materials;

(v) Current owner of record; and

(vi) Legal description of each property;

(2) A map showing the boundaries of the proposed historic landmark or local historic district and the location of each asset of importance or value identified by a number or letter designation;

(3) Sufficient photographs of each historic asset proposed as an historic landmark or ~~historic assets~~ listed within the ~~historic~~ proposed local historic district;

(4) Written consent to the nomination by all of the owners of record of the proposed historic landmark. In the event of a contract sale, both the owner of record and the party or parties holding an equitable interest in the property must consent to the nomination; and

(5) For a local historic district, ~~65 percent of the owners of record within the proposed historic district must provide written consent~~ of at least sixty (60%)

of the properties within the proposed district shall submit written consents to the nomination. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the nomination.

(6) For a local historic district, proposed design review guidelines pursuant to section 18.255.090.

(b) Increasing boundaries; local historic district. Applications to increase the boundaries of a local historic district may be ~~made~~considered if one or more of the following conditions are met:

(1) ~~When~~ An additional historic assets which relates and is contiguous to the local historic district ~~are~~ is requested for inclusion by its property owner;

(2) Two or more historic assets or historic landmarks would be included in the expanded local historic district and at least sixty (60%) of the owners of record within the proposed expansion area submit written consents.

~~(2) (3) When facts previously undisclosed to or unknown by a property owner makes application and provides information to the Topeka landmarks commission are revealed~~ which indicates that a particular building or site is ~~possessed of~~ on the property possesses special architectural, archaeological, or cultural character, ~~or economic viability~~ value to the district.

(c) Consideration by Topeka landmarks commission. ~~Applications to reduce the boundaries of a historic district may be made when one or more of the following conditions have been met;~~Upon determination by the planning director that the

368 nomination application is sufficient, the director may submit the nomination to the
369 Topeka landmarks commission.

370 ~~(1) When it can be shown that a particular building, structure, site,~~
371 ~~object or land area has no historic, architectural, archaeological, or cultural~~
372 ~~importance or value to the viability of the historic district;~~

373 ~~(2) When it can be shown that no physical, historical, architectural,~~
374 ~~archaeological or cultural degradation will result from exclusion of property from~~
375 ~~the district.~~

376 (d) Notification. Upon receipt of such nomination, the Topeka landmarks
377 commission shall consider the nomination at a meeting, provided that notice shall be
378 mailed at least twenty (20) days prior to the meeting to the owner(s) of record of any
379 parcel upon which a proposed historic landmark is situated or which is part of a
380 proposed local historic district.

381 (e) Meeting; landmarks commission. The Topeka landmarks commission may
382 solicit expert testimony regarding the historic and architectural importance of the historic
383 assets(s) under consideration for designation. All interested persons may appear in
384 person or by representative and present evidence or comment. A majority of those
385 members who are present may approve or deny the application. If the application is
386 approved, the commission shall request that the planning commission recommend to
387 the governing body the imposition of historic overlay zoning, as appropriate. If the
388 application is denied, the decision will be deemed a final order for purposes of appeal to
389 the district court pursuant to K.S.A. 60-2101 and amendments thereto.

(f) Historic overlay zoning. The planning commission and governing body shall consider whether to impose historic overlay zoning in accordance with state law and chapter 18.245 of the code governing rezoning. Upon passage of an ordinance, the city clerk shall file a certified copy with the Shawnee County register of deeds.

Section 8. That section 18.255.070, Historic district exemptions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Historic landmark or district exemptionsdenomination process.

~~Within 30 days of approval of a historic district by the city council, property owners located within the district may elect to exempt their property from the requirements of the historic district by providing written notice of the self-exemption to the preservation staff. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the exemption. The property shall automatically convert to the historic overlay zoning district upon sale of the property, including a contract sale.~~

(a) Applications to denominate an historic landmark or local historic district and/or reduce the district's perimeter may be made when both conditions have been met:

(1) A landmark, building, structure, site, or object within the district has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district; and

(2) Seventy-five percent (75%) of the owners of record of the buildings within the historic district provide written consent to the denomination of the local historic district.

(b) Upon receipt of such application, the Topeka landmarks commission shall consider the application at a meeting, provided that notice shall be mailed at least twenty (20) days prior to the meeting to the owner(s) of record of any parcel upon which the historic landmark is situated or which is part of the local historic district. All interested persons may appear in person or by representative and comment. A majority of those members present may approve or deny the denomination application. If the application is approved, the commission shall request that the planning commission recommend to the governing body the removal of historic overlay zoning. If the application is denied, the decision will be deemed a final order for purposes of appeal to the district court pursuant to K.S.A. 60-2101 and amendments thereto.

(c) Historic overlay zoning. The planning commission and governing body shall consider whether to remove historic overlay zoning in accordance with state law and chapter 18.245 of the code governing rezoning. Upon passage of an ordinance, the city clerk shall file a certified copy with the Shawnee County register of deeds.

Section 9. That section 18.255.080, Procedure for designation of historic landmark and historic district, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~Procedure for historic landmark and historic district~~

~~An application for historic landmark and residential historic district designation requires the following procedures:~~

~~(a) A historic landmark or historic district nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to the city planning department.~~

~~(b) Upon receipt of such nomination, a hearing by the Topeka landmarks commission will be scheduled either at its regular meeting or at a special meeting; provided, that notice of the meeting shall be published 20 days prior to the date of such hearing. For purposes of holding a hearing to consider designation of a historic landmark or historic district, five members of the Topeka landmarks commission shall constitute a quorum. The owner or owners of record of any parcel on which a proposed historic landmark is situated or which is a part of a proposed historic district shall be mailed written notice at least 20 days prior to the hearing relating to the designation of such proposed historic landmark or historic district, the amendment to any designation thereof, or the proposed reduction of any designation or the amendment thereto. Owner(s) consent to the historic landmark or historic district designation is a requirement for such designation to occur. The Topeka landmarks commission shall afford a full and fair hearing to all interested persons. The Topeka landmarks commission may solicit expert testimony regarding the historic and architectural importance of the historic asset(s) under consideration for designation. All interested persons may appear in person or by representative and present evidence or comment. The Topeka landmarks commission shall make its decision regarding the designation within a reasonable time, no later than 15 days following the close of the hearing. In the event a member of the Topeka landmarks commission shall make application, evidence shall be presented in the same manner as all other persons and the Topeka landmarks commission member shall not vote on the matter contained in the application. Five affirmative votes shall be required to constitute a recommendation of approval on any nomination application presented to the Topeka landmarks commission.~~

~~(c) After consideration and recommendation by the Topeka landmarks commission, the application shall be submitted to the city planning department. The following is required as part of the designation application:~~

- ~~(1) The Topeka landmarks commission recommendation;~~
- ~~(2) Legal description and map of the boundaries of the proposed designation;~~
- ~~(3) Completed historic landmark or historic district nomination form and accompanying materials;~~
- ~~(4) Applicable historic district preservation guidelines as defined herein; and~~
- ~~(5) A list of property owner(s) of record.~~

~~(d) The designation shall be placed on the Topeka planning commission agenda for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a 200 foot radius in the city will be notified of the hearing. At the conclusion of its hearing, the Topeka planning commission shall set forth in writing its findings as to whether the designation is consistent with adopted plans and shall transmit such findings to the city council.~~

~~(e) After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by ordinance by the city council. Upon passage of such ordinance a certified copy shall be filed with the Shawnee County register of deeds.~~

~~(f) Upon approval of a historic landmark or historic district designation ordinance by the city council, the city planning department shall cause the official designation and delineation of the property or properties involved.~~

Section 10. That section 18.255.090, Historic district preservation guidelines, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Historic district preservation~~Design-review guidelines.

~~Preservation guidelines for a proposed historic district shall be submitted with a nomination application. The district preservation guidelines shall not apply to the interior of commercial structures. Further, the district guidelines shall include, but not be limited to, the following:~~

~~(a) Guidelines for those seeking a certificate of appropriateness including, but not limited to, the following~~Design review guidelines for each local historic district shall address the following:

(1) Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;

(2) Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;

(3) Acceptable appurtenances to the structures;

(4) Acceptable textures and ornamentation to the exterior of the structures;

(5) Acceptable accessories on structures;

(6) Such other building regulations which would have impact on the

buildings;

(7) Acceptable standards for changes to noncontributing resources

within the district; and

(8) Acceptable signage.

~~(b) Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks.~~ The Topeka landmarks commission shall make available the proposed design review guidelines to each owner of record in a proposed local historic district prior to consideration by the landmarks commission.

Section 11. That section 18.255.100, Historic district designation administrative requirements, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Historic district designation administrative requirements~~

~~The following shall apply:~~

~~(a) When the Topeka landmarks commission considers an area as a possible historic district, the Topeka landmarks commission shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate city departments and other public agencies directly affected.~~

~~(b) In addition, the Topeka landmarks commission shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.~~

~~(c) The Topeka landmarks commission approved graphics for designated historic assets within a historic district may be made available to the owners of designated structures.~~

Section 12. That section 18.255.110, Certificate of appropriateness review, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Certificate of appropriateness review.

~~The following procedures and requirements shall apply to certificate of appropriateness review:~~

~~(a) A permit for any project as defined herein affecting a designated historic landmark or any property within a designated historic district shall not be issued to any applicant by the development services office unless an application for a certificate of appropriateness has first been reviewed and approved by the preservation staff, by the Topeka landmarks commission and, if a protest is filed, by the city council. Projects not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a certificate of appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic asset which is located within a historic district shall be subject to a certificate of appropriateness review.~~

~~(b) When applying for a certificate of appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Topeka landmarks commission's adopted application forms. A complete certificate of appropriateness application and accompanying materials shall be submitted to the~~

546 ~~preservation staff for review of the application and determination if the proposed work is~~
547 ~~a major or minor project.~~

548 ~~(c) The Topeka landmarks commission shall review the application and recommend~~
549 ~~approval, approval with conditions, or denial within 30 days of the receipt of the~~
550 ~~application. A 15 day period for written comments regarding the project shall be~~
551 ~~provided prior to the Topeka landmarks commission's hearing. These written comments~~
552 ~~shall be directed to the Topeka landmarks commission. If approved, and provided that a~~
553 ~~protest is not filed within five business days, preservation staff shall issue a copy of the~~
554 ~~certificate of appropriateness to the applicant and provide a copy to the development~~
555 ~~services office and the applicant. If an appeal is filed by the applicant or any interested~~
556 ~~party with the preservation staff within five business days of the Topeka landmarks~~
557 ~~commission's action, the certificate of appropriateness shall not be issued until the city~~
558 ~~council holds a public hearing regarding the application. This public hearing shall be at~~
559 ~~the next available meeting of the city council. For the purpose of this section, interested~~
560 ~~party shall mean an individual or individuals with a legally recognized interest in the real~~
561 ~~property located within the subject historic district.~~

562 ~~(d) A certificate of appropriateness for a minor project shall be reviewed and approved~~
563 ~~or denied by the preservation staff. If approved, the preservation staff shall provide a~~
564 ~~certificate of appropriateness to the applicant and provide a copy of documented~~
565 ~~approval to the development services office. An appeal from a denial of an application~~
566 ~~for a minor project may be filed with the preservation staff within five business days. A~~
567 ~~public hearing on the appeal shall be at the next available meeting of the city council.~~

~~(e) Ordinary maintenance and repair not otherwise subject to a permit or restricted by the historic preservation guidelines may be carried out without a certificate of appropriateness.~~

~~(f) If no action has been taken by the preservation staff and/or the Topeka landmarks commission within 30 days for major projects and within 15 days for minor projects after date of receipt of the completed application, the permit may be applied for with the development services office.~~

~~(g) No significant change shall be made in the work defined in the certificate of appropriateness application after issuance of a certificate of appropriateness without resubmittal and approval thereof in the same manner provided herein.~~

~~(h) A certificate of appropriateness may be refiled, provided the request addresses the concerns stated by the city council in its denial.~~

(a) Each person who intends to alter, construct, remove or demolish an historic landmark or an historic asset located within a local historic district shall apply for a certificate of appropriateness on a form provided by the planning department. A certificate is not required for maintenance and repair not requiring a permit or restricted by design review guidelines.

(b) Preservation staff shall review the application and determine whether the project is a major or minor project, as defined in section 18.255.020.

(c) If the project is determined to be minor, preservation staff may approve or deny the application, based on the Secretary of the Interior's Standards for the Treatment of Historic Properties, within 30 days of receipt of a complete application. If the application is denied, the applicant may request a review by the planning director,

591 within five business days from the date of denial. If the planning director affirms the
 592 denial, based on the Secretary of the Interior's Standards for the Treatment of Historic
 593 Properties, the applicant may request a review by the Topeka landmarks commission
 594 which will determine, based on the Secretary of the Interior's Standards for the
 595 Treatment of Historic Properties, whether to affirm, reject, or modify the planning
 596 director's decision. The commission's decision shall be a final order for purposes of
 597 appeal to the district court pursuant to K.S.A. 60-2101 and amendments thereto.

598 (d) If the project is determined to be major, the Topeka landmarks
 599 commission shall consider the application within 30 days of receipt of a complete
 600 application. The commission may approve, approve with conditions, or deny the
 601 certificate based upon applicable design review criteria or design review guidelines.
 602 The commission's decision shall be a final order for purposes of appeal to the district
 603 court pursuant to K.S.A. 60-2101 and amendments thereto. Depending upon the nature
 604 of the project, the commission may request that the planning commission initiate the
 605 removal of historic overlay zoning.

606 Section 13. That section 18.255.120, Historic landmark and historic
 607 district demolition and moving permits, of The Code of the City of Topeka, Kansas, is
 608 hereby repealed:

609 **~~Historic landmark and historic district demolition and moving permits.~~**

610 ~~(a) If an application is received by the development services office for~~
 611 ~~demolition or moving of any historic landmark or structure within a historic district the~~
 612 ~~applicant shall be referred to the preservation staff for a certificate of appropriateness~~

613 application. Review of such application for a certificate of appropriateness shall be as
614 provided herein.

615 (b) ~~For a project which involves demolition of a historic landmark property or~~
616 ~~properties within a historic district the proponents of such project shall, before doing any~~
617 ~~of the demolition or work in furtherance of such project, whether or not a building or~~
618 ~~other permit is required to be obtained to do such demolition work, file an application for~~
619 ~~a certificate of appropriateness for review as provided herein.~~

620 (c) ~~After review of certificate of appropriateness and, upon the~~
621 ~~recommendation of the Topeka landmarks commission and the Topeka planning~~
622 ~~commission, the city council shall hold a hearing within 30 days of the Topeka~~
623 ~~landmarks commission's recommendation. In addition to the recommendation of the~~
624 ~~Topeka landmarks commission, the city council shall consider the state of repair of the~~
625 ~~building, the reasonableness of the cost of restoration or repair, owner hardship, the~~
626 ~~purpose of preserving the designated historic landmark or structure within a historic~~
627 ~~district, alternatives presented by interested parties, the character of the neighborhood,~~
628 ~~the economic consequences to the city and the affected owner(s), and all other factors~~
629 ~~which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the~~
630 ~~structure within the historic district shall bear the burden of proof demonstrating~~
631 ~~hardship.~~

632 (d) ~~The city council may approve the certificate of appropriateness or deny~~
633 ~~the certificate of appropriateness if it determines that feasible alternatives to demolition~~
634 ~~or moving of the historic landmark or structure within the historic district exist and that in~~

~~the interest of preserving historical values, the historic landmark or structure within the historic district should not be demolished or moved.~~

~~(e) In the event of an "emergency" demolition of a historic landmark or a structure within a historic district, the development services office shall notify the preservation staff as soon as possible.~~

Section 14. That section 18.255.130, Review of demolition buildings and moving permits for historic resources, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~Review of demolition buildings and moving permits historic resources.~~

~~An application to the development services office for a demolition or moving permit shall require notification to preservation staff if the permit is for a historic resource determined by preservation staff to have potential for landmark designation. These resources shall be 50 years or older and meet one or more of the criteria for landmark designation described herein. The following procedure applies:~~

~~(a) Demolition and moving permit applications for buildings or structures listed as historic resources will be reviewed by preservation staff.~~

~~(b) Preservation staff may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.~~

~~(c) If a building, site or structure is determined by the preservation staff to meet criteria for historic landmark designation a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries~~

~~and justification of its historic or architectural significance. The notice shall also be delivered to the development services office with acknowledgment of receipt by the development services office.~~

~~(d) Following application for a moving or demolition permit for a listed historic resource, a 90 day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by the Topeka landmarks commission staff.~~

~~(e) During such period, no permit shall be issued unless for emergency public safety reasons, or a certificate of appropriateness has been issued.~~

~~(f) After the delay, if demolition of the historic resource is the conclusive alternative of the Topeka landmarks commission, the Topeka landmarks commission shall direct staff to document the resource with photography, and/or measured drawings for record purposes.~~

Section 15. That section 18.255.140, Historic landmark and historic district demolition by neglect, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Historic landmark and historic district Demolition by neglect.~~

~~In the event of demolition by neglect of a historic landmark or structure within a historic district on public or private property, the following provisions shall apply:~~

~~(a) If a historic landmark or a property within a historic district has been determined by the Topeka landmarks commission to be the subject of demolition by neglect, the Topeka landmarks commission or preservation staff shall provide the owner of record with a written notice specifying the conditions of deterioration and the~~

681 ~~minimum items of repair or maintenance necessary to correct or prevent further~~
 682 ~~deterioration. The Topeka landmarks commission may grant a certificate of~~
 683 ~~appropriateness to demolish an historic landmark or a structure within a local historic~~
 684 ~~district on the basis of neglect if the procedures set forth in Chapter 8.75 TMC have~~
 685 ~~been followed and the property owner has failed to pursue corrective action within the~~
 686 ~~time allotted.~~

687 ~~(b) Such notice shall be sent by certified mail, return receipt requested,~~
 688 ~~addressed to the owner of the property, contract purchaser, if applicable, at his or her~~
 689 ~~last known address, or the address shown on the real property tax records in the clerk's~~
 690 ~~office of Shawnee County, Kansas. Such notice, when so addressed and deposited with~~
 691 ~~the United States Postal Service with proper postage prepaid, shall be deemed~~
 692 ~~complete and sufficient. In the event that notification cannot be accomplished, as~~
 693 ~~aforesaid, after reasonable efforts, notice shall be accomplished by posting a public~~
 694 ~~notice on the property. A copy shall also be provided to the development services office.~~

695 ~~(c) The notice shall provide that corrective action shall commence no later~~
 696 ~~than 30 days from the receipt or posting of said notice, unless an extension is granted~~
 697 ~~by the Topeka landmarks commission. The owner or contract purchaser, if applicable,~~
 698 ~~shall demonstrate continual progress and all repairs shall be completed within a~~
 699 ~~reasonable period of time. The notice shall state that the owner(s) of record of the~~
 700 ~~subject property may within 10 days request a hearing before the Topeka landmarks~~
 701 ~~commission challenging the finding of demolition by neglect and/or the notice to repair.~~
 702 ~~If such request for a hearing is received within this time period, a hearing will be at the~~

next regular meeting of the Topeka landmarks commission. The Topeka landmarks commission shall review all evidence of demolition by neglect at the scheduled hearing.

~~(d) In the event that the Topeka landmarks commission finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the commission shall establish a period of 45 days and direct preservation staff to seek alternative methods to preserve the historic landmark or property located within a historic district.~~

~~(e) If no alternative is found to preserve the structure without undue hardship to the owner, and any or all persons with any right or title in the subject property and the structure is determined a threat to human safety and is in violation of city code, a demolition permit may be issued.~~

Section 16. That section 18.255.160, Concurrent use of Topeka landmarks commission by the county commission, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows.

Concurrent use of Topeka landmarks commission by the county commission.

(a) The county commission, at its sole option, may seek the advice and assistance of the Topeka landmarks commission on designating and preserving historic assets, ~~historic resources~~ and historic districts located in Shawnee County.

(b) In the event the county commission seeks the advice and assistance of the Topeka landmarks commission, it shall receive such county staff support as directed and supplied by the county administration.

(c) The Topeka landmarks commission may be used by the county commission ~~for the to recommend~~ designation of historic landmarks or districts located in the county ~~according to procedures and criteria established by the county commission.~~

(d) The county commission may rely upon the Topeka landmarks commission for assistance in establishing historic preservation guidelines ~~according to the criteria, standards, and factors specified by the county commission.~~

(e) The county commission may seek the recommendation of the Topeka landmarks commission on the demolition or issuance of a moving permit for a historic landmark ~~or historic district~~ located in the county ~~according to such procedures and criteria established by the county commission.~~

Section 17. That section 18.255.170, Continuation of existing designation, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Continuation of existing designation.

Nothing contained in this section shall eliminate, change, or otherwise affect the existing designation of an historic landmark, local historic district or an historic resource in the city of Topeka or Shawnee County which was originally made by the Topeka-Shawnee County landmarks commission. Any such ~~historic landmark or resource~~ designation shall remain in force and effect.

Section 18. That original §2.60.010, §2.60.020, §18.255.020, §18.255.030, §18.255.040, § 18.255.050, §18.255.060, §18.255.070, §18.255.080, §18.255.090, §18.255.100, §18.255.110, §18.255.120, §18.255.130, §18.255.140, § 18.255.160 and § 18.255.170 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

749 Section 19. This ordinance shall take effect and be in force from and after its
750 passage, approval and publication in the official City newspaper.

751 Section 20. This ordinance shall supersede all ordinances, resolutions or rules,
752 or portions thereof, which are in conflict with the provisions of this ordinance.

753 Section 21. Should any section, clause or phrase of this ordinance be declared
754 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
755 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

756 PASSED AND APPROVED by the Governing Body on _____.

757
758 CITY OF TOPEKA, KANSAS

759
760
761
762
763 _____
764 William W. Bunten, Mayor

765 ATTEST:

766
767
768 _____
769 Brenda Younger, City Clerk

SUMMARY OF PROPOSED CHANGES TO THE CITY OF TOPEKA HISTORIC PRESERVATION ORDINANCE

Significant Changes:

Historic Resources: The proposed ordinance removes the designation of a Historic Resource. The Historic Resource designation was structured to enable the Landmarks Commission to identify and designate qualifying properties as Historic Resources without owner consent. The functional protection this designation imposed on such properties was an automatic 60-day delay in the issuance of a demolition permit. New designations of Historic Resources are being removed with this proposal. All existing designations will remain in effect.

Local Commercial Landmark Districts: The proposed ordinance allows for the designation of local commercial historic landmark districts. The existing ordinance excludes the allowance for a local commercial landmark district, reserving this status only for residential properties. This change preserves the status of the City of Topeka as a Certified Local Government. The current proposal also lowers the property-owner consent threshold from 65% to 60%. A minimum of 3 properties are needed to form a district, and 75% of principle structures must be contributing to the district's character and integrity.

"Opt-Out" Provision: The proposed ordinance removes the unilateral ability of a property owner to "opt-out" of a local historic district. At such time a district is established, the process will be initiated by local property owners under criteria established by this ordinance in the same manner in which a change in zoning classification is adopted. Property owners are afforded opportunities to comment on the establishment of a local historic landmark district both prior to, and during the adoption process. District boundaries may be reduced, but only on the perimeter.

Demolition Procedures: The proposed ordinance alters the procedures for the demolition of a local historic landmark. At present, it is the Topeka Landmarks Commission's responsibility to notify a property owner when a local historic landmark is being subjected to demolition by neglect, or is exemplifying conditions that threaten its historic or structural integrity. The notification and enforcement process is proposed to be placed with the City of Topeka's Code Enforcement Unit, until demolition is warranted. At that point in time, the Topeka Landmarks Commission will consider a Certificate of Appropriateness for the building's demolition.

Design Guidelines: The proposed ordinance allows the Topeka Landmarks Commission to adopt and establish appropriate design guidelines to be used for reviews for alterations and new construction within designated local historic districts. These guidelines will be reviewed and adopted along with the zoning overlay that establishes the district, and will be subject to the approval of the Topeka Planning Commission.

Additional Changes post 7-29, 2013: A definition for "*Design-review Criteria*" was added as the basis for all reviews for the consideration and approval of a Certificate of Appropriateness. Design-review Criteria are specifically identified as the Secretary of the Interior's Standards for the Treatment of Historic Properties.

The definition of "*Design-Review Guidelines*" was modified to reflect their requisite established base as the defined "Design Review Criteria," hence the Secretary of the Interior's Standards for the Treatment of Historic Properties.

The protocol for the issuance of a Certificate of Appropriateness is codified as a review based on the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Specific Changes:

P 1, Lines 19-21	Removes language referencing the Topeka-Shawnee County Landmarks Commission, in favor of the Topeka Landmarks Commission.
P 1, Lines 22-29	Clarifies the purpose and activities of the Topeka Landmarks Commission.
P 2, Lines 42-47	Re-establishes the appointments and terms of Commissioners to the Landmarks Commission.
P 3, Line 53	Clarifies official requirements for public notification.
P 3, Lines 64-66	Clarifies the establishment of Topeka Landmarks Commission committees and sub-committees. Non-members may be appointed.
P 4, P 5, P 6	Clarifies the specific duties and obligations of the Topeka Landmarks Commission.
Lines 75-84	Specifies the actions of the Commission relative to the recognition of historic landmarks and local historic districts.
Lines 85-87	Certificate of Appropriateness reviews are tied to “review guidelines,” rather than the current “design criteria.”
Lines 88-90	Allows review for threats only to recorded archeological sites.
Lines 91-93	Clarifies the Commission’s role in suggestions for sources for funding for preservation activities.
Lines 94-95	Simplifies language for the implementation of preservation programs.
Lines 96-100	Alters language concerning the recommendation of acquisition of historic assets to the City Council.
Lines 101-103	Clarifies the annual review of historic landmarks and local historic districts; deletes “historic resources.”
Lines 104-121	Alters the language concerning the Commissions role in preparing and adopting the historic preservation plan as an element of the City’s comprehensive plan. Removes the ability to designate and record historic “resources”.
Lines 122-125	Clarifies the receivership abilities for conservation easement donations.
Lines 126-127	Simplifies language relative to recommendations on programs and legislation to the City Council.
Lines 128-130	Assists only those property owners who request assistance when nominating properties for state or national historic registers.
Lines 131-133	Simplifies language relative to the provision of guidance and advice specific to proposed work on an historic property.

Lines 134-135	New language enabling the adoption and implementation of design review guidelines.
Lines 136-137	New language authorizing the review and comment on properties that have been nominated for inclusion on the National or State Registers of Historic Places.
P 7-11 Definitions	Numerous changes to definitions contained within the historic preservation ordinance.
Lines 145-147	Clarifies the definition of “Appurtenances and environmental setting,” by requiring owner consent for the interior of structures of historic landmarks.
Lines 148-151	Clarifies the definition of “Certificate of Appropriateness.”
Lines 152-156	New definition of “contributing feature.”
Lines 161-167	<u>Establishes the definition of “Design-Review Criteria” as those based within the Secretary of the Interior’s Standards for the Treatment of Historic Properties. “Design-review guidelines” are defined as additional standards, also based on the defined “Design-review Criteria.”</u>
Lines 168-172	Modifies the definition of “Historic Asset.” Deletes “historic resource.”
Lines 173-180	Removes language defining a “historic district.”
Lines 181-185	Adds language defining “historic integrity.”
Lines 194-197	Deletes “historic resource.”
Lines 198-203	New definition of “local historic district.” Replaces “historic district.”
Lines 206-207	Adds language defining “Period of Significance.”
Line 215	Removes “historic resource” from the definition of “Preservation plan.”
Line 218	Simplifies the language relative the implementing the ordinance within the definition of “Preservation program.”
Lines 227-230	Modifies the language relative to “Major projects.”
Lines 234-241	Modifies the language relative to “Minor projects.”
Lines 246-250	Authorizes designation of historic landmarks and local historic districts.
Lines 251-253	Designates the Planning Department as the official register of historic landmarks within the City of Topeka, rather than the City Clerk.
P 12, Lines 256-266	Designation criteria for historic landmarks and local historic districts.
P 12, Lines 267-276	Minor changes in code numeration.

P 13, Lines 277-278	Deletes duplicative criteria for Landmark designation.
P 13, Lines 279-284	Clarifies the requirements for the establishment of a local historic district.
P 13, Lines 285-306	Repeals "Historic district design criteria." Replaced by process in lines 256-282.
P 14, Lines 310-334	Creates nomination process for historic landmarks and local historic districts.
P 15, Lines 339-342	Reduces the threshold for local district consideration from 65% owner consent to 60% owner consent. Requires the submission of proposed design review guidelines.
P 16, Lines 345-369	Modifies the process for the alteration, addition, or the reduction in boundaries to a local historic district.
P 16, Lines 357-358	Requires property owner consent in filing an application for increasing the boundaries of a local historic district.
P 17, Lines 370-374	Added language regarding the public notice of Commission consideration of a nominated local landmark or local historic district.
P 17, Lines 375-386	Added language regarding Commission consideration for a nominated landmark or local historic district.
P 18, Lines 384-387	Planning Commission and Governing Body review of historic overlay zoning for local landmarks and local historic districts. Ordinance recorded with the Shawnee County Register of Deeds.
P 18, Line 395-397	Eliminates the ability to exempt a property from a Landmark District.
P 18, Lines 398-420	Establishes the protocol for denomination for a landmark or a local historic district.
P 18, Line 402	Minor clarification for landmark denomination or district perimeter reductions.
P 19, Lines 421-477	Repeals the provision for nomination and approval of a landmark or a local historic district. New process in lines 309-387.
P 22, Lines 486-506	Modifies the language relative to the establishment and use of Design-Review guidelines for individual properties and local historic districts.
P 23, Lines 507-520	Repeals historic district designation administrative requirements.
P 23, Lines 523-596	Modifies Certificate of Appropriateness review, beginning on line 574.
P 27, Lines 597-599	Repeals demolition and moving permits for landmarks and historic districts.
P 26, Lines 588-601	<u>Establishes the Secretary of the Interior's Standards for the Treatment of Historic Properties as the basis for review for the issuance of a Certificate of Appropriateness.</u>

- P28, Lines 631-633** Repeals demolition and moving permits for historic resources.
- P 29, Lines 665-677** Changes the process for demolition by neglect. Places responsibility with Code Enforcement.
- P 32, Lines 709-726** Modifies the language enabling the use of the Landmarks Commission by Shawnee County.

MINUTES OF THE TOPEKA LANDMARKS COMMISSION
Thursday, March 14
620 SE MADISON STREET – HOLLIDAY CONFERENCE ROOM

- I. Roll Call:**
 - **Members Present:** Chair Pete Gierer, Lonnie Martin, Leon Graves, Bryan Caskey, Murl Reidel, Zac Snethen, Grant Sourk, Mark Tyree, (8)
 - **Members Absent:**, Amber Bonnett
 - **Staff Present:** Tim Paris
- II. Approval of January 10, 2013 Minutes** - Leon Graves corrected the minutes to reflect the addition of the street name in a case heard before the Commission the previous month. Mark Tyree moved the approval of the minutes as corrected, seconded by Zac Snethen. The minutes were **APPROVED** by a vote of **7-0-0**. Grant Sourk was not present for the vote.
- III. Welcome to New Member** –Pete Gierer welcomed Bryan Caskey to the Landmarks Commission. Each Commission member introduced themselves.
- IV. Discussion of Proposed Changes to the Historic Preservation Ordinance** – Tim Paris distributed a line-by-line explanation of the changes being proposed within the historic preservation ordinance, offering the Commission the option of reviewing each change individually, or addressing specific questions from Commissioner's, and the public, with regard to the ordinance, as a whole. The Commission opted to address the changes via specific questions that they each had formed through a precursory reading of the ordinance. Suggestions were offered for several changes by the Commission and by Christy Caldwell, representing the Greater Topeka Chamber of Commerce. Each suggestion was agreed to by the Commission, and were recorded by Mary Feighny, Deputy City Attorney. It was further agreed by the Commission, Ms. Feighny, and Ms. Caldwell that Ms. Feighny would make the suggested changes with the intent to redistribute the revisions back to the Commission for their approval at their April meeting.
- V. Update on State Legislation Concerning Historic Preservation** – Mr. Paris asked Ms. Caldwell for an impromptu update on State legislation affecting historic preservation, specifically legislation to repeal the State Environs Statute, and the reduction of the Kansas income tax. Ms. Caldwell responded that variations of each piece of legislation had passed through Committees, and the Environs repeal had passed the full House of Representatives, but had not yet been considered by the Senate. She further stated that, with regards to the deduction of the State income tax, that the Governor's proposals had cleared the House of Representatives, but was being met with resistance in the Senate. Mr. Paris then offered for the Commission's consideration HB 2075, which would expand the powers of cities throughout Kansas, or their designated and qualified non-profit organizations, to petition District Court to gain temporary possession of abandoned properties, or properties that have a demonstrated history of neglect, code violations, or that present a blighting influence on their surrounding area. The purpose of the temporary possession would be to correct the violations, remove the blighting influence, and then place the property back into private possession. Bryan Caskey noted that the legislation had not been brought up for a vote within the Senate, but that time still remained for its consideration.
- VI. Discussion of Progress on the Historic Preservation Plan** – Mr. Paris reported on the second visit by Heritage Strategies, and the conduct of three separate focus group meetings, a meeting of the steering committee, and the second public meeting, all held the previous week. Mr. paris reported that attendance at all of the meetings was exceptional, and that contributions by everyone in attendance at each meeting was proving to be invaluable to the consultants as they gather all of the information they need to begin assembling the plan. Mr. Paris reported that a third visit by Heritage Strategies was tentatively scheduled for the last week of April, at which time a set of proposed goals and strategies

would be presented for formal feedback by the public, the Steering Committee, and the Landmarks Commission.

VII. Presentation by Deborah Edwards on the exterior Renovation of 419 SW Taylor Street, boyhood home to Langston Hughes – Deborah Edwards, owner of the home at 419 SW Taylor Street, and which is a registered Local Historic Landmark, presented a slideshow for the Commissioners on the recent exterior renovation of her front porch. During the renovation, Ms. Edwards discovered an original turned spindle column underneath a surrounding column façade erected during a previous reconstruction of the porch. The finished renovation presented by Ms. Edwards consisted of a tiled porch, a newly constructed atrium at the front door, and also a custom designed accessibility ramp to avoid the new concrete steps that were also added with the renovation. The Commission thanked Ms. Edwards for her presentation, and for her efforts in restoring and maintaining her property, particularly in light of its place in Topeka's history.

VIII. There being no further business, the meeting was adjourned at 7:35 p.m.

MINUTES OF THE TOPEKA LANDMARKS COMMISSION
Thursday, April 11
620 SE MADISON STREET – HOLLIDAY CONFERENCE ROOM

- I. Roll Call:**
- **Members Present:** Chair Pete Gierer, Leon Graves, Bryan Caskey, Zac Snethen, Grant Sourk. and Mark Tyree, (6)
 - **Members Absent:** Amber Bonnett, Murl Reidel, and Lonnie Martin (3)
 - **Staff Present:** Tim Paris
- II. Approval of March 14, 2013 Minutes** – Bryan Caskey moved the approval of the minutes as presented, seconded by Zac Snethen. The minutes were **APPROVED** by a vote of **5-0-0**. Gran Sourk was not present for the vote.
- III. CLGR13-04 by Braxton Copley** – Tim Paris introduced the proposal to the Commission, reporting that the applicant proposed an addition to the rear of the home that would replace an existing, non-historic addition in the same location. The proposed addition would also extend from the primary home, and attach to the adjacent garage. Mr. Paris reported that the garage was constructed in 2005, and had been reviewed and approved by the Kansas State Historic Preservation Office. Pete Gierer inquired about the pitch of the roof on the rear elevation of the proposed addition, to which the applicant responded that the pitch was left at a lesser angle than the principle roof, in order to distinguish the original construction from the non-historic addition. Mr. Gierer made the motion that the proposed addition to the rear of the home, and its attachment to the adjacent garage would not cause any detrimental effect to the historic integrity of the subject property, nor to the properties in the surrounding historic district. This motion was seconded by Grant Sourk. The motion was **APPROVED** by a vote of **6-0-0**.
- IV. COA13-01 by Central Congregational Church, 1248 SW Buchanan Street** - Mr. Paris reported that the applicant was proposing a partial replacement of an existing monument sign located on the property, with an LED electronic message sign. Mr. Paris said that the existing sign is not original to the property, and most of the existing limestone present in its current construction would be retained. Mr. Paris further explained that the electronic message sign would be fully subject to existing regulations concerning the light intensity of the messages occurring on the sign, as well as limitations on the animation of lighted designs displayed. With these assurances, Grant Sourk offered a motion that the proposed alteration of the monument sign, to incorporate an electronic LED message display, would not negatively impact the historical integrity of the primary structure on the property, which is a locally listed Historic Landmark. This motion was seconded by Mark Tyree. The motion was **APPROVED** by a vote of **6-0-0**.
- V. CLGR13-05 by the City of Topeka and Shawnee County Parks & Recreation Department,** – Mr. Paris presented a conceptual plan to alter the physical location and landscaping of a traffic circle that is located at the intersection of SW Huntoon Street, SW Western Avenue, and SW Taylor Street. Mr. Paris explained that the traffic circle was originally donated to the City of Topeka as a public park by Mary Holliday, the wife of Cyrus K. Holliday, but that over time, the traffic circle has become increasingly subject to impact by motor vehicles, thus necessitating its minor relocation for public safety reasons. The proposal, as agreed to by the City Administration, Shawnee County Parks and Recreation Department, and the Holliday Park Neighborhood Improvement Association, is to shift the location of the traffic circle approximately 12 feet to the north, and physically connect this circle with the larger Holliday Park, located approximately 50 feet to the north. Citing the lack of a detailed proposed plan, Pete Gierer moved to **approve the concept** of the plan, but **reserve final approval** pending the presentation of a plan that detailed lighting, signage, landscaping, and altered traffic concerns. Zac Snethen seconded this motion. The motion was **APPROVED** by a vote of **6-0-0**. After discussion of other

items on the agenda, Bill Riphahn, of Shawnee County Parks & Recreation Department arrived with detailed plans of the proposal, and presented the plans to the Commission. These plans, as presented and illustrated by Mr. Riphahn, addressed the Commission's previous concerns with lighting, landscaping, curbing, landscaping, signage, and traffic guidance through the altered intersection. Leon Graves offered the motion to **reconsider the previous vote** to delay final approval of the plans, and moved to approve the unification of the traffic circle with the remainder of Holliday Park, as illustrated in the plans presented by Mr. Riphahn. This motion was seconded by Mr. Gierer, and the motion was **APPROVED** by a vote of **6-0-0**.

- VI. Consideration and Action on Proposed Amendments to Section 18 of the Topeka Municipal Zoning Ordinance on matters concerning historic preservation** – Tim Paris introduced the revised ordinance, explaining that the four revisions that were requested at the previous month's Landmarks Commission meeting, were highlighted in yellow, as were the explanation of those revisions in a supplemental handout. Pete Gierer asked if any members of the Commission had any questions regarding the ordinance, as currently presented, and also expressed thanks to Christy Caldwell of the Greater Topeka Chamber of Commerce for being an integral part of the process in getting the revisions to their current state. Mr. Paris also expressed his appreciation for her involvement. There being no questions of concerns regarding the proposed revisions, Grant Sourk moved to approve the revisions, thus forwarding the proposed ordinance to the Planning Commission for their review and approval. This motion was seconded by Mark Tyree. The Motion was **APPROVED** by a vote of **6-0-0**.
- VII. Update on Historic Preservation Plan** – Mr. Paris reported that the next public workshop to be held in conjunction with the preparation of the Historic Preservation Plan is scheduled for Wednesday evening, 6:00 p.m. on May 8th, in the Holliday Conference Room, City of Topeka Holliday Building. Mr. Paris also noted that the consultants with Heritage Strategies LLC would be in attendance at the May 9, 2013 Landmarks Commission meeting for a brief introduction, and presentation on their progress to date.
- VIII. Other Items** – Tim Paris distributed a map, indicating the locations of current code violations, along with those buildings and properties currently slated for demolition. Mr. Paris indicated that this would become a regular monthly distribution to the Commission, intended to provide them with advanced warning of any structures that might be demolished without any advanced warning.

Mr. Paris also reminded Commissioner's that the Heritage Tourism Grant Program would be coming back to them for their review, along with four additional members assigned to the overall grant review committee. Mr. Paris reported that the structure of the program has changed considerably, and was waiting to review the program with the City's Finance Department prior to public discussion of the program.

Next, Mr. Paris introduced the concept of the establishment of a Top Ten Endangered Properties list for the City of Topeka, and more specifically, asked for input on what criteria should be used to qualify a building for inclusion on such a list.

Mr. Paris then discussed the establishment of an emergency grant program, designed to provide City assistance to groups or individuals to save buildings otherwise slated for demolition. The program is based closely to a similar program operated in the City of St. Joseph, Missouri, where it has resulted in demonstrable success. The Commission expressed unanimous support for the establishment of such a program, but discouraged any requisite that properties receiving such emergency grants not necessarily be included on the Top Ten Endangered Properties list. Bryan Caskey and Zac Snethen volunteered to serve on a committee to discuss the creation of such a program.

- IX. There being no further business, the meeting was adjourned at 7:15 p.m.**

**Minutes of the
Topeka Planning Commission
Wednesday, May 29, 2013**

A. Roll call

Present: Kevin Beck –Chairman, Dustin Crook, Dennis Haugh, Nicholas Jefferson, and Mike Lackey **(5)**

Absent: Richard Beardmore, Michelle Cuevas-Stubblefield, Scott Gales and Brett Klausman **(4)**

Staff Present: Bill Fiander – Planning Director, Tim Paris-Planner II, and Mary Feighny – City Attorney

B. Approval of Minutes –

1. April 15, 2013 (Zoning and Platting)

Dennis Haugh moved approval, seconded by Nicholas Jefferson. **APPROVAL. (5-0-4)**

2. April 22, 2013 (Policy)

Dustin Crook moved approval, seconded by Nicholas Jefferson. **APPROVAL. (5-0-4)**

C. Declarations of conflict of interest:

Beardmore - absent

Beck – none

Crook - none

Cuevas-Stubblefield – absent

Gales - absent

Haugh – none

Jefferson – none

Klausman – absent

Lackey – none

D. Discussion items

- 1. Z13/6 13-01 Historic Preservation Ordinance** requesting to amend Section 18 of the Comprehensive Zoning Regulations of the Topeka Municipal Code on matters concerning historic preservation and the Topeka Landmarks Commission. These changes would alter language contained within the Regulations that would ensure the City of Topeka's standing as a Certified Local Government, according to the US Secretary of the Interior's Standards.

Discussion by members: Bill Fiander explained that the Planning Commissioners have been given a list of changes to the Historic Preservation Ordinance. Mr. Fiander explained that Historic Landmarks are an overlay district that is approved much like zoning cases. Mr. Fiander added that any creation of a historic overlay requires meeting the restrictions of the current ordinance.

Tim Paris explained the draft of the proposed amendment to the ordinance was

started seven years ago with committee of the Topeka Chamber of Commerce, Topeka Landmark Commissioners and other citizens. Mr. Fiander stated the Landmarks Commission has been reviewing the amendment since December, 2012. Mr. Paris stated the Landmarks Commission approved the amendment in March, 2013.

Mr. Fiander stated a copy has been given to the Planning Commissioners to review and consider for a public hearing.

Mike Lackey asked if the amendment would require going back to the Landmarks Commission if there are any issues during the public hearing. Mr. Paris stated it would not. Mr. Paris added that the Landmarks Commission approval was not required, but it was given as a recommendation to the Topeka Planning Commission.

Mr. Paris highlighted the changes to the ordinance. Mr. Paris explained there was an assignment of a historic resource which established a 60-day waiting period for the demolition of a building. Mr. Paris stated that the role of nominating the historic resource was changed from the Landmarks Commission to the property owner. Mr. Paris stated there has not been a historic resource placed on the register in five years. Mr. Paris stated there are more than a dozen historic resources currently listed. Mr. Paris explained that the amendment eliminates the historic resource designation.

Mr. Paris stated the amendment clarifies the difference of historic resources and historic assets. Mr. Paris stated there is no official designation of historic assets, but an understanding that the property has attributes to give it historic integrity.

Mr. Paris explained the amendment allows for the establishment of a commercial historic district. Mr. Paris stated the significance of this is that it maintains the city's status as a Certified Local Government. Mr. Paris state it is required that Certified Local Governments must include commercial business as well as residential properties. Without the addition of the Commercial Historic District, Mr. Paris stated, the city is jeopardizing the ability to act as a Certified Local Government.

Mr. Paris stated the ordinance addresses local historic designation, not state or federal designations. Mr. Paris explained there are many insertions of the word "local" to clarify the difference and to ensure there is no authority for state or federal designation.

Mr. Fiander asked if districts were able to exempt properties from designation.

Mary Feighny stated that was removed from the ordinance through the proposed amendment.

Mr. Paris stated the language has been updated to be simplified and reduce confusion.

Mr. Fiander asked if the modification of the language of the Design Guidelines were changed to follow the Secretary of Interior's guidelines. Mr. Paris stated the changes were done to meet the State of Kansas Environs Guidelines, which overlaps the

Landmark Commissions Guidelines. Mr. Paris explained the Environs Guidelines include any property on the registry of Kansas Historic Designation has a 500 foot boundary and all structural or physical changes within that boundary are reviewed for potential adverse effects of the properties. Mr. Paris stated that law is under review by the Governor for repeal.

Mr. Fiander stated the United Methodist Church, located in East Topeka, is in the environs of the old East Topeka Junior High that is on the registry. The case was required to go to the Landmarks Commission for approval before the demolition was approved. Mr. Fiander stated this is an example of the environs review that had to be accomplished for a request of demolition by environs.

Mr. Lackey asked what the criteria are for a review of a historic property. Mr. Paris stated if a property is on the State registry, then the 500 feet boundary is established and any permit within the boundary would require the review.

Mr. Paris stated House Bill 2118 contains language to repeal the state environs law. Dennis Haugh asked if Bill 2118 was specific to that one issue. Mr. Paris stated it was a large Bill but one of the items is the repeal of the environs review. Mr. Paris added previous attempts to appeal the environs review have caused many cities to adopt their own environs law.

Mr. Lackey asked if Bill 2118 deletes this 500 foot boundary at state level, what gives anyone the authority to have a review. Mr. Paris stated a lower level of local landmarks environs could be proposed by a local ordinance.

Nicholas Jefferson asked if it would be relative to local landmarks. Mr. Fiander stated the proposed just deals with local landmarks. If there is a request for an environs review for state or federal level, by ordinance, could not be done if the Bill passed and repeals the environs review.

Mr. Fiander stated the Design Guidelines were struck out due to redundancy. Mr. Paris stated it was struck out in one area and inserted later in the ordinance. Mr. Fiander explained overlays would require design guidelines to accompany. Mr. Paris confirmed.

Mr. Lackey asked if local residents were interested. Mr. Paris confirmed. Mr. Paris added that Neighborhood Conservation Districts (NCD) would not require Landmarks Commission approval. Mr. Paris stated that local landmark designations would, however. Mr. Paris stated NCDs do not have to be historic.

Mr. Fiander asked Christy Caldwell for input on significant changes in the proposed amendment. Ms. Caldwell stated the item of most interest from the Chamber's prospective is the establishment of a commercial historic district. Ms. Caldwell stated that the original discussions included the concern of businesses using a building for the livelihood and not having the option for the designation. Ms. Caldwell stated it very clear in the ordinance and informs owners of the opportunity. Ms. Caldwell stated the Chamber supports the amendment of the ordinance.

Mr. Lackey asked if there is a size criterion for commercial district designation and is

NOTO the only one in the near future seeking designation. Ms. Caldwell stated she wasn't sure which businesses will seek designation but there is a minimum of three properties within the district. Additionally there is a requirement of a minimum number of properties that are historical. Ms. Caldwell explained areas, such as downtown, there are modern buildings that would not fit that criterion. Ms. Caldwell stated that is the reason there is a percentage of the area required.

Mr. Paris stated there are properties that are potentially eligible but the number is not large. Mr. Fiander asked how old a property must be to be considered historical. Mr. Paris stated at least 50 years old, integrity of location or workmanship and design and must fulfill one of the events or association to significantly contribute to the history of the city.

Dustin Crook asked if a property owner would be required to agree with the historic designation if a neighbor decides to have it done, even if they do not agree. Mr. Paris stated if the building was included, it would be. Mr. Paris added, however, if they did not want to be included, they would have the opportunity to voice that through the public hearing.

Dennis Haugh asked if the owner could opt out. Mr. Paris stated if the property was already designated at the time of purchase, they could not. Mr. Crook asked what about if designation came after the time of purchase. Mr. Paris stated one cannot opt out but can the boundaries reduced on the perimeter.

Mr. Lackey asked if there are any cases regarding property rights that would be relative to this issue. Ms. Feighny stated she was not aware of any.

Mr. Fiander asked when one would be required to obtain a certificate of appropriateness. Mr. Paris stated when there is a need for a building permit that affects the structural or exterior appearance of a historic property. Mr. Paris stated many properties on Kansas Avenue went through this process.

Ms. Caldwell added the ordinance will allow for design guidelines to be created for each district, allowing for different standards for different districts. Ms. Caldwell stated it will be possible to change. Mr. Paris stated any changes must meet the Secretary of Interior's Guidelines. Mr. Paris stated what is right for one district may not be the right design for another district.

Kevin Beck asked if a district came forward with their design guidelines, who would approve them. Mr. Paris clarified that design guidelines would be approved simultaneously with the establishment of a district.

Mr. Lackey asked if this would go to the Landmark Commission and what is the procedure. Mr. Fiander explained the process would start with Landmarks Commission, which would prescribe the overlay.

Mr. Haugh asked if an architect would assist with design standards. Mr. Paris stated there are many design guidelines available to use. Mr. Paris added that the owners would choose what designs work for their properties to define their district.

Mr. Lackey asked if there was an appeal process. Mr. Paris confirmed there is a

process in the proposed amended ordinance. Ms. Caldwell provided the reference. Mr. Fiander stated that minor projects would be appealed to the Planning Director and major projects would be appealed to the Landmarks Commission and then, if applicable, to the District Court. Mr. Paris added this is similar to the zoning appeal process.

Mr. Jefferson asked if there is a difference between a landmark district and a historic district. Mr. Paris stated there isn't. The differentiation comes from the level of designation, either state or federal.

Mr. Jefferson asked if the percentages defined in the amendment are based on the structures or the property itself. Mr. Paris stated it is the structure itself. Mr. Jefferson asked if an owner had three structures on a property, does that increase the value of that property owner's vote. Mr. Paris stated no, that would be determined by the property.

Mr. Paris stated the summary of changes should be helpful in understanding the ordinance. Mr. Paris added the ordinance has been to the Legal Department and has met all requirements legally.

Mr. Jefferson asked what happens to previous resources. Mr. Paris explained there are very few and they will stay in effect. However, the only effect is that there will be no new resources will be designated.

Mr. Beck stated the Planning Commission should consider holding a public hearing for the ordinance. Mr. Lackey suggested bringing the item back to the Planning Commission in June for further discussion.

Mr. Fiander asked if a summary of the discussion would be helpful to be forwarded to the absent Planning Commissioners. Mr. Paris stated he would forward the item to them.

E. Other Action Items –

Bill Fiander briefed on the passing of NCD ordinance through City Council. Mr. Fiander stated the Planning Department is working with the Westboro NA in creating an NCD. Mr. Fiander stated staff is working on a template and expects an application later this year.

Mr. Fiander briefed that the Sign Ordinances will be presented to City Council in July. Mr. Fiander stated there will be a work session the first week and then voted on in the middle of the month.

Dennis Haugh stated there has been an increase in feather flags being displayed in the city.

Mr. Fiander announced the hiring of a new Planning Staff Member. Mr. Fiander explained Dan Warner, who was a previous City of Topeka employee, will join the staff as a Comprehensive Planning Manager, responsible for Long-Range, Neighborhood and Historic Preservation Planning.

F. Adjournment @ 6:45 p.m.

**Minutes of the
Topeka Planning Commission
Monday, June 24, 2013**

A. Roll call

Present: Kevin Beck –Chairman, Dustin Crook, Dennis Haugh, Brett Klausman, Nicholas Jefferson, and Mike Lackey **(6)**

Absent: Richard Beardmore, Michelle Cuevas-Stubblefield and Scott Gales **(3)**

Staff Present: Bill Fiander – Planning Director, Bill Hoover – Planner III, Dan Warner – Planner III, Tim Paris-Planner II, Julie Anderson – Planner I, Mary Feighny – City Attorney and Chris Wickline – Office Specialist

B. Approval of minutes – May 29, 2013

Mike Lackey moved approval, seconded by Brett Klausman. **APPROVAL. (6-0-3)**

C. Discussion Items-

1. **ACZR 13-01 Historic Landmarks Ordinance** requesting to amend the Section 18 of the Comprehensive Zoning Regulations of the Topeka municipal Code on matters concerning historic preservation and the Topeka Landmarks Commission. These changes would ensure the City of Topeka's standing as a Certified Local Government.

Discussion by members: Bill Fiander summarized the staff report for the case. Mr. Fiander stated there is a document that provides the summary of significant changes. Mr. Fiander stated there is a need for a public hearing and based on the Planning Commissions finding, it may need scheduling.

Tim Paris provided a summary of the significant changes. Mr. Paris stated one change is the removal of historic resources. Mr. Paris explained the history of the designation of historic resources and the impact of removing the ability to design future historic resources.

Mr. Paris explained the ability to provide commercial historic designation. Mr. Paris explained there is a risk of the City of Topeka losing the Certified Local Government designation without the amendment. Mr. Paris explained the decrease of the percentage required of property owners for historic designation.

Mr. Paris explained the opt-out option of the ordinance will be removed in the amendment.

Mr. Paris highlighted the certificate of appropriateness process and the coordination with City of Topeka Code Compliance Department.

Dennis Haugh moved to schedule ACZR 13-01 Historic Landmarks Ordinance for public hearing on July 22, 2013, seconded by Dustin Crook. **APPROVAL (6-0-3).**
Tim Paris and Dan Warner left the room.

2. **Minor Plats, Lot Splits, and Lot Line Adjustments-** update the Minor Plat criteria so more Major Plats could be processed administratively and allow Lot Splits and Lot Line Adjustments to be accomplished via a certificate of survey under a new administrative process.

Discussion by members: Bill Hoover summarized the staff report for the case. Mr. Hoover explained that property owners frequently find complications with platting procedures currently prescribed in the City of Topeka Code. Mr. Hoover stated currently there is a minor plat process that provides for a simple and quicker platting process that may be more appropriate for cases such as described.

Mr. Hoover explained the Planning Department recommends the modification and is requesting to require all property tax not be delinquent at the time of approval.

Mike Lackey asked why the storm water report would be required. Mr. Hoover stated there is a new requirement listed in the document. Mr. Lackey stated that moving a lot line may not affect the drainage where building would.

Mr. Hoover explained the process allows for review of setback and easement changes that may cause problems in the future.

Mr. Fiander stated that if a report does not include the storm water quality information, which is required by the Engineering Department, then there may be a need for an updated report based on new requirements.

Kevin Beck asked if this was required to become compliant with the new standards. Mr. Fiander confirmed. Mr. Fiander stated due to the new requirement, this has caused many plats to be changed to the Major category. Mr. Hoover added the difference of a Major and Minor plat is nearly an eleven week delay.

Mr. Fiander explained the illustrations of the Minor Plat Criteria, which is not changed, but simply illustrates different situations.

Mr. Fiander added easements have always been allowed on a minor plat as long as everyone agrees. The only exception is if an easement is being vacated. Mr. Fiander stated staff has worked with the Legal Department to ensure this meets requirements.

Mr. Fiander explained a case of one lot being split into 50 lots then later returning the plat to one lot later. Mr. Fiander stated there was a need to vacate roads and easements. Mr. Fiander stated neighboring property owners were not affected so the case was allowed to be handled with minor plat procedures.

Mr. Fiander added that variances are only approved through the Planning Commission. Mr. Fiander explained when a street frontage was not available.

Mr. Fiander explained the five-lot rule. Mr. Fiander stated that when a property owner wants to change a subdivision, there is a fifty-lot requirement. Mr. Fiander stated the amendment would change the minor plat criteria to five lots, net.

Dennis Haugh commended the Planning Staff for simplifying the process for property owners.

Mr. Beck stated that the Certificate of Survey is required to be sealed by a licensed surveyor. Mr. Fiander confirmed. Mr. Beck asked for clarification on the real estate taxes. Mr. Beck stated the Register of Deeds requires to pay for the entire year prior to allowing them to record the plat. Mr. Hoover explained the draft ordinance includes the phrase “not delinquent” to ensure that the plat is not being done for those who are behind in paying their taxes. Mr. Fiander added this is the same rule for zoning cases.

Mr. Beck stated that the amendment reads that a storm water report is required. Mr. Beck asked if the language could be changed to not require the report as there are instances that a report would not be required. Mr. Hoover stated that he has collaborated with the Engineering Department and they stated that if it isn't required a waiver would be. Mr. Fiander added that the requirement is handled by the Engineering Department.

Mary Feighny suggested adding the language “if applicable” to lessen the appearance of strict requirement.

Mike Lackey moved to schedule the matter for public hearing on July 22, 2013, seconded by Brett Klausman. **APPROVAL. (6-0-3)**

3. **Bike Parking-** Update Parking regulations to require bicycle parking at the time of development under certain conditions.

Discussion by members: Bill Hoover summarized the staff report for the case. Mr. Hoover explained that Topeka was awarded a \$1.4 million grant to implement the Bikeways Master Plan. Mr. Hoover explained that implementation of the plan includes the need of a requirement for bicycle parking.

Bill Fiander stated there are future development projects that are coming into the Planning Department and discussions have taken place regarding bicycle parking. Mr. Fiander added that this requirement would not be retroactive.

Brett Klausman asked if this would be a requirement or an option. Mr. Fiander stated it would be a requirement. Mr. Hoover stated there would be waivers based on area or size. Mr. Hoover explained options that would afford a waiver.

Mike Lackey asked how the number of bicycle spaces would be determined. Mr. Hoover explained the formula. Mr. Lackey asked if the spaces required would be used. Mr. Fiander stated not all vehicle parking spaces required are used. Mr. Lackey stated he thinks parking for the bicycles are a great idea but he doesn't believe requiring a wasted space is in the best interest.

Brett Klausman stated he hopes businesses would make a good decision to provide the parking but he does not support requiring it. Mr. Klausman stated that suggesting bicycle parking for business would be better and hopefully the type of business would make sound decisions, such as coffee shops.

Julie Anderson explained the different options of parking spaces for bicycles. Mr. Fiander stated that there will be a threshold that has to be met before the requirement would be made. Mr. Fiander stated location, size, and type of business would be considered. Mr. Fiander stated the 34-mile bikeway implementation in the near future is the reason for this concept.

Mr. Klausman stated where there once was bicycle parking no longer exists and there must be a reason. Mr. Klausman added that the market will dictate the need for parking and businesses should make that decision.

Nicholas Jefferson asked if this requirement is conducive to the need of the parking in Topeka. Mr. Jefferson discussed Menards and how requiring bicycle parking would have impacted them. Mr. Fiander stated while a customer is less likely to rely on a bicycle but an employee may. Mr. Fiander stated the bike racks are appearing again. Mr. Klausman added he believes they are appearing without the requirement of adding them.

Kevin Beck stated the option to reduce parking stalls with bicycle parking would be a good incentive.

Dustin Crook asked how much bicycle parking would cost. Ms. Anderson stated \$125-\$1300.

Mr. Fiander asked if there would be a standard type of parking rack would be required. Mr. Hoover explained the options.

Mr. Lackey suggested the City of Topeka should take the lead and provide the bicycle parking.

Mr. Haugh asked if green-space restrictions were being considered. Mr. Hoover stated that some cities do.

Mr. Fiander stated the staff is beginning the process and will draft something for the planning commission to review.

D. Other Items/Communications

- 1. Televised Meetings** – Bill Fiander explained the City Communications Department is in the process of setting up the opportunity to televise from the Holliday Building. Mr. Fiander asked for feedback.

Brett Klausman asked why this was being done. Mr. Fiander explained it is for convenience and transparency.

E. Adjournment @7:02 p.m.

**Minutes of the
Topeka Planning Commission
Monday, July 22, 2013**

A. Roll call

Present: Richard Beardmore, Kevin Beck –Chairman, Dustin Crook, Michelle Cuevas-Stubblefield, and Nicholas Jefferson **(5)**

Absent: Scott Gales, Dennis Haugh, Brett Klausman and Mike Lackey **(4)**

Staff Present: Bill Fiander – Planning Director, Bill Hoover – Planner III, Dan Warner – Planner III, Tim Paris-Planner II, Annie Driver – Planner II, and Chris Wickline – Office Specialist

B. Approval of minutes – June 24, 2013

Nicholas Jefferson moved approval, seconded by Dustin Crook. **APPROVAL. (5-0-0)**

C. Action Items-

1. Public Hearings

- a. CU12/3 by the State of Kansas** requesting a Conditional Use Permit to allow for a public utility structure (sanitary sewer pump station) on property zoned “R-1” (Single Family Dwelling District) located on the west side of NW Green Hills Road at its dead-end intersection with NW Menninger Road. **(Driver)**

Discussion by members: Annie Driver summarized the staff report for the case. Ms. Driver explained the applicant held a neighborhood information meeting and the staff is recommending approval of the proposed.

Proponents:

Alex Darby, spoke in favor of the proposal. Mr. Darby explained the coordination with the City of Topeka and the State of Kansas for the proposed.

Opponents:

Who, spoke in opposition of the proposal.

Richard Beardmore asked where the existing pump station is. Mr. Darby explained the location of the proposed pump station.

Nicholas Jefferson asked if the current station was in the flood plains. Mr. Darby explained the new location is elevated two feet and will not be in the flood plains.

Mr. Beardmore asked if it is in the force main. Mr. Darby stated it is being extended.

Kevin Beck asked if it will follow the same alignment. Mr. Darby confirmed.

Opponents:

Diana Hewitt, neighbor of proposed location, spoke in opposition of the proposal.

Ms. Hewitt stated the location of the proposed was once in a location that was flooded previously. Ms. Hewitt stated there is a slight smell and is not in favor of the proposed.

Ms. Hewitt stated the County has taken over the road and it has been a mess. Ms. Hewitt stated she has requested assistance from the County and City but the trenches dug did not help.

Ms. Hewitt stated she was disappointed with the changes in the area since the City has taken ownership of the land. Ms. Hewitt stated the City has not maintained the area.

Mr. Beardmore asked for clarification of Ms. Hewitt's residence. Ms. Hewitt explained her location. Mr. Beardmore asked Ms. Driver for zoning on the property. Ms. Driver stated "R-1", Residential Single Family Dwelling.

Michelle Cuevas-Stubblefield asked for clarification of the last time it flooded. Ms. Hewitt stated in 2005. Ms. Hewitt explained that additional homes being built in the area have caused additional problems also.

Mr. Beck explained the site plan that is proposed. Mr. Beck stated that the grade of the proposed will be higher out of the flood zone and will not cause additional flood concerns.

Ms. Hewitt asked how employees will access the proposed. Mr. Beck explained an access to the site is further proposed. Bill Fiander explained the illustration to Ms. Hewitt.

Ms. Hewitt expressed concern with the potential depreciation of her property. Ms. Hewitt stated she is further concerned with the upkeep of the land.

Mr. Beck asked if the State of Kansas has any future plans for the land. Mr. Darby explained the land was platted in the 1950s and the initial plan was expansion for the Juvenile Center but that has not happened.

Mr. Hewitt asked how high they plan to build it. Mr. Beck explained the elevations of Mr. Hewitt's land and the proposed. Mr. Beck stated the plan is for the station to be at the same level as the road. Mr. Hewitt asked if the previous station was a mistake.

Mr. Darby stated the pump has settled and shifted so now the City has to repair the station. The maintenance is unable to be performed and requires a new station. Mr. Hewitt asked if the new station had to be in that location. Mr. Darby stated the

location is the best location and that relocating it would be costly.

Mr. Jefferson asked if there is a levee in the area. Mr. Darby explained if there is one, it would be minimal. Mr. Hewitt stated he was unaware of any levees. Mr. H. asked the building would be on the lots that he owned. Ms. Driver, with Mr. Beck's assistance, confirmed the location. Mr. Hewitt explained his concern with seeing a building from the front of the property instead of a field.

Mr. Hewitt explained his concerned with the deterioration of the road. Mr. Beck explained this is an issue that the Planning Commission cannot answer for but referred to City Staff.

Leo Perry – spoke in opposition of the proposed.

Mr. Perry explained that he was unable to attend the Neighborhood Informational Meeting but wanted to express concern with the smell of the area. Mr. Perry stated it isn't often but the smell does happen. Mr. Perry asked if the new building would address this issue.

Mr. Darby explained the different methods to control the odors. Mr. Darby explained the proposed should not pose any smells but should assist.

Mr. Perry explained the history of the land being under water in 2005. Mr. Perry stated it was flooded. Mr. Perry asked if the proposed was due to the station being in the flood zone or if this is for future sewer for current residents.

Mr. Darby explained there are numerous reasons for the proposed. Mr. Darby stated the main reason was to address the older pump station needing replaced.

Stacy Eckhart – neighbor, spoke in opposition.

Mr. Eckhart stated he has concern with the smell of the new pump station.

Ms. Cuevas-Stubblefield asked where his residence is. Mr. Eckhart explained. Ms. Cuevas-Stubblefield asked if he smells anything now. Mr. Eckhart stated he does not.

Mr. Beardmore asked if the proposed is different than the current pump in regards to smell. Mr. Darby explained there is no difference proposed.

Mr. Eckhardt asked if it was a gravity system. Mr. Darby confirmed. Mr. Eckhardt asked if he would hear them. Mr. Darby stated no. Mr. Beck explained it will be basically the same situation as the current pump, just a new location but slightly further away from residents.

Ms. Cuevas-Stubblefield asked if any roadway considerations were taken for the proposed. Mr. Darby stated city trucks travel it currently and frequently and there are no issues. Mr. Darby explained software was consulted to ensure trucks would be able to enter and exit the site without issues. Ms. Cuevas-Stubblefield asked if that allows for two way traffic. Mr. Darby confirmed.

Mr. Jefferson asked if traffic counts would increase. Mr. Darby stated it would decrease.

Mr. Beck asked what the width is across the total parcel is. Mr. Darby stated it is 100 X 100 for the proposed.

Ms. Cuevas-Stubblefield asked with the information of the 2005 flooding, what other considerations, beside the increase of three feet elevation, have been taken. Mr. Darby explained the flood plains have been redone and the 500 year plan has been consulted and precautions have been taken to elevate beyond that.

Mr. Jefferson asked if overall the reason for the proposed is that a new pump station is needed and it must be done outside of the flood plain. Mr. Darby confirmed.

Mr. Beck stated that traffic is not an additional concern due to the decrease in traffic due to a new station that requires less maintenance. Mr. Beck stated a concern would be if there was an increase in traffic. Mr. Beck explained that he understands that it is scenery to change and although it isn't the view one wishes for, it is inevitable when someone else owns the land. Mr. Beck added this is a very small building. Mr. Beck explained there are procedures in place to address the odor.

Mr. Beardmore asked if the Conditional Use Permit could require additional elevations. Ms. Driver stated there were requirements added with a minimum of six feet. Mr. Beardmore recommended planting on the north side. Mr. Beardmore also recommended the lighting be full cut out.

Richard Beardmore moved to approve the proposed property, with additional revisions, seconded by **Michelle Cuevas-Stubblefield**. **APPROVAL. (5-0-0)**

- b. ACZR 13-01 Historic Landmarks Ordinance** requesting to amend the Section 18 of the Comprehensive Zoning Regulations of the Topeka municipal Code on matters concerning historic preservation and the Topeka Landmarks Commission. These changes would ensure the City of Topeka's standing as a Certified Local Government.

Discussion by members: Bill Fiander summarized the staff report for the case. Mr. Fiander stated the Topeka Landmarks Commission met no less than seven times prior to presenting the ordinance.

Kevin Beck explained he had a conversation with Chris Meinhardt regarding ACZR 13-01.

Michelle Cuevas-Stubblefield asked for clarification of the opt-out option. Tim Paris explained the designation is initiated by the property owners. Mr. Paris stated once the process is initiated, the designation becomes an overlay. Due to the change, this request goes through the Planning Commission and requires a public hearing. Mr. Paris explained the opt-out option. Mr. Paris stated there are, ideally, a number of

meetings to be accomplished prior to being placed on an agenda for citizens to voice their concerns. Mr. Paris added the issues should have been addressed and remedied prior to being heard at the public hearing.

Richard Beardmore asked if the option is only permissible during the inception or can be exercised later on. Mr. Paris stated it must be done during inception.

Proponents:

Christy Caldwell, Topeka Chamber of Commerce, spoke in favor of the proposal.

Mrs. Caldwell explained the work done to present the proposed ordinance. Ms. Caldwell stated the business owner's interest was taken into consideration when creating the ordinance. Ms. Caldwell asked the Planning Commission to approve the ordinance as presented.

Ms. Caldwell attested the process presented provides a very judicious process.

Murl Reidel, Topeka Landmarks Commission, spoke in favor of the ordinance.

Mr. Reidel explained that the Topeka Landmarks Commission is fully supportive of the proposed ordinance. Mr. Reidel stated there have been multiple meetings and attendees have been fully engaged in the ordinance. Mr. Reidel stated the meetings were to ensure there was a lot of discussion and that a sound ordinance was presented.

Mr. Reidel asked that everyone think about how the opt-out option allows a prevention of erosion of the integrity of a district. Mr. Reidel stated the opt-out option helps to avoid this issue.

Mr. Reidel explained the state and federal designations do not change and it ensures that the Certified Local Government is being done. Mr. Reidel asked the Topeka Planning Commission approve the ordinance as presented.

Opponents:

Chris Meinhardt spoke in opposition of the proposal.

Mr. Meinhardt spoke to the planning commission requesting clarification. Mr. Meinhardt stated he has hopes that the City of Topeka would work with tourists as well as they have with this ordinance. Mr. Meinhardt explained that there isn't a chance for Commissioners or the Topeka Landmarks Commission, to receive public comment. Mr. Meinhardt stated the preservation plan is being completed this year, which he stated is important, but the ordinance will be in the way of completing the preservation plan. Mr. Meinhardt asked why the ordinance is being passed when a preservation plan is going to be done soon.

Mr. Meinhardt stated the ordinance has a lot of programmatic initiatives that need clarification. Mr. Meinhardt expressed his concern with the ordinance requiring

certificates of appropriateness to go to District Court.

Mr. Beardmore asked if the ordinance presented is in conflict with the Historic Preservation Plan. Mr. Meinhardt stated it is in his opinion.

Bill Fiander explained that the City of Topeka contracted with Heritage Strategies to complete the Historic Preservation Plan. Mr. Fiander stated the draft is near completion. Mr. Fiander explained that the consultants are aware of the ordinance and have not presented any problems or concerns.

Mr. Beardmore asked if the consultants have seen the ordinance. Mr. Fiander stated they have and understand the content. Mr. Fiander stated from a policy standpoint, there is no evidence stating there is a conflict. Mr. Beardmore asked when a draft will be completed. Mr. Paris stated by the end of September. Mr. Fiander added the draft will be presented to the Planning Commission in the upcoming months.

The Planning commission granted Mr. Meinhardt an additional four minutes to speak, due to exceeding the allotted four minutes.

Mr. Meinhardt referred to an article from the Topeka Capital Journal. Mr. Meinhardt stated the word "landmark" has been overused and asked for clarification. Mr. Meinhardt asked for clarification of the difference of a historic landmark and a historic asset.

Mr. Meinhardt stated if the goal is to work with the state, then will there be another preservation plan that does not follow the guidelines. Mr. Meinhardt stated the recent demolition of a landmark was not done by the guidelines. Mr. Meinhardt explained the demolition of one of the Friends of the Freestate properties was wrong. Mr. Meinhardt stated he is very frustrated.

Kevin Beck stated that the Commission has been handed a multi-page document to respond to and have not had time to adequately review. Mr. Beck asked for an explanation of how to determine federal versus local government. Mr. Paris explained there are four standards - preservation, restoration, new construction and reconstruction and they are applied very differently. Mr. Paris explained one standard may be applied more than the others. The ordinances are for how demolitions are accomplished, especially when adjacent to other properties.

Mr. Paris added there are no program changes with the adoption of the ordinance.

Mr. Beck asked what the reason was for the demolition of the building across from Constitution Hall. Mr. Paris stated it was approved by the Landmarks Commission but the recommendation was that the façade would remain.

Mr. Meinhardt explained it is difficult when a n application has been granted federal and state designation yet are further restricted by local government. Mr. Meinhardt stated that there is less designation being done because of this.

Mr. Paris stated the ordinance is based on local designation. Mr. Paris stated he does not have control over the federal or stated designation. Mr. Paris explained the

role of a Certified Local Government agreement.

Mr. Beck stated that federal government guidelines are good but local investment is an additional layer that is important. Mr. Beck stated local controls and input allows for the flavor of Topeka to remain.

Mr. Beck stated that the ordinance has taken two years of developing and since the commission has received four pages of information presented by Mr. Meinhardt, there is a lot to review. Mr. Beck stated he would like to postpone a vote to review the comments and provide the absent commissioners the opportunity to review the new information.

Richard Beardmore stated he was a bit confused on what was presented and would like the extra time to review. Michelle Cuevas-Stubblefield agreed. Ms. Cuevas-Stubblefield stated that would be better to confirm the confidence in the ordinance rather than a quick decision. Mr. Paris offered an endorsement from the consultants and the State of Kansas for the Planning Commission at the next meeting.

Nicholas Jefferson moved to continue until first public hearing in August. Richard Beardmore seconded **APPROVAL. (5-0-0)**

2. **Minor Plats, Lot Splits, and Lot Line Adjustments-** update the Minor Plat criteria so more Major Plats could be processed administratively and allow Lot Splits and Lot Line Adjustments to be accomplished via a certificate of survey under a new administrative process.

Discussion by members: Bill Fiander summarized the changes in the ordinance being presented to the Topeka Planning Commission. Mr. Fiander explained one of the most distinctive changes is the amount of time saved for changing the criteria for major plat processes, to include right of way dedications.

Mr. Fiander stated the Planning Staff held a Development Review Forum in July. Mr. Fiander stated one change was due to the information received at the forum. Mr. Fiander stated line 132 and 133 should be removed from the proposed ordinance.

Mr. Fiander explained the Lot Line adjustment. Bill Hoover explained the process would still be considered a minor plat process but would be much like a certificate of survey. Mr. Hoover stated it would be a much simpler minor plat process. Mr. Hoover added that many lots have been left un-split, with the intention to split them later.

Mr. Fiander stated that the language regarding storm water report requirements have been addressed, as previously requested by Kevin Beck. Mr. Hoover explained the language presented provides clarification. Mr. Hoover provided an example of a recent case that would have been classified under the changes proposed.

Richard Beardmore asked if the Planning Department receives a lot of common wall or duplex lot splits. Mr. Hoover stated he has received a few, and most recently in the past month.

Kevin Beck asked what the Planning Departments process is for review. Mr. Hoover

explained the Minor plats go through Development Services, Engineering and Planning Department. Mr. Fiander added the farming out process would also include Utilities.

Mr. Beck added he appreciated the change of the tax delinquency is addressed and clarified. Mr. Hoover clarified the language. Mr. Beck explained there have been situations that Shawnee County has required the full year in advance in order to record documents.

Mr. Beardmore stated that expediting the process will be appreciated.

Nicholas Jefferson asked if anyone has requested to go through the Major Plat process instead of the minor plat. Mr. Fiander explained it has not happened but if there are issues that cause a minor to be disapproved, it could be changed to a major plat.

Mr. Beardmore asked what the costs are for a minor plat. Mr. Hoover explained the fee schedule. Mr. Fiander explained the minor plat fees are about half of the minor plat process. Mr. Beardmore asked if the change of having lot splits, in lieu of the platting fees, would impact the city budget.

Mr. Hoover stated the fees are listed in the ordinance.

Mr. Beck asked if the lot line split fee is enough to cover the staff costs. Mr. Fiander stated they do not and the fees should be reviewed.

Mr. Fiander recommended changing to the fee to the same as a minor plat per the fee schedule. Mr. Beardmore and Mr. Beck concurred. Mr. Fiander suggested striking lines 175 & 176. Mr. Beck concurred.

Proponents:

No One, spoke in favor of the proposal.

Opponents:

No One, spoke in opposition of the proposal.

Richard Beardmore moved to approve the ordinance with recommended with amendments and changes to lines 175 & 176 (change to new fees) and 132 & 133 (strike) **Michelle Cuevas Stubblefield** seconded. **APPROVAL. (5-0-0)**

D. Other Items/Communications

- 1. ACZR 12/2 Temporary Signs** – Bill Fiander explained the City Council remanded the ACZR 12/2 Temporary Signs ordinance. Mr. Fiander explained Councilwoman Hiller presented three issues that the Planning Commission need to address.

Mr. Fiander explained he is checking with legal to find out the correct language for exempting. Kevin Beck stated he thought the language was in there. Mr. Fiander stated the language was

changed per the legal department. Mr. Fiander stated it is being reviewed.

Mr. Beck asked how consultants are affected by this ordinance. Mr. Fiander stated it would be same as the contractors. Mr. Fiander stated he is hoping to return with an ordinance that addresses the contractor/consultants issue. Richard Beardmore suggested addressing removal of the signs.

Mr. Fiander explained that a member of the Downtown Merchants Association desired to have feather flags exempted for downtown and potential branding effect for the stores.

Michelle Cuevas-Stubblefield stated the ordinance is a pro-active approach to address issues and protect business owners, investing in Topeka, who are maintaining a quality store-front property. Ms. Cuevas-Stubble stated the research has been done and the proposal would be very lenient compared to other cities.

Mr. Beardmore asked if there were comments presented that caused the issue to become a proposed ordinance for addressing. Mr. Fiander stated there were problems addressing feather flags as they were not addressed in the current code. Without addressing the ordinance, the Zoning Inspector was not able to enforce the feather flags as being not compliant with height limits.

Mr. Beck suggested that the requests presented from City Council be addressed by the Planning Commission next month.

Ms. Cuevas-Stubblefield stated it would best to present a list of reasons why the issues were chosen. Mr. Beardmore suggested presenting a summary or recap of what how the ordinance was constructed and resent to City Council.

Mr. Fiander suggested having a discussion with the merchants of downtown to ensure the issues are understood.

E. Adjournment @ 8:00 p.m.

**Minutes of the
Topeka Planning Commission
Monday, August 26, 2013**

A. Roll call

Present: Richard Beardmore, Kevin Beck –Chairman, Dustin Crook, Michelle Cuevas-Stubblefield, Scott Gales, Dennis Haugh, Nicholas Jefferson, Brett Klausman and Mike Lackey **(9)**

Absent: none **(0)**

Staff Present: Bill Fiander – Planning Director, Dan Warner – Planner III, Tim Paris-Planner II, Mary Feighny – Legal, and Chris Wickline – Office Specialist

B. Approval of minutes – July 22, 2013

Mike Lackey submitted a change to the vote count on page 4, item C1a. Nicholas Jefferson requested change of word “flood plain” to “flood plains” on page 4 of minutes. Brett Klausman moved approval with changes, seconded by Dennis Haugh. **APPROVAL. (9-0-0)**

C. Welcome and Introductions – Mayor Larry Wolgast

Mayor Wolgast addressed the Planning Commission on the work accomplished and thanked the Commission for their service.

D. Action Items-

1. **ACZR 12/2 Temporary Signs** – Bill Fiander briefed the Planning Commission of the status of the Temporary Sign Ordinance. Mr. Fiander explained that the City Council remanded the item to the Planning Commission. Mr. Fiander explained the ordinance has been drafted with changes to address the requests of the City Council. Mr. Fiander stated the changes include the allowance for contractor signs when there is an improvement to a property. Mr. Fiander stated the amendment allows for the property improvement signs to be placed until the end of the event have been added.

Mr. Fiander stated the City Council asked for a re-insertion of official flags for government entities and charitable or non-profit organizations. Mr. Fiander stated the allowance was added to the ordinance. Mr. Fiander explained that pennants without advertisement are exempt from the ordinance.

Mike Lackey asked if flags in permanent poles are permissible. Mr. Fiander confirmed. Mr. Fiander stated the ordinance was to address non-permanent signs. Mary Feighny explained the ordinance does not apply to flags or signs without wording.

Mr. Lackey stated he thought this was previously agreed upon. Mr. Fiander explained it was not clarified enough and has been done through the changes of the draft ordinance.

Richard Beardmore asked if the property improvement signs were not allowed in the right of way. Mr. Fiander confirmed they are not.

Mr. Beardmore asked if the ordinance addressed specific time limits. Mr. Fiander stated it is based on the project; it must be removed once complete.

Mr. Beardmore asked for an example of the term “business firms”. Ms. Feighny explained the term addresses the emblem of a business.

Scott Gales provided an example of a hotel having a flag with the company emblem on it is permissible. Ms. Feighny confirmed.

Mr. Fiander explained the third reconsideration is for the allowance of feather flags. Mr. Fiander stated the minutes from the City Council are included in the agenda packet and a list of suggested revisions from Councilmember Karen Hiller. Mr. Fiander stated the remanded item was initially discussed at the Planning Commission on July 22, 2013. Mr. Fiander explained that based upon that discussion, the Planning Staff worked with the Legal Department to add an exception for feather flags downtown in the right-of-way.

Mr. Fiander expressed that there are merchants in the downtown district who are requesting the flags in the right of way, much like the sandwich boards. Mr. Fiander stated the allowance has been added to the ordinance, allowing the flags to exceed six feet but limited to twelve feet in height. Mr. Fiander stated the same conditions apply in regards of clearance of pedestrian right of way and hours of display.

Mr. Fiander stated the Planning Staff is not supportive of the exceptions for feather flags as it does not accomplish the objectives set by the Planning Commission and makes enforcement of the sign code more difficult. Mr. Fiander explained there is an issue where there is unequal treatment will require more staff resources to ensure compliance. Mr. Fiander stated that when standards are not consistent, it becomes a cycle of trying to educate and explain. Mr. Fiander explained there is an issue with self-compliance.

Mr. Fiander explained that sign violations are an opportunity to educate the public and most often self-compliance is accomplished. Mr. Fiander added there has not been a sign violation case that has gone to Municipal court. Mr. Fiander stated there are typically opportunities to education and offenders become compliant.

Mr. Fiander explained the trend amongst other cities is to ban feather flags and used Lincoln, Nebraska as an example. Mr. Fiander added that one city stated that if there were an exception it would not be in the downtown area but in a suburban area that is not pedestrian-oriented. Mr. Fiander stated within the state of Kansas, this draft is a more-lenient of ordinances in regards to feather flags.

Mr. Fiander stated there was a letter passed out from the downtown merchants. Mr. Fiander explained this case was not advertised as a public hearing but the commission may elect to take public comment.

Brett Klausman asked if this is specific to temporary signs. Mr. Fiander confirmed. Mr. Klausman asked how many different sign ordinances are in effect for Topeka. Mr. Fiander stated there is one sign code but many types of signs. Mr. Fiander stated there are many applications, such as Boyles signs or inflatable signs.

Mr. Klausman asked if humans holding a sign, on a street corner, are considered a temporary sign. Mr. Fiander and Ms. Feighny stated that has not been addressed. Mr. Fiander stated that portable signs have been addressed. Mr. Fiander stated it would be fitting to bring portable signs (Boyles Signs) back and add to the temporary sign regulation. Mr. Klausman stated he thinks that the feather flags would be considered portable because they are put up in the morning and then removed in the evening. Mr. Klausman added that the City of Lawrence has prohibited the feather flags but they are visible around town. Mr. Fiander explained that instances such as that are enforceable items. Mr. Fiander stated people placing the flags will happen and Zoning Enforcement will address it.

Mr. Fiander stated there were nineteen cities reviewed when drafting the ordinance.

Nicholas Jefferson asked if there is a reason that other cities were prohibited. Mr. Fiander explained the main reasons for banning the feather flags were for aesthetics and safety. Mr. Fiander added that it is based on a city's character and how the signs fit with the character.

Mike Lackey stated that allowing portable signs is not a reason to allow feather flags. Mr. Lackey stated they are unattractive and he has seen many tattered or worn signs. Mr. Lackey added that he does not see a reason to allow the feather flags.

Kevin Beck stated that there is so much work being done to renovate downtown. Mr. Beck asked how the feather flags will fit into the architectural design of the renovations.

Mr. Gales stated the problem he sees is allowing it in the right of way. Mr. Gales stated that there are so many meticulous details being added that it could potentially add more problems. Mr. Gales explained how sandwich boards are there for informative reasons. Mr. Gales stated the issue is no longer that it is on a private property, but that it is in the public right of way. Mr. Gales stated he respects the need to advertise but the introduction of the feather flag in the right of way is of concern.

Mr. Lackey asked how the signs would be put up. Mr. Lackey asked if a hole would be drilled in to the ground. Mr. Fiander stated they have been put up in tree wells or simply in a base.

Michelle Cuevas- Stubblefield stated that adopting the ordinance opens many issues. Ms. Cuevas-Stubblefield added if there is a huge investment for adding character to the downtown area, she does not see the benefit of cluttering the area with feather flags.

Mr. Klausman stated that he didn't believe everyone wants to put them up but that allowing them in the ordinance states that the neighbors are ok with people having them. Mr. Klausman stated that if people pay rent and want to market, he doesn't see that the investment matters that much.

Ms. Cuevas-Stubblefield explained that downtown is a destination and did not believe that the feather flag would drum additional business.

Dennis Haugh stated he did not believe that grabbing attention was needed in the downtown area as the competition is in the same area.

Mr. Beardmore stated the downtown area is a 20-mph zone and a pedestrian orientated area. Mr. Beardmore stated that the feather flags may interfere with light poles, street lights and the trees.

Mr. Gales stated that if a flag is moving in the wind, it would be distracting, especially when the driver needs to attend to pedestrians. Mr. Gales added that he is concerned about putting them in the right of way.

Mr. Beck stated that as long as the allowance is made for the downtown is done, what will stop other local businesses from signing a document and asking for an allowance in another area of town, such as Wanamaker.

Mr. Klausman stated that he is in favor of the flags as he has noticed them appearing all over town and are increasingly popular.

Ms. Cuevas-Stubblefield asked where the liability is if someone gets hurt by a feather flag that is allowed in the public right of way.

Mr. Beck asked if it would be permissible for a flag mount being placed on a building and a feather flag put in to the mount. Ms. Feighny explained the caption is in the right of way being permissible. Mr. Fiander explained that Mr. Beck's suggestion would fit under another definition. Mr. Fiander explained the projection of the flag is more pedestrian-oriented. Mr. Fiander suggested a flat banner in lieu of such. Mr. Beck stated he was suggesting another source of attention getting signs as an alternative.

Mr. Lackey stated he did not believe the feather flags would cause a "make or break" situation for business owners.

Mr. Fiander explained the options for the Planning Commission in regards to the submitted draft ordinance. Mr. Fiander stated the options are to re-submit the original ordinance with reasons the action. Mr. Fiander stated the Planning Commission could submit an amended ordinance or defer the issue for further discussion.

Mr. Klausman asked what the City Council options are. Ms. Feighny stated the City Council could either accept the ordinance or change it. Ms. Feighny explained that the ordinance would then require a simple-majority vote.

Mr. Fiander asked if the initial submission was a majority vote. Ms. Feighny explained the first time required a two-thirds vote to change the ordinance. Ms. Feighny explained that the ordinance returning to City Council, however, only requires a simple-majority vote.

Mr. Lackey moved to accept the draft ordinance with items one and two but reject item three.

Mr. Beck asked for clarification of what Mr. Lackey was proposing.

Mr. Jefferson asked if item three was just allowing exception for downtown but not for everywhere else. Mr. Fiander confirmed and stated it the exception is just for downtown. Mr. Fiander stated staff could add all areas around town but it would require another draft ordinance and could be brought back to the Planning Commission.

Mr. Lackey moved to accept the draft ordinance with items one (property improvement signs) and two (official flags) but reject item three, Dustin Crook seconded. **APPROVAL. (8-1-0, Brett Klausman voted No.)**

2. Public Hearings

- a. **ACZR 13/1 Historic Landmarks Ordinance** requesting to amend Section 18 of the Comprehensive Zoning Regulations of the Topeka Municipal Code on matters concerning historic preservation and the Topeka Landmarks Commission. These changes would ensure the City of Topeka's standing as a Certified Local Government.

Discussion by members: Bill Fiander explained the status of the case and the reason for continuing the public hearing. Mr. Fiander explained the changes in the ordinance and letters of support from Heritage Strategies and the State Historic Preservation Office.

Tim Paris summarized the staff report for the case. Mr. Paris explained how the designation of the historic resources was removed. Mr. Paris stated there are approximately twenty historic resources identified. Mr. Paris stated there was only one instance where the demolition process of the designation was used previously. Mr. Paris explained this was done by Menninger Foundation during the demolition permit process.

Mr. Paris explained the letter received from Peter Benton of Heritage Strategies. Mr. Paris briefed the Commission of the changes within the proposed ordinance.

Kevin Beck asked if there were design guidelines for Potwin or College Hill Neighborhoods. Mr. Paris stated there is not currently. Mr. Beck asked how the guideline could be established. Mr. Paris stated the neighborhood would have to initiate the request with the City of Topeka. Mr. Paris stated there is an anticipated designation of a local Landmark District to come soon. Mr. Paris explained the challenges of not having the guidelines.

Mr. Beck asked if they would be tied to an overlay. Mr. Paris confirmed that the local designation is a zoning overlay. Mr. Paris explained the difference of National Register designation, which is not tied to an overlay district.

Dennis Haugh asked about demolition by neglect mentioned by code enforcement, if there was a delay period before a demolition could occur. Mr. Paris stated there is not a specific delay period as it would be handled by normally scheduled Landmarks Commission meeting. Mr. Paris stated there has only been one applicant to date, by the City of Topeka Code Compliance Department. Mr. Paris stated the Landmarks Commission would review the Certificate of Appropriate and vote. Mr. Paris added that once there has been a vote and if passed by the Landmarks Commission, the case is forwarded to governing body.

Mr. Beck asked the process would take approximately 90 days. Mr. Paris confirmed that it approximately 90 days but there is not a required amount of time by process.

Proponents: Christy Caldwell, Topeka Chamber of Commerce, spoke on behalf

of the ordinance. Ms. Caldwell stated she is in favor of the removal of historic resources. Ms. Caldwell explained the history of designation and the lack of proof of historic integrity. Ms. Caldwell stated that the proposed allows the owners to participate in the process and are allowed to assist in decisions.

Ms. Caldwell stated she is also supportive of the change regarding the Secretary's Standards. Ms. Caldwell stated she does not want to see any harm in any projects currently being done. Ms. Caldwell explained the Chris Meinhart downtown project is a great project and is in hope the changes presented tonight will assist Mr. Meinhart in meeting his goals.

Opponents:

Chris Meinhart, spoke in opposition of the proposal.

Mr. Meinhart, stated he still has concerns. Mr. Meinhart stated that the two Certificate of Appropriateness reviews are too close of a review criteria set under different names. Mr. Meinhart stated there is no other state that has state law protection without state level review. Mr. Meinhart stated the ordinance will only benefit only the chosen, due to the preservation criteria being arbitrary. Mr. Meinhart stated the State of Kansas does not hold authority over the City of Topeka designation criteria. Mr. Meinhart stated that the city should not rely on the best wishes of the state. Mr. Meinhart stated that the Landmarks Commission did not hold a public hearing on the proposed ordinance and it was not made available to the public until the Planning Commission held one. Mr. Meinhart stated the Planning Commission's approval of ordinance is not qualified. Mr. Meinhart stated the ordinance should be reviewed by the state, not the city.

Richard Beardmore stated he observed that Mr. Meinhart is very passionate about his projects but he isn't aware of any specific projects Mr. Meinhart is involved in. Mr. Beardmore asked Mr. Meinhart to clarify in simple terms what his specific issues are and how he has experienced an issue with a specific project. Mr. Meinhart stated he rather not. Mr. Meinhart explained that the deterioration of Constitution Hall and the demolition of neighboring properties. Mr. Meinhart stated that there have been challenges to restore the building. Mr. Meinhart explained the significance of the Constitution Hall and the composition of the building materials.

Mr. Beardmore asked if Code Enforcement was involved with that building. Mr. Paris stated Code Enforcement was not involved in the building. Mr. Beardmore asked why. Mr. Paris stated he was unsure.

Mr. Meinhart explained there was no money to demolish the building and that many citizens assisted in removing materials from the building. Mr. Meinhart stressed the materials allowed under the review are not acceptable.

Mr. Beardmore asked Mr. Meinhart what the specific issue was. Mr. Meinhart stated that there are two sets of review, two sets of criteria and one review is arbitrary.

Mr. Paris denied that the local review is arbitrary. Mr. Paris stated the review is based on the Secretary's Standards. Mr. Paris stated that the local design guidelines

only apply to local historic districts. Mr. Paris stated it would not apply to Constitution Hall because there is no local historic district designation. Mr. Paris stated the Constitution Hall is a Historic Landmark but not in a local historic district.

Mr. Meinhart stated it isn't clear in the ordinance, thus the reason he is at the Planning Commission. Mr. Meinhart spoke in regards to the condition of the façade of Constitution Hall.

Mr. Beck asked if the Secretary's Standards are applied, how the Landmarks Commission will proceed. Mr. Paris explained that in that block, there are two on the national register so the demolition review covered two separate properties. Mr. Paris explained removal of a façade may have significance to one property but not unique only to Constitution Hall.

Mr. Paris explained that the treatment of historic properties must meet the ten standards, with four different sub-sets of guidelines (rehabilitation, restoration, reconstruction and preservation). Mr. Paris stated that these must be met with any alteration of a property.

Mr. Beck asked if there was a specific incident or something that would hurt the integrity of the building. Mr. Paris stated no and that there was hardly any building left, thus the reason for demolition. Mr. Paris explained the condition of Constitution Hall. Mr. Paris explained that the recommendation was that the facade should remain but City Council stated it should come down.

Mr. Beck stated that he likes the clarification and appreciated the State Historic Preservation Office's involvement. Mr. Beck stated that he hopes the standards will be adequately applied, using the criteria explained, if the ordinance is passed.

Michelle Cuevas-Stubblefield asked for clarification that the guidelines will be based on all the Secretary's Standards or they are chosen from any of them. Mr. Paris confirmed that it is all of the Design Secretary's Standards.

Mr. Fiander clarified that the national designation are broader and more inclusive, whereas the local are more specific. Mr. Paris added that the adoptions of the design review guidelines are in conjunction with property owners, so there are no surprises. Mr. Paris stated that the property owner would review the guidelines.

Mr. Fiander asked what the next stage is if the Landmarks Commission approves the design guidelines. Mr. Paris stated the case would then be forwarded to the Planning Commission and then to City Council. Mr. Paris added that design guidelines that are specific to a neighborhood, such as Potwin, would have to be initiated by an owner but would be based on the Secretary's Standards.

Brett Klausman moved to approve the ordinance as recommended by Staff, Dustin Crook seconded. **Approval (9-0-0).**

b. Initiate Re-Zoning - 1600 SW Harrison (HL/M-1 to M-1)

Discussion by members: Bill Fiander explained the item is not a public hearing item. Mr. Fiander stated this is the first landmark item that was approved for demolition. Mr. Fiander stated the landmark status of the overlay should be removed by the end of the year. Mr. Fiander explained the required process. Mr. Fiander explained the zoning should go from HL/M-1 to M-1.

Richard Beardmore asked if the M-1 zoning covers the comprehensive plan for future use. Mr. Fiander stated there is nothing planned for the property at this time.

Dennis Haugh asked if the other properties marked on the map, in the agenda pack, are residential. Mr. Fiander confirmed the property zoning. Mr. Fiander explained that the zoning is to remain the same; the rezoning case is just to remove the historic designation.

Mike Lackey moved to initiate the re-zoning of 1600 SW Harrison to M-1, Nicholas Jefferson seconded. **Approval (9-0-0).**

E. Discussion Items

1. Comprehensive Plan Updates –

- a. Historic Preservation Plan** - Dan Warner briefed the Planning Commission on the efforts to update the Historic Preservation Plan. Mr. Warner explained that Historic Strategies were selected as the consultants. Mr. Warner stated the draft copy of Historic Preservation Plan will be presented to the Planning Commission in September.

Bill Fiander explained the Historic Preservation Plan will be open for Public Hearing in September. Mr. Fiander stated the plan will be presented and will not be voted on until a later date.

Mike Lackey asked for a detailed executive summary when the Historic Preservation Plan is presented. Mr. Fiander stated he has requested from Heritage Strategies.

- b. Historic North Topeka East Neighborhood Plan** - Dan Warner briefed the Planning Commission on the update of the Historic North Topeka East Neighborhood Plan. Mr. Warner stated final neighborhood plan should be complete in draft form to be briefed in early October.

Mr. Fiander stated he hopes to brief the Planning Commission prior to the public hearing and provide a presentation.

- c. Oakland Neighborhood Plan** - Dan Warner briefed the Planning Commission on the update of the Oakland Neighborhood Plan. Mr. Warner explained the Oakland Steering Committee has been formed and is currently meeting. Bill Fiander stated the plan will be presented later in the year.

- d. Land Use and Growth Management Plan –** Dan Warner briefed the Planning Commission on the update of the Land Use and Growth Management Plan. Mr. Warner explained the plan is in the very early stages. Bill Fiander stated it is essential to update this plan.

F. Other Items/Communications – Bill Fiander explained that he will not be in attendance at the September 16, 2013 Planning Commission. Mr. Fiander stated there will be information regarding the meeting forthcoming.

G. Adjournment @ 7:18 pm



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ACTION OF COUNCIL:		JOURNAL #:
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STAFF RECOMMENDATION:

BACKGROUND:

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SOURCE OF FUNDING:

ATTACHMENTS:

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ATTACHMENTS:

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September 4, 2013

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ATTACHMENTS:

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BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available